United States
of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE *109th* CONGRESS, FIRST SESSION

Vol. 151 WASHINGTON, WEDNESDAY, NOVEMBER 16, 2005 *No. 152*

House of Representatives

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

DESIGNATION OF THE SPEAKER PRO TEMPORE

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

WASHINGTON, DC,
November 16, 2005.

I hereby appoint the Honorable ROBERT B. ADERHOLT 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 our God, You live among Your people and guide the destiny of the Nation. In and through the free election of Your people, You have brought to this moment of history the Members of this 109th Congress to be Your instrument of representative leadership and create the laws that will bind people together and move this country in a deliberated direction.

The consequences of decisions made here, Lord, will have international effects around the world. Issues left unattended will leave many of Your people in the darkness of alienation.

So, Lord, once again, we call upon You to be the true and lasting ruler of this Nation, because this government of the people turns to You in faith, now and forever. Amen.

THE JOURNAL

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

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

PLEDGE OF ALLEGIANCE

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

Mr. CONAWAY 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 without amendment a concurrent resolution of the House of the following title:

H. Con. Res. 269. Concurrent resolution recognizing the 40th anniversary of the White House Fellows Program.

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. 1499. An act to amend the Internal Revenue Code of 1986 to allow members of the Armed Forces serving in a combat zone to make contributions to their individual retirement plans even if the compensation on which such contribution is based is excluded from gross income, and for other purposes.

TEXAS RICE NEEDS TO GO TO CUBA

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

Mr. POE. Mr. Speaker, southeast Texas has over 40,000 acres of rice fields. Until recently, the combined acreage of rice farms in the State of Texas was about 600,000 acres. That is bigger than the State of Rhode Island. Hometown rice farmers, like my friend Ray Stoesser, are seriously struggling, however. Ray, like most rice farmers, simply wants more markets to sell American rice.

The House and Senate versions of the Treasury, Transportation appropriations bill enhanced markets and included language that would allow agricultural trade to Cuba. The conference report, however, stripped that language out and maintains the current trade embargo. The conferees' refusal to allow rice trade to Cuba defies common sense. It places politics above American farmers like Ray Stoesser, not to mention it is bad for the American economy.

The Cuban people will continue to eat rice. If we do not sell it to them, they will get it from that communist nation Vietnam. We hear talk of free trade. NAFTA, CAFTA, we trade with the Communists in China, but not selling rice to Cuba does not punish Castro and his Communists. It punishes American rice farmers.

Mr. Speaker, this ought not to be.

GOP ENERGY CHARADE

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

Mr. EMANUEL. Mr. Speaker, it is time the Republicans stop their Big Oil dog and pony show.

Last week, the oil CEOs testified that the companies had not met with the Vice President in his office in developing the energy policy. Well, in today's Washington Post, those documents show that they in fact in 2000 did meet with the Vice President and administration officials.

Of course they were involved in the development of the energy legislation. How else do you get $16.5 billion in taxpayer-funded subsidies at a time when oil is trading at $60 a barrel? None of the back-room deals come as a surprise or a shock to any of us. The old adage: just follow the money.

What is shocking is my Republican colleagues think they can hold a PR

stunt and the American people will forget the private meetings and the $16.5 billion in gifts that the Republican Congress has provided Big Oil. Republicans should know it is wrong to hand out billions of dollars to oil companies at a time when they are making record profits and then cut home heating assistance to the elderly. But they do not forget.

The paper trail is too thick for the Republicans to hide their cozy relationship with Big Oil. The record is finally cleared up. Big Oil, Vice President CHENEY, the Republican Congress, what a team. It gives a whole new meaning to family.

Mr. Speaker, it is time for a change and time for new priorities.

SETTING THE HISTORICAL RECORD STRAIGHT

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

Mr. CONAWAY. Mr. Speaker, I rise today to set the historical record straight. As my colleague JEB HENSARLING recently stated, ''Everyone is entitled to their own opinion, but not their own set of facts.''

Prior to the war, Members of Congress had access to the same intelligence as the administration did, and it was determined that Saddam Hussein posed a serious threat to the United States.

The 2002 resolution authorizing the use of force received overwhelming bipartisan support, but now some make it seem otherwise. Charges being leveled at this administration that somehow prewar intelligence reports were manipulated are false and unworthy of this body.

The facts are clear. The 2004 Senate Intelligence Committee report stated that there was no evidence of manipulated intelligence in relation to Iraq's weapons of mass destruction capabilities. The bipartisan Robb-Silbermann commission in 2005 reached the same conclusion.

Attempts to distort these facts are an attempt to revise history. Doing so undercuts the efforts of our troops and undermines our national security.

TRIBUTE TO NANCY RUSSELL

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

Mr. BLUMENAUER. Mr. Speaker, Nancy Russell is a woman of great courage, vision, and determination who has made heroic efforts in protecting the Columbia River Gorge. Her singleness of purpose and determination was a driving force that led to the unique Gorge National Scenic Area legislation in 1986.

She and her late husband, Bruce Russell, made significant personal financial commitments securing the purchase of key properties and easements. Without Nancy and her efforts, this national treasure would undoubtedly have been spoiled by sprawling development, pollution, and traffic.

Nancy Russell and her efforts have earned much recognition and acclaim, but perhaps nothing is as meaningful as when hundreds of her friends, supporters, and admirers gathered this weekend to honor her in the 25th anniversary of the advocacy group she founded, the Friends of the Columbia River Gorge.

Notwithstanding her recognition, the true legacy of Nancy Russell is to be found every time anybody hikes, bikes, drives, or flies over the magnificent Columbia River Gorge, which she has protected for generations to come.

DEMOCRAT OBSTRUCTIONISM

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

Mr. WILSON of South Carolina. Mr. Speaker, Democrats and President Bush have consistently and truthfully said that Saddam Hussein was a threat to our country. In the 2002 war debate, Senator HILLARY CLINTON said, ''If left unchecked, Saddam Hussein will continued to increase his capability to wage biological and chemical warfare.'' Liberal Democrat NANCY PELOSI declared, ''Saddam Hussein certainly has chemical and biological weapons.'' Howard Dean vowed, ''There is no question that Saddam Hussein is a threat to the United States and our allies.''

However, since losing the 2004 election, Democrats have developed a disturbing case of obstructionism and now falsely claim that President Bush exaggerated the threat posed by Saddam Hussein. Why would Democrats go from agreeing with President Bush in supporting our mission in Iraq to slandering our Commander in Chief and questioning our troops' efforts? Politics, pure and simple politics.

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

BUDGET RECONCILIATION

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

Ms. LINDA T. SÁNCHEZ of California. Mr. Speaker, in this morning's Washington Post, one of the paper's columnists implied that I and other Members who oppose Medicare cuts are simply ''demonizing Republicans.''

Well, Mr. Speaker, I hate to break it to you, but I am more concerned with the people who live in my district than the current image problems affecting the Republican Party. Truly, what concerns the people in my district is what Congress is considering doing this week.

We are right now waiting to see the latest version of a bill that takes away food from children, makes it more difficult for young people to go to college, and slashes funding for foster parents.

I know that many of my colleagues would like to spin this bill as a fine example of fiscal discipline; but rather than taking from children, why do we not think we should start with, oh, I do not know, honestly accounting for future deficit projections, or eliminating billion-dollar pork barrel projects for the chairmen of certain committees, or how about an open and competitive bid on huge government contracts.

Five years ago, Mr. Speaker, this country had record surpluses. In half a decade, we have dishonest accounting, the largest deficit in history, and a budget reconciliation process that is conducted behind closed doors. Believing that America can do better is not a partisan attack.

IMMIGRATION REFORM

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

Mr. MCHENRY. Mr. Speaker, Congress will soon debate much-needed immigration reforms. One of the most pressing matters is the sad state of technology used to process immigration case files. The U.S. Customs and Immigration Service uses paper printouts to process over 7 million applications per year.

To address this glaring deficiency, I am introducing the Comprehensive Immigration Data and Technology Accountability Act. This legislation will do three things. First, it will create a database that allows real-time access to pending casework and move to a fully electronic system. Second, the database will be linked to Federal law enforcement agencies, reducing the number of illegal immigrants released into our communities. Third, the legislation sets deadlines for the planning, implementation, and review of the new database.

It is past time that we used the fee-based immigration system to upgrade technology and improve the efficiency and effectiveness of our application process. It is the right thing to do for Americans, and it is the right thing to do for those coming to America.

STANDING UP FOR THE AMERICAN PEOPLE

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

Mr. SCOTT of Georgia. Mr. Speaker, I rise this morning to speak on behalf of the American people. The American people want us to stand up and fight these dastardly budget cuts to the needy at a time when this country is in such great pain. We have just gone through the visceral attacks of Hurricanes Katrina, Rita, and Wilma. The American people are suffering. They are hurting. At the very same time that we are hurting and suffering the most, this Republican-led Congress and

the President of the United States want to put forward budget cuts that would hurt them the most.

Let me tell you about them: $12 billion in Medicaid cuts at a time when 45 million Americans do not even have health insurance, and $850 million cuts in the food stamp program when 2 million people, according to the Agriculture Department, were just added to the hungry rolls.

This is the wrong time to do these cuts. These cuts are made to offset a $70 billion tax cut for billionaires and millionaires who do not even need the money; and in order to even pay that money, we have to go and borrow it from Communist China.

The American people deserve better, we can do better, and we must do better. Let's vote down these cuts and stand up for the American people.

MEDICARE HISTORY

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

Mr. HULSHOF. Mr. Speaker, today, senior citizens across America can sign up for the new Medicare prescription drug benefit that will save them money on medicines that they need. Many are concerned that the program with its many choices is too confusing, not to mention the mixed signals being sent by this House. Health care can be complicated, but saving money on prescription drugs that senior citizens need should not be. We have a responsibility to help seniors save money, not scare them away from these critical new benefits.

Back in 1966, many people thought that the original Medicare hospital insurance plan was too confusing. Then, as now, volunteers were trying to help seniors enroll, even going door to door. Back in 1966, not all seniors answered the door; and as a result, millions failed to enroll in the first round of benefits before the initial sign-up window had closed. ''I think the problems ahead will be vast,'' said Democrat Senator Abraham Ribicoff in the spring of 1966. ''The encouraging fact,'' he added, ''is a willingness to cooperate, despite the earlier strong opposition to Medicare, to make it work. I am sure it will,'' he said.

I share Senator Ribicoff's optimism. Older Americans have flooded the Medicare hotline and Web site, and they are attending workshops in America's senior centers in large numbers.

It is natural for many seniors to have questions. I urge this House to help our constituents deal with this new benefit.

□ 1015

RUBBER STAMP CONGRESS

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

Mr. MCDERMOTT. Mr. Speaker, I am here to make a public service announcement. The gentleman from Georgia (Mr. SCOTT) laid out the problems of the bill that has been floating around in the Congress, but I want him to be assured that the rubber stamp Congress is coming in on Thursday.

Now, it says here, I approve of everything that George Bush does, and that is what this rubber stamp is we are going to use in here on Thursday. Last night, the Ways and Means Committee produced a tax cut bill. They will bring it over here, bring it up to the Rules Committee, roll it all together with the tax cuts and the tax giveaways and make the poor people pay for what the rich people get. They are going to bring it out here, and we are going to watch 218 Republicans march up and rubber stamp that baby.

Whatever George Bush asks for, whether it makes sense or not, that is the responsibility of the Republican majority, and they all have to bring their stamp on Thursday, because if they do not bring it on Thursday, we are not going to get to go home for Thanksgiving to rejoice over how much we have been able to give to the rich. This is a very important week. Don't forget your rubber stamp on Thursday morning when you come to work.

SAINT LEO THE GREAT CATHOLIC SCHOOL

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

Ms. FOXX. Mr. Speaker, I rise today to recognize and congratulate Saint Leo the Great Catholic School in Winston-Salem, North Carolina, for being named a No Child Left Behind nationally recognized Blue Ribbon School by the U.S. Department of Education. The Blue Ribbon Schools program honors K–12 schools that are academically superior in their State or demonstrate dramatic gains in student achievement.

Saint Leo the Great is one of just 10 North Carolina schools to receive this prestigious award. In fact, it is the only private school in the entire State to achieve this recognition. Not only am I proud of the students and faculty at Saint Leo for their academics, I am also proud of them for their compassion. Following Hurricane Katrina, the students at Saint Leo reached out to their peers at Saint Clement of Rome, a fellow nationally recognized Blue Ribbon School in Louisiana. The students at Saint Leo made congratulatory cards and sent individual blue ribbons to the students and teachers at Saint Clement. They also raised money to pay travel expense for the principal of Saint Clement to receive the Blue Ribbon Award in Washington, DC.

Mr. Speaker, please join me in congratulating the students, faculty and staff at Saint Leo the Great Catholic School in Winston-Salem, North Carolina.

KENNETH ''KEN'' BRUCE

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

Mr. DAVIS of Tennessee. Mr. Speaker, I rise today to express my sorrow and the sorrow felt by the people of Campbell County, Tennessee, over the tragic death of Mr. Ken Bruce on Tuesday, November 8, 2005.

Mr. Bruce is survived by his loving wife, Jo; his two sons, Christopher and Patrick; his parents, Gene and Beverly Bruce; his brother, Greg; sister, Wendy, as well as all those who knew Mr. Bruce and experienced his overwhelming goodwill and humorous service.

Mr. Bruce was one of the rare individuals in this world that dedicated his life to serving others. Through his 20 years service in the Army and Army Reserves, and as a school administrator, the students of Campbell County High School where Mr. Bruce served as an assistant principal knew him as a man who they could talk to, who would listen, who would empathize and who would offer good sound advice. They also knew him as a man with a great sense of humor, always willing to offer a one-liner that would put a smile on their faces.

It is difficult, when we experience such a profound loss, to find words that do justice to a life cut short or bring condolences to those feeling the deepest pain. Those who knew him well knew he would want everyone to carry on, to approach each day with an open mind and with an open heart and with an enthusiasm for life that encourages us to find the good in every situation and to turn to the Lord for answers to their most difficult questions.

It is my hope that all of us affected by this terrible sad death will continue together to help this community carry on, to help them find peace and calm, for as surely as we know there will be a tomorrow, we know we will never see his smiling face in this life. We can only take solace in the knowledge that Mr. Bruce has gone on to a better place where his spirit will continue peacefully into eternity.

You will be sorely missed, Mr. Bruce, and we will never forget. As Horatio said in Shakespeare's Hamlet, ''Now cracks a noble heart. Good night, sweet prince, and flights of angels sing thee to thy rest.''

May God continue to watch over your family and the communities of Campbell County, Tennessee.

MEDICARE PART D

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

Mr. GINGREY. Mr. Speaker, I rise today to encourage seniors across America to learn about Medicare part D, the new voluntary prescription drug benefit available to all seniors. Tuesday marked the first day seniors could

enroll in Medicare part D. Enrollment continues through May 15, 2006, and coverage begins January 1, 2006.

Finally, seniors in our communities will have better access to the medication they need to stay well. Seniors can sign up today by calling 1–800–MEDICARE or by visiting the Web site www.medicare.gov. Seniors who want to sign up should have several pieces of information on hand: a list of the medications they are currently taking; information about any prescription drug coverage they may currently have, be it employer, union or a Medigap policy; the name and address of a local pharmacy they will use to fill prescriptions; the out-of-pocket amount they spend on prescription drugs each year; finally, seniors should have their Medicare enrollment information readily available.

As a physician, I know that providing our seniors with prescription drug coverage will be beneficial to their health and to their wallets. I am glad Medicare now works to prevent disease as well as treat it.

BUDGET RECONCILIATION

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

Mr. DAVIS. Mr. Speaker, as we move towards the vote on budget reconciliation, I trust that the majority does not come back with the same old soup warmed over or the same old lemon with a new twist.

Mr. Speaker, I hope that we will come back with something that really meets the needs of the people, not tax breaks for the wealthiest 1 percent and nothing for the truly needy and those who are poor. I hope that we get it right this time, Mr. Speaker, and have a reconciliation plan that reconciles not only the budget but meets the needs of the American people.

MEDICARE

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

Mr. CARTER. Mr. Speaker, this week, seniors across the country can take the first steps towards much-needed prescription drug benefits when they enroll in the Medicare prescription drug plan. The plan gives seniors the power of choice. Seniors will select from multiple plans and choose the option best suited to their needs. With the cost of prescription drugs increasing every year, the ability to choose a plan tailored to that senior's specific health needs is invaluable.

Not only that, but choice encourages competition. Private companies will be making their prices available for seniors to compare. This, in turn, will lower prices in an effort to secure those seniors' business. By giving the seniors choice, we give them lower prices.

Mr. Speaker, the Medicare prescription drug coverage card is long overdue. I am proud of Republicans for providing a viable solution to America's seniors, and I encourage seniors all across the country to take advantage of these added benefits.

REMEMBERING THE 1989 MURDERS OF SIX JESUIT PRIESTS IN EL SALVADOR

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

Mr. MCGOVERN. Mr. Speaker, 16 years ago today, in the dead of night, the Salvadoran Army's U.S.-trained Atalacatl Battalion entered the grounds of the University of Central America in San Salvador, pulled six Jesuit priests from their beds, marched them out onto the lawn behind their residence, put high-powered rifles to their heads and shot them dead in cold blood. A few minutes later, these same soldiers discovered the Jesuits' housekeeper and her teenager daughter hiding in the house and murdered them as well.

A bipartisan commission appointed by the Speaker of the House and chaired by our former colleague, Congressman Joe Moakley, investigated this heinous crime, identified the killers, and the Commission's report became critical evidence in the prosecution and conviction of the priests' killers and, I believe, in creating support for the U.N.-brokered negotiations that ended El Salvador's 12-year civil war.

Mr. Speaker, I knew these priests. I was proud to call them my friends. Let us take a moment to remember their courage and to remember the bipartisan work of this House under the leadership of Joe Moakley that helped El Salvador forge a pathway to peace.

Let us never forget the names of those who were murdered on November 16, 1989: Father Ignacio Ellacuria, Father Ignacio Martin-Baro, Father Segundo Montes, Father Armando Lopez, Father Joaquin Lopez y Lopez, Father Juan Ramon Moreno, Celina Maricet Ramos and Elba Julia Ramos.

PRIVATE SUPPORT FOR LOUISIANA FOLLOWING RECENT HURRICANES

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

Mr. JINDAL. Mr. Speaker, I rise today to talk about the private support that has been delivered to my home State of Louisiana following Hurricanes Katrina and Rita. The Ford and Dodge motor companies donated dozens of vehicles to first responders in my State.

In addition, one of the greatest examples of support, though not the only example, came from Wal-Mart. I want to take a moment to tell you about it. It is easy to tell you of their generosity. Wal-Mart donated over $17 million to the Bush-Clinton Katrina Fund, the Salvation Army and the Red Cross. They donated $3.5 million worth of merchandise to shelters and command centers throughout the Gulf Coast region. They provided $20,000 in cash donations to animal shelters across the region. They provided 150 Internet-ready computers to shelters across the region to help loved ones stay in contact. They donated use of 25 vacant facilities for use by relief agencies. Their customers have donated more than $8.5 million in stores across the country.

The best thing I can do is share a brief story that was told to me by the men and women on the ground. Wal-Mart told officials and first responders, We don't have staff on the ground, they have all evacuated, but come in, take what you need, just shut the door after you leave.

It took our government days to provide what Wal-Mart and other private companies did in those first few hours.

BUSH ADMINISTRATION'S INTELLIGENCE WAS NOT A ''SLAM DUNK''

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

Mr. STUPAK. Mr. Speaker, President Bush's latest attacks on those who have questioned whether his administration manipulated the intelligence to justify a war against Iraq is based on flawed arguments and falsehoods.

First, the President said Congress had access to the same intelligence as the White House prior to the war. This is false. The Washington Post writes, and I quote, Bush and his aides had access to much more voluminous intelligence information than did lawmakers who were dependent on the administration to provide the material.

Second, President Bush claimed the bipartisan Senate investigation found that he did not misrepresent prewar intelligence. Again, the President's statements are wrong. The Senate Intelligence Committee is not expected to complete this phase of their investigation until next year.

Third, the President said intelligence agencies around the world agreed with the Bush administration's assessment of the Iraqi threat. Once again, this statement is false. Many of our international friends concluded that Iraq's threat did not rise to the level of justifying immediate military force.

Mr. Speaker, the Bush administration refuses to live in reality. It has no plans in Iraq other than, stay the course. This administration makes decisions with no understanding of the consequences of those decisions. The reality is, we lost six more servicemen in Iraq in the last 24 hours.

AMT REFORM

(Mr. GARRETT of New Jersey asked and was given permission to address

the House for 1 minute and to revise and extend his remarks.)

Mr. GARRETT of New Jersey. Mr. Speaker, I rise today to address the Middle Class Fairness Act and the AMT, the alternative minimum tax. This tax was put in place years ago to basically cover a small group of wealthy taxpayers who were avoiding paying their taxes. Unfortunately, now it extends far beyond its initial intent in recent years. Now the AMT is actually punishing families and homeowners and the very credits that are in the current tax law, those credits that encourage savings, education, marriage, homeownership; they are all under attack by the AMT.

I am from the State of New Jersey. Our State has the highest percentage of people who are paying the AMT. Yet our State is the State with some of the highest taxes in the country. The solution to this problem? Well, it is relatively simple, two things: All we have to do is index the AMT, and, secondly, allow for the deductibility of taxes for those people who have to pay it. Reform is long overdue. The middle class deserves this reform in order to not any longer fall under the AMT.

BUDGET RECONCILIATION

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

Mr. DEFAZIO. Last night, the Ways and Means Committee pulled aside the curtain to show us what the direct link is between tax cuts for the wealthy and cutting programs for students and struggling families.

Dividend tax cuts for wealthy investors so they will have to pay taxes at a rate lower than a teacher or a supermarket checkout clerk. The trade-off is, well, student loans, $14 billion in cuts. But, hey, those rich coupon clippers need the money.

Then we have food security, school lunch. Those little kids are just eating too much. We get something called look-through treatment of payments between related CFCs under foreign personal holding company income rules for the same price. Nice trade-off on the Republican side of the aisle.

Then, of course, extending further tax cuts to those who don't work for a living but live on capital gains. The small trade-off for that is depriving millions of Americans under the Medicaid program of needed essential medical care and dumping those costs onto the States and those of us who buy insurance because a lot of it will be unreimbursed care.

Great work, you guys. You're helping out your patrons and sticking it to the rest of America.

□ 1030

REVISIONIST HISTORY

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

Mr. PRICE of Georgia. Mr. Speaker, here is a quote: Others have talked about this threat that is posed by Saddam Hussein. Yes, he has chemical weapons. He has biological weapons, and he is trying to get nuclear weapons.

That is not President Bush. That is Democrat Leader Nancy Pelosi. But now what we are seeing is some revisionist history, and this Monday morning quarterbacking is a disservice to all of America.

Remember Secretary Colin Powell's testimony in front of the U.N. on February 5, 2003? One of the things that was never questioned was a tape that he played. It was between an Iraqi colonel and an Iraqi general. The colonel says, About this committee that is coming, and he is talking about the U.N. nuclear weapons committee. And the general says, Yeah, I am worried that you have got something left. And the colonel says, We have evacuated everything. We don't have anything left.

Now, what were they talking about, Mr. Speaker? What were they talking about?

It is no wonder that both Republicans and Democrats both voted to go to war. Both had the same intelligence and both saw the writing on the wall. Disagreeing about current policy is one thing, but changing historical fact is the tired, old, petty, partisan politics of the past.

INTERNATIONAL EDUCATION WEEK

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

Mr. HOLT. Mr. Speaker, I rise to speak about International Education Week this week sponsored by the Departments of State and Education.

International Education Week marks the importance of teaching our children and the people of our country foreign languages, traditions, cultures. This is not simply a feel-good effort of cultural enrichment. Whether it is a matter of competitiveness, economics, national security, in this era we must understand other cultures, their languages, their traditions, as quite literally now anyone on this planet could be our collaborators, our colleagues, our competitors, our customers.

Certainly this event should reaffirm our value of a strong foreign language education in which culture and traditions are taught alongside the structure and vocabulary. The acquisition of foreign languages beginning in the elementary years is found to create neuroconnections and boost various thinking processes. Those who study foreign language can pursue careers that benefit all of us here in America.

These students are gaining experiences which will serve them well in a variety of careers and serve the Nation through a better understanding of the world in which we live and compete.

MRS. RABINOWITZ

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

Mrs. JOHNSON of Connecticut. Mr. Speaker, 42 million seniors can now sign up for the new voluntary Medicare drug benefit.

Yesterday I was with a senior in my district, Shirley Rabinowitz, who takes 17 different prescription drugs. Let me say that again: 17 different prescription drugs. She takes drugs for diabetes. She takes drugs for her heart condition. She lives with a number of chronic illnesses, and so she takes 17 different prescriptions. But like so many seniors, she has no retiree coverage, no Medicaid coverage, no State plan assistance, in fact, no prescription drug coverage at all. And her out of pocket expenses are huge.

So she wondered if the new Medicare plan would help her, and she went to an adviser with the Triple Area Agency on Aging and she learned in 30 short minutes that she can save $4,000 a year. Let me say that again: $4,000 a year.

Mr. Speaker, this new drug program is a huge benefit to our seniors. Do not discourage them from getting the advice they need that is readily available to save them lots of money.

BUDGET RECONCILIATION

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

Ms. SOLIS. Mr. Speaker, today I rise in opposition to the Republican misguided and irresponsible plan to pass mandatory spending cuts and a companion tax cut package.

The Republican budget reconciliation bill cuts $50 billion in vital programs such as Medicaid, food stamps, and student loans which are important to low-income and working-class families in this country.

The Republicans claim that these spending cuts will be used to offset the cost of hurricane relief efforts, and that is simply not the case. In recent years, Republicans have not offset the supplemental funding for the war and rebuilding in Iraq.

The reality is that Republicans are cutting vital services for the most vulnerable in our country in order to finance $70 billion in tax cuts to the wealthy few. The budget reconciliation bill, when combined with the tax cut, increases the Federal deficit by $20 billion.

Do not be fooled. The Republican reconciliation plan is a plan to increase the deficit and the national debt. Republicans clearly have the wrong priorities for America's working families. The budget is wrong. I urge my colleagues to protect the health and well-being of our citizens and not support this plan.

DEFICIT REDUCTION ACT

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

Mr. PENCE. Mr. Speaker, in the aftermath of the worst natural disaster in American history, Congress responded with generosity and more than $60 billion in 6 days. But this week, thanks to the leadership of President George W. Bush and Speaker DENNIS HASTERT, Congress is going to figure out how to pay for it.

In the Deficit Reduction Act, this Congress will achieve more than $50 billion in savings in the next 5 year to offset the extraordinary cost of Hurricane Katrina. But there is still work to be done.

This legislation is an important first step toward restoring fiscal discipline, but it is just that: it is a first step. With an $8 trillion national debt and with more spending on Hurricane Katrina awaiting around the corner, it is imperative that we pass the Deficit Reduction Act, move on to an across-the-board cut in this year's budget, and reopen the highway bill and rescind earmarks that are anathema to the American people.

It is written that if the trumpet does not sound a clear call, who will get ready for battle? The Deficit Reduction Act is a clear call to begin the process of putting our fiscal house in order, and I urge all of my colleagues, Republican and Democrat, to support it.

REVERSE ROBIN HOOD

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

Ms. CORRINE BROWN of Florida. Mr. Speaker, when I was coming up, my favorite television program was Robin Hood. The Republican budget coming up this week is one example of what I call ''Reverse Robin Hood,'' robbing from the poor and working class to give tax breaks to the rich, billions of dollars of tax breaks.

Let me tell you one of the examples of this policy and who it is going to hurt: single mothers seeking child support, students struggling to get ahead and pay for their college loans, foster kids, the sick and the poor whose only access to health coverage is Medicaid, those whose nutrition depends on food stamps or school lunches.

The budget is an outrage, one that clearly and forcefully paints a world of two classes of Americans. And with insult added to injury, it punishes those who have committed no crime but to be old, young, sick or uneducated. It punishes the working poor.

Mr. Speaker, the Republicans practice reverse Robin Hood.

DUTCH-AMERICAN DAY

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

Mr. HOEKSTRA. Mr. Speaker, I rise to honor the more than 4.5 million Americans with Dutch roots who today, Dutch-American Day, reflect upon their heritage and the contributions of the Netherlands to the United States.

In 1609, the industrious and seafaring Dutch settled the colony of New Netherlands and named their capital New Amsterdam. However, the influence of the early colonists was not limited to the shores of Manhattan, Breukelyn or even Lang Eylandt, Long Island as we know it today.

Indeed, the colony ranged across the middle Atlantic region to cover parts of five States, including my own State of Michigan. Holland, Michigan may be a long way from my birthplace of Groningen in the Netherlands, but I still identify with my homeland.

The ties between the Netherlands and the United States are significant and long-standing. Centuries before the U.S. Declaration of Independence, William of Orange—the Dutch version of George Washington—set forth his grievances with the ruling Spanish government.

The grievances grew out of the Spanish government's tax policies and religious intolerance. Many years later, a similar scenario played out in the U.S., and Thomas Jefferson used the Dutch ''Proclamation of Abjuration'' as a model for the Declaration of Independence.

The common bonds of freedom, human rights and democracy inspire my pride in my heritage. But the Netherlands is also a humble and gentle country filled with canals, windmills, and tulips. It is a very forward-looking, modern country with unparalleled innovations in electronics, medicine, logistics, agriculture, and technology.

Today, the Dutch embassy will host a reception in the Rayburn foyer to honor Dutch-American Heritage Day. I encourage my colleagues and members of their staffs to join me at the event to celebrate the historical ties with the Netherlands.

RETURN TO PAYGO

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

Mr. COOPER. Mr. Speaker, the Blue Dog Coalition, of which I am policy co-chair, is going to vote against the budget reconciliation measures coming up this week.

Why? Because after all the sound and fury, these measures will increase the Federal budget deficit, and Blue Dogs are for reducing the Federal budget deficit.

Now, what can be done in a positive manner to address the problem? Don't take our word for it, listen to the chairman of the Federal Reserve Board, Alan Greenspan, who has repeatedly advocated that we return to the PAYGO rules, pay as you go.

If you want to increase spending on a program, find the money to pay for it, the way every household in America has to do. If you want to cut taxes, find the money to pay for it.

America lived under this rule from 1990 to 2002. It worked well. We need to return to PAYGO principles.

SEX SELECTION ABORTION IN INDIA A MASSIVE CRIME

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

Mr. SMITH of New Jersey. Mr. Speaker, the United Nations' push for global population control continues to lead to ugly and inhumane outcomes, especially for girls.

China, as you know, imposes a barbaric ''one child per couple'' policy that relies on forced abortion, involuntary sterilization and ruinous fines to implement. But a UNFPA report sheds new light on sex selection abortion in India. According to the U.N. report, increasingly parents are using sex selection technologies that enable practitioners first to identify female unborn girls and then to abort them. As a result, fully 60 million girls are now missing according to the United Nations, effectively falling into a demographic black hole from which analysts fear there will be no return.

The report says as many as 2 million unborn baby girls are aborted each year for no other reason than they happen to be female.

In Punjab, the government claims that the numbers of missing girls will increase by 40 percent in the forthcoming generation.

Mr. Speaker, abortion is violence against children. It relies on dismemberment of the baby. Abortion relies on chemical poisoning. Sex selection abortion in India or anywhere else is a particularly heinous crime. All children—boys or girls—are precious. None deserve death by abortion.

MISUSE OF INTELLIGENCE

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

Mr. PALLONE. Mr. Speaker, I am shocked at how the Bush administration will stoop to try and justify their actions prior to the invasion of Iraq.

President Bush decided to use Veterans Day, a day set aside to unite our Nation, to deliver a partisan and divisive political speech aimed at my colleagues in the House and the Senate.

Then yesterday, Secretary Rumsfeld came out and tried to blame President Clinton for this administration's manipulation of intelligence. I have no doubt that this administration cherry-picked intelligence.

Remember all the talk from the war cabinet about imminent mushroom clouds here in the United States or Vice President CHENEY's reckless suggestion that despite all evidence to the contrary that Iraq had ties to al Qaeda?

President Bush called all this criticism ''revisionist history.'' The White

House and Secretary Rumsfeld can keep quoting President Clinton, Vice President Gore, and Secretary Albright; but they were not the ones who sent thousands of American soldiers to war.

Mr. Speaker, the President owes us an apology. He should level with the American people and stop trying to shirk responsibility for his flawed Iraq policy.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

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

Record votes on postponed questions will be taken later today.

□ 1045

HURRICANE REGULATORY RELIEF ACT OF 2005

Mr. JINDAL. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3975) to ease the provision of services to individuals affected by Hurricanes Katrina and Rita, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3975

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Hurricane Regulatory Relief Act of 2005''.

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

TITLE I—EDUCATION

Subtitle A—Elementary and Secondary Educational Programs

SEC. 101. CHARTER SCHOOLS.

The Secretary of Education shall encourage States—

(1) to include charter schools in Gulf hurricane disaster relief efforts;

(2) to provide support to charter schools that are serving individuals adversely affected by a Gulf hurricane disaster; and

(3) to facilitate the enrollment of students displaced by a Gulf hurricane disaster in charter schools, including by—

(A) waiving any requirement relating to whether a student has resided in the geographic area of the charter school;

(B) increasing the number of students who may attend a charter school; and

(C) removing any other relevant restrictions.

Subtitle B—Teacher Flexibility

SEC. 111. TREATMENT OF HIGHLY QUALIFIED TEACHERS.

For purposes of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et. seq.), and the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.), an individual who was employed as a teacher on August 29, 2005, by a local educational agency in a State, and who was highly qualified for such employment on such date, may be considered by another State, during the 2005–2006 school year, to be highly qualified in the same core academic subjects for purposes of subsequent employment as a teacher by a local educational agency in such other State, if—

(1) the local educational agency employing the teacher on August 29, 2005, serves an area affected by a Gulf hurricane disaster; and

(2) the local educational agency subsequently employing the teacher hired the teacher due to needs created by the enrollment of displaced students.

Subtitle C—Educational Programs for Children With Disabilities

SEC. 121. AGREEMENTS TO EXTEND CERTAIN DEADLINES OF THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT TO FACILITATE THE PROVISION OF EDUCATIONAL SERVICES TO CHILDREN WITH DISABILITIES.

(a) AUTHORITY.—The Secretary of Education may enter into an agreement described in subsection (b) with an eligible entity to extend certain deadlines under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.) related to providing special education and related services, including early intervention services, to individuals adversely affected by a Gulf hurricane disaster.

(b) TERMS OF AGREEMENTS.—An agreement referred to in subsection (a) is an agreement with an eligible entity made in accordance with subsection (e) that may extend the applicable deadlines under one or more of the following sections:

(1) Section 611(e)(3)(C)(ii) of such Act, by extending up to an additional 60 days the 90 day deadline for developing a State plan for the high cost fund.

(2) Section 612(a)(15)(C) of such Act, by extending up to an additional 60 days the deadline for submission of the annual report to the Secretary of Education and the public regarding the progress of the State and of children with disabilities in the State.

(3) Section 612(a)(16)(D) of such Act, by extending up to an additional 60 days the deadline for making available reports regarding the participation in assessments and the performance on such assessments of children with disabilities.

(4) Section 614(a)(1)(C)(i)(I) of such Act, by extending up to an additional 30 days the 60 day deadline for the initial evaluation to determine whether a child is a child with a disability for purposes of the provision of special education and related services to such child.

(5) Section 616(b)(1)(A) of such Act, by extending up to an additional 60 days the deadline for finalization of the State performance plan.

(6) Section 641(e)(1)(D) of such Act, by extending up to an additional 60 days the deadline for submission to the Governor of a State and the Secretary of Education of the report on the status of early intervention programs for infants and toddlers with disabilities and their families operated within the State.

(c) RULE OF CONSTRUCTION.—Nothing in this Act shall be construed—

(1) as permitting the waiver of—

(A) any applicable Federal civil rights law;

(B) any student or family privacy protections, including provisions requiring parental consent for evaluations and services;

(C) any procedural safeguards required under section 615 or section 639 of the Individuals with Disabilities Education Act; or

(D) any requirements not specified in subsection (b)(1) of this section; or

(2) as removing the obligation of the eligible entity to provide a child with a disability or an infant or toddler with a disability and their families—

(A) a free appropriate public education under part B of the Individuals with Disabilities Education Act; or

(B) early intervention services under part C of such Act.

(d) DURATION OF AGREEMENT.—An agreement under this section shall terminate at the conclusion of the 2005–2006 academic year.

(e) REQUEST TO ENTER INTO AGREEMENT.—To enter into an agreement under this section, an eligible entity shall submit a request to the Secretary of Education at such

time, in such manner, and containing such information as the Secretary may require.

SEC. 122. PAPERWORK REDUCTION PILOT PROGRAM PARTICIPATION FOR AFFECTED STATES.

(a) AUTHORITY.—To identify ways to reduce paperwork burdens and other administrative duties that are directly associated with the requirements of the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.) in order to increase the time and resources available for instruction and other activities aimed at improving educational and functional results for children with disabilities, the Secretary of Education is authorized to permit an affected State to participate in the paperwork reduction pilot program described in section 609(a) of such Act.

(b) PARTICIPATION BY AFFECTED STATES.—Participation in the paperwork reduction pilot program by an affected State shall be in addition to the maximum number of States that may so participate in accordance with section 609(a)(2)(A) of such Act.

(c) PROPOSAL.—

(1) IN GENERAL.—An affected State desiring to participate in the paperwork reduction pilot program described in section 609(a) of such Act shall submit a proposal to the Secretary in accordance with section 609(a)(3) of such Act, subject to paragraph (2) of this subsection.

(2) SIMPLIFICATION.—The Secretary may simplify the proposal process for an affected State to participate in the program if the Secretary determines that such simplification is appropriate.

(d) RULE OF CONSTRUCTION.—The requirements and authorities described in section 609(a) of such Act that are not modified by this section with respect to an affected State shall apply to such State.

Subtitle D—Higher Education Relief

SEC. 131. WAIVERS AND MODIFICATIONS.

Notwithstanding any other provision of law unless enacted with specific reference to this section, the Secretary of Education is authorized to waive or modify any statutory or regulatory provision applicable to the student financial assistance programs under title IV of the Higher Education Act of 1965, or any student or institutional eligibility provisions in such Act, as the Secretary of Education deems necessary to ensure that the calculation of expected family contribution (under section 474 of such Act) used in the determination of need for student financial assistance under such title for any affected student (and the determination of such need for his or her family, if applicable), is modified to reflect any changes in the financial condition of such affected student and his or her family resulting from a Gulf hurricane disaster.

SEC. 132. TRANSFER OF CREDIT.

(a) POLICY DISCLOSURE.—For periods of enrollment beginning in calendar year 2006, each institution of higher education shall establish and publicize policies of the institution regarding the acceptance or denial of academic credit earned at another institution of higher education, which shall include a statement that such decisions will not be based solely on the source of accreditation of a sending institution, provided that the sending institution is accredited by an agency or association that is recognized by the Secretary of Education pursuant to section 496 of the Higher Education Act of 1965 to be a reliable authority as to the quality of the education or training offered.

(b) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to—

(1) authorize an officer or employee of the Department of Education to exercise any direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any institution of higher education, or over any accrediting agency or association;

(2) limit the application of the General Education Provisions Act (20 U.S.C. 1221 et seq.); or

(3) create any legally enforceable right.

SEC. 133. EXPANDING INFORMATION DISSEMINATION REGARDING ELIGIBILITY FOR PELL GRANTS.

(a) IN GENERAL.—The Secretary of Education shall—

(1) make special efforts, in conjunction with State efforts, to notify affected students and, if applicable, their parents, who qualify for a means-tested Federal benefit program, of their potential eligibility for a maximum Pell Grant; and

(2) disseminate informational materials regarding such eligibility as the Secretary of Education deems appropriate.

(b) MEANS-TESTED FEDERAL BENEFIT PROGRAM.—For the purpose of this section, the term ''means-tested Federal benefit program''—

(1) means a mandatory spending program of the Federal Government, other than a program under the Higher Education Act of 1965, in which eligibility for the program's benefits, or the amount of such benefits, or both, are determined on the basis of income or resources of the individual or family seeking the benefit; and

(2) may include—

(A) the supplemental security income program under title XVI of the Social Security Act;

(B) the food stamp program under the Food Stamp Act of 1977;

(C) the free and reduced price school lunch program established under the Richard B. Russell National School Lunch Act;

(D) the temporary assistance to needy families program established under part A of title IV of the Social Security Act;

(E) the women, infants, and children program established under section 17 of the Child Nutrition Act of 1966; and

(F) other programs identified by the Secretary of Education.

SEC. 134. PROCEDURES; TERMINATION OF AUTHORITY.

(a) DEADLINES AND PROCEDURES.—Sections 482(c) and 492 of the Higher Education Act of 1965 (20 U.S.C. 1089(c), 1098(a)) shall not apply to any waivers, modifications, or actions initiated by the Secretary of Education under this subtitle.

(b) CASE-BY-CASE BASIS.—The Secretary of Education is not required to exercise any waiver or modification authority under this subtitle on a case-by-case basis.

(c) TERMINATION OF AUTHORITY.—The authority of the Secretary of Education to issue waivers or modifications under this subtitle shall expire at the conclusion of the 2005–2006 academic year, but the expiration of such authority shall not affect the continuing validity of any such waivers or modifications after such academic year.

Subtitle E—Regulatory Relief

SEC. 151. REGULATORY AND FINANCIAL RELIEF.

(a) WAIVER AUTHORITY.—Subject to subsections (b) and (c), in providing any grant or other assistance, directly or indirectly, to an entity in an affected State, the Secretary of Education may, as applicable, waive or modify in order to ease fiscal burdens any requirement relating to the following:

(1) Maintenance of effort.

(2) The use of Federal funds to supplement, not supplant, non-Federal funds.

(3) Any non-Federal share or capital contribution required to match Federal funds provided under programs administered by the Secretary of Education.

(b) DURATION.—A waiver under this section shall be for the 2006 fiscal year.

(c) LIMITATIONS.—

(1) RELATION TO IDEA.—This section does not authorize the waiver or modification of any provision of the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.).

(2) MAINTENANCE OF EFFORT.—If the Secretary grants a waiver or modification under this section waiving a requirement relating to maintenance of effort for a fiscal year, the level of effort required for the following fiscal year shall not be reduced because of the waiver.

TITLE II—HEALTH AND HUMAN SERVICES

Subtitle A—Community Services

SEC. 201. SECRETARY AUTHORITY.

The Secretary of Health and Human Services may waive with respect to any affected State for up to 90 days after the enactment of this Act the filing deadline under section 676(b) of the Community Services Block Grant Act.

SEC. 202. STATE AUTHORITY.

(a) TRANSFER OF FUNDING.—A State that receives a payment or allotment under section 675A or 675B of the Community Services Block Grant Act may transfer a portion of the payment or allotment available for expenditure under section 675C(b) (including sums available for administrative expenses under paragraph (2) of such section 675C(b)) to an affected State.

(b) STAFF.—A State lead agency designated under section 676(a)(1) of the Community Services Block Grant Act or an eligible entity (as defined in section 673 of such Act) may send an employee of the State lead agency, or of an eligible entity, to an area affected by a Gulf hurricane disaster to help in providing disaster assistance.

(c) ELIGIBLE ENTITY.—A State lead agency in an affected State may temporarily fund an eligible entity in a contiguous area, or if such entity is not available to provide such services, may temporarily fund alternative service providers (notwithstanding the definition of an eligible entity as defined in section 673 of the Community Services Block Grant Act) when the currently funded eligible entity is no longer able to provide services due to a Gulf hurricane disaster in order to meet the immediate needs of individuals adversely affected by a Gulf hurricane disaster (provided that in the meantime the State is assisting such current eligible entity in becoming operational).

(d) RECAPTURE AND REDISTRIBUTION OF UNOBLIGATED FUNDS.—Notwithstanding any other provision of law, an affected State may apply the recapture and redistribution of unobligated funds provisions under section 675C(a)(3) of the Community Services Block Grant Act provided that the State consults with the eligible entity involved.

Subtitle B—Head Start

SEC. 211. HEAD START AND EARLY HEAD START CHILDREN AFFECTED BY A GULF HURRICANE DISASTER.

(a) TECHNICAL ASSISTANCE, GUIDANCE, AND RESOURCES.—The Secretary of Health and Human Services shall provide technical assistance, guidance, and resources through the Region 4 and Region 6 offices of the Administration for Children and Families (and may provide technical assistance, guidance, and resources, through other regional offices of the Administration, at the request of such offices, that administer affected Head Start agencies) to Head Start agencies in areas in which a major disaster has been declared, and to affected Head Start agencies, to assist the agencies involved in providing Head Start services and Early Head Start services to children affected by a Gulf hurricane disaster.

(b) WAIVER.—For such period up to June 30, 2006, and to such extent as the Secretary

considers appropriate, the Secretary of Health and Human Services—

(1) may waive section 640(b) of the Head Start Act for Head Start agencies located in an area affected by a Gulf Hurricane disaster and other affected Head Start agencies; and

(2) shall waive requirements of documentation for an individual adversely affected by a Gulf hurricane disaster who participates in a Head Start program or an Early Head Start program funded under the Head Start Act.

Subtitle C—Child Care Services

SEC. 221. WAIVER AUTHORITY TO EXPAND THE AVAILABILITY OF SERVICES UNDER CHILD CARE AND DEVELOPMENT BLOCK GRANT ACT OF 1990.

For such period up to June 30, 2006, and to such extent as the Secretary considers to be appropriate, the Secretary of Health and Human Service may waive or modify, for any affected State, and any State serving significant numbers of individuals adversely affected by a Gulf hurricane disaster, provisions of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858 et seq.)—

(1) relating to Federal income limitations on eligibility to receive child care services for which assistance is provided under such Act,

(2) relating to work requirements applicable to eligibility to receive child care services for which assistance is provided under such Act,

(3) relating to limitations on the use of funds under section 658G of the Child Care and Development Block Grant Act of 1990,

(4) preventing children designated as evacuees from receiving priority for child care services provided under such Act, except that children residing in a State and currently receiving services should not lose such services in order to accommodate evacuee children, and

(5) relating to any non-Federal or capital contribution required to match Federal funds provided under programs administered by the Secretary of Health and Human Services,

for purposes of easing State fiscal burdens and providing child care services to children orphaned, or of families displaced, as a result of a Gulf hurricane disaster.

TITLE III—LABOR

Subtitle A—Pension Flexibility for Displaced Workers Act of 2005

SEC. 301. SHORT TITLE.

This subtitle may be cited as the ''Pension Flexibility for Displaced Workers Act of 2005''.

SEC. 302. AUTHORITY TO PRESCRIBE GUIDANCE BY REASON OF THE PRESIDENTIALLY DECLARED DISASTERS CAUSED BY HURRICANE KATRINA AND HURRICANE RITA.

(a) WAIVERS, SUSPENSIONS, OR EXEMPTIONS.—In the case of any pension plan which is an individual account plan, or any participant or beneficiary, plan sponsor, administrator, fiduciary, service provider, or other person with respect to such plan, affected by Hurricane Katrina or Hurricane Rita, or any service provider or other person dealing with such plan, the Secretary of Labor may, notwithstanding any provision of title I of the Employee Retirement Income Security Act of 1974, prescribe, by notice or otherwise, a waiver, suspension, or exemption from any provision of such title which is under the regulatory authority of such Secretary, or from regulations issued under any such provision, that such Secretary determines appropriate to facilitate the distribution or loan of assets from such plan to participants and beneficiaries of such plan. At the time of the issuance of such waiver, suspension, or exemption, such Secretary shall publish in the Federal Register the terms of such waiver, suspension, or exemption.

(b) EXEMPTION FROM LIABILITY FOR ACTS OR OMISSIONS COVERED BY WAIVER, SUSPENSION, OR EXEMPTION.—No person shall be liable for any violation of title I of the Employee Retirement Income Security Act of 1974, or of any regulations issued under such title, based upon any act or omission covered by a waiver, suspension, or exemption issued under subsection (a) if such act or omission is in compliance with the terms of the waiver, suspension, or exemption.

(c) PLAN TERMS SUBJECT TO WAIVER, SUSPENSION, OR EXEMPTION.—Notwithstanding any provision of the plan to the contrary and to the extent provided in any waiver, suspension, or exemption issued by the Secretary of Labor pursuant to subsection (a), no plan shall be treated as failing to be operated in accordance with its terms solely as a result of acts or omissions which are in compliance with the terms of such waiver, suspension, or exemption.

(d) EXPIRATION OF AUTHORITY.—This section shall apply only with respect to waivers, suspensions, or exemptions issued by the Secretary of Labor during the 1-year period following the date of the enactment of this Act.

(e) DEFINITIONS.—Terms used in this section shall have the meanings provided such terms in section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002).

SEC. 303. AUTHORITY IN THE EVENT OF PRESIDENTIALLY DECLARED DISASTER OR TERRORISTIC OR MILITARY ACTIONS.

Section 518 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1148) is amended by inserting '', under any regulation issued thereunder, or under any plan provision'' after ''under this Act''.

Subtitle B—Occupational Safety and Health

SEC. 311. AUTHORIZATION FOR VOLUNTEERS.

(a) AUTHORITY TO RECRUIT, TRAIN, AND UTILIZE.—Notwithstanding any other provision of law, the Secretary of Labor (hereafter ''the Secretary'') may recruit, train, accept, and utilize, without regard to the civil service classification laws, rules, or regulations, the services of volunteer individuals to aid in or facilitate the activities administered by the Secretary through the Occupational Safety and Health Administration for projects related to worker safety and health in response to the effects of Hurricane Katrina and Hurricane Rita.

(b) PROVISION OF SERVICES AND COSTS.—The Secretary may provide for services and costs incidental to the utilization of volunteers under subsection (a), including transportation, supplies, equipment (including personal protective equipment), uniforms, lodging, subsistence (without regard to place of residence), recruiting, training, supervision, and awards and recognition (including nominal cash awards).

(c) FEDERAL EMPLOYMENT STATUS OF VOLUNTEERS.—

(1) IN GENERAL.—Except as provided in paragraph (2), a volunteer under this section shall not be considered a Federal employee and shall not be subject to the provisions of law relating to Federal employment, including those provisions relating to hours of work, rates of compensation, leave, unemployment compensation, and Federal employee benefits.

(2) EXCEPTION.—A volunteer under this section shall be considered a Federal employee for the purposes of—

(A) required Federal agency safety and health programs under section 19 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 668), Executive Order 12196 (45 Fed. Reg. 12769) and part 1960 of title 29, Code of Federal Regulations; and

(B) the standards of ethical conduct provisions of part 2635 of title 5, Code of Federal Regulations.

(d) LIMITATION.—No volunteer authorized under this section may aid in or facilitate any inspection or investigation relating to, or the enforcement of, the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.).

SEC. 312. PURCHASE AND DISTRIBUTION OF EQUIPMENT.

The Secretary is authorized to purchase and distribute equipment and supplies to public or private entities and individuals for projects administered by the Occupational Safety and Health Administration related to worker safety and health in response to the effects of Hurricane Katrina and Hurricane Rita.

SEC. 313. STATE ASSISTANCE AND MATCHING FUND RESTRICTIONS.

(a) USE OF FUNDS.—Notwithstanding any other provision of law, States that administer State plans under section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667), or cooperative agreements under section 21(d) of such Act (29 U.S.C. 670(d)) may use grant funds awarded under section 21 or 23 of such Act (29 U.S.C. 670; 672) to provide assistance to the Occupational Safety and Health Administration for projects related to worker safety and health in response to the effects of Hurricane Katrina and Hurricane Rita.

(b) MATCHING FUND REQUIREMENT.—Notwithstanding the matching share requirements of section 23 of such Act or any other provision of law, the Secretary may increase the size of a grant to any State providing assistance under subsection (a) by an amount of up to 100 percent of the cost of travel and subsistence, overtime, and other administrative expenses incurred by the State in providing such assistance.

SEC. 314. EXPIRATION.

This authorities granted in this title shall terminate on December 31, 2006.

TITLE IV—GENERAL PROVISIONS

SEC. 401. DEFINITIONS.

For purposes of this Act, except as otherwise specifically provided in this Act, the following terms have the following meanings:

(1) AFFECTED HEAD START AGENCIES.—The term ''affected Head Start Agencies'' means a Head Start agency receiving a significant number of children from an area in which a Gulf hurricane disaster has been declared.

(2) AFFECTED STATE.—The term ''affected State'' means the State of Alabama, Florida, Louisiana, Mississippi, or Texas.

(3) AFFECTED STUDENT.—The term ''affected student'' means an individual who has applied for or received student financial assistance under title IV of the Higher Education Act of 1965, and who—

(A) was enrolled or accepted for enrollment, as of August 29, 2005, at an institution of higher education in an area affected by a Gulf hurricane disaster;

(B) was a dependent student enrolled or accepted for enrollment at an institution of higher education that is not in an area affected by a Gulf hurricane disaster, but whose parents resided or were employed, as of August 29, 2005, in an area affected by a Gulf hurricane disaster; or

(C) was enrolled or accepted for enrollment at an institution of higher education, as of August 29, 2005, and whose attendance was interrupted because of a Gulf hurricane disaster.

(4) AREA AFFECTED BY A GULF HURRICANE DISASTER.—The term ''area affected by a Gulf hurricane disaster'' means a county or

parish, in an affected State, that has been designated by the Federal Emergency Management Agency for disaster assistance for individuals and households as a result of Hurricane Katrina or Hurricane Rita.

(5) CHARTER SCHOOL.—The term ''charter school'' has the meaning given to that term in section 5210 of the Elementary and Secondary Education Act of 1965.

(6) CHILD WITH A DISABILITY.—The term ''child with a disability'' has the meaning given such term in section 602(3) of the Individuals with Disabilities Education Act.

(7) DISPLACED STUDENT.—The term ''displaced student'' means an individual who—

(A) but for a Gulf hurricane disaster, would be enrolled during a school year in an elementary or secondary school in an affected State;

(B) is unable, due to such disaster, to access the education and pupil services that the child otherwise would be receiving at such school; and

(C) due to such disaster, is enrolled at a public elementary or secondary school in a different geographic location in a State.

(8) ELEMENTARY SCHOOL.—The term ''elementary school'' has the meaning given such term in section 9101 of the Elementary and Secondary Education Act of 1965.

(9) ELIGIBLE ENTITY.—The term ''eligible entity'' means—

(A) a local educational agency (as defined in section 602(19) of the Individuals with Disabilities Education Act) if such agency is located in a State or in an area of a State with respect to which the President has declared that a Gulf hurricane disaster exists;

(B) a State educational agency (as defined in section 602(32) of such Act) if such agency is located in a State with respect to which the President has declared that a Gulf hurricane disaster exists; or

(C) a State interagency coordinating council established under section 641 of such Act if such council is located in a State with respect to which the President has declared that a Gulf hurricane disaster exists.

(10) GULF HURRICANE DISASTER.—The term ''Gulf hurricane disaster'' means a major disaster that the President declared to exist, in accordance with section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, and that was caused by Hurricane Katrina or Hurricane Rita.

(11) HIGHLY QUALIFIED.—The term ''highly qualified''—

(A) in the case of a special education teacher, has the meaning given such term in section 602 of the Individuals with Disabilities Education Act; and

(B) in the case of any other elementary, middle, or secondary school teacher, has the meaning given such term in section 9101 of the Elementary and Secondary Education Act of 1965.

(12) INDIVIDUAL ADVERSELY AFFECTED BY A GULF HURRICANE DISASTER.—The term ''individual adversely affected by a Gulf hurricane disaster'' means an individual who, on August 29, 2005, was living, working, or attending school in an area in which the President has declared to exist a Gulf hurricane disaster.

(13) INFANT OR TODDLER WITH A DISABILITY.—The term ''infant or toddler with a disability'' has the meaning given such term in section 632(5) of the Individuals with Disabilities Education Act.

(14) INSTITUTION OF HIGHER EDUCATION.—The term ''institution of higher education'' has the meaning given such term in section 102 of the Higher Education Act of 1965, except that the term does not include institutions under subsection (a)(1)(C) of that section.

(15) LOCAL EDUCATIONAL AGENCY.—The term ''local educational agency'' has the meaning given such term in section 9101 of the Elementary and Secondary Education Act of 1965.

(16) PUPIL SERVICES.—The term ''pupil services'' has the meaning given such term in section 9101 of the Elementary and Secondary Education Act of 1965.

(17) SECONDARY SCHOOL.—The term ''secondary school'' has the meaning given such term in section 9101 of the Elementary and Secondary Education Act of 1965.

(18) STATE.—The term ''State'' has the meaning given such term in section 9101 of the Elementary and Secondary Education Act of 1965.

(19) STATE EDUCATIONAL AGENCY.—The term ''State educational agency'' has the meaning given such term in section 9101 of the Elementary and Secondary Education Act of 1965.

(20) STATE LEAD AGENCY.—The term ''State lead agency'' has the meaning given such term as designated under 676(a)(1) of the Community Services Block Grant Act.

SEC. 402. PROCEDURAL WAIVERS.

(a) PUBLICATION.—

(1) IN GENERAL.—Notwithstanding section 437 of the General Education Provisions Act (20 U.S.C. 1232) and section 553 of title 5, United States Code, the Secretary of Education shall make publicly available the waivers or modifications of statutory and regulatory provisions and other actions the Secretary of Education issues pursuant to this title.

(2) TERMS AND CONDITIONS.—The notice under paragraph (1) shall include the terms and conditions to be applied in lieu of such statutory and regulatory provisions.

SEC. 403. REPORTING REQUIREMENTS.

(a) CONTENTS OF REPORT.—Not later than September 30, 2006, each State that exercises any authority provided in this Act shall submit to the Secretary of jurisdiction a report containing such information as the Secretary may require, including information identifying—

(1) how flexibility provided under this Act is used to provide assistance to individuals adversely affected by a Gulf hurricane disaster, including the number of such individuals assisted;

(2) how such individuals were assisted;

(3) if any staff was sent to an area adversely affected by a Gulf hurricane disaster under title II, subtitle A;

(4) specifying how an affected State exercised its waiver authority under this Act to assist individuals adversely affected by a Gulf hurricane disaster, including waivers received under section 331;

(5) the amount of funding transferred among programs specified in section 331;

(6) the amount of funding, if any, transferred to an affected State under subtitle A of title II and how such funds were distributed;

(7) how additional alternative service providers were chosen by such State to provide immediate assistance under subtitle A of title II; and

(8) the number and location of teachers considered to be highly qualified for purposes of subsequent employment as a teacher by a local educational agency that hired the teachers due to needs created by the enrollment of displaced students under section 111.

(b) REPORT TO CONGRESS.—Not later October 30, 2006, the Secretary shall submit to the Committee on Education and the Workforce of the House of Representatives, the Committee on Health, Education, Labor, and Pensions of the Senate, and the respective Committees on Appropriations the report described in subsection (a), and any comments the Secretary may have with respect to such report.

The SPEAKER pro tempore (Mr. ADERHOLT). Pursuant to the rule, the gentleman from Louisiana (Mr. JINDAL) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentleman from Louisiana (Mr. JINDAL).

GENERAL LEAVE

Mr. JINDAL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 3975.

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

There was no objection.

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

I rise in support of H.R. 3975, the Hurricane Regulatory Relief Act of 2005. This bill will provide much-needed flexibility and regulatory relief to help the students, schools, workers, families and communities affected by Hurricanes Katrina and Rita.

While the recovery effort on the gulf coast is well underway, there is still a significant amount of work yet to be done. In my home State of Louisiana, educational services at all levels have been severely impacted by Hurricanes Katrina and Rita. Unfortunately, we are finding the bureaucratic inefficiencies and red tape have a tendency to slow the efforts of individuals and communities working to rebuild. Entire communities have been uprooted by these unprecedented natural disasters, and we must work to ensure that bureaucratic red tape does not hamper efforts to restore the region.

Accordingly, I have introduced the Hurricane Regulatory Relief Act of 2005 to provide commonsense solutions and flexibility that will help affected students, schools, workers, families and communities bypass the bureaucracy and move forward with the recovery effort.

In general, this bill eases restrictions and provides flexibility for various programs and initiatives administered by the Departments of Education, Health and Human Services and, finally, the Department of Labor. For an unlimited period of time, H.R. 3975 increases flexibility for elementary and secondary schools and teachers; provides assistance for higher education students; expands access to child care and early childhood education; promotes community-based services; and addresses issues related to workers displaced by the hurricanes.

H.R. 3975 would ease some financial requirements, such as maintenance of effort and supplement not supplant funding requirements for K–12 schools in the impacted gulf coast region. Easing these requirements would ensure States and schools can serve students effectively with the resources available. The bill also gives these schools more time with regard to special education evaluations and reporting requirements. By extending, but not

waiving, these deadlines, States and schools would have the flexibility they need to ensure the affected students will have access to the services they need.

To address the specific needs of teachers, the Hurricane Regulatory Relief Act would expand opportunities for quality teachers to serve displaced students. For 1 year, the bill would allow teachers that meet the highly qualified standard in an affected state to be considered highly qualified in other States that are serving large numbers of displaced students where they may be temporarily teaching.

The bill would also help special education teachers by expanding the paperwork reduction pilot program under the Disabilities Education Act to include States affected by the hurricanes.

To assist higher education students, H.R. 3975 would expand outreach efforts to ensure disadvantaged students and families have access to information about financial aid that may be available as they pursue higher education. The bill requires colleges and universities to adjust financial aid award calculations through the expected family contribution, taking into account changes in families' financial circumstances caused by the hurricanes. H.R. 3975 would also encourage institutions of higher education to ease the process for displaced students to transfer the academic credits they have earned and to continue their studies as the region rebuilds.

With regard to child care services and early childhood education, the Hurricane Regulatory Relief Act would ease Federal requirements for State administration of the child care and development block grant to give affected families easier access to child care service. Additionally, H.R. 3975 would ensure that displaced children have access to Head Start by requiring the Department of Health and Human Services to provide additional guidance, technical assistance, flexibility and resources to affected areas to ensure children impacted by the hurricanes will have access to the educational and comprehensive services provided through the Head Start program.

To promote community-based services, H.R. 3975 would provide additional flexibility within the community services block grant program by allowing a State to send a portion of its discretionary funds to a State directly affected by the hurricanes.

The Hurricane Regulatory Relief Act also includes several modest but important provisions to provide greater flexibility to those in need and to ensure that bureaucratic red tape does not impede relief and recovery efforts.

So that those who may need to are able to obtain loans or distributions from their pension plans, such as 401(k)s, the bill provides new authority to supplement the Secretary of Labor's existing authority under section 518 of ERISA by authorizing the Secretary to waive, suspend or grant an exemption from any provision of ERISA, or regulation issued under the Act, if the Secretary determines that doing so would facilitate the distribution or loan of individual account plan assets to participants and beneficiaries affected by Hurricanes Katrina or Rita. This commonsense provision makes clear that compliance with the terms of a waiver, suspension or exemption would safeguard a person from liability regarding any action or omission covered under them.

In addition, to speed and facilitate recovery efforts, while maintaining important safety protections for workers engaged in reconstruction, the Hurricane Regulatory Relief Act includes several amendments to the Occupational Safety and Health Act.

First, the bill expressly provides that the Secretary of Labor may utilize the services of volunteers to assist in the recovery effort, a practice often impossible under current law.

Second, the legislation authorizes the Secretary to use OSHA funds to purchase and distribute equipment and supplies to public and private entities assisting in hurricane-related recovery.

Finally, the bill waives current law matching requirements for certain grants so that States that maintain their own occupational safety and health system may contribute supplies and assistance in relief efforts.

The Hurricane Regulatory Relief Act provides flexibility and regulatory relief to help students, schools, workers, families and communities affected by Hurricanes Katrina and Rita. This bill is narrowly tailored and makes commonsense changes to these various statutes for a limited amount of time so we can help reduce many burdensome bureaucratic processes that are associated with our relief efforts.

As former president of the University of Louisiana system, I truly understand the need to be flexible, responsive and to help the neediest students and the affected institutions in their time of need. I urge my colleagues to support H.R. 3975, the Hurricane Regulatory Relief Act of 2005.

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

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

First of all, Mr. Speaker, let me commend the gentleman from Louisiana (Mr. JINDAL) for developing this legislation. I might also note that we were able to work with the majority on several provisions in this bill and were able to make some greatly needed improvements.

As the gentleman from Louisiana pointed out, this bill offers the gulf coast areas much-needed flexibility in the area of No Child Left Behind, Head Start programs, child care, higher education, OSHA and ERISA. This new flexibility will help them begin the long and arduous task of recovery.

States have asked for this flexibility, and it is only right that we provide them with it.

However, we must note that it has been over 2 months since the hurricanes hit the gulf coast area, and for 2 months now, we have ignored the fact that the States who have taken in these students and families have been serving these families with limited resources, and even worse, we have ignored the immediate needs of the education systems directly hit by the storms.

For 2 months now, schools across the Nation have borne the additional responsibility of educating over 370,000 students displaced by the storms.

Almost every State has welcomed students from the gulf coast areas. No one has been turned away. These schools have opened their doors to the 12,000 Louisiana teachers that were displaced.

Unfortunately, States and school districts have also had to bear the additional costs of doing so without any real assistance from the Federal Government.

In the gulf coast areas, school districts are running out of money, unable to pay administrators or teachers.

Over 4,000 teachers have been furloughed from the New Orleans school district alone.

Even worse, for those school districts damaged by the storm, Federal assistance has been slow in coming, although Louisiana alone estimated their immediate need at $2.8 billion.

The shame in all of this is that if this leadership really wanted to do something for these families, they would have reached across the aisle and worked on a bipartisan effort to address the needs of these school districts. Instead, over 2 months now since the storms, these school systems are still waiting.

According to Health and Human Services, 18,000 children attended Head Start in the counties most directly impacted by Hurricane Katrina. More than 700 centers were damaged or closed, and 82 remain closed because of significant physical damage or serious mold problems.

The regulatory waivers in this bill are good, but they ignore the most important need, funding that will get Head Start centers back up and running and funding to help centers in areas like Houston expand their capacity to serve displaced Head Start families.

Two weeks ago, the President requested Congress to appropriate $90 million immediately for helping these Head Start centers, and the Congress has yet to send an additional dime to Head Start centers in the gulf coast.

Community action agencies across the country administer other programs that are essential to low-income Americans, programs like Meals on Wheels, energy assistance, child care, after school programs and workforce programs.

Health and Human Services reports that in the 6 weeks after Hurricane Katrina, community action agencies nationwide have served over 196,000 individuals displaced by Hurricanes Katrina and Rita.

Though the waiver provisions in this bill may help the operations of community action agencies, it continues to ignore the most pressing and obvious need, additional resources for these agencies to meet the increased needs of the communities and individual families affected by the hurricanes.

Child care and child care assistance is critical to any effort to rebuild the gulf coast. Families looking to put their lives back together need a safe and healthy place to leave their child as they seek employment or go to work.

In the counties most affected by the hurricanes, reports are that as many as 90 percent of child care centers and family-based child care have been wiped out.

Waiving regulations will not help families find affordable child care. Additional resources are critically needed and still absent from this Congress.

Over 100,000 students and approximately 30,000 faculty and staff at 30 colleges have been impacted by Hurricane Katrina alone. As a result, hundreds of thousands of gulf coast residents are jobless, homeless and displaced. It will take decades to restore the economic strength to the gulf coast region.

While this bill will help impact the students and borrowers, by echoing provisions in the Gulf Coast Hurricane Student and School Relief Act introduced by the gentleman from California (Mr. GEORGE MILLER) and the gentleman from Michigan (Mr. KILDEE) that provide loan deferment and by ensuring that the amount that families are expected to pay towards college for the current term and the next academic year is readjusted, it completely fails to help rebuild the devastated colleges and universities.

Dillard University, Xavier University of Louisiana and Southern University at New Orleans, all historically black colleges and universities, suffered at least $1 billion in flood and fire destruction. Yet this bill provides no assistance to help rebuild the schools, recruit or retain students, faculty and staff.

We share the majority's concern that rebuilding in the hurricane-affected areas occur under safe working conditions.

While we prefer that the Secretary use existing trained OSHA staff and grantees, we agree that volunteers may be used in appropriate circumstances. The majority has agreed that all volunteers will be appropriately trained and will not carry out existing OSHA enforcement activities.

We also understand that hurricane-affected families may need to tap into their 401(k) retirement nest eggs in this time of financial need and crisis. Congress has already passed legislation that the President has signed into law that enables pension plan participants to access their 401(k) moneys.

This provision permits the Secretary to waive department requirements that may conflict with these 401(k) distributions. Again, we hope the Secretary will exercise this authority judiciously and in a way that assists participants without taking away any of their rights under current law.

Mr. Speaker, the provision in this package will offer gulf coast States much-needed flexibility in each of these areas. It is an important first step. However, it is unfortunate that the majority has yet to move forward with a supplemental package to address the critical needs of families and students who have relocated.

In fact, it appears that the leadership is more focused on providing tax breaks to the rich, cutting critical safety net programs, cutting student loan programs and cutting Medicaid than they are on providing assistance to the victims of Katrina.

Instead of getting funds directly to these schools and families that are in dire need, this House leadership wants to slash vital services for working families.

□ 1100

Nearly $9 billion of $11.9 billion in Medicaid cuts fall directly on enrollees. The nonpartisan Congressional Budget Office has estimated that most of the Medicaid cuts are achieved by requiring Medicaid enrollees to pay substantially more for the health care they need, including requiring the poorest children for the first time to pay copayments for prescription drugs and emergency room care.

Congressman MILLER and Congresswoman WOOLSEY have introduced a K–12 relief package. Congressman KILDEE has introduced several higher education packages. As we move forward with this package of waivers, I hope that we will continue to find other ways to deliver much needed help to the students, schools, and families of the gulf coast region.

Mr. Speaker, let me just once again commend the gentleman from Louisiana (Mr. JINDAL) for not only this package of legislation but also the many efforts that he has put forth since Katrina to try to provide relief to the gulf coast area and especially relief to those individuals who are uprooted, dislocated, and are searching for their way. I commend the gentleman once again and urge that we pass this legislation.

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

Mr. JINDAL. Mr. Speaker, I just want to thank my colleagues across the aisle, as well, for working with us on what I think is a small, but important, step towards regulatory relief in my home State and the other impacted States along the gulf coast. Obviously, we have much more work that remains to be done.

With that, Mr. Speaker, I certainly urge passage of H.R. 3975.

Mr. BOUSTANY. Mr. Speaker, the unprecedented devastation caused by Hurricanes Rita and Katrina in Louisiana, Texas, Mississippi, and Alabama will require an equally innovative recovery effort. The Hurricane Regulatory Relief Act will facilitate this effort by cutting through bureaucratic red tape to ensure that assistance for the gulf coast region arrives quickly and efficiently.

For one year the bill:

Allows States and schools to use available funds where they are most needed and most effective by waiving many funding requirements.

Extends deadlines for special education evaluations and reporting.

Allows teachers that met the "highly qualified" standard in an affected State to be considered "highly qualified" in other States that are serving large numbers of displaced students.

In addition, the bill expands the Individuals with Disabilities Education Act, IDEA, Paperwork Reduction Pilot Program to States affected by the hurricanes.

This legislation also requires colleges to recalculate financial aid awards to take into account changes in families' financial circumstances caused by the hurricanes.

H.R. 3975 eases Federal requirements for State administration of the Child Care and Development Block Grant, CCDBG, and the Community Services Block Grant, CSBG.

In addition, H.R. 3975 provides financial flexibility to allow displaced workers seeking emergency loans and hardship distributions from their personal retirement plans, such as 401(k)s, to access them more quickly and easily.

Finally, the bill authorizes the purchase and distribution of equipment for projects administered by the Occupational Safety and Health Administration, OSHA, in response to Hurricanes Katrina and Rita, and it waives the matching grant requirements for State OSHA programs in order for those States to offer assistance to hurricane-impacted areas.

These measures will ensure the gulf region has the necessary flexibility to rebuild what has always been a vital and distinctive economy, and I urge passage of the Hurricane Regulatory Relief Act.

Mr. OWENS. Mr. Speaker, I cannot in good conscience support the Occupational Safety and Health provisions in H.R. 3975, the Hurricane Regulatory Relief Act of 2005. More than 2 months after Hurricane Katrina hit the gulf region, thousands of recovery and reconstruction workers remain in serious harm's way there because the Occupational Safety and Health Administration, OSHA, is not enforcing established Federal safety and health standards. The bill before us does not address the serious health and safety problems of these workers. The bill also does not address the "right of return" concerns of the Congressional Black Caucus. Residents need work under safe conditions. Employment of residents should not be undermined by an expanded volunteer project.

To date, OSHA has not conducted a comprehensive assessment of the hazards now facing clean-up and recovery workers in Louisiana, Mississippi and other areas decimated by Katrina, let alone hit by Rita. Likewise, OSHA has failed to specify what types of personal protective equipment, PPE, are required

for different clean-up, recovery and reconstruction tasks being carried out by workers in Katrina- and Rita-affected areas. Also, OSHA has failed to layout the minimum safety training required for various gulf coast clean-up, recovery and reconstruction workers, in accordance with nationally agreed upon standards.

Given OSHA's failure to act in response to Katrina and Rita, the last thing needed at this juncture is specific authority to recruit, train, use and pay for an unlimited number of volunteers to carry out non-enforcement projects vaguely characterized as ''related to worker safety and health.'' Likewise, OSHA does not need new authority to distribute respirators and other safety equipment, having done so with countless supplies donated by manufacturers for cleanup at ground zero.

The parallels are strikingly clear between the failure to protect recovery and clean-up workers in the aftermath of the 9/11 terrorist attacks that destroyed the World Trade Center and the failure to protect workers now in the wake of Hurricanes Katrina and Rita. Rather than enforcing workplace safety and health laws, OSHA decided to serve as an ''adviser'' to employers in both cases.

Already, there are reports in the press of a ''Katrina cough'' caused by exposure to toxic mold and contaminated dust left by the receding flood waters. These waters contained high levels of gasoline, sewage, bacteria, lead, mercury, pesticides, and other serious toxins. It only took several months after 9/11 before there were similar reports by physicians of a ''World Trade Center cough'' afflicting first responders and recovery workers. These workers were exposed to dust contaminated by asbestos, glass fibers, concrete dust, lead, and other hazardous substances. And now, growing numbers of 9/11 rescue and recovery workers have had to retire on permanent disability because of chronic respiratory illness. Others have died, their lungs scarred beyond repair, because they were unprotected from Ground Zero toxins. They died because in overseeing work at Ground Zero, OSHA decided not to enforce health and safety standards.

Mr. Speaker, how many workers have to die or face permanent disability before OSHA starts enforcing workplace safety and health laws, be it in the aftermath of terrorist attacks or natural disasters like hurricanes? I ask unanimous consent that an October 6 letter sent to every Member of Congress from more than 100 labor, religious, environmental, public health and public-interest organizations and individual experts be printed in the RECORD in its entirety, immediately following this statement.

Simply put, that letter urges Congress not to repeat in the gulf coast the health and safety errors made subsequent to 9/11.

I commend the New York Committee on Safety and Health, NYCOSH, the many national and local unions, and all other coalition members for urging immediate steps be taken by OSHA and other federal agencies to protect gulf coast recovery workers. I urge my colleagues to accept and act without delay on these life-saving recommendations.

I also urge all of my congressional colleagues to review H.R. 4197, sponsored by the Congressional Black Caucus. The overwhelming concern of this bill is the establishment of the necessary conditions to facilitate a healthy rebirth of the communities of New Orleans and the rest of the gulf coast.

NATIONAL COUNCIL FOR
OCCUPATIONAL SAFETY AND HEALTH,
New York, NY, October 6, 2005.

DEAR SENATOR/MEMBER OF THE HOUSE OF REPRESENTATIVES: Thousands of disaster responders, workers, and volunteers in the Gulf Coast areas affected by Hurricane Katrina remain inadequately protected against exposure to environmental health hazards.

As individuals and organizations in the fields of community, public health and occupational and environmental health and safety, disaster response, recovery and cleanup, we are greatly concerned. Many of us have been directly involved in 9/11 rescue, response, and recovery efforts. In the wake of the terrible tragedy of Hurricane Katrina we urge that the lessons learned in 9/11 response efforts not be ignored in Katrina response operations.

As we came to recognize in the aftermath of 9/11, there is a difference between rescue and recovery. Now, however, a month after the storm, we are now well into the recovery stage on the Gulf Coast, and therefore EPA and OSHA should immediately commence enforcement of life-saving workplace and environmental laws and regulations.

Failure to do so puts countless workers and residents at risk of contracting preventable environmental and occupational diseases. This was our experience in the aftermath of 9/11, when thousands of workers and residents were unnecessarily exposed to toxic substances after being assured by EPA that the air was safe to breathe. At the same time, workers were left unprotected by OSHA, which declined to enforce its respiratory protection standard and other regulations. The illnesses of thousands of New York workers and residents today are in part the result of the failure of government agencies to enforce environmental and occupational health regulations after 9/11.

Therefore, we are unalterably opposed to the legislative proposal of Senator James Inhofe (R-OK) to allow the Environmental Protection Agency to temporarily suspend or relax its rules.

Although it is not yet possible to characterize with certainty the toxic nature of the flood waters that cover Louisiana and Mississippi, what is known is of great concern. The flood waters have been contaminated by 6.7 million gallons of petroleum as a result of major spills from refineries and with another 1–2 million gallons of gasoline from gas stations and 300,000 flooded cars. There have been hundreds of smaller oil spills (396 as of Wednesday 9/14). The flood waters contain elevated levels of sewage, bacteria, lead, mercury, hexavalent chromium, arsenic, and pesticides. Some contaminants, such as benzene, are presumed to be present in such large quantities that the EPA has not considered it necessary to conduct sampling. The flood waters impacted 31 hazardous waste sites and 446 industrial facilities that reported handling highly dangerous chemicals before the storm. Thousands of damaged buildings are likely to be contaminated with mold and asbestos. Additionally, to our knowledge, no tests have been conducted for dioxin, which is known to be present at levels of concern in southwest Louisiana.

As the flood waters recede, contaminants that remain have the potential to become airborne when disturbed by natural causes (wind and other storms) or by cleanup activities, creating an even greater occupational and public health hazard.

The Centers for Disease Control and Prevention and the Environmental Protection Agency Joint Taskforce published on September 17, 2005 an initial Environmental Health Needs and Habitability Assessment. The report provides an outline of the threats to the health of the public and of the workers who will be involved in cleaning up the areas impacted by Katrina. These threats are serious and are unprecedented in scope.

The joint report provides a valuable overview. However, it offers no details concerning what needs to be done to protect workers and residents. That is why we believe that Congress should act on the following recommendations. We must not repeat the errors of 9/11 today in New Orleans. Response and recovery operations must proceed expeditiously, but the health and safety of those engaged in such efforts must be protected.

We urge immediate action on the following steps:

1. Presume Contamination Until Proven Otherwise: Given the wide range and toxic nature of contaminants to which workers, volunteers, and residents may be exposed, it is imperative that work areas be presumed to be contaminated and that appropriate precautionary measures be implemented until the work environment is demonstrated to be safe.

2. Implement the National Response Plan's Worker and Community Environmental Testing and Monitoring Provisions: The worker and community environmental testing and monitoring provisions of the National Response Plan must be followed closely. It provides for hazard identification, environmental sampling, personal exposure monitoring, collecting and managing exposure data, development of site-specific safety plans, immunization and prophylaxis, and medical surveillance, medical monitoring and psychological support.

3. Enforce all OSHA and EPA Regulations: Environmental and occupational health standards must be strictly enforced. We are distressed that OSHA has defined its role in Katrina response, as in 9/11, as advisory rather than enforcement.

4. Assess the Hazards: EPA should conduct comprehensive environmental sampling to characterize the nature and extent of environmental hazards and NIOSH and OSHA must conduct a comprehensive assessment of the hazards posed to recovery workers. Hazard assessment should include evaluation of environmental hazards presented by chemical plants and refineries, hazardous waste sites, in-place building materials, biological agents, and other potential sources affected by the storm. Environmental monitoring should be ongoing. Sampling results should be accessible to the public in a timely manner. Toxic materials should be catalogued, evaluated and tested, and any known or potential releases contained. Failure to act will threaten returning residents and workers and will increase long-term cleanup costs as toxic substances spread to larger areas.

5. Train and Protect Clean Up Workers: All cleanup workers (public and private sector, paid and unpaid) should receive the appropriate OSHA-required training and equipment for protection against the hazards to which they may be exposed. OSHA should specify the minimum training that must be provided to workers engaged in clean-up and recovery. Training may include that which is required under OSHA's Hazard Communication, Respiratory Protection, Personal Protective Equipment, and Hazardous Waste Operations and Emergency Response standards. Protective equipment may include respirators and protective clothing and equipment.

6. Provide Appropriate Decontamination for Workers: To protect worker and public health, emphasis must be placed on regular decontamination of workers and volunteers

and of their protective gear, tools, equipment, and vehicles. Workers and volunteers must be trained in the importance of meticulous personal hygiene in the presence of toxics and must be provided with appropriate decontamination and sanitary facilities.

7. Provide Medical Surveillance: Provision must be made for early detection and treatment of occupational, environmental, and psychological illnesses. To ignore the medical needs of potentially exposed workers and residents is asking them to be guinea pigs in a long-term experiment the consequences of which remain unknown. All public and private sector rescue, response, and cleanup workers, including volunteers, should be entered into a centralized database to facilitate medical surveillance.

8. Protect Vulnerable Workers: Special consideration must be given to protection of immigrant and temporary workers, who reportedly are being recruited in large numbers. In 9/11 response efforts, immigrant and temporary workers were the workers least likely to be provided with proper training and respiratory protection, and were the workers least likely to have medical insurance. As a result, they incurred high rates of illness without having access to medical treatment.

9. Adopt Uniform Re-occupancy Standards: EPA must work with local governments to ensure that a protective health and safety standard for re-occupancy applies uniformly to all communities and also is sensitive to the needs of vulnerable populations. EPA has indicated that it will permit local authorities to determine re-occupancy criteria, but it is critical to ensure that all re-occupancy occurs according to standards that are adequately protective of public health.

A cleanup of this magnitude and complexity has never been undertaken. While we support proceeding with the cleanup and recovery with dispatch, protection of the health of clean-up workers and of the public at large must be given the highest priority.

Endorsing organizations signatures available at www.nycosh.org.

Mr. GEORGE MILLER of California. Mr. Speaker, the managers of the bill jointly submit this statement to explain and clarify the intent of certain provisions contained within the legislation.

With respect to amendments made to the Occupational Safety and Health, OSH, Act in section 311 of the legislation, the managers recognize the historic and unique nature of this disaster inflicted by Hurricanes Katrina and Rita, and is taking the extraordinary step of authorizing the Occupational Safety and Health Administration, OSHA, to use volunteers in light of the historic scope of that devastation.

Section 311 of the bill is intended to allow OSHA to utilize qualified safety professionals as volunteers to assist in a variety of projects targeting health and safety identified by OSHA. It is the managers' expectation and intent that these volunteers would be qualified by virtue of experience, and would need little additional training based on their professional work experience or other recognized safety training prior to being deployed in needed areas.

With respect to section 312's providing authority to the Secretary to purchase and distribute equipment and supplies to public or private entities engaged in projects related to worker safety, it is the intent of the managers that these funds be used to assist in relief and recovery efforts, and not be used to pay private entities to comply with preexisting requirements or obligations under the OSH Act.

Finally, with respect to title III, subtitle A, the Pension Flexibility for Displaced Workers Act of 2005, it is the managers' expectation and intention that the Secretary will exercise the authority provided under that section judiciously and upon careful consideration of the appropriateness of any waiver, suspension, or exemption authorized thereunder.

Mr. BOEHNER. Mr. Speaker, I rise in support of this bill to offer relief to the families, workers, and schools in the gulf coast region working to rebuild after the devastation caused by Hurricanes Katrina and Rita.

I'd like to thank the author of this bill, my friend from Louisiana, Representative JINDAL, for his tireless efforts on behalf of his constituents who have been through so much.

This bill, the Hurricane Regulatory Relief Act, is about cutting through the red tape and easing the burdens on those who are working to rebuild. It provides commonsense flexibility for teachers and schools; it encourages community-based services and eases access to child care; and it provides assistance for displaced workers.

For 1 year, the bill will ease the burdens on teachers and schools to ensure they can focus on education instead of focusing on compliance with burdensome rules. This includes easing funding requirements so States and schools have greater flexibility to use resources to meet the needs of their students.

It will also expand opportunities for qualified teachers to serve displaced students, and will expand a pilot project to affected States to reduce the paperwork burden on special education teachers. Furthermore, the bill encourages States to ease restrictions on charter schools so that they may play an active role in the relief effort.

The Hurricane Regulatory Relief Act includes steps to make it easier for college students to transfer from one institution to another so they can continue to make progress toward a degree, and it improves the outreach process to help disadvantaged students learn about the financial aid opportunities that may be available.

To help displaced families get back on their feet, the bill expands access to child care services by easing Federal requirements for the Child Care and Development Block Grant and providing guidance, technical assistance, flexibility, and resources to ensure displaced children have access to the Head Start early childhood program.

The bill also provides greater flexibility within the Community Services Block Grant program, which provides an array of services and assistance through Community Action Agencies.

Our efforts to cut red tape don't stop there. The bill will provide financial flexibility for displaced workers, reducing bureaucratic burdens to ensure displaced workers seeking emergency funds from their personal retirement plans may access them more quickly and easily.

Finally, the bill also works to enhance safety and reduce bureaucracy in relief projects.

Mr. Speaker, this bill offers commonsense solutions to speed the relief effort by cutting through red tape and easing the regulatory burden.

Once again, I'd like to thank the sponsor of this bill, Representative JINDAL, and Members on both sides of the aisle for working to aid those impacted by Hurricanes Katrina and Rita.

I urge my colleagues to support this effort.

Mr. BOEHNER. Mr. Speaker, the Managers of the bill jointly submit this statement to explain and clarify the intent of certain provisions contained within the legislation.

With respect to amendments made to the Occupational Safety and Health (OSH) Act in Section 311 of the legislation, the Managers recognize the historic and unique nature of this disaster inflicted by Hurricanes Katrina and Rita, and is taking the extraordinary step of authorizing the Occupational Safety and Health Administration (OSHA) to use volunteers in light of the historic scope of that devastation.

Section 311 of the bill is intended to allow OSHA to utilize qualified safety professionals as volunteers to assist in a variety of projects targeting health and safety identified by OSHA. It is the Managers' expectation and intent that these volunteers would be qualified by virtue of experience, and would need little additional training based on their professional work experience or other recognized safety training prior to being deployed in needed areas.

With respect to Section 312's providing authority to the Secretary to purchase and distribute equipment and supplies to public or private entities engaged in projects related to worker safety, it is the intent of the Managers that these funds be use to assist in relief and recovery efforts, and not be used to pay private entities to comply with preexisting requirements or obligations under the OSH Act.

Finally, with respect to Title III, Subtitle A, the ''Pension Flexibility for Displaced Workers Act of 2005,'' it is the Managers' expectation and intention that the Secretary will exercise the authority provided under that section judiciously and upon careful consideration of the appropriateness of any waiver, suspension, or exemption authorized thereunder.

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

The SPEAKER pro tempore (Mr. ADERHOLT). The question is on the motion offered by the gentleman from Louisiana (Mr. JINDAL) that the House suspend the rules and pass the bill, H.R. 3975, as amended.

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

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the following bills and resolution to be considered today: H.R. 3647, H.R. 1036, H.R. 866, H.R. 1442, and House Resolution 547.

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

There was no objection.

RENDERING DENMARK NATIONALS ELIGIBLE TO ENTER THE UNITED STATES AS NONIMMIGRANT TRADERS AND INVESTORS

Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3647) to render nationals of Denmark eligible to enter the United States as nonimmigrant traders and investors, as amended.

The Clerk read as follows:

H.R. 3647

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

[SECTION 1. NONIMMIGRANT TRADERS AND INVESTORS FROM DENMARK.

[Denmark shall be considered, for purposes of section 101(a)(15)(E) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(E)), to be a foreign state described in such section if Denmark extends reciprocal nonimmigrant treatment to nationals of the United States.]

SECTION 1. NONIMMIGRANT TRADERS AND INVESTORS FROM DENMARK.

Denmark shall be considered, for purposes of section 101(a)(15)(E) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(E)), to be a foreign state described in such section (other than clause (iii) of such section) if Denmark extends reciprocal nonimmigrant treatment to nationals of the United States.

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

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

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

Mr. Speaker, I rise in support of H.R. 3647, to render nationals of Denmark eligible to enter the United States as nonimmigrant traders and investors. E–2 visas are nonimmigrant visas available to nationals of countries with which the United States maintains a treaty of commerce. Under the Immigration and Nationality Act, aliens from such countries who wish to come to the United States to develop and direct the operations of an enterprise in which they have invested, or are actively in the process of investing a substantial amount of capital, may apply for entry on an E–2 visa.

Alien employees of a treaty investor may also receive E–2 visas if they are coming to the United States to engage in duties of an executive or supervisory character, or, if employed in a lesser capacity, if they have special qualifications that make the services to be rendered essential to the efficient operation of that enterprise. There is no numerical cap on E–2 visas. An alien may be admitted initially for a period of 2 years and can apply for extensions in 2-year increments.

The United States has entered into treaties of commerce containing language similar to the E–2 visas since as far back as 1815, when we entered into a Convention to Regulate Commerce with the United Kingdom. Currently, the nationals of 74 countries are eligible for E–2 status. In fiscal year 2003, 24,506 aliens, including dependents, were granted E–2 visas.

Nationals of Denmark are already eligible for an E–1, treaty trader, visa pursuant to the Treaty of Friendship, Commerce and Navigation between the United States and Denmark of October 1, 1951. The U.S. and Denmark signed a protocol to that treaty on May 2, 2001, that would also grant Danes eligibility for E–2 visas. However, that protocol has not been ratified due to the broad objections raised on both sides of the Capitol regarding the inclusion of immigration provisions in trade agreements. Accordingly, the Danish embassy has requested that Denmark be granted E–2 privileges through the normal legislative process. This legislation would accomplish that.

Mr. Speaker, I wish to emphasize the importance of formal congressional consideration of any changes to United States immigration law through congressional legislative process. Over the last several years, Congress has witnessed efforts to circumvent its exclusive authority under the Constitution to amend our Nation's immigration law. The inclusion of temporary entry or other immigration provisions in bilateral or multilateral trade agreements undermines the constitutional authority of Congress and has been strongly opposed by Members on both sides of the aisle.

This legislation is the product of the open legislative process that revisions to our immigration law deserve, and I urge other nations seeking changes to U.S. immigration law to follow a similar legislative course. I appreciate that the embassy of Denmark has sought E–2 visas the right way, and I urge my colleagues to support this bill.

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

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

Let me, first of all, acknowledge that this is an important issue. Danish nationals are eligible for E–1 treaty trader visas pursuant to the Treaty of Friendship, Commerce and Navigation between the United States and Denmark of October 1, 1951.

The U.S. and Denmark signed a protocol to the treaty on May 2, 2001, which would grant Danes eligibility for E–2 visas. That protocol is currently before the Senate Foreign Affairs Committee. However, since the Judiciary Committee began insisting in 2003 that trade agreements and treaties no longer contain immigration provisions, the Danish embassy has requested a grant of E–2 privileges through the normal legislative process.

H.R. 3647 would grant those privileges to Denmark. I support that grant of such privileges and therefore support H.R. 3647.

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

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

The SPEAKER pro tempore (Mrs. CAPITO). The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and pass the bill, H.R. 3647, as amended.

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

A motion to reconsider was laid on the table.

COPYRIGHT ROYALTY JUDGES PROGRAM TECHNICAL CORRECTIONS ACT

Mr. SENSENBRENNER. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 1036) to amend title 17, United States Code, to make technical corrections relating to copyright royalty judges, as amended.

The Clerk read as follows:

H.R. 1036

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 ''Copyright Royalty Judges Program Technical Corrections Act''.

SEC. 2. REFERENCE.

Any reference in this Act to a provision of title 17, United States Code, refers to such provision as amended by the Copyright Royalty and Distribution Reform Act of 2004 (Public Law 108–419) and the Satellite Home Viewer Extension and Reauthorization Act of 2004 (title IX of division J of Public Law 108–447).

SEC. 3. AMENDMENTS TO CHAPTER 8 OF TITLE 17, UNITED STATES CODE.

Chapter 8 of title 17, United States Code, is amended as follows:

(1) Section 801(b)(1) is amended, in the matter preceding subparagraph (A), by striking ''119 and 1004'' and inserting ''119, and 1004''.

(2) Section 801 is amended by adding at the end the following:

''(f) EFFECTIVE DATE OF ACTIONS.—On and after the date of the enactment of the Copyright Royalty and Distribution Reform Act of 2004, in any case in which time limits are prescribed under this title for performance of an action with or by the Copyright Royalty Judges, and in which the last day of the prescribed period falls on a Saturday, Sunday, holiday, or other nonbusiness day within the District of Columbia or the Federal Government, the action may be taken on the next succeeding business day, and is effective as of the date when the period expired.''.

(3) Section 802(f)(1)(A) is amended—

(A) in clause (i), by striking ''clause (ii) of this subparagraph and subparagraph (B)'' and inserting ''subparagraph (B) and clause (ii) of this subparagraph''; and

(B) by striking clause (ii) and inserting the following:

''(ii) One or more Copyright Royalty Judges may, or by motion to the Copyright Royalty Judges, any participant in a proceeding may, request from the Register of Copyrights an interpretation of any material questions of substantive law that relate to the construction of provisions of this title and arise in the course of the proceeding. Any request for a written interpretation

shall be in writing and on the record, and reasonable provision shall be made to permit participants in the proceeding to comment on the material questions of substantive law in a manner that minimizes duplication and delay. Except as provided in subparagraph (B), the Register of Copyrights shall deliver to the Copyright Royalty Judges a written response within 14 days after the receipt of all briefs and comments from the participants. The Copyright Royalty Judges shall apply the legal interpretation embodied in the response of the Register of Copyrights if it is timely delivered, and the response shall be included in the record that accompanies the final determination. The authority under this clause shall not be construed to authorize the Register of Copyrights to provide an interpretation of questions of procedure before the Copyright Royalty Judges, the ultimate adjustments and determinations of copyright royalty rates and terms, the ultimate distribution of copyright royalties, or the acceptance or rejection of royalty claims, rate adjustment petitions, or petitions to participate in a proceeding.''.

(4) Section 802(f)(1)(D) is amended by inserting a comma after ''undertakes to consult with''.

(5) Section 803(a)(1) is amended—

(A) by striking ''The Copyright'' and inserting ''The Copyright Royalty Judges shall act in accordance with this title, and to the extent not inconsistent with this title, in accordance with subchapter II of chapter 5 of title 5, in carrying out the purposes set forth in section 801. The Copyright''; and

(B) by inserting after ''Congress, the Register of Copyrights,'' the following: ''copyright arbitration royalty panels (to the extent those determinations are not inconsistent with a decision of the Librarian of Congress or the Register of Copyrights),''.

(6) Section 803(b) is amended—

(A) in paragraph (1)(A)(i)(V)—

(i) by striking ''in the case of'' and inserting ''the publication of notice requirement shall not apply in the case of''; and

(ii) by striking '', such notice may not be published.'';

(B) in paragraph (2)—

(i) in subparagraph (A), by striking'', together with a filing fee of $150'';

(ii) in subparagraph (B), by striking ''and'' after the semicolon;

(iii) in subparagraph (C), by striking the period and inserting ''; and''; and

(iv) by adding at the end the following:

''(D) the petition to participate is accompanied by either—

''(i) in a proceeding to determine royalty rates, a filing fee of $150; or

''(ii) in a proceeding to determine distribution of royalty fees—

''(I) a filing fee of $150; or

''(II) a statement that the petitioner (individually or as a group) will not seek a distribution of more than $1000, in which case the amount distributed to the petitioner shall not exceed $1000.'';

(C) in paragraph (3)(A)—

(i) by striking ''(A) IN GENERAL.—Promptly'' and inserting ''(A) COMMENCEMENT OF PROCEEDINGS.—

''(i) RATE ADJUSTMENT PROCEEDING.—Promptly''; and

(ii) by adding at the end the following:

''(ii) DISTRIBUTION PROCEEDING.—Promptly after the date for filing of petitions to participate in a proceeding to determine the distribution of royalties, the Copyright Royalty Judges shall make available to all participants in the proceeding a list of such participants. The initiation of a voluntary negotiation period among the participants shall be set at a time determined by the Copyright Royalty Judges.''.

(D) in paragraph (4)(A), by striking the last sentence; and

(E) in paragraph (6)(C)—

(i) in clause (i)—

(I) in the first sentence, by inserting ''and written rebuttal statements'' after ''written direct statements'';

(II) in the first sentence, by striking ''which may'' and inserting ''which, in the case of written direct statements, may''; and

(III) by striking ''clause (iii)'' and inserting ''clause (iv)'';

(ii) by amending clause (ii)(I) to read as follows:

''(ii)(I) Following the submission to the Copyright Royalty Judges of written direct statements and written rebuttal statements by the participants in a proceeding under paragraph (2), the Copyright Royalty Judges, after taking into consideration the views of the participants in the proceeding, shall determine a schedule for conducting and completing discovery.'';

(iii) by amending clause (iv) to read as follows:

''(iv) Discovery in connection with written direct statements shall be permitted for a period of 60 days, except for discovery ordered by the Copyright Royalty Judges in connection with the resolution of motions, orders, and disputes pending at the end of such period. The Copyright Royalty Judges may order a discovery schedule in connection with written rebuttal statements.''; and

(iv) by amending clause (x) to read as follows:

''(x) The Copyright Royalty Judges shall order a settlement conference among the participants in the proceeding to facilitate the presentation of offers of settlement among the participants. The settlement conference shall be held during a 21-day period following the 60-day discovery period specified in clause (iv) and shall take place outside the presence of the Copyright Royalty Judges.''.

(7) Section 803(c)(2)(B) is amended by striking ''concerning rates and terms''.

(8) Section 803(c)(4) is amended by striking '', with the approval of the Register of Copyrights,''

(9) Section 803(c)(7) is amended by striking ''of Copyright'' and inserting ''of the Copyright''.

(10) Section 803(d)(2)(C)(i)(I) is amended by striking ''statements of account and any report of use'' and inserting ''applicable statements of account and reports of use''.

(11) Section 803(d)(3) is amended by striking ''If the court, pursuant to section 706 of title 5, modifies'' and inserting ''Section 706 of title 5 shall apply with respect to review by the court of appeals under this subsection. If the court modifies''.

(12) Section 804(b)(1)(B) is amended—

(A) by striking ''801(b)(3)(B) or (C)'' and inserting ''801(b)(2)(B) or (C)''; and

(B) in the last sentence, by striking ''change is'' and inserting ''change in''.

(13) Section 804(b)(3) is amended—

(A) in subparagraph (A), by striking ''effective date'' and inserting ''date of enactment''; and

(B) in subparagraph (C)—

(i) in clause (ii), by striking ''that is filed'' and inserting ''is filed''; and

(ii) in clause (iii), by striking ''such subsections (b)'' and inserting ''subsections (b)''.

SEC. 4. ADDITIONAL TECHNICAL AMENDMENTS.

(a) DISTRIBUTION OF ROYALTY FEES.—Section 111(d) of title 17, United States Code, is amended—

(1) in the second sentence of paragraph (2), by striking all that follows ''Librarian of Congress'' and inserting ''upon authorization by the Copyright Royalty Judges.'';

(2) in paragraph (4)—

(A) in subparagraph (B)—

(i) by striking the second sentence and inserting the following: ''If the Copyright Royalty Judges determine that no such controversy exists, the Copyright Royalty Judges shall authorize the Librarian of Congress to proceed to distribute such fees to the copyright owners entitled to receive them, or to their designated agents, subject to the deduction of reasonable administrative costs under this section.''; and

(ii) in the last sentence, by striking ''finds'' and inserting ''find''; and

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

''(C) During the pendency of any proceeding under this subsection, the Copyright Royalty Judges shall have the discretion to authorize the Librarian of Congress to proceed to distribute any amounts that are not in controversy.''.

(b) SOUND RECORDINGS.—Section 114(f) of title 17, United States Code, is amended—

(1) in paragraph (1)(A), in the first sentence, by striking ''except where'' and all that follows through the end period and inserting ''except in the case of a different transitional period provided under section 6(b)(3) of the Copyright Royalty and Distribution Reform Act of 2004, or such other period as the parties may agree.'';

(2) by amending paragraph (2)(A) to read as follows:

''(2)(A) Proceedings under chapter 8 shall determine reasonable rates and terms of royalty payments for public performances of sound recordings by means of eligible nonsubscription transmission services and new subscription services specified by subsection (d)(2) during the 5-year period beginning on January 1 of the second year following the year in which the proceedings are to be commenced, except in the case of a different transitional period provided under section 6(b)(3) of the Copyright Royalty and Distribution Reform Act of 2004, or such other period as the parties may agree. Such rates and terms shall distinguish among the different types of eligible nonsubscription transmission services and new subscription services then in operation and shall include a minimum fee for each such type of service. Any copyright owners of sound recordings or any entities performing sound recordings affected by this paragraph may submit to the Copyright Royalty Judges licenses covering such eligible nonsubscription transmissions and new subscription services with respect to such sound recordings. The parties to each proceeding shall bear their own costs.''; and

(3) in paragraph (2)(B), in the last sentence, by striking ''negotiated under'' and inserting ''described in''.

(c) PHONORECORDS OF NONDRAMATIC MUSICAL WORKS.—Section 115(c)(3) of title 17, United States Code, is amended—

(1) in subparagraph (B), by striking ''subparagraphs (B) through (F)'' and inserting ''this subparagraph and subparagraphs (C) through (E)'';

(2) in subparagraph (D), in the third sentence, by inserting ''in subparagraphs (B) and (C)'' after ''described''; and

(3) in subparagraph (E), in clauses (i) and (ii)(I), by striking ''(C) or (D)'' each place it appears and inserting ''(C) and (D)''.

(d) NONCOMMERCIAL BROADCASTING.—Section 118 of title 17, United States Code, is amended—

(1) in subsection (b)(3), by striking ''copyright owners in works'' and inserting ''owners of copyright in works''; and

(2) in subsection (c)—

(A) in the matter preceding paragraph (1), by striking ''established by'' and all that follows through ''engage'' and inserting ''established by the Copyright Royalty Judges under subsection (b)(4), engage''; and

(B) in paragraph (1), by striking ''(g)'' and inserting ''(f)''.

(e) SATELLITE CARRIERS.—Section 119 of title 17, United States Code, is amended—

(1) in subsection (b)(4)—

(A) in subparagraph (B), by striking the second sentence and inserting the following: ''If the Copyright Royalty Judges determine that no such controversy exists, the Copyright Royalty Judges shall authorize the Librarian of Congress to proceed to distribute such fees to the copyright owners entitled to receive them, or to their designated agents, subject to the deduction of reasonable administrative costs under this section.''; and

(B) by amending subparagraph (C) to read as follows:

''(C) WITHHOLDING OF FEES DURING CONTROVERSY.—During the pendency of any proceeding under this subsection, the Copyright Royalty Judges shall have the discretion to authorize the Librarian of Congress to proceed to distribute any amounts that are not in controversy.''; and

(2) in subsection (c)(1)(F)(i), in the last sentence, by striking ''arbitrary'' and inserting ''arbitration''.

(f) DIGITAL AUDIO RECORDING DEVICES.—Section 1007 of title 17, United States Code, is amended—

(1) in subsection (b)—

(A) in the second sentence, by striking ''Librarian of Congress'' and inserting ''Copyright Royalty Judges''; and

(B) in the last sentence, by striking ''by the Librarian''; and

(2) in subsection (c), in the last sentence, by striking ''by the Librarian''.

(g) REMOVAL OF INCONSISTENT PROVISIONS.—The amendments contained in subsection (h) of section 5 of the Copyright Royalty and Distribution Reform Act of 2004 shall be deemed never to have been enacted.

(h) EFFECTIVE DATE.—Section 6(b)(1) of the Copyright Royalty and Distribution Reform Act of 2004 (Public Law 108–419) is amended by striking ''commenced before the date of enactment of this Act'' and inserting ''commenced before the effective date provided in subsection (a)''.

SEC. 5. EFFECTIVE DATE.

This Act and the amendments made by this Act shall be effective as if included in the Copyright Royalty and Distribution Reform Act of 2004.

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

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

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

Madam Speaker, H.R. 1036, the Copyright Royalty Judges Program Technical Corrections Act, amends certain technical aspects of the copyright act that were substantively amended by Congress' enactment of the Copyright Royalty and Distribution Reform Act of 2004.

It is appropriate to note the efforts of Chairman LAMAR SMITH and Ranking Member HOWARD BERMAN of the Subcommittee on Courts, the Internet, and Intellectual Property, who worked so hard to ensure passage of the Copyright Royalty and Distribution Reform Act last year. Enactment of the legislation came only after 20 years of successive efforts to streamline, modernize, and de-conflict the role of the U.S. Copyright Office in administering the various compulsory licenses contained in title 17 of the United States Code.

Before discussing the specifics of this bill, I would like to offer some background. By their nature, statutory changes in this area are complex. Proposed changes inevitably affect a number of preexisting and carefully negotiated balances that potentially impact the public and a wide variety of stakeholders.

The various compulsory licenses were authorized at differing times, and each is shaped in response to the unique circumstances of commercial licensors and licensees. Nevertheless, each is intended to benefit the public by reducing the transaction costs of certain types of protected works and each requires the Copyright Office to assume certain administrative functions, which may include rate setting, royalty collecting, and royalty distribution functions.

It is the interplay between these administrative and adjudicative functions, some of which are fiduciary in nature, that created potential conflicts for the Copyright Office. This problem was addressed in the Reform Act by authorizing the establishment of three copyright royalty judges, or CRJs, who operate independently of the Copyright Office. The CRJs are empowered to consider arguments from participants in contested distribution proceedings, resolve factual disputes, and order distributions.

In contrast, the role of the Librarian of Congress and the Copyright Office is limited in such cases to largely ministerial functions such as advising the CRJs and participants in proceedings on certain matters within the substantive expertise of the office and actually effectuating the disbursement of funds in response to a CRJ order.

The ad hoc enactment of various compulsory licenses also contributed to a perpetuation of certain inefficiencies and inconsistencies that could only be addressed properly by creating a comprehensive and predictable schedule for rate-setting and distribution proceedings.

By enacting the Reform Act last year, Congress took important steps toward protecting the public, the Copyright Office, licensors, and licensees with a more stable and cohesive administrative and adjudicatory construct. But a clear articulation of the respective roles of the Copyright Office and the new CRJs is fundamental to the success of the new system.

Unfortunately, as enrolled, the law inadvertently provided in some places that the Librarian was charged with ''authorizing'' the distribution of funds. This language could be interpreted to imply that Congress intended the Librarian to retain a role that clearly had been intended to be exercised by the new CRJs.

H.R. 1036 corrects this error to ensure that the Reform Act operates as Congress intended. The Copyright Royalty Judges Program Technical Corrections Act includes further noncontroversial stylistic, technical, clarifying, and conforming changes that have been carefully considered and reviewed by Members and staff on both sides of the aisle, the Register of Copyrights, copyright owners, and many of the commercial users who are the beneficiaries of the licenses.

When the copyright royalty judge, or CRJ, system is fully implemented, disputes among participants will be settled in a more predictable, rational, and consistent manner; decisions will be improved by the involvement of judges required to possess relevant subject matter expertise; and significant cost savings and efficiencies should accrue to participants.

I urge Members to support this bill.

Madam Speaker, I reserve the balance of my time.

□ 1115

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

Madam Speaker, I want to thank the chairman for his able leadership in moving this bill forward expeditiously. One of the major accomplishments of the Subcommittee on Courts, the Internet and Intellectual Property last Congress was to see the Copyright Royalty Arbitration Royalty Panel reform bill from its inception to ultimate passage. The original bill accomplished much with a general overhaul of the administrative construct by which copyright royalties are determined and distributed based up the compulsory licenses authorized by the Copyright Act.

H.R. 1036, the Technical Corrections to the Copyright and Distribution Reform Act of 2004, which I introduced with the chairman of the subcommittee, makes a number of technical corrections. Some provisions merely change spelling and punctuation; others correct cross-references, paragraph numbering or editorial style in copyright law.

The corrections not in the aforementioned categories are merely technical as well. Those changes include amending the statute to correctly identify the roles of the copyright royalty judges and the librarian of Congress in authorizing and distributing royalty payments.

In addition, the bill addresses the omission of CARP decisions serving as precedent, establishes consistency for written direct statements and written rebuttal statements and provides fee waiver for those claiming less than $1,000.

I want to thank the Copyright Office, the legislative counsel and a number of outside groups for their assistance in noting many of the errors, and then their help in drafting this bill.

H.R. 1036 is an important step toward achieving clarity. I urge my colleagues to join in supporting H.R. 1036.

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

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

The SPEAKER pro tempore (Mrs. CAPITO). The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and pass the bill, H.R. 1036, as amended.

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

The title of the bill was amended so as to read: ''A bill to amend title 17, United States Code, to make technical corrections relating to Copyright Royalty Judges, and for other purposes.''.

A motion to reconsider was laid on the table.

MAKING TECHNICAL CORRECTIONS TO UNITED STATES CODE

Mr. SENSENBRENNER. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 866) to make technical corrections to the United States Code.

The Clerk read as follows:

H.R. 866

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

SECTION 1. PURPOSE.

The purpose of this Act is to make technical corrections to the United States Code relating to cross references, typographical errors, and stylistic matters.

SEC. 2. TITLE 10, UNITED STATES CODE.

In section 2701(i)(1) of title 10, United States Code, in the paragraph catchline, strike ''MILLER ACT'' and substitute ''SECTIONS 3131 AND 3133 OF TITLE 40''.

SEC. 3. TITLE 23, UNITED STATES CODE.

Title 23, United States Code, is amended as follows:

(1) In section 107(a), strike ''the Act of February 26, 1931, 46 Stat. 1421'' and substitute ''sections 3114 to 3116 and 3118 of title 40''.

(2) In section 210(e), strike ''the Act of February 26, 1931; 46 Stat. 1421'' and substitute ''sections 3114 to 3116 and 3118 of title 40''.

SEC. 4. TITLE 28, UNITED STATES CODE.

Title 28, United States Code, is amended as follows:

(1) In the analysis for chapter 91, in the item related to section 1499, strike ''Contract Work Hours and Safety Standards Act'' and substitute ''chapter 37 of title 40''.

(2) In section 1499, in the section heading, strike ''**Contract Work Hours and Safety Standards Act**'' and substitute ''**chapter 37 of title 40**''.

SEC. 5. TITLE 36, UNITED STATES CODE.

Title 36, United States Code, is amended as follows:

(1) In the analysis for chapter 5, after the item related to section 509, insert the following:

''510. Disclosure of and prohibition on certain donations.''.

(2) In the analysis for chapter 5, in the last item, which is related to ''Authorization of appropriations'', strike ''510'' and substitute ''511''.

(3) In the analysis for chapter 23, in the item related to section 2306, strike ''museum'' and substitute ''Museum''.

(4) In section 2301, in the first sentence, strike ''United State Government'' and substitute ''United States Government''.

(5) In section 20908(c), strike ''board or directors'' and substitute ''board of directors''.

(6) In section 40103(13), strike ''laws of the each State'' and substitute ''laws of each State''.

(7) In section 70912(b), strike ''Corporation'' and substitute ''corporation''.

(8) In section 150511(b), strike ''with secretary'' and substitute ''with the secretary''.

(9) In section 151303(c), strike ''The Chairman'' and substitute ''The chairman''.

(10) In section 153513(a)(1), strike ''(16 U.S.C. 1 et seq.), known as the National Park Service Organic Act))'' and substitute ''(16 U.S.C. 1 et seq.) (known as the National Park Service Organic Act)''.

(11) In section 220104(a)(2)(B), strike ''State'' and substitute ''Defense''.

(12) In the analysis for chapter 2205, in the item related to section 220501, strike ''Definitions.'' and substitute ''Short title and definitions.''.

(13) In section 220501, in the section heading, strike ''**Title and Definitions**'' and substitute ''**Short title and definitions**''.

(14) In section 220501(a), in the subsection catchline, strike ''TITLE'' and substitute ''SHORT TITLE''.

(15) In section 220505(b)(9), strike ''this Act'' and substitute ''this chapter''.

(16) In section 220506(d)(3)(A), strike ''subsections'' and substitute ''subsection''.

(17) In section 220509(b)(1)(A), strike ''a'' before ''paralympic sports organizations''.

(18) In section 220511, in the section heading, strike ''**Annual report**'' and substitute ''**Report**''.

(19) In section 220512, strike ''Corporation'' and substitute ''corporation''.

(20) In section 220521(a), strike ''subsections'' and substitute ''subsection''.

SEC. 6. TITLE 40, UNITED STATES CODE.

Title 40, United States Code, is amended as follows:

(1) In section 522(a), strike ''of this section''.

(2) In section 522(b), in the subsection catchline, strike ''AT'' and substitute ''at''.

(3) In section 552(a), strike ''(a) AUTHORITY TO TAKE PROPERTYAdministrator'' and substitute ''(a) AUTHORITY TO TAKE PROPERTY.—The Administrator''.

(4) In section 554(c), in the subsection catchline, strike ''TRANSPORTATION.'' and substitute ''TRANSPORTATION.—''.

(5) In section 581(b), strike ''The Administrator may—'' and substitute ''The Administrator of General Services may—''.

(6) In section 593(b), strike ''available to the Administration'' and substitute ''available to the General Services Administration''.

(7) In section 611—

(A) after ''under section 1343, 1344, or 1349(b)'', insert ''of title 31''; and

(B) after ''under section 641'', insert ''of title 18''.

(8) In section 3131(e), in the subsection catchline, strike ''TO'' and substitute ''To''.

(9) In section 3133(b), in the subsection catchline, strike ''TO'' and substitute ''To''.

(10) In section 3133(c), strike ''(c) A waiver'' and substitute ''(c) WAIVER OF RIGHT TO CIVIL ACTION.—A waiver''.

(11) In section 3141(1), strike ''1494'' and substitute ''1494)''.

(12) In section 3142(d), after ''amount referred to in section 3141(2)(B)'', insert ''of this title''.

(13) In section 3142(e), after ''determined under section 3141(2)(B)'', insert ''of this title''.

(14) In section 3701(b)(3)(B)—

(A) in the subparagraph catchline, strike ''3902'' and substitute ''3702'';

(B) strike ''3902'' and substitute ''3702''; and

(C) strike ''subsection (a)(2)(C)'' and substitute ''paragraph (1)(B)(iii)''.

(15) In section 3702(d), in the subsection catchline, strike ''TO'' and substitute ''To''.

(16) In section 3704(a)(1), after ''authorized by section 553'', insert ''of title 5''.

(17) In section 3704(a)(2), strike ''of this section''.

(18) In section 6111(b), in the subsection catchline, strike the second period.

(19) In the analysis for chapter 65, in the first item, which is related to ''Definition'', strike ''6581'' and substitute ''6501''.

(20) In the analysis for chapter 67, in the item related to subchapter I, strike ''ASSIGMENT'' and substitute ''ASSIGNMENT''.

(21) In chapter 67, in the heading for subchapter I, strike ''ASSIGMENT'' and substitute ''ASSIGNMENT''.

(22) In section 8104(b), strike ''Commission on Fine Arts'' and substitute ''Commission of Fine Arts''.

(23) In section 8105, strike ''post-office'' and substitute ''post office''.

(24) In section 8501(b)(1)(A), after ''sections 5101 and 5102'', insert ''of this title''.

(25) In section 8502(a), strike ''5314'' and substitute ''5315''.

(26) In section 8502(c)(2), after ''sections 5101 and 5102'', insert ''of this title''.

(27) In section 8711(a), after ''sections 5101 and 5102'', insert ''of this title''.

(28) In section 8712(a)(2), after ''sections 5101 and 5102'', insert ''of this title''.

(29) In section 8722(d)—

(A) strike ''52 Stat. 802'' and substitute ''52 Stat. 797''; and

(B) strike ''is subject'' and substitute ''are subject''.

(30) In section 9302(b), in the subsection catchline, strike ''WITH'' and substitute ''With''.

(31) In section 14308(b)(2), strike ''section (a)(2)'' and substitute ''subsection (a)(2)''.

(32) In section 17504(b), in the subsection catchline, strike ''WITH'' and substitute ''With''.

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

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

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

Madam Speaker, I rise in support of H.R. 866, to make technical corrections to the United States Code. I introduced this legislation on February 16, 2005, along with Committee on the Judiciary's Ranking Member CONYERS. The Office of Law Revision Counsel of the House of Representatives has prepared this bill and submitted it to the Committee on the Judiciary under section 285(b) of title 2, United States Code. Pursuant to rule X of the House of Representatives, the Committee on the Judiciary maintains jurisdiction over the revision and codification of statutes of the United States.

This bill revises, codifies and enacts without substantive changes certain general and permanent laws. The effective titles of the United States Code under this bill, include: title 10, armed forces; title 23, highways; title 28, judiciary and judicial procedure; title 36, patriotic and national observances,

ceremonies and organizations; and title 40, public buildings, property, and works.

Let me be clear that this bill makes no substantive change in existing law. Rather it removes ambiguities, contradictions and other imperfections from existing law and repeals obsolete, superfluous and superseded provisions.

Madam Speaker, H.R. 866 is a simple bill that makes necessary technical updates to existing law. I urge my colleagues to support it.

Madam Speaker, I reserve the balance of my time.

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

Madam Speaker, H.R. 866 is a bill introduced by Chairman SENSENBRENNER and Ranking Member CONYERS. The purpose of this bill is to make technical corrections to various provisions of titles 10, 23, 28, 36 and 40 of the U.S. Code. The bill updates cross-references, corrects typographical errors, makes stylistic changes, conforming capitalization, correcting the punctuation of certain words. It is a bill that the Office of Law Revision Counsel has prepared and submitted to the committee for consideration so that those titles of the Code that have been enacted into positive law may be kept current. I urge my colleagues to support this bill.

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

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

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and pass the bill, H.R. 866.

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

A motion to reconsider was laid on the table.

COMPLETING CODIFICATION OF TITLE 46, UNITED STATES CODE, ''SHIPPING'', AS POSITIVE LAW

Mr. SENSENBRENNER. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 1442) to complete the codification of title 46, United States Code, ''Shipping'', as positive law, as amended.

The Clerk read as follows:

H.R. 1442

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

SECTION 1. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

SEC. 2. PURPOSE; CONFORMITY WITH ORIGINAL INTENT.

(a) PURPOSE.—The purpose of this Act is to complete the codification of title 46, United States Code, ''Shipping'', as positive law, by reorganizing and restating the laws currently in the appendix to title 46.

(b) CONFORMITY WITH ORIGINAL INTENT.—In the codification of laws by this Act, the intent is to conform to the understood policy, intent, and purpose of the Congress in the original enactments, with such amendments and corrections as will remove ambiguities, contradictions, and other imperfections, in accordance with section 205(c)(1) of House Resolution No. 988, 93d Congress, as enacted into law by Public Law 93–554 (2 U.S.C. 285b(1)).

SEC. 3. TITLE ANALYSIS.

The title analysis of title 46, United States Code, is amended to read as follows:

SEC. 4. SUBTITLE I OF TITLE 46.

Title 46, United States Code, is amended by inserting after the title analysis the following:

''Subtitle I—General

''CHAPTER 1—DEFINITIONS

''§ 101. Agency

''In this title, the term 'agency' means a department, agency, or instrumentality of the United States Government.

''§ 102. Barge

''In this title, the term 'barge' means a non-self-propelled vessel.

''§ 103. Boundary Line

''In this title, the term 'Boundary Line' means a line established under section 2(b) of the Act of February 19, 1895 (33 U.S.C. 151).

''§ 104. Citizen of the United States

''In this title, the term 'citizen of the United States', when used in reference to a natural person, means an individual who is a national of the United States as defined in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).

''§ 105. Consular officer

''In this title, the term 'consular officer' means an officer or employee of the United States Government designated under regulations to issue visas.

''§ 106. Documented vessel

''In this title, the term 'documented vessel' means a vessel for which a certificate of documentation has been issued under chapter 121 of this title.

''§ 107. Exclusive economic zone

''In this title, the term 'exclusive economic zone' means the zone established by Presidential Proclamation 5030 of March 10, 1983 (16 U.S.C. 1453 note).

''§ 108. Fisheries

''In this title, the term 'fisheries' includes processing, storing, transporting (except in foreign commerce), planting, cultivating, catching, taking, or harvesting fish, shellfish, marine animals, pearls, shells, or marine vegetation in the navigable waters of the United States or in the exclusive economic zone.

''§ 109. Foreign commerce or trade

''(a) IN GENERAL.—In this title, the terms 'foreign commerce' and 'foreign trade' mean commerce or trade between a place in the United States and a place in a foreign country.

''(b) CAPITAL CONSTRUCTION FUNDS AND CONSTRUCTION-DIFFERENTIAL SUBSIDIES.—In the context of capital construction funds under chapter 535 of this title, and in the context of construction-differential subsidies under title V of the Merchant Marine Act, 1936, the terms 'foreign commerce' and 'foreign trade' also include, in the case of liquid and dry bulk cargo carrying services, trading between foreign ports in accordance with normal commercial bulk shipping practices in a manner that will permit bulk vessels of the United States to compete freely with foreign bulk vessels in their operation or competition for charters, subject to regulations prescribed by the Secretary of Transportation.

''§ 110. Foreign vessel

''In this title, the term 'foreign vessel' means a vessel of foreign registry or operated under the authority of a foreign country.

''§ 111. Numbered vessel

''In this title, the term 'numbered vessel' means a vessel for which a number has been issued under chapter 123 of this title.

''§ 112. State

''In this title, the term 'State' means a State of the United States, the District of Columbia, Guam, Puerto Rico, the Virgin Islands, American Samoa, the Northern Mariana Islands, and any other territory or possession of the United States.

''§ 113. Undocumented

''In this title, the term 'undocumented' means not having and not required to have a certificate of documentation issued under chapter 121 of this title.

''§ 114. United States

''In this title, the term 'United States', when used in a geographic sense, means the States of the United States, the District of Columbia, Guam, Puerto Rico, the Virgin Islands, American Samoa, the Northern Mariana Islands, and any other territory or possession of the United States.

''§ 115. Vessel

''In this title, the term 'vessel' has the meaning given that term in section 3 of title 1.

''§ 116. Vessel of the United States

''In this title, the term 'vessel of the United States' means a vessel documented under chapter 121 of this title (or exempt from documentation under section 12102(c) of this title), numbered under chapter 123 of this title, or titled under the law of a State.

''CHAPTER 3—FEDERAL MARITIME COMMISSION

''§ 301. General organization

''(a) ORGANIZATION.—The Federal Maritime Commission is an independent establishment of the United States Government.

''(b) COMMISSIONERS.—

''(1) COMPOSITION.—The Commission is composed of 5 Commissioners, appointed by the President by and with the advice and consent of the Senate. Not more than 3 Commissioners may be appointed from the same political party.

''(2) TERMS.—The term of each Commissioner is 5 years, with each term beginning one year apart. An individual appointed to fill a vacancy is appointed only for the unexpired term of the individual being succeeded. A vacancy shall be filled in the same manner as the original appointment. When the term of a Commissioner ends, the Commissioner may continue to serve until a successor is appointed and qualified.

''(3) REMOVAL.—The President may remove a Commissioner for inefficiency, neglect of duty, or malfeasance in office.

''(c) CHAIRMAN.—

''(1) DESIGNATION.—The President shall designate one of the Commissioners as Chairman.

''(2) GENERAL AUTHORITY.—The Chairman is the chief executive and administrative officer of the Commission. In carrying out the duties and powers of the Commission (other than under paragraph (3)), the Chairman is subject to the policies, regulatory decisions, findings, and determinations of the Commission.

''(3) PARTICULAR DUTIES.—

''(A) IN GENERAL.—The Chairman shall—

''(i) appoint and supervise officers and employees of the Commission;

''(ii) appoint the heads of major organizational units, but only after consultation with the other Commissioners;

''(iii) distribute the business of the Commission among personnel and organizational units;

''(iv) supervise the expenditure of money for administrative purposes; and

''(v) assign Commission personnel, including Commissioners, to perform duties and powers delegated by the Commission under section 304 of this title.

''(B) NONAPPLICATION.—Subparagraph (A) (other than clause (v)) does not apply to personnel employed regularly and full-time in the offices of Commissioners other than the Chairman.

''(4) DELEGATION.—The Chairman may designate officers and employees under the Chairman's jurisdiction to perform duties and powers of the Chairman, subject to the Chairman's supervision and direction.

''(d) SEAL.—The Commission shall have a seal which shall be judicially recognized.

''§ 302. Quorum

''A vacancy or vacancies in the membership of the Federal Maritime Commission do not impair the power of the Commission to execute its functions. The affirmative vote of a majority of the Commissioners serving on the Commission is required to dispose of any matter before the Commission.

''§ 303. Record of meetings and votes

''The Federal Maritime Commission, through its secretary, shall keep a record of its meetings and the votes taken on any action, order, contract, or financial transaction of the Commission.

''§ 304. Delegation of authority

''(a) DELEGATION.—The Federal Maritime Commission, by published order or regulation, may delegate to a division of the Commission, an individual Commissioner, an employee board, or an officer or employee of the Commission, any of its duties or powers, including those relating to hearing, determining, ordering, certifying, reporting, or otherwise acting on any matter. This subsection does not affect section 556(b) of title 5.

''(b) REVIEW.—The Commission may review any action taken under a delegation of authority under subsection (a). The review may be taken on the Commission's own initiative or on the petition of a party to or an intervenor in the action, within the time and in the manner prescribed by the Commission. The vote of a majority of the Commission, less one member, is sufficient to bring an action before the Commission for review.

''(c) DEEMED ACTION OF COMMISSION.—If the Commission declines review, or if review is not sought, within the time prescribed under subsection (b), the action taken under the delegation of authority is deemed to be the action of the Commission.

''§ 305. Regulations

''The Federal Maritime Commission may prescribe regulations to carry out its duties and powers.

''§ 306. Annual report

''(a) IN GENERAL.—Not later than April 1 of each year, the Federal Maritime Commission shall submit a report to Congress. The report shall include the results of its investigations, a summary of its transactions, the purposes for which all of its expenditures were made, and any recommendations for legislation.

''(b) REPORT ON FOREIGN LAWS AND PRACTICES.—The Commission shall include in its annual report to Congress—

''(1) a list of the 20 foreign countries that generated the largest volume of oceanborne liner cargo for the most recent calendar year in bilateral trade with the United States;

''(2) an analysis of conditions described in section 42302(a) of this title being investigated or found to exist in foreign countries;

''(3) any actions being taken by the Commission to offset those conditions;

''(4) any recommendations for additional legislation to offset those conditions; and

''(5) a list of petitions filed under section 42302(b) of this title that the Commission rejected and the reasons for each rejection.

''§ 307. Expenditures

''The Federal Maritime Commission may make such expenditures as are necessary in the performance of its functions from funds appropriated or otherwise made available to it, which appropriations are authorized.

''CHAPTER 5—OTHER GENERAL PROVISIONS

''§ 501. Waiver of navigation and vessel-inspection laws

''(a) ON REQUEST OF SECRETARY OF DEFENSE.—On request of the Secretary of Defense, the head of an agency responsible for the administration of the navigation or vessel-inspection laws shall waive compliance with those laws to the extent the Secretary considers necessary in the interest of national defense.

''(b) BY HEAD OF AGENCY.—When the head of an agency responsible for the administration of the navigation or vessel-inspection laws considers it necessary in the interest of national defense, the individual may waive compliance with those laws to the extent, in the manner, and on the terms the individual prescribes.

''(c) TERMINATION OF AUTHORITY.—The authority granted by this section shall terminate at such time as the Congress by concurrent resolution or the President may designate.

''§ 502. Cargo exempt from forfeiture

''Cargo on a vessel is exempt from forfeiture under this title if—

''(1) the cargo is owned in good faith by a person not the owner, master, or crewmember of the vessel; and

''(2) the customs duties on the cargo have been paid or secured for payment as provided by law.

''§ 503. Notice of seizure

''When a forfeiture of a vessel or cargo accrues, the official of the United States Government required to give notice of the seizure of the vessel or cargo shall include in the notice, if they are known to that official, the name and the place of residence of the owner or consignee at the time of the seizure.

''§ 504. Remission of fees and penalties

''Any part of a fee, tax, or penalty paid or a forfeiture incurred under a law or regulation relating to vessels or seamen may be remitted if—

''(1) application for the remission is made within one year after the date of the payment or forfeiture; and

''(2) it is found that the fee, tax, penalty, or forfeiture was improperly or excessively imposed.

''§ 505. Penalty for violating regulation or order

''A person convicted of knowingly and willfully violating a regulation or order of the Federal Maritime Commission or the Secretary of Transportation under subtitle IV or V of this title, for which no penalty is expressly provided, shall be fined not more than $500. Each day of a continuing violation is a separate offense.''.

SEC. 5. SUBTITLE II OF TITLE 46.

Chapter 121 of title 46, United States Code, is amended to read as follows:

''CHAPTER 121—DOCUMENTATION OF VESSELS

''SUBCHAPTER I—GENERAL

''SUBCHAPTER II—ENDORSEMENTS AND SPECIAL DOCUMENTATION

''SUBCHAPTER III—MISCELLANEOUS

''§ 12101. Definitions

''(a) REBUILT IN THE UNITED STATES.—In this chapter, a vessel is deemed to have been rebuilt in the United States only if the entire rebuilding, including the construction of any major component of the hull or superstructure, was done in the United States.

''(b) RELATED TERMS IN OTHER LAWS.—When the following terms are used in a law, regulation, document, ruling, or other official act referring to the documentation of a vessel, the following definitions apply:

''(1) REGISTRY ENDORSEMENT.—The terms 'certificate of registry', 'register', and 'registry' mean a certificate of documentation with a registry endorsement issued under this chapter.

''(2) COASTWISE ENDORSEMENT.—The terms 'license', 'enrollment and license', 'license for the coastwise (or coasting) trade', and 'enrollment and license for the coastwise (or coasting) trade' mean a certificate of documentation with a coastwise endorsement issued under this chapter.

''(3) YACHT.—The term 'yacht' means a recreational vessel even if not documented.

''§ 12102. Vessels requiring documentation

''(a) IN GENERAL.—Except as otherwise provided, a vessel may engage in a trade only if the vessel has been issued a certificate of documentation with an endorsement for that trade under this chapter.

''(b) VESSELS LESS THAN 5 NET TONS.—A vessel of less than 5 net tons may engage in a trade without being documented if the vessel otherwise satisfies the requirements to engage in the particular trade.

''(c) BARGES.—A barge qualified to engage in the coastwise trade may engage in the coastwise trade, without being documented, on rivers, harbors, lakes (except the Great Lakes), canals, and inland waters.

''§ 12103. General eligibility requirements

''(a) IN GENERAL.—Except as otherwise provided, a certificate of documentation for a vessel may be issued under this chapter only if the vessel is—

''(1) wholly owned by one or more individuals or entities described in subsection (b);

''(2) at least 5 net tons as measured under part J of this subtitle; and

''(3) not documented under the laws of a foreign country.

''(b) ELIGIBLE OWNERS.—For purposes of subsection (a)(1), the following are eligible owners:

''(1) An individual who is a citizen of the United States.

''(2) An association, trust, joint venture, or other entity if—

''(A) each of its members is a citizen of the United States; and

''(B) it is capable of holding title to a vessel under the laws of the United States or a State.

''(3) A partnership if—

''(A) each general partner is a citizen of the United States; and

''(B) the controlling interest in the partnership is owned by citizens of the United States.

''(4) A corporation if—

''(A) it is incorporated under the laws of the United States or a State;

''(B) its chief executive officer, by whatever title, and the chairman of its board of directors are citizens of the United States; and

''(C) no more of its directors are noncitizens than a minority of the number necessary to constitute a quorum.

''(5) The United States Government.

''(6) The government of a State.

''(c) TEMPORARY CERTIFICATES PRIOR TO MEASUREMENT.—Notwithstanding subsection (a)(2), the Secretary may issue a temporary certificate of documentation for a vessel before it is measured.

''§ 12104. Applications for documentation

''(a) IN GENERAL.—An application for a certificate of documentation or endorsement under this chapter must be filed by the owner of the vessel. The application must be filed in the manner, be in the form, and contain the information prescribed by the Secretary.

''(b) APPLICANT'S IDENTIFYING INFORMATION.—The Secretary shall require the applicant to provide—

''(1) if the applicant is an individual, the individual's social security number; or

''(2) if the applicant is an entity—

''(A) the entity's taxpayer identification number; or

''(B) if the entity does not have a taxpayer identification number, the social security number of an individual who is a corporate officer, general partner, or individual trustee of the entity and who signs the application.

''§ 12105. Issuance of documentation

''(a) IN GENERAL.—Except as provided in section 12152 of this title, the Secretary, on receipt of a proper application, shall issue a certificate of documentation or a temporary certificate of documentation for a vessel satisfying the requirements of section 12103 of this title. The certificate shall contain each endorsement under subchapter II of this chapter for which the owner applies and the vessel is eligible.

''(b) TEMPORARY CERTIFICATES FOR RECREATIONAL VESSELS.—The Secretary may delegate, subject to the supervision and control of the Secretary and under terms prescribed by regulation, to private entities determined and certified by the Secretary to be qualified, the authority to issue a temporary certificate of documentation for a recreational vessel eligible under section 12103 of this title. A temporary certificate issued under this subsection is valid for not more than 30 days.

''(c) INFORMATION TO BE INCLUDED IN CERTIFICATE.—A certificate of documentation shall—

''(1) identify and describe the vessel;

''(2) identify the owner of the vessel; and

''(3) contain additional information prescribed by the Secretary.

''(d) PROCEDURES TO ENSURE INTEGRITY AND ACCURACY.—The Secretary shall prescribe procedures to ensure the integrity of, and the accuracy of information contained in, certificates of documentation.

''§ 12106. Surrender of title and number

''(a) IN GENERAL.—A documented vessel may not be titled by a State or required to display numbers under chapter 123 of this title, and any certificate of title issued by a State for a documented vessel shall be surrendered as provided by regulations prescribed by the Secretary.

''(b) VESSELS COVERED BY PREFERRED MORTGAGE.—The Secretary may approve the surrender under subsection (a) of a certificate of title for a vessel covered by a preferred mortgage under section 31322(d) of this title only if the mortgagee consents.

''§ 12107. Wrecked vessels

''(a) REQUIREMENTS.—A vessel is a wrecked vessel under this chapter if it—

''(1) was wrecked on a coast of the United States or adjacent waters; and

''(2) has undergone repairs in a shipyard in the United States equal to at least 3 times the appraised salvage value of the vessel.

''(b) APPRAISALS.—The Secretary may appoint a board of three appraisers to determine whether a vessel satisfies subsection (a)(2). The costs of the appraisal shall be paid by the owner of the vessel.

''SUBCHAPTER II—ENDORSEMENTS AND SPECIAL DOCUMENTATION

''§ 12111. Registry endorsement

''(a) REQUIREMENTS.—A registry endorsement may be issued for a vessel that satisfies the requirements of section 12103 of this title.

''(b) AUTHORIZED ACTIVITY.—A vessel for which a registry endorsement is issued may engage in foreign trade or trade with Guam, American Samoa, Wake, Midway, or Kingman Reef.

''(c) CERTAIN VESSELS OWNED BY TRUSTS.—

''(1) NONAPPLICATION OF BENEFICIARY CITIZENSHIP REQUIREMENT.—For the issuance of a certificate of documentation with only a registry endorsement, the beneficiaries of a trust are not required to be citizens of the United States if the trust qualifies under paragraph (2) and the vessel is subject to a charter to a citizen of the United States.

''(2) REQUIREMENTS FOR TRUST TO QUALIFY.—

''(A) IN GENERAL.—Subject to subparagraph (B), a trust qualifies under this paragraph with respect to a vessel only if—

''(i) each trustee is a citizen of the United States; and

''(ii) the application for documentation of the vessel includes the affidavit of each trustee stating that the trustee is not aware of any reason involving a beneficiary of the trust that is not a citizen of the United States, or involving any other person that is not a citizen of the United States, as a result of which the beneficiary or other person would hold more than 25 percent of the aggregate power to influence or limit the exercise of the authority of the trustee with respect to matters involving any ownership or operation of the vessel that may adversely affect the interests of the United States.

''(B) AUTHORITY OF NON-CITIZENS.—If any person that is not a citizen of the United States has authority to direct or participate in directing a trustee for a trust in matters involving any ownership or operation of the vessel that may adversely affect the interests of the United States or in removing a trustee for a trust without cause, either directly or indirectly through the control of another person, the trust is not qualified under this paragraph unless the trust instrument provides that persons who are not citizens of the United States may not hold more than 25 percent of the aggregate authority to so direct or remove a trustee.

''(C) OWNERSHIP BY NON-CITIZENS.—Subparagraphs (A) and (B) do not prohibit a person that is not a citizen of the United States from holding more than 25 percent of the beneficial interest in a trust.

''(3) CITIZENSHIP OF PERSON CHARTERING VESSEL.—If a person chartering a vessel from a trust that qualifies under paragraph (2) is a citizen of the United States under section 50501 of this title, the vessel is deemed to be owned by a citizen of the United States for purposes of that section and related laws, except chapter 531 of this title.

''§ 12112. Coastwise endorsement

''(a) REQUIREMENTS.—A coastwise endorsement may be issued for a vessel that—

''(1) satisfies the requirements of section 12103 of this title;

''(2)(A) was built in the United States; or

''(B) if not built in the United States—

''(i) was captured in war by citizens of the United States and lawfully condemned as prize;

''(ii) was adjudged to be forfeited for a breach of the laws of the United States; or

''(iii) qualifies as a wrecked vessel under section 12107 of this title; and

''(3) otherwise qualifies under the laws of the United States to engage in the coastwise trade.

''(b) AUTHORIZED ACTIVITY.—Subject to the laws of the United States regulating the coastwise trade, a vessel for which a coastwise endorsement is issued may engage in the coastwise trade.

''§ 12113. Fishery endorsement

''(a) REQUIREMENTS.—A fishery endorsement may be issued for a vessel that—

''(1) satisfies the requirements of section 12103 of this title and, if owned by an entity, the entity satisfies the ownership requirements in subsection (c);

''(2) was built in the United States;

''(3) if rebuilt, was rebuilt in the United States;

''(4) was not forfeited to the United States Government after July 1, 2001, for a breach of the laws of the United States; and

''(5) otherwise qualifies under the laws of the United States to engage in the fisheries.

''(b) AUTHORIZED ACTIVITY.—

''(1) IN GENERAL.—Subject to the laws of the United States regulating the fisheries, a vessel for which a fishery endorsement is issued may engage in the fisheries.

''(2) USE BY PROHIBITED PERSONS.—A fishery endorsement is invalid immediately if the vessel for which it is issued is used as a fishing vessel while it is chartered or leased to an individual who is not a citizen of the United States or to an entity that is not eligible to own a vessel with a fishery endorsement.

''(c) OWNERSHIP REQUIREMENTS FOR ENTITIES.—

''(1) IN GENERAL.—A vessel owned by an entity is eligible for a fishery endorsement only if at least 75 percent of the interest in the entity, at each tier of ownership and in the aggregate, is owned and controlled by citizens of the United States.

''(2) DETERMINING 75 PERCENT INTEREST.—In determining whether at least 75 percent of the interest in the entity is owned and controlled by citizens of the United States under paragraph (1), the Secretary shall apply section 50501(d) of this title, except that for this purpose the terms 'control' or 'controlled'—

''(A) include the right to—

''(i) direct the business of the entity;

''(ii) limit the actions of or replace the chief executive officer, a majority of the board of directors, any general partner, or any person serving in a management capacity of the entity; or

''(iii) direct the transfer, operation, or manning of a vessel with a fishery endorsement; but

''(B) do not include the right to simply participate in the activities under subparagraph (A), or the exercise of rights under loan or mortgage covenants by a mortgagee eligible to be a preferred mortgagee under section 31322(a) of this title, except that a mortgagee not eligible to own a vessel with a fishery endorsement may only operate such a vessel to the extent necessary for the immediate safety of the vessel or for repairs, drydocking, or berthing changes.

''(3) EXCEPTIONS.—This subsection does not apply to a vessel when it is engaged in the fisheries in the exclusive economic zone under the authority of the Western Pacific Fishery Management Council established under section 302(a)(1)(H) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1852(a)(1)(H)) or to a purse seine vessel when it is engaged in tuna fishing in the Pacific Ocean outside the exclusive economic zone or pursuant to the South Pacific Regional Fisheries Treaty, provided that the owner of the vessel continues to comply with the eligibility requirements for a fishery endorsement under the Federal law that was in effect on October 1, 1998. A fishery endorsement issued pursuant to this paragraph is valid for engaging only in the activities described in this paragraph.

''(d) REQUIREMENTS BASED ON LENGTH, TONNAGE, OR HORSEPOWER.—

''(1) APPLICATION.—This subsection applies to a vessel that—

''(A) is greater than 165 feet in registered length;

''(B) is more than 750 gross registered tons as measured under chapter 145 of this title or 1,900 gross registered tons as measured under chapter 143 of this title; or

''(C) has an engine or engines capable of producing a total of more than 3,000 shaft horsepower.

''(2) REQUIREMENTS.—A vessel subject to this subsection is not eligible for a fishery endorsement unless—

''(A)(i) a certificate of documentation was issued for the vessel and endorsed with a fishery endorsement that was effective on September 25, 1997;

''(ii) the vessel is not placed under foreign registry after October 21, 1998; and

''(iii) if the fishery endorsement is invalidated after October 21, 1998, application is made for a new fishery endorsement within 15 business days of the invalidation; or

''(B) the owner of the vessel demonstrates to the Secretary that the regional fishery management council of jurisdiction established under section 302(a)(1) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1852(a)(1)) has recommended after October 21, 1998, and the Secretary of Commerce has approved, conservation and management measures in accordance with the American Fisheries Act (Public Law 105–277, div. C, title II) (16 U.S.C. 1851 note) to allow the vessel to be used in fisheries under the council's authority.

''(e) VESSELS MEASURING 100 FEET OR GREATER.—

''(1) IN GENERAL.—The Administrator of the Maritime Administration shall administer subsections (c) and (d) with respect to vessels 100 feet or greater in registered length. The owner of each such vessel shall file a statement of citizenship setting forth all relevant facts regarding vessel ownership and control with the Administrator on an annual basis to demonstrate compliance with those provisions.

''(2) REGULATIONS.—Regulations to implement this subsection shall conform to the extent practicable with the regulations establishing the form of citizenship affidavit set forth in part 355 of title 46, Code of Federal Regulations, as in effect on September 25, 1997, except that the form of the statement shall be written in a manner to allow the owner of the vessel to satisfy any annual renewal requirements for a certificate of documentation for the vessel and to comply with this subsection and subsections (c) and (d), and shall not be required to be notarized.

''(3) TRANSFER OF OWNERSHIP.—Transfers of ownership and control of vessels subject to subsection (c) or (d), which are 100 feet or greater in registered length, shall be rigorously scrutinized for violations of those provisions, with particular attention given to—

''(A) leases, charters, mortgages, financing, and similar arrangements;

''(B) the control of persons not eligible to own a vessel with a fishery endorsement under subsection (c) or (d), over the management, sales, financing, or other operations of an entity; and

''(C) contracts involving the purchase over extended periods of time of all, or substantially all, of the living marine resources harvested by a fishing vessel.

''(f) VESSELS MEASURING LESS THAN 100 FEET.—The Secretary shall establish reasonable and necessary requirements to demonstrate compliance with subsections (c) and (d), with respect to vessels measuring less than 100 feet in registered length, and shall seek to minimize the administrative burden on individuals who own and operate those vessels.

''(g) VESSELS PURCHASED THROUGH FISHING CAPACITY REDUCTION PROGRAM.—A vessel purchased by the Secretary of Commerce through a fishing capacity reduction program under the Magnuson-Stevens Fishery Conservation Management Act (16 U.S.C. 1801 et seq.) or section 308 of the Interjurisdictional Fisheries Act of 1986 (16 U.S.C. 4107) is not eligible for a fishery endorsement, and any fishery endorsement issued for that vessel is invalid.

''(h) REVOCATION OF ENDORSEMENTS.—The Secretary shall revoke the fishery endorsement of any vessel subject to subsection (c) or (d) whose owner does not comply with those provisions.

''(i) REGULATIONS.—Regulations to implement subsections (c) and (d) and sections 12151(c) and 31322(b) of this title shall prohibit impermissible transfers of ownership or control, specify any transactions that require prior approval of an implementing agency, identify transactions that do not require prior agency approval, and to the extent practicable, minimize disruptions to the commercial fishing industry, to the traditional financing arrangements of that industry, and to the opportunity to form fishery cooperatives.

''§ 12114. Recreational endorsement

''(a) REQUIREMENTS.—A recreational endorsement may be issued for a vessel that satisfies the requirements of section 12103 of this title.

''(b) AUTHORIZED ACTIVITY.—A vessel operating under a recreational endorsement may be operated only for pleasure.

''(c) APPLICATION OF CUSTOMS LAWS.—A vessel for which a recreational endorsement is issued may proceed between a port of the United States and a port of a foreign country without entering or clearing with the Secretary of Homeland Security. However, a recreational vessel is subject to the requirements for reporting arrivals under section 433 of the Tariff Act of 1930 (19 U.S.C. 1433), and individuals on the vessel are subject to applicable customs regulations.

''§ 12115. Temporary endorsement for vessels procured outside the United States

''(a) GENERAL AUTHORITY.—The Secretary and the Secretary of State, acting jointly, may provide for the issuance of a certificate of documentation with an appropriate endorsement for a vessel procured outside the United States and meeting the ownership requirements of section 12103 of this title.

''(b) AUTHORIZED ACTIVITY.—Subject to limitations the Secretary may prescribe, a vessel documented under this section may proceed to the United States and engage en route in foreign trade or trade with Guam, American Samoa, Wake, Midway, or Kingman Reef.

''(c) APPLICATION OF UNITED STATES JURISDICTION AND LAWS.—A vessel documented under this section is subject to the jurisdiction and laws of the United States. However, if the Secretary considers it to be in the public interest, the Secretary may suspend for a period of not more than 6 months the application of a vessel inspection law carried out by the Secretary or regulations prescribed under that law.

''(d) SURRENDER OF CERTIFICATE.—On the vessel's arrival in the United States, the certificate of documentation shall be surrendered as provided by regulations prescribed by the Secretary.

''§ 12116. Limited endorsements for Guam, American Samoa, and Northern Mariana Islands

''(a) ENDORSEMENTS.—A vessel satisfying the requirements of subsection (b) may be issued—

''(1) a coastwise endorsement to engage in the coastwise trade of fisheries products between places in Guam, American Samoa, and the Northern Mariana Islands; or

''(2) a fishery endorsement to engage in fishing in the territorial sea and fishery conservation zone adjacent to Guam, American Samoa, and the Northern Mariana Islands.

''(b) REQUIREMENTS.—An endorsement may be issued under subsection (a) for a vessel that—

''(1) satisfies the requirements of section 12103 of this title;

''(2) was not built in the United States, except that for an endorsement under subsection (a)(2), the vessel must not have been built or rebuilt in the United States;

''(3) is less than 200 gross tons as measured under section 14502 of this title, or an alternate tonnage as measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title; and

''(4) otherwise qualifies under the laws of the United States to engage in the coastwise trade or the fisheries, as the case may be.

''§ 12117. Oil spill response vessels

''(a) REQUIREMENTS.—A coastwise endorsement may be issued for a vessel that—

''(1) satisfies the requirements for a coastwise endorsement, except for the ownership requirement otherwise applicable without regard to this section;

''(2) is owned by a not-for-profit oil spill response cooperative or by members of such a cooperative that dedicate the vessel to use by the cooperative;

''(3) is at least 50 percent owned by individuals or entities described in section 12103(b) of this title; and

''(4) is to be used only for—

''(i) deploying equipment, supplies, and personnel to recover, contain, or transport oil discharged into the navigable waters of the United States or the exclusive economic zone; or

''(ii) training exercises to prepare to respond to such a discharge.

''(b) DEEMED OWNED BY CITIZENS.—A vessel satisfying subsection (a) is deemed to be owned only by citizens of the United States under sections 12103, 12132, and 50501 of this title.

''§ 12118. Owners engaged primarily in manufacturing or mineral industry

''(a) DEFINITIONS.—In this section:

''(1) BOWATERS CORPORATION.—The term 'Bowaters corporation' means a corporation that has filed a certificate under oath with the Secretary, in the form and at the times prescribed by the Secretary, establishing that—

''(A) the corporation is incorporated under the laws of the United States or a State;

''(B) a majority of the officers and directors of the corporation are individuals who are citizens of the United States;

''(C) at least 90 percent of the employees of the corporation are residents of the United States;

''(D) the corporation is engaged primarily in a manufacturing or mineral industry in the United States;

''(E) the total book value of the vessels owned by the corporation is not more than 10 percent of the total book value of the assets of the corporation; and

''(F) the corporation buys or produces in the United States at least 75 percent of the raw materials used or sold in its operations.

''(2) PARENT.—The term 'parent' means a corporation that has filed a certificate under oath with the Secretary, in the form and at the times prescribed by the Secretary, establishing that the corporation—

''(A) is incorporated under the laws of the United States or a State; and

''(B) controls, directly or indirectly, at least 50 percent of the voting stock of a Bowaters corporation.

''(3) SUBSIDIARY.—The term 'subsidiary' means a corporation that has filed a certificate under oath with the Secretary, in the form and at the times prescribed by the Secretary, establishing that the corporation—

''(A) is incorporated under the laws of the United States or a State; and

''(B) has at least 50 percent of its voting stock controlled, directly or indirectly, by a Bowaters corporation or its parent.

''(b) DEEMED CITIZEN.—A Bowaters corporation is deemed to be a citizen of the United States for purposes of chapters 121, 551, and 561 and section 80104 of this title.

''(c) ISSUANCE OF DOCUMENTATION.—A certificate of documentation and appropriate endorsement may be issued for a vessel that—

''(1) is owned by a Bowaters corporation;

''(2) was built in the United States; and

''(3)(A) is self-propelled and less than 500 gross tons as measured under section 14502 of this title, or an alternate tonnage as measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title; or

''(B) is not self-propelled.

''(d) EFFECTS OF DOCUMENTATION.—

''(1) IN GENERAL.—Subject to paragraph (2)—

''(A) a vessel documented under this section may engage in the coastwise trade; and

''(B) the vessel and its owner and master are entitled to the same benefits and are subject to the same requirements and penalties as if the vessel were otherwise documented or exempt from documentation under this chapter.

''(2) TRANSPORTATION OF PASSENGERS OR MERCHANDISE.—A vessel documented under this section may transport passengers or merchandise for hire in the coastwise trade only—

''(A) as a service for a parent or subsidiary of the corporation owning the vessel; or

''(B) when under a demise or bareboat charter, at prevailing rates for use not in the domestic noncontiguous trades, from the corporation owning the vessel to a carrier that—

''(i) is subject to jurisdiction under subchapter II of chapter 135 of title 49;

''(ii) otherwise qualifies as a citizen of the United States under section 50501 of this title; and

''(iii) is not owned or controlled, directly or indirectly, by the corporation owning the vessel.

''(e) VALIDITY OF CORPORATE CERTIFICATE.—A certificate filed by a corporation under this section remains valid only as long as the corporation continues to satisfy the conditions required of the corporation by this section. When a corporation no longer satisfies those conditions, the corporation loses its status under this section and immediately shall surrender to the Secretary any documents issued to it based on that status.

''(f) PENALTIES.—

''(1) FALSIFYING MATERIAL FACT.—If a corporation knowingly falsifies a material fact in a certificate filed under subsection (a), the vessel (or its value) documented or operated under this section shall be forfeited.

''(2) TRANSPORTING MERCHANDISE.—If a vessel transports merchandise for hire in violation of this section, the merchandise shall be forfeited to the United States Government.

''(3) TRANSPORTING PASSENGERS.—If a vessel transports passengers for hire in violation of this section, the vessel is liable for a penalty of $200 for each passenger so transported.

''(4) REMISSION OR MITIGATION.—A penalty or forfeiture incurred under this subsection may be remitted or mitigated under section 2107(b) of this title.

''§ 12119. Owners engaged primarily in leasing or financing transactions

''(a) DEFINITIONS.—In this section:

''(1) AFFILIATE.—The term 'affiliate' means, with respect to any person, any other person that is—

''(i) directly or indirectly controlled by, under common control with, or controlling that person; or

''(ii) named as being part of the same consolidated group in any report or other document submitted to the United States Securities and Exchange Commission or the Internal Revenue Service.

''(2) CARGO.—The term 'cargo' does not include cargo to which title is held for non-commercial reasons and primarily for the purpose of evading the requirements of subsection (c)(3).

''(3) OIL.—The term 'oil' has the meaning given that term in section 2101(20) of this title.

''(4) PASSIVE INVESTMENT.—The term 'passive investment' means an investment in which neither the investor nor any affiliate of the investor is involved in, or has the power to be involved in, the formulation, determination, or direction of any activity or function concerning the management, use, or operation of the asset that is the subject of the investment.

''(5) QUALIFIED PROPRIETARY CARGO.—The term 'qualified proprietary cargo' means—

''(A) oil, petroleum products, petrochemicals, or liquefied natural gas cargo that is beneficially owned by the person that submits to the Secretary an application or annual certification under subsection (c)(3), or by an affiliate of that person, immediately before, during, or immediately after the cargo is carried in coastwise trade on a vessel owned by that person;

''(B) oil, petroleum products, petrochemicals, or liquefied natural gas cargo not beneficially owned by the person that submits to the Secretary an application or an annual certification under subsection (c)(3), or by an affiliate of that person, but which is carried in coastwise trade by a vessel owned by that person and which is part of an arrangement in which vessels owned by that person and at least one other person are operated collectively as one fleet, to the extent that an equal amount of oil, petroleum products, petrochemicals, or liquefied natural gas cargo beneficially owned by that person, or by an affiliate of that person, is carried in coastwise trade on one or more other vessels, not owned by that person, or by an affiliate of that person, if the other vessel or vessels are also part of the same arrangement;

''(C) in the case of a towing vessel associated with a non-self-propelled tank vessel where both vessels function as a single self-propelled vessel, oil, petroleum products, petrochemicals, or liquefied natural gas cargo that is beneficially owned by the person that owns both the towing vessel and the non-self-propelled tank vessel, or any United States affiliate of that person, immediately before, during, or immediately after the cargo is carried in coastwise trade on either of those vessels; or

''(D) any oil, petroleum products, petrochemicals, or liquefied natural gas cargo carried on any vessel that is either a self-propelled tank vessel having a length of at least 210 meters or a tank vessel that is a liquefied natural gas carrier that—

''(i) was delivered by the builder of the vessel to the owner of the vessel after December 31, 1999; and

''(ii) was purchased by a person for the purpose, and with the reasonable expectation, of transporting on the vessel liquefied natural gas or unrefined petroleum beneficially owned by the owner of the vessel, or an affiliate of the owner, from Alaska to the continental United States.

''(6) UNITED STATES AFFILIATE.—The term 'United States affiliate' means, with respect to any person, an affiliate the principal place of business of which is located in the United States.

''(b) REQUIREMENTS.—A coastwise endorsement may be issued for a vessel if—

''(1) the vessel satisfies the requirements for a coastwise endorsement, except for the ownership requirement otherwise applicable without regard to this section;

''(2) the person that owns the vessel (or, if the vessel is owned by a trust or similar arrangement, the beneficiary of the trust or similar arrangement) meets the requirements of subsection (c);

''(3) the vessel is under a demise charter to a person that certifies to the Secretary that the person is a citizen of the United States under section 50501 of this title for engaging in the coastwise trade; and

''(4) the demise charter is for a period of at least 3 years or a shorter period as may be prescribed by the Secretary.

''(c) OWNERSHIP CERTIFICATION.—

''(1) IN GENERAL.—A person meets the requirements of this subsection if the person transmits to the Secretary each year the certification required by paragraph (2) or (3) with respect to a vessel.

''(2) INVESTMENT CERTIFICATION.—To meet the certification requirement of this paragraph, a person shall certify that it—

''(A) is a leasing company, bank, or financial institution;

''(B) owns, or holds the beneficial interest in, the vessel solely as a passive investment;

''(C) does not operate any vessel for hire and is not an affiliate of any person that operates any vessel for hire; and

''(D) is independent from, and not an affiliate of, any charterer of the vessel or any other person that has the right, directly or indirectly, to control or direct the movement or use of the vessel.

''(3) CERTAIN TANK VESSELS.—

''(A) IN GENERAL.—To meet the certification requirement of this paragraph, a person shall certify that—

''(i) the aggregate book value of the vessels owned by the person and United States affiliates of the person does not exceed 10 percent of the aggregate book value of all assets owned by the person and its United States affiliates;

''(ii) not more than 10 percent of the aggregate revenues of the person and its United States affiliates is derived from the ownership, operation, or management of vessels;

''(iii) at least 70 percent of the aggregate tonnage of all cargo carried by all vessels owned by the person and its United States affiliates and documented with a coastwise endorsement is qualified proprietary cargo;

''(iv) any cargo other than qualified proprietary cargo carried by all vessels owned by the person and its United States affiliates and documented with a coastwise endorsement consists of oil, petroleum products, petrochemicals, or liquified natural gas;

''(v) no vessel owned by the person or any of its United States affiliates and documented with a coastwise endorsement carries molten sulphur; and

''(vi) the person owned one or more vessels documented under this section as of August 9, 2004.

''(B) APPLICATION ONLY TO CERTAIN VESSELS.—A person may make a certification under this paragraph only with respect to—

''(i) a tank vessel having a tonnage of at least 6,000 gross tons, as measured under section 14502 of this title (or an alternative tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title); or

''(ii) a towing vessel associated with a non-self-propelled tank vessel that meets the requirements of clause (i), where both vessels function as a single self-propelled vessel.

''(d) FILING OF DEMISE CHARTER.—The demise charter and any amendments to the charter shall be filed with the certification required by subsection (b)(3) or within 10 days after filing an amendment to the charter. The charter and amendments shall be made available to the public.

''(e) CONTINUATION OF ENDORSEMENT AFTER TERMINATION OF CHARTER.—When a charter required by subsection (b)(3) is terminated for default by the charterer, the Secretary may continue the coastwise endorsement for not more than 6 months on terms and conditions the Secretary may prescribe.

''(f) DEEMED OWNED BY CITIZENS.—A vessel satisfying the requirements of this section is deemed to be owned only by citizens of the United States under sections 12103 and 50501 of this title.

''§ 12120. Liquified gas tankers

''Notwithstanding any agreement with the United States Government, the Secretary may issue a certificate of documentation with a coastwise endorsement for a vessel to transport liquified natural gas or liquified petroleum gas to Puerto Rico from other ports in the United States, if the vessel—

''(1) is a foreign built vessel that was built before October 19, 1996; or

''(2) was documented under this chapter before that date, even if the vessel is placed under a foreign registry and subsequently redocumented under this chapter for operation under this section.

''§ 12121. Small passenger vessels and uninspected passenger vessels

''(a) DEFINITIONS.—In this section:

''(1) ELIGIBLE VESSEL.—The term 'eligible vessel' means a vessel that—

''(A) was not built in the United States and is at least 3 years old; or

''(B) if rebuilt, was rebuilt outside the United States at least 3 years before the certificate requested under subsection (b) would take effect.

''(2) SMALL PASSENGER VESSEL; UNINSPECTED PASSENGER VESSEL; PASSENGER FOR HIRE.—The terms 'small passenger vessel', 'uninspected passenger vessel', and 'passenger for hire' have the meaning given those terms in section 2101 of this title.

''(b) ISSUANCE OF CERTIFICATE AND ENDORSEMENT.—Notwithstanding sections 12112, 12113, 55102, and 55103 of this title, the Secretary may issue a certificate of documentation with an appropriate endorsement for employment in the coastwise trade as a small passenger vessel or an uninspected passenger vessel in the case of an eligible vessel authorized to carry no more than 12 passengers for hire if the Secretary of Transportation, after notice and an opportunity for public comment, determines that the employment of the vessel in the coastwise trade will not adversely affect—

''(1) United States vessel builders; or

''(2) the coastwise trade business of any person that employs vessels built in the United States in that business.

''(c) REVOCATION.—

''(1) FOR FRAUD.—The Secretary shall revoke a certificate or endorsement issued under subsection (b) if the Secretary of Transportation, after notice and an opportunity for a hearing, determines that the certificate or endorsement was obtained by fraud.

''(2) OTHER PROVISIONS NOT AFFECTED.—Paragraph (1) does not affect—

''(A) the criminal prohibition on fraud and false statements in section 1001 of title 18; or

''(B) any other authority of the Secretary to revoke a certificate or endorsement issued under subsection (b).

''SUBCHAPTER III—MISCELLANEOUS

''§ 12131. Command of documented vessels

''(a) IN GENERAL.—Except as provided in subsection (b), a documented vessel may be placed under the commmand only of a citizen of the United States.

''(b) EXCEPTIONS.—Subsection (a) does not apply to—

''(1) a vessel with only a recreational endorsement; or

''(2) an unmanned barge operating outside of the territorial waters of the United States.

''§ 12132. Loss of coastwise trade privileges

''(a) SOLD FOREIGN OR PLACED UNDER FOREIGN REGISTRY.—A vessel of more than 200 gross tons (as measured under chapter 143 of this title), eligible to engage in the coastwise trade, and later sold foreign in whole or in part or placed under foreign registry may not thereafter engage in the coastwise trade.

''(b) REBUILT OUTSIDE THE UNITED STATES.—A vessel eligible to engage in the coastwise trade and later rebuilt outside the United States may not thereafter engage in the coastwise trade.

''§ 12133. Duty to carry certificate on vessel and allow examination

''(a) DUTY TO CARRY.—The certificate of documentation of a vessel shall be carried on the vessel unless the vessel is exempt by regulation from carrying the certificate.

''(b) AVAILABILITY.—The owner or individual in charge of a vessel required to carry its certificate of documentation shall make the certificate available for examination at the request of an officer enforcing the revenue laws or as otherwise required by law or regulation.

''(c) CRIMINAL PENALTY.—A person willfully violating subsection (b) shall be fined under title 18, imprisoned for not more than one year, or both.

''§ 12134. Evidentiary uses of documentation

''A certificate of documentation is—

''(1) conclusive evidence of nationality for international purposes, but not in a proceeding conducted under the laws of the United States;

''(2) conclusive evidence of qualification to engage in a specified trade; and

''(3) not conclusive evidence of ownership in a proceeding in which ownership is in issue.

''§ 12135. Invalidation of certificates of documentation

''A certificate of documentation or an endorsement on the certificate is invalid if the vessel for which it is issued—

''(1) no longer meets the requirements of this chapter and regulations prescribed under this chapter applicable to the certificate or endorsement; or

''(2) is placed under the command of an individual not a citizen of the United States in violation of section 12131 of this title.

''§ 12136. Surrender of certificates of documentation

''(a) SURRENDER.—An invalid certificate of documentation, or a certificate with an invalid endorsement, shall be surrendered as provided by regulations prescribed by the Secretary.

''(b) CONDITIONS FOR SURRENDER.—

''(1) VESSELS OVER 1,000 TONS.—The Secretary may condition approval of the surrender of the certificate of documentation for a vessel over 1,000 gross tons.

''(2) VESSELS COVERED BY MORTGAGE.—The Secretary may approve the surrender of the certificate of documentation of a vessel covered by a mortgage filed or recorded under section 31321 of this title only if the mortgagee consents.

''(3) NOTICE OF LIEN.—The Secretary may not refuse to approve the surrender of the certificate of documentation for a vessel solely on the basis that a notice of a claim of a lien on the vessel has been recorded under section 31343(a) of this title.

''(c) CONTINUED APPLICATION OF CERTAIN LAWS.—

''(1) IN GENERAL.—Notwithstanding subsection (a), until the certificate of documentation is surrendered with the approval of the Secretary, a documented vessel is deemed to continue to be documented under this chapter for purposes of—

''(A) chapter 313 of this title for an instrument filed or recorded before the date of invalidation and an assignment after that date;

''(B) sections 56101 and 56102(a)(2) and chapter 563 of this title; and

''(C) any other law of the United States identified by the Secretary by regulation as a law to which the Secretary applies this subsection.

''(2) EXCEPTION.—This subsection does not apply when a vessel is forfeited or sold by order of a district court of the United States.

''§ 12137. Recording of vessels built in the United States

''The Secretary may provide for recording and certifying information about vessels built in the United States that the Secretary considers to be in the public interest.

''§ 12138. List of documented vessels

''(a) IN GENERAL.—The Secretary shall publish periodically a list of all documented vessels and information about those vessels that the Secretary considers pertinent or useful. The list shall contain a notation clearly indicating all vessels classed by the American Bureau of Shipping.

''(b) VESSELS FOR CABLE LAYING, MAINTENANCE, AND REPAIR.—

''(1) IN GENERAL.—The Secretary of Transportation shall develop, maintain, and periodically update an inventory of vessels that are documented under this chapter, are at least 200 feet in length, and have the capability to lay, maintain, or repair a submarine cable, without regard to whether a particular vessel is classed as a cable ship or cable vessel.

''(2) INFORMATION TO BE INCLUDED.—For each vessel listed in the inventory, the Secretary of Transportation shall include in the inventory—

''(A) the name, length, beam, depth, and other distinguishing characteristics of the vessel;

''(B) the abilities and limitations of the vessel with respect to laying, maintaining, and repairing a submarine cable; and

''(C) the name and address of the person to whom inquiries regarding the vessel may be made.

''(3) PUBLICATION.—The Secretary of Transportation shall publish in the Federal Register an updated inventory every 6 months.

''§ 12139. Reports

''(a) IN GENERAL.—To ensure compliance with this chapter and laws governing the qualifications of vessels to engage in the coastwise trade and the fisheries, the Secretary may require owners, masters, and charterers of documented vessels to submit reports in any reasonable form and manner the Secretary may prescribe.

''(b) VESSELS REBUILT OUTSIDE UNITED STATES.—

''(1) IN GENERAL.—Under regulations prescribed by the Secretary, if a vessel exceeding the tonnage specified in paragraph (2) and documented or last documented under the laws of the United States is rebuilt outside the United States, the owner or master shall submit a report of the rebuilding to the Secretary.

''(2) TONNAGE.—The tonnage referred to in paragraph (1) is—

''(A) 500 gross tons as measured under section 14502 of this title; or

''(B) an alternate tonnage as measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title.

''(3) TIMING OF SUBMISSION.—If the rebuilding is completed in the United States, the report shall be submitted when the rebuilding is completed. If the rebuilding is completed outside the United States, the report shall be submitted when the vessel first arrives at a port in the customs territory of the United States.

''SUBCHAPTER IV—PENALTIES

''§ 12151. Penalties

''(a) IN GENERAL.—A person that violates this chapter or a regulation prescribed under this chapter is liable to the United States Government for a civil penalty of not more than $10,000. Each day of a continuing violation is a separate violation.

''(b) SEIZURE AND FORFEITURE OF VESSELS.—A vessel and its equipment are liable to seizure by and forfeiture to the Government if—

''(1) the owner of the vessel or the representative or agent of the owner knowingly falsifies or conceals a material fact, or knowingly makes a false statement or representation, about the documentation of the vessel or in applying for documentation of the vessel;

''(2) a certificate of documentation is knowingly and fraudulently used for the vessel;

''(3) the vessel is operated after its endorsement has been denied or revoked under section 12152 of this title;

''(4) the vessel is employed in a trade without an appropriate endorsement;

''(5) the vessel has only a recreational endorsement and is operated other than for pleasure;

''(6) the vessel is a documented vessel and is placed under the command of a person not a citizen of the United States, except as authorized by section 12131(b) of this title; or

''(7) the vessel is rebuilt outside the United States and a report of the rebuilding is not submitted as required by section 12139(b) of this title.

''(c) ENGAGING IN FISHING AFTER FALSIFYING ELIGIBILITY.—In addition to other penalties under this section, the owner of a documented vessel for which a fishery endorsement has been issued is liable to the Government for a civil penalty of not more than $100,000 for each day the vessel engages in fishing (as defined in section 3 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1802)) within the exclusive economic zone, if the owner or the representative or agent of the owner knowingly falsified or concealed a material fact, or knowingly made a false statement or representation, about the eligibility of the vessel under section 12113(c) or (d) of this title in applying for or applying to renew the fishery endorsement.

''§ 12152. Denial or revocation of endorsement for non-payment of civil penalty

''If the owner of a vessel fails to pay a civil penalty imposed by the Secretary, the Secretary may deny the issuance or renewal of an endorsement, or revoke the endorsement, on a certificate of documentation issued for the vessel under this chapter.''.

SEC. 6. SUBTITLE III OF TITLE 46.

(a) SUBTITLE ANALYSIS.—The analysis of subtitle III of title 46, United States Code, is amended to read as follows:

(b) REPEALS.—Title 46, United States Code, is amended by striking chapter 301 and the lines appearing immediately before and immediately after chapter 313 indicating that certain chapters are reserved.

(c) CHAPTERS 301–311.—Title 46, United States Code, is amended by inserting after the analysis of subtitle III the following:

''CHAPTER 301—GENERAL LIABILITY PROVISIONS

''§ 30101. Extension of jurisdiction to cases of damage or injury on land

''(a) IN GENERAL.—The admiralty and maritime jurisdiction of the United States extends to and includes cases of injury or damage, to person or property, caused by a vessel on navigable waters, even though the injury or damage is done or consummated on land.

''(b) PROCEDURE.—A civil action in a case under subsection (a) may be brought in rem or in personam according to the principles of law and the rules of practice applicable in cases where the injury or damage has been done and consummated on navigable waters.

''(c) ACTIONS AGAINST UNITED STATES.—

''(1) EXCLUSIVE REMEDY.—In a civil action against the United States for injury or damage done or consummated on land by a vessel on navigable waters, chapter 309 or 311 of this title, as appropriate, provides the exclusive remedy.

''(2) ADMINISTRATIVE CLAIM.—A civil action described in paragraph (1) may not be brought until the expiration of the 6-month period after the claim has been presented in writing to the agency owning or operating the vessel causing the injury or damage.

''§ 30102. Liability to passengers

''(a) LIABILITY.—The owner and master of a vessel, and the vessel, are liable for personal injury to a passenger or damage to a passenger's baggage caused by—

''(1) a neglect or failure to comply with part B or F of subtitle II of this title; or

''(2) a known defect in the steaming apparatus or hull of the vessel.

''(b) NOT SUBJECT TO LIMITATION.—A liability imposed under this section is not subject to limitation under chapter 305 of this title.

''§ 30103. Liability of master, mate, engineer, and pilot

''A person may bring a civil action against a master, mate, engineer, or pilot of a vessel, and recover damages, for personal injury or loss caused by the master's, mate's, engineer's, or pilot's—

''(1) negligence or willful misconduct; or

''(2) neglect or refusal to obey the laws governing the navigation of vessels.

''§ 30104. Personal injury to or death of seamen

''(a) CAUSE OF ACTION.—A seaman injured in the course of employment or, if the seaman dies from the injury, the personal representative of the seaman may elect to bring a civil action at law, with the right of trial by jury, against the employer. Laws of the United States regulating recovery for personal injury to, or death of, a railway employee apply to an action under this section.

''(b) VENUE.—An action under this section shall be brought in the judicial district in which the employer resides or the employer's principal office is located.

''§ 30105. Restriction on recovery by non-citizens and non-resident aliens for incidents in waters of other countries

''(a) DEFINITION.—In this section, the term 'continental shelf' has the meaning given that term in article I of the 1958 Convention on the Continental Shelf.

''(b) RESTRICTION.—Except as provided in subsection (c), a civil action for maintenance and cure or for damages for personal injury or death may not be brought under a maritime law of the United States if—

''(1) the individual suffering the injury or death was not a citizen or permanent resident alien of the United States at the time of the incident giving rise to the action;

''(2) the incident occurred in the territorial waters or waters overlaying the continental shelf of a country other than the United States; and

''(3) the individual suffering the injury or death was employed at the time of the incident by a person engaged in the exploration, development, or production of offshore mineral or energy resources, including drilling, mapping, surveying, diving, pipelaying, maintaining, repairing, constructing, or transporting supplies, equipment, or personnel, but not including transporting those resources by a vessel constructed or adapted primarily to carry oil in bulk in the cargo spaces.

''(c) NONAPPLICATION.—Subsection (b) does not apply if the individual bringing the action establishes that a remedy is not available under the laws of—

''(1) the country asserting jurisdiction over the area in which the incident occurred; or

''(2) the country in which the individual suffering the injury or death maintained citizenship or residency at the time of the incident.

''§ 30106. Time limit on bringing maritime action for personal injury or death

''Except as otherwise provided by law, a civil action for damages for personal injury or death arising out of a maritime tort must be brought within 3 years after the cause of action arose.

''CHAPTER 303—DEATH ON THE HIGH SEAS

''§ 30301. Short title

''This chapter may be cited as the 'Death on the High Seas Act'.

"§ 30302. Cause of action

"When the death of an individual is caused by wrongful act, neglect, or default occurring on the high seas beyond 3 nautical miles from the shore of the United States, the personal representative of the decedent may bring a civil action in admiralty against the person or vessel responsible. The action shall be for the exclusive benefit of the decedent's spouse, parent, child, or dependent relative.

"§ 30303. Amount and apportionment of recovery

"The recovery in an action under this chapter shall be a fair compensation for the pecuniary loss sustained by the individuals for whose benefit the action is brought. The court shall apportion the recovery among those individuals in proportion to the loss each has sustained.

"§ 30304. Contributory negligence

"In an action under this chapter, contributory negligence of the decedent is not a bar to recovery. The court shall consider the degree of negligence of the decedent and reduce the recovery accordingly.

"§ 30305. Death of plaintiff in pending action

"If a civil action in admiralty is pending in a court of the United States to recover for personal injury caused by wrongful act, neglect, or default described in section 30302 of this title, and the individual dies during the action as a result of the wrongful act, neglect, or default, the personal representative of the decedent may be substituted as the plaintiff and the action may proceed under this chapter for the recovery authorized by this chapter.

"§ 30306. Foreign cause of action

"When a cause of action exists under the law of a foreign country for death by wrongful act, neglect, or default on the high seas, a civil action in admiralty may be brought in a court of the United States based on the foreign cause of action, without abatement of the amount for which recovery is authorized.

"§ 30307. Commercial aviation accidents

"(a) DEFINITION.—In this section, the term 'nonpecuniary damages' means damages for loss of care, comfort, and companionship.

"(b) BEYOND 12 NAUTICAL MILES.—In an action under this chapter, if the death resulted from a commercial aviation accident occurring on the high seas beyond 12 nautical miles from the shore of the United States, additional compensation is recoverable for nonpecuniary damages, but punitive damages are not recoverable.

"(c) WITHIN 12 NAUTICAL MILES.—This chapter does not apply if the death resulted from a commercial aviation accident occurring on the high seas 12 nautical miles or less from the shore of the United States.

"§ 30308. Nonapplication

"(a) STATE LAW.—This chapter does not affect the law of a State regulating the right to recover for death.

"(b) INTERNAL WATERS.—This chapter does not apply to the Great Lakes or waters within the territorial limits of a State.

"CHAPTER 305—EXONERATION AND LIMITATION OF LIABILITY

"§ 30501. Definition

"In this chapter, the term 'owner' includes a charterer that mans, supplies, and navigates a vessel at the charterer's own expense or by the charterer's own procurement.

"§ 30502. Application

"Except as otherwise provided, this chapter (except section 30503) applies to seagoing vessels and vessels used on lakes or rivers or in inland navigation, including canal boats, barges, and lighters.

"§ 30503. Declaration of nature and value of goods

"(a) IN GENERAL.—If a shipper of an item named in subsection (b), contained in a parcel, package, or trunk, loads the item as freight or baggage on a vessel, without at the time of loading giving to the person receiving the item a written notice of the true character and value of the item and having that information entered on the bill of lading, the owner and master of the vessel are not liable as carriers. The owner and master are not liable beyond the value entered on the bill of lading.

"(b) ITEMS.—The items referred to in subsection (a) are precious metals, gold or silver plated articles, precious stones, jewelry, trinkets, watches, clocks, glass, china, coins, bills, securities, printings, engravings, pictures, stamps, maps, papers, silks, furs, lace, and similar items of high value and small size.

"§ 30504. Loss by fire

"The owner of a vessel is not liable for loss or damage to merchandise on the vessel caused by a fire on the vessel unless the fire resulted from the design or neglect of the owner.

"§ 30505. General limit of liability

"(a) IN GENERAL.—Except as provided in section 30506 of this title, the liability of the owner of a vessel for any claim, debt, or liability described in subsection (b) shall not exceed the value of the vessel and pending freight. If the vessel has more than one owner, the proportionate share of the liability of any one owner shall not exceed that owner's proportionate interest in the vessel and pending freight.

"(b) CLAIMS SUBJECT TO LIMITATION.—Unless otherwise excluded by law, claims, debts, and liabilities subject to limitation under subsection (a) are those arising from any embezzlement, loss, or destruction of any property, goods, or merchandise shipped or put on board the vessel, any loss, damage, or injury by collision, or any act, matter, or thing, loss, damage, or forfeiture, done, occasioned, or incurred, without the privity or knowledge of the owner.

"(c) WAGES.—Subsection (a) does not apply to a claim for wages.

"§ 30506. Limit of liability for personal injury or death

"(a) APPLICATION.—This section applies only to seagoing vessels, but does not apply to pleasure yachts, tugs, towboats, towing vessels, tank vessels, fishing vessels, fish tender vessels, canal boats, scows, car floats, barges, lighters, or nondescript vessels.

"(b) MINIMUM LIABILITY.—If the amount of the vessel owner's liability determined under section 30505 of this title is insufficient to pay all losses in full, and the portion available to pay claims for personal injury or death is less than $420 times the tonnage of the vessel, that portion shall be increased to $420 times the tonnage of the vessel. That portion may be used only to pay claims for personal injury or death.

"(c) CALCULATION OF TONNAGE.—Under subsection (b), the tonnage of a self-propelled vessel is the gross tonnage without deduction for engine room, and the tonnage of a sailing vessel is the tonnage for documentation. However, space for the use of seamen is excluded.

"(d) CLAIMS ARISING ON DISTINCT OCCASIONS.—Separate limits of liability apply to claims for personal injury or death arising on distinct occasions.

"(e) PRIVITY OR KNOWLEDGE.—In a claim for personal injury or death, the privity or knowledge of the master or the owner's superintendent or managing agent, at or before the beginning of each voyage, is imputed to the owner.

"§ 30507. Apportionment of losses

"If the amounts determined under sections 30505 and 30506 of this title are insufficient to pay all claims—

"(1) all claimants shall be paid in proportion to their respective losses out of the amount determined under section 30505 of this title; and

"(2) personal injury and death claimants, if any, shall be paid an additional amount in proportion to their respective losses out of the additional amount determined under section 30506(b) of this title.

"§ 30508. Provisions requiring notice of claim or limiting time for bringing action

"(a) APPLICATION.—This section applies only to seagoing vessels, but does not apply to pleasure yachts, tugs, towboats, towing vessels, tank vessels, fishing vessels, fish tender vessels, canal boats, scows, car floats, barges, lighters, or nondescript vessels.

"(b) MINIMUM TIME LIMITS.—The owner, master, manager, or agent of a vessel transporting passengers or property between ports in the United States, or between a port in the United States and a port in a foreign country, may not limit by regulation, contract, or otherwise the period for—

"(1) giving notice of, or filing a claim for, personal injury or death to less than 6 months after the date of the injury or death; or

"(2) bringing a civil action for personal injury or death to less than one year after the date of the injury or death.

"(c) EFFECT OF FAILURE TO GIVE NOTICE.—When notice of a claim for personal injury or death is required by a contract, the failure to give the notice is not a bar to recovery if—

"(1) the court finds that the owner, master, or agent of the vessel had knowledge of the injury or death and the owner has not been prejudiced by the failure;

"(2) the court finds there was a satisfactory reason why the notice could not have been given; or

"(3) the owner of the vessel fails to object to the failure to give the notice.

"(d) TOLLING OF PERIOD TO GIVE NOTICE.—If a claimant is a minor or mental incompetent, or if a claim is for wrongful death, any period provided by a contract for giving notice of the claim is tolled until the earlier of—

"(1) the date a legal representative is appointed for the minor, incompetent, or decedent's estate; or

"(2) 3 years after the injury or death.

"§ 30509. Provisions limiting liability for personal injury or death

"(a) PROHIBITION.—

"(1) IN GENERAL.—The owner, master, manager, or agent of a vessel transporting passengers between ports in the United States, or between a port in the United States and a port in a foreign country, may not include in a regulation or contract a provision limiting—

"(A) the liability of the owner, master, or agent for personal injury or death caused by the negligence or fault of the owner or the owner's employees or agents; or

"(B) the right of a claimant for personal injury or death to a trial by court of competent jurisdiction.

"(2) VOIDNESS.—A provision described in paragraph (1) is void.

"(b) EMOTIONAL DISTRESS, MENTAL SUFFERING, AND PSYCHOLOGICAL INJURY.—

"(1) IN GENERAL.—Subsection (a) does not prohibit a provision in a contract or in ticket conditions of carriage with a passenger that relieves an owner, master, manager, agent, operator, or crewmember of a vessel from liability for

infliction of emotional distress, mental suffering, or psychological injury so long as the provision does not limit such liability when the emotional distress, mental suffering, or psychological injury is—

''(A) the result of physical injury to the claimant caused by the negligence or fault of a crewmember or the owner, master, manager, agent, or operator;

''(B) the result of the claimant having been at actual risk of physical injury, and the risk was caused by the negligence or fault of a crewmember or the owner, master, manager, agent, or operator; or

''(C) intentionally inflicted by a crewmember or the owner, master, manager, agent, or operator.

''(2) SEXUAL OFFENSES.—This subsection does not limit the liability of a crewmember or the owner, master, manager, agent, or operator of a vessel in a case involving sexual harassment, sexual assault, or rape.

''§ 30510. Vicarious liability for medical malpractice with regard to crew

''In a civil action by any person in which the owner or operator of a vessel or employer of a crewmember is claimed to have vicarious liability for medical malpractice with regard to a crewmember occurring at a shoreside facility, and to the extent the damages resulted from the conduct of any shoreside doctor, hospital, medical facility, or other health care provider, the owner, operator, or employer is entitled to rely on any statutory limitations of liability applicable to the doctor, hospital, medical facility, or other health care provider in the State of the United States in which the shoreside medical care was provided.

''§ 30511. Action by owner for limitation

''(a) IN GENERAL.—The owner of a vessel may bring a civil action in a district court of the United States for limitation of liability under this chapter. The action must be brought within 6 months after a claimant gives the owner written notice of a claim.

''(b) CREATION OF FUND.—When the action is brought, the owner (at the owner's option) shall—

''(1) deposit with the court, for the benefit of claimants—

''(A) an amount equal to the value of the owner's interest in the vessel and pending freight, or approved security; and

''(B) an amount, or approved security, that the court may fix from time to time as necessary to carry out this chapter; or

''(2) transfer to a trustee appointed by the court, for the benefit of claimants—

''(A) the owner's interest in the vessel and pending freight; and

''(B) an amount, or approved security, that the court may fix from time to time as necessary to carry out this chapter.

''(c) CESSATION OF OTHER ACTIONS.—When an action has been brought under this section and the owner has complied with subsection (b), all claims and proceedings against the owner related to the matter in question shall cease.

''§ 30512. Liability as master, officer, or seaman not affected

''This chapter does not affect the liability of an individual as a master, officer, or seaman, even though the individual is also an owner of the vessel.

''CHAPTER 307—LIABILITY OF WATER CARRIERS

''§ 30701. Definition

''In this chapter, the term 'carrier' means the owner, manager, charterer, agent, or master of a vessel.

''§ 30702. Application

''(a) IN GENERAL.—Except as otherwise provided, this chapter applies to a carrier engaged in the carriage of goods to or from any port in the United States.

''(b) LIVE ANIMALS.—Sections 30703 and 30704 of this title do not apply to the carriage of live animals.

''§ 30703. Bills of lading

''(a) ISSUANCE.—On demand of a shipper, the carrier shall issue a bill of lading or shipping document.

''(b) CONTENTS.—The bill of lading or shipping document shall include a statement of—

''(1) the marks necessary to identify the goods;

''(2) the number of packages, or the quantity or weight, and whether it is carrier's or shipper's weight; and

''(3) the apparent condition of the goods.

''(c) PRIMA FACIE EVIDENCE OF RECEIPT.—A bill of lading or shipping document issued under this section is prima facie evidence of receipt of the goods described.

''§ 30704. Loading, stowage, custody, care, and delivery

''A carrier may not insert in a bill of lading or shipping document a provision avoiding its liability for loss or damage arising from negligence or fault in loading, stowage, custody, care, or proper delivery. Any such provision is void.

''§ 30705. Seaworthiness

''(a) PROHIBITION.—A carrier may not insert in a bill of lading or shipping document a provision lessening or avoiding its obligation to exercise due diligence to—

''(1) make the vessel seaworthy; and

''(2) properly man, equip, and supply the vessel.

''(b) VOIDNESS.—A provision described in subsection (a) is void.

''§ 30706. Defenses

''(a) DUE DILIGENCE.—If a carrier has exercised due diligence to make the vessel in all respects seaworthy and to properly man, equip, and supply the vessel, the carrier and the vessel are not liable for loss or damage arising from an error in the navigation or management of the vessel.

''(b) OTHER DEFENSES.—A carrier and the vessel are not liable for loss or damage arising from—

''(1) dangers of the sea or other navigable waters;

''(2) acts of God;

''(3) public enemies;

''(4) seizure under legal process;

''(5) inherent defect, quality, or vice of the goods;

''(6) insufficiency of package;

''(7) act or omission of the shipper or owner of the goods or their agent; or

''(8) saving or attempting to save life or property at sea, including a deviation in rendering such a service.

''§ 30707. Criminal penalty

''(a) IN GENERAL.—A carrier that violates this chapter shall be fined under title 18.

''(b) LIEN.—The amount of the fine and costs for the violation constitute a lien on the vessel engaged in the carriage. A civil action in rem to enforce the lien may be brought in the district court of the United States for any district in which the vessel is found.

''(c) DISPOSITION OF FINE.—Half of the fine shall go to the person injured by the violation and half to the United States Government.

''CHAPTER 309—SUITS IN ADMIRALTY AGAINST THE UNITED STATES

''§ 30901. Short title

''This chapter may be cited as the 'Suits in Admiralty Act'.

''§ 30902. Definition

''In this chapter, the term 'federally-owned corporation' means a corporation in which the United States owns all the outstanding capital stock.

''§ 30903. Waiver of immunity

''(a) IN GENERAL.—In a case in which, if a vessel were privately owned or operated, or if cargo were privately owned or possessed, or if a private person or property were involved, a civil action in admiralty could be maintained, a civil action in admiralty in personam may be brought against the United States or a federally-owned corporation. In a civil action in admiralty brought by the United States or a federally-owned corporation, an admiralty claim in personam may be filed or a setoff claimed against the United States or corporation.

''(b) NON-JURY.—A claim against the United States or a federally-owned corporation under this section shall be tried without a jury.

''§ 30904. Exclusive remedy

''If a remedy is provided by this chapter, it shall be exclusive of any other action arising out of the same subject matter against the officer, employee, or agent of the United States or the federally-owned corporation whose act or omission gave rise to the claim.

''§ 30905. Period for bringing action

''A civil action under this chapter must be brought within 2 years after the cause of action arose.

''§ 30906. Venue

''(a) IN GENERAL.—A civil action under this chapter shall be brought in the district court of the United States for the district in which—

''(1) any plaintiff resides or has its principal place of business; or

''(2) the vessel or cargo is found.

''(b) TRANSFER.—On a motion by a party, the court may transfer the action to any other district court of the United States.

''§ 30907. Procedure for hearing and determination

''(a) IN GENERAL.—A civil action under this chapter shall proceed and be heard and determined according to the principles of law and the rules of practice applicable in like cases between private parties.

''(b) IN REM.—

''(1) REQUIREMENTS.—The action may proceed according to the principles of an action in rem if—

''(A) the plaintiff elects in the complaint; and

''(B) it appears that an action in rem could have been maintained had the vessel or cargo been privately owned and possessed.

''(2) EFFECT ON RELIEF IN PERSONAM.—An election under paragraph (1) does not prevent

the plaintiff from seeking relief in personam in the same action.

''§ 30908. Exemption from arrest or seizure

''The following are not subject to arrest or seizure by judicial process in the United States:

''(1) A vessel owned by, possessed by, or operated by or for the United States or a federally-owned corporation.

''(2) Cargo owned or possessed by the United States or a federally-owned corporation.

''§ 30909. Security

''Neither the United States nor a federally-owned corporation may be required to give a bond or admiralty stipulation in a civil action under this chapter.

''§ 30910. Exoneration and limitation

''The United States is entitled to the exemptions from and limitations of liability provided by law to an owner, charterer, operator, or agent of a vessel.

''§ 30911. Costs and interest

''(a) IN GENERAL.—A judgment against the United States or a federally-owned corporation under this chapter may include costs and interest at the rate of 4 percent per year until satisfied. Interest shall run as ordered by the court, except that interest is not allowable for the period before the action is filed.

''(b) CONTRACT PROVIDING FOR INTEREST.—Notwithstanding subsection (a), if the claim is based on a contract providing for interest, interest may be awarded at the rate and for the period provided in the contract.

''§ 30912. Arbitration, compromise, or settlement

''The Secretary of a department of the United States Government, or the board of trustees of a federally-owned corporation, may arbitrate, compromise, or settle a claim under this chapter.

''§ 30913. Payment of judgment or settlement

''(a) IN GENERAL.—The proper accounting officer of the United States shall pay a final judgment, arbitration award, or settlement under this chapter on presentation of an authenticated copy.

''(b) SOURCE OF PAYMENT.—Payment shall be made from an appropriation or fund available specifically for the purpose. If no appropriation or fund is specifically available, there is hereby appropriated, out of money in the Treasury not otherwise appropriated, an amount sufficient to pay the judgment, award, or settlement.

''§ 30914. Release of privately owned vessel after arrest or attachment

''If a privately owned vessel not in the possession of the United States or a federally-owned corporation is arrested or attached in a civil action arising or alleged to have arisen from prior ownership, possession, or operation by the United States or corporation, the vessel shall be released without bond or stipulation on a statement by the United States, through the Attorney General or other authorized law officer, that the United States is interested in the action, desires release of the vessel, and assumes liability for the satisfaction of any judgment obtained by the plaintiff. After the vessel is released, the action shall proceed against the United States in accordance with this chapter.

''§ 30915. Seizures and other proceedings in foreign jurisdictions

''(a) IN GENERAL.—If a vessel or cargo described in section 30908 or 30914 of this title is arrested, attached, or otherwise seized by judicial process in a foreign country, or if an action is brought in a court of a foreign country against the master of such a vessel for a claim arising from the ownership, possession, or operation of the vessel, or the ownership, possession, or carriage of such cargo, the Secretary of State, on request of the Attorney General or another officer authorized by the Attorney General, may direct the United States consul residing at or nearest the place at which the action was brought—

''(1) to claim the vessel or cargo as immune from arrest, attachment, or other seizure, and to execute an agreement, stipulation, bond, or undertaking, for the United States or federally-owned corporation, for the release of the vessel or cargo and the prosecution of any appeal; or

''(2) if an action has been brought against the master of such a vessel, to enter the appearance of the United States or corporation and to pledge the credit of the United States or corporation to the payment of any judgment and costs in the action.

''(b) ARRANGING BOND OR STIPULATION.—The Attorney General may—

''(1) arrange with a bank, surety company, or other person, whether in the United States or a foreign country, to execute a bond or stipulation; and

''(2) pledge the credit of the United States to secure the bond or stipulation.

''(c) PAYMENT OF JUDGMENT.—The appropriate accounting officer of the United States or corporation may pay a judgment in an action described in subsection (a) on presentation of a copy of the judgment if certified by the clerk of the court and authenticated by—

''(1) the certificate and seal of the United States consul claiming the vessel or cargo, or by the consul's successor; and

''(2) the certificate of the Secretary as to the official capacity of the consul.

''(d) RIGHT TO CLAIM IMMUNITY NOT AFFECTED.—This section does not affect the right of the United States to claim immunity of a vessel or cargo from foreign jurisdiction.

''§ 30916. Recovery by the United States for salvage services

''(a) CIVIL ACTION.—The United States, and the crew of a merchant vessel owned or operated by the United States, or a federally-owned corporation, may bring a civil action to recover for salvage services provided by the vessel and crew.

''(b) DEPOSIT OF AMOUNTS RECOVERED.—Any amount recovered under this section by the United States for its own benefit, and not for the benefit of the crew, shall be deposited in the Treasury to the credit of the department of the United States Government, or the corporation, having control of the possession or operation of the vessel.

''§ 30917. Disposition of amounts recovered by the United States

''Amounts recovered in a civil action brought by the United States on a claim arising from the ownership, possession, or operation of a merchant vessel, or the ownership, possession, or carriage of cargo, shall be deposited in the Treasury to the credit of the department of the United States Government, or the federally-owned corporation, having control of the vessel or cargo, for reimbursement of the appropriation, insurance fund, or other fund from which the compensation for which the judgment was recovered was or will be paid.

''§ 30918. Reports

''The Secretary of each department of the United States Government, and the board of trustees of each federally-owned corporation, shall report to Congress at each session thereof all arbitration awards and settlements agreed to under this chapter since the previous session, for which the time to appeal has expired or been waived.

''CHAPTER 311—SUITS INVOLVING PUBLIC VESSELS

''§ 31101. Short title

''This chapter may be cited as the 'Public Vessels Act'.

''§ 31102. Waiver of immunity

''(a) IN GENERAL.—A civil action in personam in admiralty may be brought, or an impleader filed, against the United States for—

''(1) damages caused by a public vessel of the United States; or

''(2) compensation for towage and salvage services, including contract salvage, rendered to a public vessel of the United States.

''(b) COUNTERCLAIM OR SETOFF.—If the United States brings a civil action in admiralty for damages caused by a privately owned vessel, the owner of the vessel, or the successor in interest, may file a counterclaim in personam, or claim a setoff, against the United States for damages arising out of the same subject matter.

''§ 31103. Applicable procedure

''A civil action under this chapter is subject to the provisions of chapter 309 of this title except to the extent inconsistent with this chapter.

''§ 31104. Venue

''(a) IN GENERAL.—A civil action under this chapter shall be brought in the district court of the United States for the district in which the vessel or cargo is found within the United States.

''(b) VESSEL OR CARGO OUTSIDE TERRITORIAL WATERS.—If the vessel or cargo is outside the territorial waters of the United States—

''(1) the action shall be brought in the district court of the United States for any district in which any plaintiff resides or has an office for the transaction of business; or

''(2) if no plaintiff resides or has an office for the transaction of business in the United States, the action may be brought in the district court of the United States for any district.

''§ 31105. Security when counterclaim filed

''If a counterclaim is filed for a cause of action for which the original action is filed under this chapter, the respondent to the counterclaim shall give security in the usual amount and form to respond to the counterclaim, unless the court for cause shown orders otherwise. The proceedings in the original action shall be stayed until the security is given.

''§ 31106. Exoneration and limitation

''The United States is entitled to the exemptions from and limitations of liability provided by law to an owner, charterer, operator, or agent of a vessel.

''§ 31107. Interest

''A judgment in a civil action under this chapter may not include interest for the period before the judgment is issued unless the claim is based on a contract providing for interest.

''§ 31108. Arbitration, compromise, or settlement

''The Attorney General may arbitrate, compromise, or settle a claim under this chapter if a civil action based on the claim has been commenced.

''§ 31109. Payment of judgment or settlement

''The proper accounting officer of the United States shall pay a final judgment, arbitration award, or settlement under this chapter on presentation of an authenticated copy. Payment shall be made from any money in the Treasury appropriated for the purpose.

''§ 31110. Subpoenas to officers or members of crew

''An officer or member of the crew of a public vessel may not be subpoenaed in a civil action under this chapter without the consent of—

''(1) the Secretary of the department or the head of the independent establishment having

control of the vessel at the time the cause of action arose; or

''(2) the master or commanding officer of the vessel at the time the subpoena is issued.

''§ 31111. Claims by nationals of foreign countries

''A national of a foreign country may not maintain a civil action under this chapter unless it appears to the satisfaction of the court in which the action is brought that the government of that country, in similar circumstances, allows nationals of the United States to sue in its courts.

''§ 31112. Lien not recognized or created

''This chapter shall not be construed as recognizing the existence of or as creating a lien against a public vessel of the United States.

''§ 31113. Reports

''The Attorney General shall report to Congress at each session thereof all claims settled under this chapter.''.

SEC. 7. SUBTITLE IV OF TITLE 46.

Title 46, United States Code, is amended by inserting after subtitle III the following:

''Subtitle IV—Regulation of Ocean Shipping

''PART A—OCEAN SHIPPING

''PART A—OCEAN SHIPPING

''CHAPTER 401—GENERAL

''§ 40101. Purposes

''The purposes of this part are to—

''(1) establish a nondiscriminatory regulatory process for the common carriage of goods by water in the foreign commerce of the United States with a minimum of government intervention and regulatory costs;

''(2) provide an efficient and economic transportation system in the ocean commerce of the United States that is, insofar as possible, in harmony with, and responsive to, international shipping practices;

''(3) encourage the development of an economically sound and efficient liner fleet of vessels of the United States capable of meeting national security needs; and

''(4) promote the growth and development of United States exports through competitive and efficient ocean transportation and by placing a greater reliance on the marketplace.

''§ 40102. Definitions

''In this part:

''(1) AGREEMENT.—The term 'agreement'—

''(A) means a written or oral understanding, arrangement, or association, and any modification or cancellation thereof; but

''(B) does not include a maritime labor agreement.

''(2) ANTITRUST LAWS.—The term 'antitrust laws' means—

''(A) the Sherman Act (15 U.S.C. 1 et seq.);

''(B) sections 73 and 74 of the Wilson Tariff Act (15 U.S.C. 8, 9);

''(C) the Clayton Act (15 U.S.C. 12 et seq.);

''(D) the Act of June 19, 1936 (15 U.S.C. 13, 13a, 13b, 21a);

''(E) the Federal Trade Commission Act (15 U.S.C. 41 et seq.);

''(F) the Antitrust Civil Process Act (15 U.S.C. 1311 et seq.); and

''(G) Acts supplementary to those Acts.

''(3) ASSESSMENT AGREEMENT.—The term 'assessment agreement' means an agreement, whether part of a collective bargaining agreement or negotiated separately, to the extent the agreement provides for the funding of collectively bargained fringe-benefit obligations on other than a uniform worker-hour basis, regardless of the cargo handled or type of vessel or equipment used.

''(4) BULK CARGO.—The term 'bulk cargo' means cargo that is loaded and carried in bulk without mark or count.

''(5) CHEMICAL PARCEL-TANKER.—The term 'chemical parcel-tanker' means a vessel that has—

''(A) a cargo-carrying capability consisting of individual cargo tanks for bulk chemicals that—

''(i) are a permanent part of the vessel; and

''(ii) have segregation capability with piping systems to permit simultaneous carriage of several bulk chemical cargoes with minimum risk of cross-contamination; and

''(B) a valid certificate of fitness under the International Maritime Organization Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk.

''(6) COMMON CARRIER.—The term 'common carrier'—

''(A) means a person that—

''(i) holds itself out to the general public to provide transportation by water of passengers or cargo between the United States and a foreign country for compensation;

''(ii) assumes responsibility for the transportation from the port or point of receipt to the port or point of destination; and

''(iii) uses, for all or part of that transportation, a vessel operating on the high seas or the Great Lakes between a port in the United States and a port in a foreign country; but

''(B) does not include a carrier engaged in ocean transportation by ferry boat, ocean tramp, or chemical parcel-tanker, or by vessel when primarily engaged in the carriage of perishable agricultural commodities—

''(i) if the carrier and the owner of those commodities are wholly-owned, directly or indirectly, by a person primarily engaged in the marketing and distribution of those commodities; and

''(ii) only with respect to the carriage of those commodities.

''(7) CONFERENCE.—The term 'conference'—

''(A) means an association of ocean common carriers permitted, pursuant to an approved or effective agreement, to engage in concerted activity and to use a common tariff; but

''(B) does not include a joint service, consortium, pooling, sailing, or transshipment agreement.

''(8) CONTROLLED CARRIER.—The term 'controlled carrier' means an ocean common carrier that is, or whose operating assets are, directly or indirectly, owned or controlled by a government, with ownership or control by a government being deemed to exist for a carrier if—

''(A) a majority of the interest in the carrier is owned or controlled in any manner by that government, an agency of that government, or a public or private person controlled by that government; or

''(B) that government has the right to appoint or disapprove the appointment of a majority of the directors, the chief operating officer, or the chief executive officer of the carrier.

''(9) DEFERRED REBATE.—The term 'deferred rebate' means a return by a common carrier of any freight money to a shipper, where the return is—

''(A) consideration for the shipper giving all or any portion of its shipments to that or any other common carrier over a fixed period of time;

''(B) deferred beyond the completion of the service for which it was paid; and

''(C) made only if the shipper has agreed to make a further shipment with that or any other common carrier.

''(10) FOREST PRODUCTS.—The term 'forest products' includes lumber in bundles, rough timber, ties, poles, piling, laminated beams, bundled siding, bundled plywood, bundled core stock or veneers, bundled particle or fiber boards, bundled hardwood, wood pulp in rolls, wood pulp in unitized bales, and paper and paper board in rolls or in pallet or skid-sized sheets.

''(11) INLAND DIVISION.—The term 'inland division' means the amount paid by a common carrier to an inland carrier for the inland portion of through transportation offered to the public by the common carrier.

''(12) INLAND PORTION.—The term 'inland portion' means the charge to the public by a common carrier for the non-ocean portion of through transportation.

''(13) LOYALTY CONTRACT.—The term 'loyalty contract' means a contract with an ocean common carrier or agreement providing for—

''(A) a shipper to obtain lower rates by committing all or a fixed portion of its cargo to that carrier or agreement; and

''(B) a deferred rebate arrangement.

''(14) MARINE TERMINAL OPERATOR.—The term 'marine terminal operator' means a person engaged in the United States in the business of providing wharfage, dock, warehouse, or other terminal facilities in connection with a common carrier, or in connection with a common carrier and a water carrier subject to subchapter II of chapter 135 of title 49.

''(15) MARITIME LABOR AGREEMENT.—The term 'maritime labor agreement'—

''(A) means—

''(i) a collective bargaining agreement between an employer subject to this part, or a group of such employers, and a labor organization representing employees in the maritime or stevedoring industry;

''(ii) an agreement preparatory to such a collective bargaining agreement among members of a multi-employer bargaining group; or

''(iii) an agreement specifically implementing provisions of such a collective bargaining agreement or providing for the formation, financing, or administration of a multi-employer bargaining group; but

''(B) does not include an assessment agreement.

''(16) NON-VESSEL-OPERATING COMMON CARRIER.—The term 'non-vessel-operating common carrier' means a common carrier that—

''(A) does not operate the vessels by which the ocean transportation is provided; and

''(B) is a shipper in its relationship with an ocean common carrier.

''(17) OCEAN COMMON CARRIER.—The term 'ocean common carrier' means a vessel-operating common carrier.

''(18) OCEAN FREIGHT FORWARDER.—The term 'ocean freight forwarder' means a person that—

''(A) in the United States, dispatches shipments from the United States via a common carrier and books or otherwise arranges space for those shipments on behalf of shippers; and

''(B) processes the documentation or performs related activities incident to those shipments.

''(19) OCEAN TRANSPORTATION INTERMEDIARY.—The term 'ocean transportation intermediary' means an ocean freight forwarder or a non-vessel-operating common carrier.

''(20) SERVICE CONTRACT.—The term 'service contract' means a written contract, other than a bill of lading or receipt, between one or more shippers, on the one hand, and an individual ocean common carrier or an agreement between or among ocean common carriers, on the other, in which—

''(A) the shipper or shippers commit to providing a certain volume or portion of cargo over a fixed time period; and

''(B) the ocean common carrier or the agreement commits to a certain rate or rate schedule

and a defined service level, such as assured space, transit time, port rotation, or similar service features.

''(21) SHIPMENT.—The term 'shipment' means all of the cargo carried under the terms of a single bill of lading.

''(22) SHIPPER.—The term 'shipper' means—

''(A) a cargo owner;

''(B) the person for whose account the ocean transportation of cargo is provided;

''(C) the person to whom delivery is to be made;

''(D) a shippers' association; or

''(E) a non-vessel-operating common carrier that accepts responsibility for payment of all charges applicable under the tariff or service contract.

''(23) SHIPPERS' ASSOCIATION.—The term 'shippers' association' means a group of shippers that consolidates or distributes freight on a nonprofit basis for the members of the group to obtain carload, truckload, or other volume rates or service contracts.

''(24) THROUGH RATE.—The term 'through rate' means the single amount charged by a common carrier in connection with through transportation.

''(25) THROUGH TRANSPORTATION.—The term 'through transportation' means continuous transportation between origin and destination for which a through rate is assessed and which is offered or performed by one or more carriers, at least one of which is a common carrier, between a United States port or point and a foreign port or point.

''§ 40103. Administrative exemptions

''(a) IN GENERAL.—The Federal Maritime Commission, on application or its own motion, may by order or regulation exempt for the future any class of agreements between persons subject to this part or any specified activity of those persons from any requirement of this part if the Commission finds that the exemption will not result in substantial reduction in competition or be detrimental to commerce. The Commission may attach conditions to an exemption and may, by order, revoke an exemption.

''(b) OPPORTUNITY FOR HEARING.—An order or regulation of exemption or revocation of an exemption may be issued only if the Commission has provided an opportunity for a hearing to interested persons and departments and agencies of the United States Government.

''§ 40104. Reports filed with the Commission

''(a) IN GENERAL.—The Federal Maritime Commission may require a common carrier or an officer, receiver, trustee, lessee, agent, or employee of the carrier to file with the Commission a periodical or special report, an account, record, rate, or charge, or a memorandum of facts and transactions related to the business of the carrier. The report, account, record, rate, charge, or memorandum shall be made under oath if the Commission requires, and shall be filed in the form and within the time prescribed by the Commission.

''(b) CONFERENCE MINUTES.—Conference minutes required to be filed with the Commission under this section may not be released to third parties or published by the Commission.

''CHAPTER 403—AGREEMENTS

''§ 40301. Application

''(a) OCEAN COMMON CARRIER AGREEMENTS.—This part applies to an agreement between or among ocean common carriers to—

''(1) discuss, fix, or regulate transportation rates, including through rates, cargo space accommodations, and other conditions of service;

''(2) pool or apportion traffic, revenues, earnings, or losses;

''(3) allot ports or regulate the number and character of voyages between ports;

''(4) regulate the volume or character of cargo or passenger traffic to be carried;

''(5) engage in an exclusive, preferential, or cooperative working arrangement between themselves or with a marine terminal operator;

''(6) control, regulate, or prevent competition in international ocean transportation; or

''(7) discuss and agree on any matter related to a service contract.

''(b) MARINE TERMINAL OPERATOR AGREEMENTS.—This part applies to an agreement between or among marine terminal operators, or between or among one or more marine terminal operators and one or more ocean common carriers, to—

''(1) discuss, fix, or regulate rates or other conditions of service; or

''(2) engage in exclusive, preferential, or cooperative working arrangements, to the extent the agreement involves ocean transportation in the foreign commerce of the United States.

''(c) ACQUISITIONS.—This part does not apply to an acquisition by any person, directly or indirectly, of any voting security or assets of any other person.

''(d) MARITIME LABOR AGREEMENTS.—This part does not apply to a maritime labor agreement. However, this subsection does not exempt from this part any rate, charge, regulation, or practice of a common carrier that is required to be set forth in a tariff or is an essential term of a service contract, whether or not the rate, charge, regulation, or practice arises out of, or is otherwise related to, a maritime labor agreement.

''(e) ASSESSMENT AGREEMENTS.—This part (except sections 40305 and 40307(a)) does not apply to an assessment agreement.

''§ 40302. Filing requirements

''(a) IN GENERAL.—A true copy of every agreement referred to in section 40301(a) or (b) of this title shall be filed with the Federal Maritime Commission. If the agreement is oral, a complete memorandum specifying in detail the substance of the agreement shall be filed.

''(b) EXCEPTIONS.—Subsection (a) does not apply to—

''(1) an agreement related to transportation to be performed within or between foreign countries; or

''(2) an agreement among common carriers to establish, operate, or maintain a marine terminal in the United States.

''(c) REGULATIONS.—The Commission may by regulation prescribe the form and manner in which an agreement shall be filed and any additional information and documents necessary to evaluate the agreement.

''§ 40303. Content requirements

''(a) OCEAN COMMON CARRIER AGREEMENTS.—

''(1) RESTRICTIONS.—An ocean common carrier agreement may not—

''(A) prohibit or restrict a member of the agreement from engaging in negotiations for a service contract with a shipper;

''(B) require a member of the agreement to disclose a negotiation on a service contract, or the terms of a service contract, other than those terms required to be published under section 40502(d) of this title; or

''(C) adopt mandatory rules or requirements affecting the right of an agreement member to negotiate and enter into a service contract.

''(2) VOLUNTARY GUIDELINES.—An ocean common carrier agreement may provide authority to adopt voluntary guidelines relating to the terms and procedures of an agreement member's service contracts if the guidelines explicitly state the right of members of the agreement not to follow the guidelines. Any guidelines adopted shall be submitted confidentially to the Federal Maritime Commission.

''(b) CONFERENCE AGREEMENTS.—Each conference agreement must—

''(1) state its purpose;

''(2) provide reasonable and equal terms for admission and readmission to conference membership for any ocean common carrier willing to serve the particular trade or route;

''(3) permit any member to withdraw from conference membership on reasonable notice without penalty;

''(4) at the request of any member, require an independent neutral body to police fully the obligations of the conference and its members;

''(5) prohibit the conference from engaging in conduct prohibited by section 41105(1) or (3) of this title;

''(6) provide for a consultation process designed to promote—

''(A) commercial resolution of disputes; and

''(B) cooperation with shippers in preventing and eliminating malpractices;

''(7) establish procedures for promptly and fairly considering requests and complaints of shippers; and

''(8) provide that—

''(A) any member of the conference may take independent action on a rate or service item on not more than 5 days' notice to the conference; and

''(B) except for an exempt commodity not published in the conference tariff, the conference will include the new rate or service item in its tariff for use by that member, effective no later than 5 days after receipt of the notice, and by any other member that notifies the conference that it elects to adopt the independent rate or service item on or after its effective date, in lieu of the existing conference tariff provision for that rate or service item.

''(c) INTERCONFERENCE AGREEMENTS.—Each agreement between carriers not members of the same conference must provide the right of independent action for each carrier. Each agreement between conferences must provide the right of independent action for each conference.

''(d) VESSEL SHARING AGREEMENTS.—

''(1) IN GENERAL.—An ocean common carrier that is the owner, operator, or bareboat, time, or slot charterer of a liner vessel documented under section 12103 or 12111(c) of this title may agree with an ocean common carrier described in paragraph (2) to which it charters or subcharters the vessel or space on the vessel that the charterer or subcharterer may not use or make available space on the vessel for the carriage of cargo reserved by law for vessels of the United States.

''(2) CARRIER DESCRIBED.—An ocean common carrier described in this paragraph is one that is not the owner, operator, or bareboat charterer for at least one year of liner vessels of the United States that are eligible to be included in the Maritime Security Fleet Program and are enrolled in an Emergency Preparedness Program under chapter 531 of this title.

''§ 40304. Commission action

''(a) NOTICE OF FILING.—Within 7 days after an agreement is filed, the Federal Maritime Commission shall transmit a notice of the filing to the Federal Register for publication.

''(b) PRELIMINARY REVIEW AND REJECTION.—After preliminary review, the Commission shall reject an agreement that it finds does not meet the requirements of sections 40302 and 40303 of this title. The Commission shall notify in writing the person filing the agreement of the reason for rejection.

''(c) REVIEW AND EFFECTIVE DATE.—Unless rejected under subsection (b), an agreement (other than an assessment agreement) is effective—

''(1) on the 45th day after filing, or on the 30th day after notice of the filing is published in the Federal Register, whichever is later; or

''(2) if additional information or documents are requested under subsection (d)—

''(A) on the 45th day after the Commission receives all the additional information and documents; or

''(B) if the request is not fully complied with, on the 45th day after the Commission receives

the information and documents submitted and a statement of the reasons for noncompliance with the request.

''(d) REQUEST FOR ADDITIONAL INFORMATION.—Before the expiration of the period specified in subsection (c)(1), the Commission may request from the person filing the agreement any additional information and documents the Commission considers necessary to make the determinations required by this section.

''(e) MODIFICATION OF REVIEW PERIOD.—

''(1) SHORTENING.—On request of the party filing an agreement, the Commission may shorten a period specified in subsection (c), but not to a date that is less than 14 days after notice of the filing of the agreement is published in the Federal Register.

''(2) EXTENSION.—The period specified in subsection (c)(2) may be extended only by the United States District Court for the District of Columbia in a civil action brought by the Commission under section 41307(c) of this title.

''(f) FIXED TERMS.—The Commission may not limit the effectiveness of an agreement to a fixed term.

''§ 40305. Assessment agreements

''(a) FILING REQUIREMENT.—An assessment agreement shall be filed with the Federal Maritime Commission and is effective on filing.

''(b) COMPLAINTS.—If a complaint is filed with the Commission within 2 years after the date of an assessment agreement, the Commission shall disapprove, cancel, or modify the agreement, or an assessment or charge pursuant to the agreement, that the Commission finds, after notice and opportunity for a hearing, to be unjustly discriminatory or unfair as between carriers, shippers, or ports. The Commission shall issue its final decision in the proceeding within one year after the date the complaint is filed.

''(c) ADJUSTMENTS OF ASSESSMENTS AND CHARGES.—To the extent that the Commission finds under subsection (b) that an assessment or charge is unjustly discriminatory or unfair as between carriers, shippers, or ports, the Commission shall adjust the assessment or charge for the period between the filing of the complaint and the final decision by awarding prospective credits or debits to future assessments and charges. However, if the complainant has ceased activities subject to the assessment or charge, the Commission may award reparations.

''§ 40306. Nondisclosure of information

''Information and documents (other than an agreement) filed with the Federal Maritime Commission under this chapter are exempt from disclosure under section 552 of title 5 and may not be made public except as may be relevant to an administrative or judicial proceeding. This section does not prevent disclosure to either House of Congress or to a duly authorized committee or subcommittee of Congress.

''§ 40307. Exemption from antitrust laws

''(a) IN GENERAL.—The antitrust laws do not apply to—

''(1) an agreement (including an assessment agreement) that has been filed and is effective under this chapter;

''(2) an agreement that is exempt under section 40103 of this title from any requirement of this part;

''(3) an agreement or activity within the scope of this part, whether permitted under or prohibited by this part, undertaken or entered into with a reasonable basis to conclude that it is—

''(A) pursuant to an agreement on file with the Federal Maritime Commission and in effect when the activity takes place; or

''(B) exempt under section 40103 of this title from any filing or publication requirement of this part;

''(4) an agreement or activity relating to transportation services within or between foreign countries, whether or not via the United States, unless the agreement or activity has a direct, substantial, and reasonably foreseeable effect on the commerce of the United States;

''(5) an agreement or activity relating to the foreign inland segment of through transportation that is part of transportation provided in a United States import or export trade;

''(6) an agreement or activity to provide wharfage, dock, warehouse, or other terminal facilities outside the United States; or

''(7) an agreement, modification, or cancellation approved before June 18, 1984, by the Commission under section 15 of the Shipping Act, 1916, or permitted under section 14b of that Act, and any properly published tariff, rate, fare, or charge, or classification, rule, or regulation explanatory thereof implementing that agreement, modification, or cancellation.

''(b) EXCEPTIONS.—This part does not extend antitrust immunity to—

''(1) an agreement with or among air carriers, rail carriers, motor carriers, or common carriers by water not subject to this part relating to transportation within the United States;

''(2) a discussion or agreement among common carriers subject to this part relating to the inland divisions (as opposed to the inland portions) of through rates within the United States;

''(3) an agreement among common carriers subject to this part to establish, operate, or maintain a marine terminal in the United States; or

''(4) a loyalty contract.

''(c) RETROACTIVE EFFECT OF DETERMINATIONS.—A determination by an agency or court that results in the denial or removal of the immunity to the antitrust laws under subsection (a) does not remove or alter the antitrust immunity for the period before the determination.

''(d) RELIEF UNDER CLAYTON ACT.—A person may not recover damages under section 4 of the Clayton Act (15 U.S.C. 15), or obtain injunctive relief under section 16 of that Act (15 U.S.C. 26), for conduct prohibited by this part.

''CHAPTER 405—TARIFFS, SERVICE CONTRACTS, REFUNDS, AND WAIVERS

''Sec.

''§ 40501. General rate and tariff requirements

''(a) AUTOMATED TARIFF SYSTEM.—

''(1) IN GENERAL.—Each common carrier and conference shall keep open to public inspection in an automated tariff system, tariffs showing all its rates, charges, classifications, rules, and practices between all points or ports on its own route and on any through transportation route that has been established. However, a common carrier is not required to state separately or otherwise reveal in tariffs the inland divisions of a through rate.

''(2) EXCEPTIONS.—Paragraph (1) does not apply with respect to bulk cargo, forest products, recycled metal scrap, new assembled motor vehicles, waste paper, or paper waste.

''(b) CONTENTS OF TARIFFS.—A tariff under subsection (a) shall—

''(1) state the places between which cargo will be carried;

''(2) list each classification of cargo in use;

''(3) state the level of compensation, if any, of any ocean freight forwarder by a carrier or conference;

''(4) state separately each terminal or other charge, privilege, or facility under the control of the carrier or conference and any rules that in any way change, affect, or determine any part or the total of the rates or charges;

''(5) include sample copies of any bill of lading, contract of affreightment, or other document evidencing the transportation agreement; and

''(6) include copies of any loyalty contract, omitting the shipper's name.

''(c) ELECTRONIC ACCESS.—A tariff under subsection (a) shall be made available electronically to any person, without time, quantity, or other limitation, through appropriate access from remote locations. A reasonable fee may be charged for such access, except that no fee may be charged for access by a Federal agency.

''(d) TIME-VOLUME RATES.—A rate contained in a tariff under subsection (a) may vary with the volume of cargo offered over a specified period of time.

''(e) EFFECTIVE DATES.—

''(1) INCREASES.—A new or initial rate or change in an existing rate that results in an increased cost to a shipper may not become effective earlier than 30 days after publication. However, for good cause, the Federal Maritime Commission may allow the rate to become effective sooner.

''(2) DECREASES.—A change in an existing rate that results in a decreased cost to a shipper may become effective on publication.

''(f) MARINE TERMINAL OPERATOR SCHEDULES.—A marine terminal operator may make available to the public a schedule of rates, regulations, and practices, including limitations of liability for cargo loss or damage, pertaining to receiving, delivering, handling, or storing property at its marine terminal. Any such schedule made available to the public is enforceable by an appropriate court as an implied contract without proof of actual knowledge of its provisions.

''(g) REGULATIONS.—

''(1) IN GENERAL.—The Commission shall by regulation prescribe the requirements for the accessibility and accuracy of automated tariff systems established under this section. The Commission, after periodic review, may prohibit the use of any automated tariff system that fails to meet the requirements established under this section.

''(2) REMOTE TERMINALS.—The Commission may not require a common carrier to provide a remote terminal for electronic access under subsection (c).

''(3) MARINE TERMINAL OPERATOR SCHEDULES.—The Commission shall by regulation prescribe the form and manner in which marine terminal operator schedules authorized by this section shall be published.

''§ 40502. Service contracts

''(a) IN GENERAL.—An individual ocean common carrier or an agreement between or among ocean common carriers may enter into a service contract with one or more shippers subject to the requirements of this part.

''(b) FILING REQUIREMENTS.—

''(1) IN GENERAL.—Each service contract entered into under this section by an individual ocean common carrier or an agreement shall be filed confidentially with the Federal Maritime Commission.

''(2) EXCEPTIONS.—Paragraph (1) does not apply to contracts regarding bulk cargo, forest products, recycled metal scrap, new assembled motor vehicles, waste paper, or paper waste.

''(c) ESSENTIAL TERMS.—Each service contract shall include—

''(1) the origin and destination port ranges;

''(2) the origin and destination geographic areas in the case of through intermodal movements;

''(3) the commodities involved;

''(4) the minimum volume or portion;

''(5) the line-haul rate;

''(6) the duration;

''(7) service commitments; and

''(8) the liquidated damages for nonperformance, if any.

''(d) PUBLICATION OF CERTAIN TERMS.—When a service contract is filed confidentially with the Commission, a concise statement of the essential terms specified in paragraphs (1), (3), (4), and (6) of subsection (c) shall be published and made available to the general public in tariff format.

''(e) DISCLOSURE OF CERTAIN TERMS.—

''(1) DEFINITIONS.—In this subsection, the terms 'dock area' and 'within the port area' have the same meaning and scope as in the applicable collective bargaining agreement between

the requesting labor organization and the carrier.

''(2) DISCLOSURE.—An ocean common carrier that is a party to or is otherwise subject to a collective bargaining agreement with a labor organization shall, in response to a written request by the labor organization, state whether it is responsible for the following work at a dock area or within a port area in the United States with respect to cargo transportation under a service contract:

''(A) The movement of the shipper's cargo on a dock area or within the port area or to or from railroad cars on a dock area or within the port area.

''(B) The assignment of intraport carriage of the shipper's cargo between areas on a dock or within the port area.

''(C) The assignment of the carriage of the shipper's cargo between a container yard on a dock area or within the port area and a rail yard adjacent to the container yard.

''(D) The assignment of container freight station work and container maintenance and repair work performed at a dock area or within the port area.

''(3) WITHIN REASONABLE TIME.—The common carrier shall provide the information described in paragraph (2) to the requesting labor organization within a reasonable period of time.

''(4) EXISTENCE OF COLLECTIVE BARGAINING AGREEMENT.—This subsection does not require the disclosure of information by an ocean common carrier unless there exists an applicable and otherwise lawful collective bargaining agreement pertaining to that carrier. A disclosure by an ocean common carrier may not be deemed an admission or an agreement that any work is covered by a collective bargaining agreement. A dispute about whether any work is covered by a collective bargaining agreement and the responsibility of an ocean common carrier under a collective bargaining agreement shall be resolved solely in accordance with the dispute resolution procedures contained in the collective bargaining agreement and the National Labor Relations Act (29 U.S.C. 151 et seq.), and without reference to this subsection.

''(5) EFFECT UNDER OTHER LAWS.—This subsection does not affect the lawfulness or unlawfulness under this part or any other Federal or State law of any collective bargaining agreement or element thereof, including any element that constitutes an essential term of a service contract.

''(f) REMEDY FOR BREACH.—Unless the parties agree otherwise, the exclusive remedy for a breach of a service contract is an action in an appropriate court. The contract dispute resolution forum may not be controlled by or in any way affiliated with a controlled carrier or by the government that owns or controls the carrier.

''§ 40503. Refunds and waivers

''The Federal Maritime Commission, on application of a carrier or shipper, may permit a common carrier or conference to refund a portion of the freight charges collected from a shipper, or to waive collection of a portion of the charges from a shipper, if—

''(1) there is an error in a tariff, a failure to publish a new tariff, or an error in quoting a tariff, and the refund or waiver will not result in discrimination among shippers, ports, or carriers;

''(2) the common carrier or conference, before filing an application for authority to refund or waive any charges for an error in a tariff or a failure to publish a tariff, has published a new tariff setting forth the rate on which the refund or waiver would be based; and

''(3) the application for the refund or waiver is filed with the Commission within 180 days from the date of shipment.

''CHAPTER 407—CONTROLLED CARRIERS

''Sec.
''40701. Rates.
''40702. Rate standards.
''40703. Effective date of rates.
''40704. Commission review.
''40705. Presidential review of Commission orders.
''40706. Exceptions.

''§ 40701. Rates

''(a) IN GENERAL.—A controlled carrier may not—

''(1) maintain a rate or charge in a tariff or service contract, or charge or assess a rate, that is below a just and reasonable level; or

''(2) establish, maintain, or enforce in a tariff or service contract a classification, rule, or regulation that results, or is likely to result, in the carriage or handling of cargo at a rate or charge that is below a just and reasonable level.

''(b) COMMISSION PROHIBITION.—The Federal Maritime Commission, at any time after notice and opportunity for a hearing, may prohibit the publication or use of a rate, charge, classification, rule, or regulation that a controlled carrier has failed to demonstrate is just and reasonable.

''(c) BURDEN OF PROOF.—In a proceeding under this section, the burden of proof is on the controlled carrier to demonstrate that its rate, charge, classification, rule, or regulation is just and reasonable.

''(d) VOIDNESS.—A rate, charge, classification, rule, or regulation that has been suspended or prohibited by the Commission is void and its use is unlawful.

''§ 40702. Rate standards

''(a) DEFINITION.—In this section, the term 'constructive costs' means the costs of another carrier, other than a controlled carrier, operating similar vessels and equipment in the same or a similar trade.

''(b) STANDARDS.—In determining whether a rate, charge, classification, rule, or regulation of a controlled carrier is just and reasonable, the Federal Maritime Commission—

''(1) shall take into account whether the rate or charge that has been published or assessed, or that would result from the pertinent classification, rule, or regulation, is below a level that is fully compensatory to the controlled carrier based on the carrier's actual costs or constructive costs; and

''(2) may take into account other appropriate factors, including whether the rate, charge, classification, rule, or regulation is—

''(A) the same as, or similar to, those published or assessed by other carriers in the same trade;

''(B) required to ensure movement of particular cargo in the same trade; or

''(C) required to maintain acceptable continuity, level, or quality of common carrier service to or from affected ports.

''§ 40703. Effective date of rates

''Notwithstanding section 40501(e) of this title and except for service contracts, a rate, charge, classification, rule, or regulation of a controlled carrier may not become effective, without special permission of the Federal Maritime Commission, until the 30th day after publication.

''§ 40704. Commission review

''(a) REQUEST FOR JUSTIFICATION.—On request of the Federal Maritime Commission, a controlled carrier shall file with the Commission, within 20 days of the request, a statement of justification that sufficiently details the carrier's need and purpose for an existing or proposed rate, charge, classification, rule, or regulation and upon which the Commission may reasonably base a determination of its lawfulness.

''(b) DETERMINATION.—Within 120 days after receipt of information requested under subsection (a), the Commission shall determine whether the rate, charge, classification, rule, or regulation may be unjust and unreasonable.

''(c) SHOW CAUSE ORDER.—Whenever the Commission is of the opinion that a rate, charge, classification, rule, or regulation published or assessed by a controlled carrier may be unjust and unreasonable, the Commission shall issue an order to the controlled carrier to show cause why the rate, charge, classification, rule, or regulation should not be prohibited.

''(d) SUSPENSION PENDING DETERMINATION.—

''(1) NOT YET EFFECTIVE.—Pending a determination of the lawfulness of a rate, charge, classification, rule, or regulation in a proceeding under subsection (c), the Commission may suspend the rate, charge, classification, rule, or regulation at any time before its effective date.

''(2) ALREADY EFFECTIVE.—If a rate, charge, classification, rule, or regulation has already become effective, the Commission, on issuance of an order to show cause, may suspend the rate, charge, classification, rule, or regulation on at least 30 days' notice to the controlled carrier.

''(3) MAXIMUM SUSPENSION.—A period of suspension under this subsection may not exceed 180 days.

''(e) REPLACEMENT DURING SUSPENSION.—Whenever the Commission has suspended a rate, charge, classification, rule, or regulation under this section, the controlled carrier may publish a new rate, charge, classification, rule, or regulation to take effect immediately during the suspension in lieu of the suspended rate, charge, classification, rule, or regulation. However, the Commission may reject the new rate, charge, classification, rule, or regulation if the Commission believes it is unjust and unreasonable.

''§ 40705. Presidential review of Commission orders

''(a) TRANSMISSION TO PRESIDENT.—The Federal Maritime Commission shall transmit to the President, concurrently with publication thereof, each order of suspension or final order of prohibition issued under section 40704 of this title.

''(b) PRESIDENTIAL REQUEST AND COMMISSION ACTION.—Within 10 days after receipt or the effective date of a Commission order referred to in subsection (a), the President, in writing, may request the Commission to stay the effect of the order if the President finds that the stay is required for reasons of national defense or foreign policy. The reasons shall be specified in the request. The Commission shall immediately grant the request by issuing an order in which the President's request shall be described. During a stay, the President shall, whenever practicable, attempt to resolve the matter by negotiating with representatives of the applicable foreign governments.

''§ 40706. Exceptions

''This chapter does not apply to—

''(1) a controlled carrier of a foreign country whose vessels are entitled by a treaty of the United States to receive national or most-favored-nation treatment; or

''(2) a trade served only by controlled carriers.

''CHAPTER 409—OCEAN TRANSPORTATION INTERMEDIARIES

''Sec.
''40901. License requirement.
''40902. Financial responsibility.
''40903. Suspension or revocation of license.
''40904. Compensation by common carriers.

''§ 40901. License requirement

''(a) IN GENERAL.—A person in the United States may not act as an ocean transportation intermediary unless the person holds an ocean transportation intermediary's license issued by the Federal Maritime Commission. The Commission shall issue a license to a person that the Commission determines to be qualified by experience and character to act as an ocean transportation intermediary.

''(b) EXCEPTION.—A person whose primary business is the sale of merchandise may forward shipments of the merchandise for its own account without an ocean transportation intermediary's license.

''§ 40902. Financial responsibility

''(a) IN GENERAL.—A person may not act as an ocean transportation intermediary unless the

person furnishes a bond, proof of insurance, or other surety—

''(1) in a form and amount determined by the Federal Maritime Commission to insure financial responsibility; and

''(2) issued by a surety company found acceptable by the Secretary of the Treasury.

''(b) SCOPE OF FINANCIAL RESPONSIBILITY.—A bond, insurance, or other surety obtained under this section—

''(1) shall be available to pay any penalty assessed under section 41109 of this title or any order for reparation issued under section 41305 of this title;

''(2) may be available to pay any claim against an ocean transportation intermediary arising from its transportation-related activities—

''(A) with the consent of the insured ocean transportation intermediary and subject to review by the surety company; or

''(B) when the claim is deemed valid by the surety company after the ocean transportation intermediary has failed to respond to adequate notice to address the validity of the claim; and

''(3) shall be available to pay any judgment for damages against an ocean transportation intermediary arising from its transportation-related activities, if the claimant has first attempted to resolve the claim under paragraph (2) and the claim has not been resolved within a reasonable period of time.

''(c) REGULATIONS ON COURT JUDGMENTS.—The Commission shall prescribe regulations for the purpose of protecting the interests of claimants, ocean transportation intermediaries, and surety companies with respect to the process of pursuing claims against ocean transportation intermediary bonds, insurance, or sureties through court judgments. The regulations shall provide that a judgment for monetary damages may not be enforced except to the extent that the damages claimed arise from the transportation-related activities of the insured ocean transportation intermediary, as defined by the Commission.

''(d) RESIDENT AGENT.—An ocean transportation intermediary not domiciled in the United States shall designate a resident agent in the United States for receipt of service of judicial and administrative process, including subpoenas.

''§ 40903. Suspension or revocation of license

''(a) FAILURE TO MAINTAIN QUALIFICATIONS OR TO COMPLY.—The Federal Maritime Commission, after notice and opportunity for a hearing, shall suspend or revoke an ocean transportation intermediary's license if the Commission finds that the ocean transportation intermediary—

''(1) is not qualified to provide intermediary services; or

''(2) willfully failed to comply with a provision of this part or with an order or regulation of the Commission.

''(b) FAILURE TO MAINTAIN BOND, PROOF OF INSURANCE, OR OTHER SURETY.—The Commission may revoke an ocean transportation intermediary's license for failure to maintain a bond, proof of insurance, or other surety as required by section 40902(a) of this title.

''§ 40904. Compensation by common carriers

''(a) CERTIFICATION OF LICENSE AND SERVICES.—A common carrier may compensate an ocean freight forwarder for a shipment dispatched for others only when the ocean freight forwarder has certified in writing that it holds an ocean transportation intermediary's license (if required under section 40901 of this title) and has—

''(1) engaged, booked, secured, reserved, or contracted directly with the carrier or its agent for space aboard a vessel or confirmed the availability of the space; and

''(2) prepared and processed the ocean bill of lading, dock receipt, or other similar document for the shipment.

''(b) DUAL COMPENSATION.—A common carrier may not pay compensation for services described in subsection (a) more than once on the same shipment.

''(c) BENEFICIAL INTEREST SHIPMENTS.—An ocean freight forwarder may not receive compensation from a common carrier for a shipment in which the ocean freight forwarder has a direct or indirect beneficial interest. A common carrier may not knowingly pay compensation on that shipment.

''(d) LIMITS ON AUTHORITY OF CONFERENCE OR GROUP.—A conference or group of two or more ocean common carriers in the foreign commerce of the United States that is authorized to agree on the level of compensation paid to an ocean freight forwarder may not—

''(1) deny a member of the conference or group the right, upon notice of not more than 5 days, to take independent action on any level of compensation paid to an ocean freight forwarder; or

''(2) agree to limit the payment of compensation to an ocean freight forwarder to less than 1.25 percent of the aggregate of all rates and charges applicable under a tariff and assessed against the cargo on which the services of the ocean freight forwarder are provided.

''CHAPTER 411—PROHIBITIONS AND PENALTIES

''§ 41101. Joint ventures and consortiums

''In this chapter, a joint venture or consortium of two or more common carriers operating as a single entity is deemed to be a single common carrier.

''§ 41102. General prohibitions

''(a) OBTAINING TRANSPORTATION AT LESS THAN APPLICABLE RATES.—A person may not knowingly and willfully, directly or indirectly, by means of false billing, false classification, false weighing, false report of weight, false measurement, or any other unjust or unfair device or means, obtain or attempt to obtain ocean transportation for property at less than the rates or charges that would otherwise apply.

''(b) OPERATING CONTRARY TO AGREEMENT.—A person may not operate under an agreement required to be filed under section 40302 or 40305 of this title if—

''(1) the agreement has not become effective under section 40304 of this title or has been rejected, disapproved, or canceled; or

''(2) the operation is not in accordance with the terms of the agreement or any modifications to the agreement made by the Federal Maritime Commission.

''(c) PRACTICES IN HANDLING PROPERTY.—A common carrier, marine terminal operator, or ocean transportation intermediary may not fail to establish, observe, and enforce just and reasonable regulations and practices relating to or connected with receiving, handling, storing, or delivering property.

''§ 41103. Disclosure of information

''(a) PROHIBITION.—A common carrier, marine terminal operator, or ocean freight forwarder, either alone or in conjunction with any other person, directly or indirectly, may not knowingly disclose, offer, solicit, or receive any information concerning the nature, kind, quantity, destination, consignee, or routing of any property tendered or delivered to a common carrier, without the consent of the shipper or consignee, if the information—

''(1) may be used to the detriment or prejudice of the shipper, the consignee, or any common carrier; or

''(2) may improperly disclose its business transaction to a competitor.

''(b) EXCEPTIONS.—Subsection (a) does not prevent providing the information—

''(1) in response to legal process;

''(2) to the Federal Maritime Commission or an agency of the United States Government; or

''(3) to an independent neutral body operating within the scope of its authority to fulfill the policing obligations of the parties to an agreement effective under this part.

''(c) DISCLOSURE FOR DETERMINING BREACH OR COMPILING STATISTICS.—An ocean common carrier that is a party to a conference agreement approved under this part, a receiver, trustee, lessee, agent, or employee of the carrier, or any other person authorized by the carrier to receive information—

''(1) may give information to the conference or any person or agency designated by the conference, for the purpose of—

''(A) determining whether a shipper or consignee has breached an agreement with the conference or its member lines;

''(B) determining whether a member of the conference has breached the conference agreement; or

''(C) compiling statistics of cargo movement; and

''(2) may not prevent the conference or its designee from soliciting or receiving information for any of those purposes.

''§ 41104. Common carriers

''A common carrier, either alone or in conjunction with any other person, directly or indirectly, may not—

''(1) allow a person to obtain transportation for property at less than the rates or charges established by the carrier in its tariff or service contract by means of false billing, false classification, false weighing, false measurement, or any other unjust or unfair device or means;

''(2) provide service in the liner trade that is—

''(A) not in accordance with the rates, charges, classifications, rules, and practices contained in a tariff published or a service contract entered into under chapter 405 of this title, unless excepted or exempted under section 40103 or 40501(a)(2) of this title; or

''(B) under a tariff or service contract that has been suspended or prohibited by the Federal Maritime Commission under chapter 407 or 423 of this title;

''(3) retaliate against a shipper by refusing, or threatening to refuse, cargo space accommodations when available, or resort to other unfair or unjustly discriminatory methods because the shipper has patronized another carrier, or has filed a complaint, or for any other reason;

''(4) for service pursuant to a tariff, engage in any unfair or unjustly discriminatory practice in the matter of—

''(A) rates or charges;

''(B) cargo classifications;

''(C) cargo space accommodations or other facilities, with due regard being given to the proper loading of the vessel and the available tonnage;

''(D) loading and landing of freight; or

''(E) adjustment and settlement of claims;

''(5) for service pursuant to a service contract, engage in any unfair or unjustly discriminatory practice in the matter of rates or charges with respect to any port;

''(6) use a vessel in a particular trade for the purpose of excluding, preventing, or reducing competition by driving another ocean common carrier out of that trade;

''(7) offer or pay any deferred rebates;

''(8) for service pursuant to a tariff, give any undue or unreasonable preference or advantage or impose any undue or unreasonable prejudice or disadvantage;

''(9) for service pursuant to a service contract, give any undue or unreasonable preference or advantage or impose any undue or unreasonable prejudice or disadvantage with respect to any port;

''(10) unreasonably refuse to deal or negotiate;

''(11) knowingly and willfully accept cargo from or transport cargo for the account of an ocean transportation intermediary that does not have a tariff as required by section 40501 of this title and a bond, insurance, or other surety as required by section 40902 of this title; or

''(12) knowingly and willfully enter into a service contract with an ocean transportation intermediary that does not have a tariff as required by section 40501 of this title and a bond, insurance, or other surety as required by section 40902 of this title, or with an affiliate of such an ocean transportation intermediary.

''§ 41105. Concerted action

''A conference or group of two or more common carriers may not—

''(1) boycott or take any other concerted action resulting in an unreasonable refusal to deal;

''(2) engage in conduct that unreasonably restricts the use of intermodal services or technological innovations;

''(3) engage in any predatory practice designed to eliminate the participation, or deny the entry, in a particular trade of a common carrier not a member of the conference, a group of common carriers, an ocean tramp, or a bulk carrier;

''(4) negotiate with a non-ocean carrier or group of non-ocean carriers (such as truck, rail, or air operators) on any matter relating to rates or services provided to ocean common carriers within the United States by those non-ocean carriers, unless the negotiations and any resulting agreements are not in violation of the antitrust laws and are consistent with the purposes of this part, except that this paragraph does not prohibit the setting and publishing of a joint through rate by a conference, joint venture, or association of ocean common carriers;

''(5) deny in the export foreign commerce of the United States compensation to an ocean freight forwarder or limit that compensation to less than a reasonable amount;

''(6) allocate shippers among specific carriers that are parties to the agreement or prohibit a carrier that is a party to the agreement from soliciting cargo from a particular shipper, except as—

''(A) authorized by section 40303(d) of this title;

''(B) required by the law of the United States or the importing or exporting country; or

''(C) agreed to by a shipper in a service contract;

''(7) for service pursuant to a service contract, engage in any unjustly discriminatory practice in the matter of rates or charges with respect to any locality, port, or person due to the person's status as a shippers' association or ocean transportation intermediary; or

''(8) for service pursuant to a service contract, give any undue or unreasonable preference or advantage or impose any undue or unreasonable prejudice or disadvantage with respect to any locality, port, or person due to the person's status as a shippers' association or ocean transportation intermediary.

''§ 41106. Marine terminal operators

''A marine terminal operator may not—

''(1) agree with another marine terminal operator or with a common carrier to boycott, or unreasonably discriminate in the provision of terminal services to, a common carrier or ocean tramp;

''(2) give any undue or unreasonable preference or advantage or impose any undue or unreasonable prejudice or disadvantage with respect to any person; or

''(3) unreasonably refuse to deal or negotiate.

''§ 41107. Monetary penalties

''(a) IN GENERAL.—A person that violates this part or a regulation or order of the Federal Maritime Commission issued under this part is liable to the United States Government for a civil penalty. Unless otherwise provided in this part, the amount of the penalty may not exceed $5,000 for each violation or, if the violation was willfully and knowingly committed, $25,000 for each violation. Each day of a continuing violation is a separate violation.

''(b) LIEN ON CARRIER'S VESSELS.—The amount of a civil penalty imposed on a common carrier under this section constitutes a lien on the vessels operated by the carrier. Any such vessel is subject to an action in rem to enforce the lien in the district court of the United States for the district in which it is found.

''§ 41108. Additional penalties

''(a) SUSPENSION OF TARIFFS.—For a violation of section 41104(1), (2), or (7) of this title, the Federal Maritime Commission may suspend any or all tariffs of the common carrier, or that common carrier's right to use any or all tariffs of conferences of which it is a member, for a period not to exceed 12 months.

''(b) OPERATING UNDER SUSPENDED TARIFF.—A common carrier that accepts or handles cargo for carriage under a tariff that has been suspended, or after its right to use that tariff has been suspended, is liable to the United States Government for a civil penalty of not more than $50,000 for each shipment.

''(c) FAILURE TO PROVIDE INFORMATION.—

''(1) PENALTIES.—If the Commission finds, after notice and opportunity for a hearing, that a common carrier has failed to supply information ordered to be produced or compelled by subpoena under section 41303 of this title, the Commission may—

''(A) suspend any or all tariffs of the carrier or the carrier's right to use any or all tariffs of conferences of which it is a member; and

''(B) request the Secretary of Homeland Security to refuse or revoke any clearance required for a vessel operated by the carrier, and when so requested, the Secretary shall refuse or revoke the clearance.

''(2) DEFENSE BASED ON FOREIGN LAW.—If, in defense of its failure to comply with a subpoena or discovery order, a common carrier alleges that information or documents located in a foreign country cannot be produced because of the laws of that country, the Commission shall immediately notify the Secretary of State of the failure to comply and of the allegation relating to foreign laws. On receiving the notification, the Secretary of State shall promptly consult with the government of the nation within which the information or documents are alleged to be located for the purpose of assisting the Commission in obtaining the information or documents.

''(d) IMPAIRING ACCESS TO FOREIGN TRADE.—If the Commission finds, after notice and opportunity for a hearing, that the action of a common carrier, acting alone or in concert with another person, or a foreign government has unduly impaired access of a vessel documented under the laws of the United States to ocean trade between foreign ports, the Commission shall take action that it finds appropriate, including imposing any of the penalties authorized by this section. The Commission also may take any of the actions authorized by sections 42304 and 42305 of this title.

''(e) SUBMISSION OF ORDER TO PRESIDENT.—Before an order under this section becomes effective, it shall be submitted immediately to the President. The President, within 10 days after receiving it, may disapprove it if the President finds that disapproval is required for reasons of national defense or foreign policy.

''§ 41109. Assessment of penalties

''(a) GENERAL AUTHORITY.—Until a matter is referred to the Attorney General, the Federal Maritime Commission may, after notice and opportunity for a hearing, assess a civil penalty provided for in this part. The Commission may compromise, modify, or remit, with or without conditions, a civil penalty.

''(b) FACTORS IN DETERMINING AMOUNT.—In determining the amount of a civil penalty, the Commission shall take into account the nature, circumstances, extent, and gravity of the violation committed and, with respect to the violator, the degree of culpability, history of prior offenses, ability to pay, and other matters justice may require.

''(c) EXCEPTION.—A civil penalty may not be imposed for conspiracy to violate section 41102(a) or 41104(1) or (2) of this title or to defraud the Commission by concealing such a violation.

''(d) PROHIBITED BASIS OF PENALTY.—The Commission or a court may not order a person to pay the difference between the amount billed and agreed upon in writing with a common carrier or its agent and the amount set forth in a tariff or service contract by that common carrier for the transportation service provided.

''(e) TIME LIMIT.—A proceeding to assess a civil penalty under this section must be commenced within 5 years after the date of the violation.

''(f) REVIEW OF CIVIL PENALTY.—A person against whom a civil penalty is assessed under this section may obtain review under chapter 158 of title 28.

''(g) CIVIL ACTIONS TO COLLECT.—If a person does not pay an assessment of a civil penalty after it has become final or after the appropriate court has entered final judgment in favor of the Commission, the Attorney General at the request of the Commission may seek to collect the amount assessed in an appropriate district court of the United States. The court shall enforce the order of the Commission unless it finds that the order was not regularly made and duly issued.

''CHAPTER 413—ENFORCEMENT

''§ 41301. Complaints

''(a) IN GENERAL.—A person may file with the Federal Maritime Commission a sworn complaint alleging a violation of this part, except section 41307(b)(1). If the complaint is filed within 3 years after the claim accrues, the complainant may seek reparations for an injury to the complainant caused by the violation.

''(b) NOTICE AND RESPONSE.—The Commission shall provide a copy of the complaint to the person named in the complaint. Within a reasonable time specified by the Commission, the person shall satisfy the complaint or answer it in writing.

''(c) IF COMPLAINT NOT SATISFIED.—If the complaint is not satisfied, the Commission shall investigate the complaint in an appropriate manner and make an appropriate order.

''§ 41302. Investigations

''(a) IN GENERAL.—The Federal Maritime Commission, on complaint or its own motion, may investigate any conduct or agreement that the Commission believes may be in violation of this part. The Commission may by order disapprove, cancel, or modify any agreement that operates in violation of this part.

''(b) EFFECTIVENESS OF AGREEMENT DURING INVESTIGATION.—Unless an injunction is issued under section 41306 or 41307 of this title, an agreement under investigation by the Commission remains in effect until the Commission issues its order.

''(c) DATE FOR DECISION.—Within 10 days after the initiation of a proceeding under this section or section 41301 of this title, the Commission shall set a date by which it will issue its final decision. The Commission by order may extend the date for good cause.

''(d) SANCTIONS FOR DELAY.—If, within the period for final decision under subsection (c), the Commission determines that it is unable to issue a final decision because of undue delay caused by a party to the proceeding, the Commission may impose sanctions, including issuing a decision adverse to the delaying party.

''(e) REPORT.—The Commission shall make a written report of every investigation under this part in which a hearing was held, stating its conclusions, decisions, findings of fact, and order. The Commission shall provide a copy of the report to all parties and publish the report for public information. A published report is competent evidence in a court of the United States.

''§ 41303. Discovery and subpoenas

''(a) IN GENERAL.—In an investigation or adjudicatory proceeding under this part—

''(1) the Federal Maritime Commission may subpoena witnesses and evidence; and

''(2) a party may use depositions, written interrogatories, and discovery procedures under regulations prescribed by the Commission that, to the extent practicable, shall conform to the Federal Rules of Civil Procedure (28 App. U.S.C.).

''(b) WITNESS FEES.—Unless otherwise prohibited by law, a witness is entitled to the same fees and mileage as in the courts of the United States.

''§ 41304. Hearings and orders

''(a) OPPORTUNITY FOR HEARING.—The Federal Maritime Commission shall provide an opportunity for a hearing before issuing an order relating to a violation of this part or a regulation prescribed under this part.

''(b) MODIFICATION OF ORDER.—The Commission may reverse, suspend, or modify any of its orders.

''(c) REHEARING.—On application of a party to a proceeding, the Commission may grant a rehearing of the same or any matter determined in the proceeding. Except by order of the Commission, a rehearing does not operate as a stay of an order.

''(d) PERIOD OF EFFECTIVENESS.—An order of the Commission remains in effect for the period specified in the order or until suspended, modified, or set aside by the Commission or a court of competent jurisdiction.

''§ 41305. Award of reparations

''(a) DEFINITION.—In this section, the term 'actual injury' includes the loss of interest at commercial rates compounded from the date of injury.

''(b) BASIC AMOUNT.—If the complaint was filed within the period specified in section 41301(a) of this title, the Federal Maritime Commission shall direct the payment of reparations to the complainant for actual injury caused by a violation of this part, plus reasonable attorney fees.

''(c) ADDITIONAL AMOUNTS.—On a showing that the injury was caused by an activity prohibited by section 41102(b), 41104(3) or (6), or 41105(1) or (3) of this title, the Commission may order the payment of additional amounts, but the total recovery of a complainant may not exceed twice the amount of the actual injury.

''(d) DIFFERENCE BETWEEN RATES.—If the injury was caused by an activity prohibited by section 41104(4)(A) or (B) of this title, the amount of the injury shall be the difference between the rate paid by the injured shipper and the most favorable rate paid by another shipper.

''§ 41306. Injunctive relief sought by complainants

''(a) IN GENERAL.—After filing a complaint with the Federal Maritime Commission under section 41301 of this title, the complainant may bring a civil action in a district court of the United States to enjoin conduct in violation of this part.

''(b) VENUE.—The action must be brought in the judicial district in which—

''(1) the Commission has brought a civil action against the defendant under section 41307(a) of this title; or

''(2) the defendant resides or transacts business, if the Commission has not brought such an action.

''(c) REMEDIES BY COURT.—After notice to the defendant, and a showing that the standards for granting injunctive relief by courts of equity are met, the court may grant a temporary restraining order or preliminary injunction for a period not to exceed 10 days after the Commission has issued an order disposing of the complaint.

''(d) ATTORNEY FEES.—A defendant prevailing in a civil action under this section shall be allowed reasonable attorney fees to be assessed and collected as part of the costs of the action.

''§ 41307. Injunctive relief sought by the Commission

''(a) GENERAL VIOLATIONS.—In connection with an investigation under section 41301 or 41302 of this title, the Federal Maritime Commission may bring a civil action to enjoin conduct in violation of this part. The action must be brought in the district court of the United States for any judicial district in which the defendant resides or transacts business. After notice to the defendant, and a showing that the standards for granting injunctive relief by courts of equity are met, the court may grant a temporary restraining order or preliminary injunction for a period not to exceed 10 days after the Commission has issued an order disposing of the issues under investigation.

''(b) REDUCTION IN COMPETITION.—

''(1) ACTION BY COMMISSION.—If, at any time after the filing or effective date of an agreement under chapter 403 of this title, the Commission determines that the agreement is likely, by a reduction in competition, to produce an unreasonable reduction in transportation service or an unreasonable increase in transportation cost, the Commission, after notice to the person filing the agreement, may bring a civil action in the United States District Court for the District of Columbia to enjoin the operation of the agreement. The Commission's sole remedy with respect to an agreement likely to have such an effect is an action under this subsection.

''(2) REMEDIES BY COURT.—In an action under this subsection, the court may issue—

''(A) a temporary restraining order or a preliminary injunction; and

''(B) a permanent injunction after a showing that the agreement is likely to have the effect described in paragraph (1).

''(3) BURDEN OF PROOF AND THIRD PARTIES.—In an action under this subsection, the burden of proof is on the Commission. The court may not allow a third party to intervene.

''(c) FAILURE TO PROVIDE INFORMATION.—If a person filing an agreement, or an officer, director, partner, agent, or employee of the person, fails substantially to comply with a request for the submission of additional information or documents within the period provided in section 40304(c) of this title, the Commission may bring a civil action in the United States District Court for the District of Columbia. At the request of the Commission, the Court—

''(1) may order compliance;

''(2) shall extend the period specified in section 40304(c)(2) of this title until there has been substantial compliance; and

''(3) may grant other equitable relief that the court decides is appropriate.

''(d) REPRESENTATION.—The Commission may represent itself in a proceeding under this section in—

''(1) a district court of the United States, on notice to the Attorney General; and

''(2) a court of appeals of the United States, with the approval of the Attorney General.

''§ 41308. Enforcement of subpoenas and orders

''(a) CIVIL ACTION.—If a person does not comply with a subpoena or order of the Federal Maritime Commission, the Attorney General, at the request of the Commission, or an injured party, may seek enforcement in a district court of the United States having jurisdiction over the parties. If, after hearing, the court determines that the subpoena or order was regularly made and duly issued, the court shall enforce the subpoena or order.

''(b) TIME LIMIT ON BRINGING ACTIONS.—An action under this section to enforce an order of the Commission must be brought within 3 years after the date the order was violated.

''§ 41309. Enforcement of reparation orders

''(a) CIVIL ACTION.—If a person does not comply with an order of the Federal Maritime Commission for the payment of reparation, the person to whom the award was made may seek enforcement of the order in a district court of the United States having jurisdiction over the parties.

''(b) PARTIES AND SERVICE OF PROCESS.—All parties in whose favor the Commission has made an award of reparation by a single order may be joined as plaintiffs, and all other parties in the order may be joined as defendants, in a single action in a judicial district in which any one plaintiff could maintain an action against any one defendant. Service of process against a defendant not found in that district may be made in a district in which any office of that defendant is located or in which any port of call on a regular route operated by that defendant is located. Judgment may be entered for any plaintiff against the defendant liable to that plaintiff.

''(c) NATURE OF REVIEW.—In an action under this section, the findings and order of the Commission are prima facie evidence of the facts stated in the findings and order.

''(d) COSTS AND ATTORNEY FEES.—The plaintiff is not liable for costs of the action or for costs of any subsequent stage of the proceedings unless they accrue on the plaintiff's appeal. A prevailing plaintiff shall be allowed reasonable attorney fees to be assessed and collected as part of the costs of the action.

''(e) TIME LIMIT ON BRINGING ACTIONS.—An action under this section to enforce an order of the Commission must be brought within 3 years after the date the order was violated.

''PART B—ACTIONS TO ADDRESS FOREIGN PRACTICES

''CHAPTER 421—REGULATIONS AFFECTING SHIPPING IN FOREIGN TRADE

''§ 42101. Regulations of the Commission

''(a) UNFAVORABLE CONDITIONS.—To further the objectives and policy set forth in section 50101 of this title, the Federal Maritime Commission shall prescribe regulations affecting shipping in foreign trade, not in conflict with law, to adjust or meet general or special conditions unfavorable to shipping in foreign trade, whether in a particular trade or on a particular route or in commerce generally, including intermodal movements, terminal operations, cargo solicitation, agency services, ocean transportation intermediary services and operations, and other activities and services integral to transportation systems, and which arise out of or result from laws or regulations of a foreign country or competitive methods, pricing practices, or other practices employed by owners, operators, agents, or masters of vessels of a foreign country.

''(b) INITIATION OF REGULATION.—A regulation under subsection (a) may be initiated by the Commission on its own motion or on the petition of any person, including another component of the United States Government.

''§ 42102. Regulations of other agencies

''(a) REQUEST TO AGENCY.—To further the objectives and policy set forth in section 50101 of this title, the Federal Maritime Commission shall request the head of a department, agency, or instrumentality of the United States Government to suspend, modify, or annul any existing regulations, or to make new regulations, affecting shipping in the foreign trade, except regulations relating to the Public Health Service, the Consular Service, or the inspection of vessels.

''(b) PRIOR REVIEW AND APPROVAL.—A department, agency, or instrumentality of the Government may not prescribe a regulation affecting shipping in the foreign trade (except a regulation affecting the Public Health Service, the Consular Service, or the inspection of vessels) until the regulation has been submitted to the Commission for its approval and final action has been taken by the Commission or the President.

''(c) SUBMISSION TO PRESIDENT.—If the head of a department, agency, or instrumentality of the Government refuses to comply with a request under subsection (a) or objects to a decision of the Commission under subsection (b), the Commission or the head of the department, agency, or instrumentality may submit the facts to the President. The President may establish, suspend, modify, or annul the regulation.

''§ 42103. No preference to Government-owned vessels

''A regulation may not give a vessel owned by the United States Government a preference over a vessel owned by citizens of the United States and documented under the laws of the United States.

''§ 42104. Information, witnesses, and evidence

''(a) ORDER TO SUPPLY INFORMATION.—In carrying out section 42101 of this title, the Federal Maritime Commission may order any person (including a common carrier, tramp operator, bulk operator, shipper, shippers' association, ocean transportation intermediary, or marine terminal operator, or an officer, receiver, trustee, lessee, agent, or employee thereof) to file with the Commission a report, answers to questions, documentary material, or other information the Commission considers necessary or appropriate. The Commission may require the response to any such order to be made under oath. The response shall be provided in the form and within the time specified by the Commission.

''(b) SUBPOENAS AND DISCOVERY.—In carrying out section 42101 of this title, the Commission may—

''(1) subpoena witnesses and evidence; and

''(2) authorize a party to use depositions, written interrogatories, and discovery procedures that, to the extent practicable, conform to the Federal Rules of Civil Procedure (28 App. U.S.C.).

''(c) WITNESS FEES.—Unless otherwise prohibited by law, and subject to funds being appropriated, a witness in a proceeding under section 42101 of this title is entitled to the same fees and mileage as in the courts of the United States.

''(d) PENALTIES.—For failure to supply information ordered to be produced or compelled by subpoena under this section, the Commission may—

''(1) after notice and opportunity for a hearing, suspend tariffs and service contracts of a common carrier or the common carrier's right to use tariffs of conferences and service contracts of agreements of which it is a member; or

''(2) assess a civil penalty of not more than $5,000 for each day that the information is not provided.

''(e) ENFORCEMENT.—If a person does not comply with an order or subpoena of the Commission under this section, the Commission may seek enforcement in a district court of the United States having jurisdiction over the parties. If, after hearing, the court determines that the order or subpoena was regularly made and duly issued, the court shall enforce the order or subpoena.

''§ 42105. Disclosure to public

''Notwithstanding any other provision of law, the Federal Maritime Commission may refuse to disclose to the public a response or other information submitted to it under this chapter.

''§ 42106. Other actions to remedy unfavorable conditions

''If the Federal Maritime Commission finds that conditions unfavorable to shipping in foreign trade as described in section 42101 of this title exist, the Commission may—

''(1) limit voyages to and from United States ports or the amount or type of cargo carried;

''(2) suspend, in whole or in part, tariffs and service contracts for carriage to or from United States ports, including a common carrier's right to use tariffs of conferences and service contracts of agreements in United States trades of which it is a member for any period the Commission specifies;

''(3) suspend, in whole or in part, an ocean common carrier's right to operate under any agreement filed with the Commission, including any agreement authorizing preferential treatment at terminals, preferential terminal leases, space chartering, or pooling of cargo or revenue with other ocean common carriers;

''(4) impose a fee not to exceed $1,000,000 per voyage; or

''(5) take any other action the Commission finds necessary and appropriate to adjust or meet any condition unfavorable to shipping in the foreign trade of the United States.

''§ 42107. Refusal of clearance and entry

''At the request of the Federal Maritime Commission—

''(1) the Secretary of Homeland Security shall—

''(A) refuse the clearance required by section 60105 of this title to a vessel of a country that is named in a regulation prescribed by the Commission under section 42101 of this title; and

''(B) collect any fees imposed by the Commission under section 42106(4) of this title; and

''(2) the Secretary of the department in which the Coast Guard is operating shall—

''(A) deny entry, for purposes of oceanborne trade, of a vessel of a country that is named in a regulation prescribed by the Commission under section 42101 of this title, to a port or place in the United States or the navigable waters of the United States; or

''(B) detain the vessel at the port or place in the United States from which it is about to depart for another port or place in the United States.

''§ 42108. Penalty for operating under suspended tariff or service contract

''A common carrier that accepts or handles cargo for carriage under a tariff or service contract that has been suspended under section 42104(d)(1) or 42106(2) of this title, or after its right to use another tariff or service contract has been suspended under those provisions, is liable to the United States Government for a civil penalty of not more than $50,000 for each day that it is found to be operating under a suspended tariff or service contract.

''§ 42109. Consultation with other agencies

''The Federal Maritime Commission may consult with, seek the cooperation of, or make recommendations to other appropriate agencies of the United States Government prior to taking any action under this chapter.

''CHAPTER 423—FOREIGN SHIPPING PRACTICES

''§ 42301. Definitions

''(a) DEFINED IN PART A.—In this chapter, the terms 'common carrier', 'marine terminal operator', 'ocean common carrier', 'ocean transportation intermediary', 'shipper', and 'shippers' association' have the meaning given those terms in section 40102 of this title.

''(b) OTHER DEFINITIONS.—In this chapter:

''(1) FOREIGN CARRIER.—The term 'foreign carrier' means an ocean common carrier a majority of whose vessels are documented under the laws of a foreign country.

''(2) MARITIME SERVICES.—The term 'maritime services' means port-to-port transportation of cargo by vessels operated by an ocean common carrier.

''(3) MARITIME-RELATED SERVICES.—The term 'maritime-related services' means intermodal operations, terminal operations, cargo solicitation, agency services, ocean transportation intermediary services and operations, and all other activities and services integral to total transportation systems of ocean common carriers and their foreign domiciled affiliates for themselves and others.

''(4) UNITED STATES CARRIER.—The term 'United States carrier' means an ocean common carrier operating vessels documented under the laws of the United States.

''(5) UNITED STATES OCEANBORNE TRADE.—The term 'United States oceanborne trade' means the carriage of cargo between the United States and a foreign country, whether directly or indirectly, by an ocean common carrier.

''§ 42302. Investigations

''(a) IN GENERAL.—The Federal Maritime Commission shall investigate whether any laws, rules, regulations, policies, or practices of a foreign government, or any practices of a foreign carrier or other person providing maritime or maritime-related services in a foreign country, result in the existence of conditions that—

''(1) adversely affect the operations of United States carriers in United States oceanborne trade; and

''(2) do not exist for foreign carriers of that country in the United States under the laws of the United States or as a result of acts of United States carriers or other persons providing maritime or maritime-related services in the United States.

''(b) INITIATION OF INVESTIGATION.—An investigation under subsection (a) may be initiated by the Commission on its own motion or on the petition of any person, including another component of the United States Government.

''(c) TIME FOR DECISION.—The Commission shall complete an investigation under this section and render a decision within 120 days after it is initiated. However, the Commission may extend this 120-day period for an additional 90 days if the Commission is unable to obtain sufficient information to determine whether a condition specified in subsection (a) exists. A notice providing an extension shall state clearly the reasons for the extension.

''§ 42303. Information requests

''(a) IN GENERAL.—To further the purposes of section 42302(a) of this title, the Federal Maritime Commission may order any person (including a common carrier, shipper, shippers' association, ocean transportation intermediary, or marine terminal operator, or an officer, receiver, trustee, lessee, agent or employee thereof) to file with the Commission any periodic or special report, answers to questions, documentary material, or other information the Commission considers necessary or appropriate. The Commission may require the response to any such order to be

made under oath. The response shall be provided in the form and within the time specified by the Commission.

''(b) SUBPOENAS.—In an investigation under section 42302 of this title, the Commission may subpoena witnesses and evidence.

''(c) NONDISCLOSURE.—Notwithstanding any other provision of law, the Commission may determine that any information submitted to it in response to a request under this section, or otherwise, shall not be disclosed to the public.

''§ 42304. Action against foreign carriers

''(a) IN GENERAL.—Subject to section 42306 of this title, whenever the Federal Maritime Commission, after notice and opportunity for comment or hearing, determines that the conditions specified in section 42302(a) of this title exist, the Commission shall take such action to offset those conditions as it considers necessary and appropriate against any foreign carrier that is a contributing cause, or whose government is a contributing cause, to those conditions. The action may include—

''(1) limitations on voyages to and from United States ports or on the amount or type of cargo carried;

''(2) suspension, in whole or in part, of any or all tariffs and service contracts, including an ocean common carrier's right to use any or all tariffs and service contracts of conferences in United States trades of which it is a member for any period the Commission specifies;

''(3) suspension, in whole or in part, of an ocean common carrier's right to operate under any agreement filed with the Commission, including any agreement authorizing preferential treatment at terminals, preferential terminal leases, space chartering, or pooling of cargo or revenue with other ocean common carriers; and

''(4) a fee not to exceed $1,000,000 per voyage.

''(b) CONSULTATION.—The Commission may consult with, seek the cooperation of, or make recommendations to other appropriate agencies of the United States Government prior to taking any action under subsection (a).

''§ 42305. Refusal of clearance and entry

''Subject to section 42306 of this title, whenever the Federal Maritime Commission determines that the conditions specified in section 42302(a) of this title exist, then at the request of the Commission—

''(1) the Secretary of Homeland Security shall refuse the clearance required by section 60105 of this title to a vessel of a foreign carrier that is identified by the Commission under section 42304 of this title; and

''(2) the Secretary of the department in which the Coast Guard is operating shall—

''(A) deny entry, for purposes of oceanborne trade, of a vessel of a foreign carrier that is identified by the Commission under section 42304 of this title, to a port or place in the United States or the navigable waters of the United States; or

''(B) detain the vessel at the port or place in the United States from which it is about to depart for another port or place in the United States.

''§ 42306. Submission of determinations to President

''Before a determination under section 42304 of this title becomes effective or a request is made under section 42305 of this title, the determination shall be submitted immediately to the President. The President, within 10 days after receiving it, may disapprove it in writing, setting forth the reasons for the disapproval, if the President finds that disapproval is required for reasons of national defense or foreign policy.

''§ 42307. Review of regulations and orders

''A regulation or final order of the Federal Maritime Commission under this chapter is reviewable exclusively in the same forum and in the same manner as provided in section 2342(3)(B) of title 28.

''PART C—MISCELLANEOUS

''CHAPTER 441—EVIDENCE OF FINANCIAL RESPONSIBILITY FOR PASSENGER TRANSPORTATION

''§ 44101. Application

''This chapter applies to a vessel that—

''(1) has berth or stateroom accommodations for at least 50 passengers; and

''(2) boards passengers at a port in the United States.

''§ 44102. Financial responsibility to indemnify passengers for nonperformance of transportation

''(a) FILING REQUIREMENT.—A person in the United States may not arrange, offer, advertise, or provide transportation on a vessel to which this chapter applies unless the person has filed with the Federal Maritime Commission evidence of financial responsibility to indemnify passengers for nonperformance of the transportation.

''(b) SATISFACTORY EVIDENCE.—To satisfy subsection (a), a person must file—

''(1) information the Commission considers necessary; or

''(2) a copy of a bond or other security, in such form as the Commission by regulation may require.

''(c) AUTHORIZED ISSUER OF BOND.—If a bond is filed, it must be issued by a bonding company authorized to do business in the United States.

''§ 44103. Financial responsibility to pay liability for death or injury

''(a) GENERAL REQUIREMENT.—The owner or charterer of a vessel to which this chapter applies shall establish, under regulations prescribed by the Federal Maritime Commission, financial responsibility to meet liability for death or injury to passengers or other individuals on a voyage to or from a port in the United States.

''(b) AMOUNTS.—

''(1) IN GENERAL.—The amount of financial responsibility required under subsection (a) shall be based on the number of passenger accommodations as follows:

''(A) $20,000 for each of the first 500 passenger accommodations.

''(B) $15,000 for each additional passenger accommodation between 501 and 1,000.

''(C) $10,000 for each additional passenger accommodation between 1,001 and 1,500.

''(D) $5,000 for each additional passenger accommodation over 1,500.

''(2) MULTIPLE VESSELS.—If the owner or charterer is operating more than one vessel subject to this chapter, the amount of financial responsibility shall be based on the number of passenger accommodations on the vessel with the largest number of passenger accommodations.

''(c) AVAILABILITY TO PAY JUDGMENT.—The amount determined under subsection (b) shall be available to pay a judgment for damages (whether less than or more than $20,000) for death or injury to a passenger or other individual on a voyage to or from a port in the United States.

''(d) MEANS OF ESTABLISHING.—Financial responsibility under this section may be established by one or more of the following if acceptable to the Commission:

''(1) Insurance.

''(2) Surety bond issued by a bonding company authorized to do business in the United States.

''(3) Qualification as a self-insurer.

''(4) Other evidence of financial responsibility.

''§ 44104. Civil penalty

''A person that violates section 44102 or 44103 of this title is liable to the United States Government for a civil penalty of not more than $5,000, plus $200 for each passage sold, to be assessed by the Federal Maritime Commission. The Commission may remit or mitigate the penalty on terms the Commission considers proper.

''§ 44105. Refusal of clearance

''The Secretary of Homeland Security shall refuse the clearance required by section 60105 of this title, at the port or place of departure from the United States, of a vessel that is subject to this chapter and does not have evidence issued by the Federal Maritime Commission of compliance with sections 44102 and 44103 of this title.

''§ 44106. Conduct of proceedings

''Part A of this subtitle applies to proceedings conducted by the Federal Maritime Commission under this chapter.''.

SEC. 8. SUBTITLE V OF TITLE 46.

(a) SUBTITLE ANALYSIS.—The analysis of subtitle V of title 46, United States Code, is amended to read as follows:

''PART A—GENERAL

''PART B—MERCHANT MARINE SERVICE

''PART C—FINANCIAL ASSISTANCE PROGRAMS

''PART D—PROMOTIONAL PROGRAMS

''PART E—CONTROL OF MERCHANT MARINE CAPABILITIES

''PART F—GOVERNMENT-OWNED MERCHANT VESSELS

''PART G—RESTRICTIONS AND PENALTIES

(b) CHAPTERS PRECEDING CHAPTER 531.—Subtitle V of title 46, United States Code, is amended by inserting after the subtitle analysis the following:

''PART A—GENERAL

''CHAPTER 501—POLICY, STUDIES, AND REPORTS

''§ 50101. Objectives and policy

''(a) OBJECTIVES.—It is necessary for the national defense and the development of the domestic and foreign commerce of the United States that the United States have a merchant marine—

''(1) sufficient to carry the waterborne domestic commerce and a substantial part of the waterborne export and import foreign commerce of the United States and to provide shipping service essential for maintaining the flow of the waterborne domestic and foreign commerce at all times;

''(2) capable of serving as a naval and military auxiliary in time of war or national emergency;

''(3) owned and operated as vessels of the United States by citizens of the United States;

''(4) composed of the best-equipped, safest, and most suitable types of vessels and manned with a trained and efficient citizen personnel; and

''(5) supplemented by efficient facilities for building and repairing vessels.

''(b) POLICY.—It is the policy of the United States to encourage and aid the development and maintenance of a merchant marine satisfying the objectives described in subsection (a).

''§ 50102. Survey of merchant marine

''(a) IN GENERAL.—The Secretary of Transportation shall survey the merchant marine of the United States to determine whether replacements and additions are required to carry out the objectives and policy of section 50101 of this title. The Secretary shall study, perfect, and adopt a long-range program for replacements and additions that will result, as soon as practicable, in—

''(1) an adequate and well-balanced merchant fleet, including vessels of all types, that will provide shipping service essential for maintaining the flow of foreign commerce by vessels designed to be readily and quickly convertible into transport and supply vessels in a time of national emergency;

''(2) ownership and operation of the fleet by citizens of the United States insofar as practicable;

''(3) vessels designed to afford the best and most complete protection for passengers and crew against fire and all marine perils; and

''(4) an efficient capacity for building and repairing vessels in the United States with an adequate number of skilled personnel to provide an adequate mobilization base.

''(b) COOPERATION WITH SECRETARY OF NAVY.—In carrying out subsection (a)(1), the Secretary of Transportation shall cooperate closely with the Secretary of the Navy as to national defense requirements.

''§ 50103. Determinations of essential services

''(a) ESSENTIAL SERVICES, ROUTES, AND LINES.—

''(1) IN GENERAL.—The Secretary of Transportation shall investigate, determine, and keep current records of the ocean services, routes, and lines from ports in the United States, or in the territories and possessions of the United States, to foreign markets, which the Secretary determines to be essential for the promotion, development, expansion, and maintenance of the foreign commerce of the United States. In making such a determination, the Secretary shall consider and give due weight to—

''(A) the cost of maintaining each line;

''(B) the probability that a line cannot be maintained except at a heavy loss disproportionate to the benefit to foreign trade;

''(C) the number of voyages and types of vessels that should be employed in a line;

''(D) the intangible benefit of maintaining a line to the foreign commerce of the United States, the national defense, and other national requirements; and

''(E) any other facts and conditions a prudent business person would consider when dealing with the person's own business.

''(2) SAINT LAWRENCE SEAWAY.—For purposes of paragraph (1), the Secretary shall establish services, routes, and lines that reflect the seasonal closing of the Saint Lawrence Seaway and provide for alternate routing of vessels through a different range of ports during that closing to maintain continuity of service on a year-round basis.

''(b) BULK CARGO CARRYING SERVICES.—The Secretary shall investigate, determine, and keep current records of the bulk cargo carrying services that should be provided by vessels of the United States (whether or not operating on particular services, routes, or lines) for the promotion, development, expansion, and maintenance of the foreign commerce of the United States and the national defense or other national requirements.

''(c) TYPES OF VESSELS.—The Secretary shall investigate, determine, and keep current records of the type, size, speed, method of propulsion, and other requirements of the vessels, including express-liner or super-liner vessels, that should be employed in—

''(1) the services, routes, or lines described in subsection (a), and the frequency and regularity of the voyages of the vessels, with a view to furnishing adequate, regular, certain, and permanent service; and

''(2) the bulk cargo carrying services described in subsection (b).

''§ 50104. Studies of general maritime problems

''The Secretary of Transportation shall study all maritime problems arising in carrying out the policy in section 50101 of this title.

''§ 50105. Studies and cooperation relating to the construction of vessels

''(a) RELATIVE COSTS AND NEW DESIGNS.—The Secretary of Transportation shall investigate, determine, and keep current records of—

''(1) the relative cost of construction of comparable vessels in the United States and in foreign countries; and

''(2) new designs, new methods of construction, and new types of equipment for vessels.

''(b) RULES, CLASSIFICATIONS, AND RATINGS.—The Secretary shall examine the rules under which vessels are constructed abroad and in the United States and the methods of classifying and rating the vessels.

''(c) COLLABORATION WITH OWNERS AND BUILDERS.—The Secretary shall collaborate with vessel owners and shipbuilders in developing plans for the economical construction of vessels and their propelling machinery, of most modern economical types, giving thorough consideration to all well-recognized means of propulsion and taking into account the benefits from standardized production where practicable and desirable.

''(d) EXPRESS-LINER AND SUPER-LINER VESSELS.—The Secretary shall study and cooperate with vessel owners in devising means by which there may be constructed, by or with the aid of the United States Government, express-liner or super-liner vessels comparable to those of other nations, especially with a view to their use in a national emergency, and the use of transoceanic aircraft service in connection with or in lieu of those vessels.

''§ 50106. Studies on the operation of vessels

''(a) RELATIVE COSTS.—The Secretary of Transportation shall investigate, determine, and keep current records of the relative cost of marine insurance, maintenance, repairs, wages and subsistence of officers and crews, and all other items of expense, in the operation of comparable vessels under the laws and regulations of the United States and those of the foreign countries whose vessels are substantial competitors of American vessels.

''(b) SHIPYARDS.—The Secretary shall investigate, determine, and keep current records of the number, location, and efficiency of shipyards in the United States.

''(c) NAVIGATION LAWS.—The Secretary shall examine the navigation laws and regulations of the United States and make such recommendations to Congress as the Secretary considers proper for the amendment, improvement, and revision of those laws and for the development of the merchant marine of the United States.

''§ 50107. Studies on marine insurance

''The Secretary of Transportation shall—

''(1) examine into the subject of marine insurance, the number of companies in the United States, domestic and foreign, engaging in marine insurance, the extent of the insurance on hulls and cargoes placed or written in the United States, and the extent of reinsurance of American maritime risks in foreign companies; and

''(2) ascertain what steps may be necessary to develop an ample marine insurance system as an aid in the development of the merchant marine of the United States.

''§ 50108. Studies on cargo carriage and cargo containers

''(a) STUDIES.—The Secretary of Transportation shall study—

''(1) the methods of encouraging the development and implementation of new concepts for the carriage of cargo in the domestic and foreign commerce of the United States; and

''(2) the economic and technological aspects of the use of cargo containers as a method of carrying out the policy in section 50101 of this title.

''(b) RESTRICTION.—In carrying out subsection (a) and the policy in section 50101 of this title, the United States Government may not give preference as between carriers based on the length, height, or width of cargo containers or the length, height, or width of cargo container cells. This restriction applies to all existing container vessels and any container vessel to be constructed or rebuilt.

''§ 50109. Miscellaneous studies

''(a) FOREIGN SUBSIDIES.—The Secretary of Transportation shall investigate, determine, and keep current records of the extent and character of the governmental aid and subsidies granted by foreign governments to their merchant marine.

''(b) LAWS APPLICABLE TO AIRCRAFT.—The Secretary shall investigate, determine, and keep current records of the provisions of law relating to shipping that should be made applicable to aircraft engaged in foreign commerce to further the policy in section 50101 of this title, and any appropriate legislation in this regard.

''(c) AID FOR COTTON, COAL, LUMBER, AND CEMENT.—The Secretary shall investigate, determine, and keep current records of the advisability of enactment of suitable legislation authorizing the Secretary, in an economic or commercial emergency, to aid farmers and producers of cotton, coal, lumber, and cement in any section of the United States in the transportation and landing of their products in any foreign port, which products can be carried in dry-cargo vessels by reducing rates, by supplying additional tonnage to any American operator, or by operation of vessels directly by the Secretary, until the Secretary considers the special rate reduction and operation unnecessary for the benefit of those farmers and producers.

''(d) INTERCOASTAL AND INLAND WATER TRANSPORTATION.—The Secretary shall investigate, determine, and keep current records of intercoastal and inland water transportation, including their relation to transportation by land and air.

''(e) OBSOLETE TONNAGE AND TRAMP SERVICE.—The Secretary shall make studies and reports to Congress on—

''(1) the scrapping or removal from service of old or obsolete merchant tonnage owned by the

United States Government or in use in the merchant marine; and

''(2) tramp shipping service and the advisability of citizens of the United States participating in that service with vessels under United States registry.

''(f) MORTGAGE LOANS.—The Secretary shall investigate the legal status of mortgage loans on vessel property, with a view to the means of improving the security of those loans and of encouraging investment in American shipping.

''§ 50110. Securing preference to vessels of the United States

''(a) POSSIBILITIES OF PROMOTING CARRIAGE.—The Secretary of Transportation shall investigate, determine, and keep current records of the possibilities of promoting the carriage of United States foreign trade in vessels of the United States.

''(b) INDUCEMENTS TO IMPORTERS AND EXPORTERS.—The Secretary shall study and cooperate with vessel owners in devising means by which the importers and exporters of the United States can be induced to give preference to vessels of the United States.

''(c) LIAISON WITH AGENCIES AND ORGANIZATIONS.—The Secretary shall establish and maintain liaison with such other agencies of the United States Government, and with such representative trade organizations throughout the United States, as may be concerned, directly or indirectly, with any movement of commodities in the waterborne export and import foreign commerce of the United States, for the purpose of securing preference to vessels of the United States in the shipment of those commodities.

''§ 50111. Reports to Congress

''(a) IN GENERAL.—Not later than April 1 of each year, the Secretary of Transportation shall submit a report to Congress. The report shall include, with respect to activities of the Secretary under this subtitle, the results of investigations, a summary of transactions, a statement of all expenditures and receipts, the purposes for which all expenditures were made, and any recommendations for legislation.

''(b) ADMINISTERED AND OVERSIGHT FUNDS.—The Secretary, in the report under subsection (a) and in the annual budget estimate for the Maritime Administration submitted to Congress, shall state separately the amount, source, intended use, and nature of any funds (other than funds appropriated to the Administration or to the Secretary of Transportation for use by the Administration) administered, or subject to oversight, by the Administration.

''(c) ADDITIONAL RECOMMENDATIONS FOR LEGISLATION.—The Secretary, from time to time, shall make recommendations to Congress for legislation the Secretary considers necessary to better achieve the objectives and policy of section 50101 of this title.

''§ 50112. National Maritime Enhancement Institutes

''(a) DESIGNATION.—The Secretary of Transportation may designate National Maritime Enhancement Institutes.

''(b) ACTIVITIES.—Activities undertaken by an institute may include—

''(1) conducting research about methods to improve the performance of maritime industries;

''(2) enhancing the competitiveness of domestic maritime industries in international trade;

''(3) forecasting trends in maritime trade;

''(4) assessing technological advancements;

''(5) developing management initiatives and training;

''(6) analyzing economic and operational impacts of regulatory policies and international negotiations or agreements pending before international bodies;

''(7) assessing the compatibility of domestic maritime infrastructure systems with overseas transport systems;

''(8) fostering innovations in maritime transportation pricing; and

''(9) improving maritime economics and finance.

''(c) APPLICATION FOR DESIGNATION.—An institution seeking designation as a National Maritime Enhancement Institute shall submit an application under regulations prescribed by the Secretary.

''(d) CRITERIA FOR DESIGNATION.—The Secretary shall designate an institute under this section on the basis of the following criteria:

''(1) The demonstrated research and extension resources available to the applicant for carrying out the activities specified in subsection (b).

''(2) The ability of the applicant to provide leadership in making national and regional contributions to the solution of both long-range and immediate problems of the domestic maritime industry.

''(3) The existence of an established program of the applicant encompassing research and training directed to enhancing maritime industries.

''(4) The demonstrated ability of the applicant to assemble and evaluate pertinent information from national and international sources and to disseminate results of maritime industry research and educational programs through a continuing education program.

''(5) The qualification of the applicant as a nonprofit institution of higher learning.

''(e) FINANCIAL AWARDS.—The Secretary may make awards on an equal matching basis to an institute designated under subsection (a) from amounts appropriated. The aggregate annual amount of the Federal share of the awards by the Secretary may not exceed $500,000.

''(f) UNIVERSITY TRANSPORTATION RESEARCH FUNDS.—The Secretary may make a grant under section 5505 of title 49 to an institute designated under subsection (a) for maritime and maritime intermodal research under that section as if the institute were a university transportation center. In making a grant, the Secretary, through the Research and Innovative Technology Administration, shall advise the Maritime Administration on the availability of funds for the grants and consult with the Administration on making the grants.

''§ 50113. Use and performance reports by operators of vessels

''(a) FILING REQUIREMENT.—The Secretary of Transportation by regulation may require the operator of a vessel in the waterborne foreign commerce of the United States to file such report, account, record, or memorandum on the use and performance of the vessel as the Secretary considers desirable to assist in carrying out this subtitle. The report, account, record, or memorandum shall be signed and verified, and be filed at the times and in the manner, as provided by regulation.

''(b) CIVIL PENALTY.—An operator not filing a report, account, record, or memorandum required by the Secretary under this section is liable to the United States Government for a civil penalty of $50 for each day of the violation. A penalty imposed under this section on the operator of a vessel constitutes a lien on the vessel involved in the violation. A civil action in rem to enforce the lien may be brought in the district court of the United States for any district in which the vessel is found. The Secretary may remit or mitigate any penalty imposed under this section.

''CHAPTER 503—ADMINISTRATIVE

''§ 50301. Vessel Operations Revolving Fund

''(a) IN GENERAL.—There is a 'Vessel Operations Revolving Fund' for use by the Secretary of Transportation in carrying out duties and powers related to vessel operations, including charter, operation, maintenance, repair, reconditioning, and improvement of merchant vessels under the jurisdiction of the Secretary. The Fund has a working capital of $20,000,000, to remain available until expended.

''(b) RELATIONSHIP TO OTHER LAWS.—Notwithstanding any other law, rates for shipping services provided under the Fund shall be prescribed by the Secretary and the Fund shall be credited with receipts from vessel operations conducted under the Fund. Sections 1(a) and (c), 3(c), and 4 of the Act of March 24, 1943 (50 App. U.S.C. 1291(a), (c), 1293(c), 1294), apply to those operations and to seamen employed through general agents as employees of the United States Government. Notwithstanding any other law on the employment of persons by the Government, the seamen may be employed in accordance with customary commercial practices in the maritime industry.

''(c) ADVANCEMENTS.—With the approval of the Director of the Office of Management and Budget, the Secretary may advance amounts the Secretary considers necessary, but not more than 2 percent of vessel operating expenses, from the Fund to the appropriation 'Salaries and Expenses' in carrying out duties and powers related to vessel operations, without regard to the limitations on amounts stated in that appropriation.

''(d) TRANSFERS.—The unexpended balances of working funds or of allocation accounts established after January 1, 1951, for the activities provided for in subsection (a), and receipts received from those activities, may be transferred to the Fund, which shall be available for the purposes of those working funds or allocation accounts.

''(e) LIMITATION.—

''(1) IN GENERAL.—Amounts made available to the Secretary for maritime activities by this section or any other law may not be used to pay for a vessel described in paragraph (2) unless the compensation to be paid is computed under section 56303 of this title as that section is interpreted by the Comptroller General.

''(2) APPLICABLE VESSELS.—Paragraph (1) applies to a vessel—

''(A) the title to which is acquired by the Government by requisition or purchase;

''(B) the use of which is taken by requisition or agreement; or

''(C) lost while insured by the Government.

''(3) NONAPPLICABLE VESSELS.—Paragraph (1) does not apply to a vessel under a construction-differential subsidy contract.

''(f) AVAILABILITY FOR ADDITIONAL PURPOSES.—The Fund is available for—

''(1) necessary expenses incurred in the protection, preservation, maintenance, acquisition, or use of vessels involved in mortgage foreclosure or forfeiture proceedings instituted by the Government, including payment of prior claims and liens, expenses of sale, or other related charges;

''(2) necessary expenses incident to the redelivery and lay-up, in the United States, of vessels chartered as of June 20, 1956, under agreements not calling for their return to the Government;

''(3) the activation, repair, and deactivation of merchant vessels chartered for limited emergency purposes during fiscal year 1957 under the jurisdiction of the Secretary; and

''(4) payment of expenses of custody and maintenance of Government-owned vessels not in the National Defense Reserve Fleet.

''(g) EXPENSES AND RECEIPTS RELATED TO CHARTER OPERATIONS.—The Fund is available for expenses incurred in activating, repairing, and deactivating merchant vessels chartered under the jurisdiction of the Secretary. Receipts from charter operations of Government-owned vessels under the jurisdiction of the Secretary shall be credited to the Fund.

''§ 50302. Port development

''(a) GENERAL REQUIREMENTS.—With the objective of promoting, encouraging, and developing ports and transportation facilities in connection with water commerce over which the Secretary of Transportation has jurisdiction, the Secretary, in cooperation with the Secretary of the Army, shall—

''(1) investigate territorial regions and zones tributary to ports, taking into consideration the economies of transportation by rail, water, and highway and the natural direction of the flow of commerce;

''(2) investigate the causes of congestion of commerce at ports and applicable remedies;

''(3) investigate the subject of water terminals, including the necessary docks, warehouses, and equipment, to devise and suggest the types most appropriate for different locations and for the most expeditious and economical transfer or interchange of passengers or property between water carriers and rail carriers;

''(4) consult with communities on the appropriate location and plan of construction of wharves, piers, and water terminals;

''(5) investigate the practicability and advantages of harbor, river, and port improvements in connection with foreign and coastwise trade; and

''(6) investigate any other matter that may tend to promote and encourage the use by vessels of ports adequate to care for the freight that naturally would pass through those ports.

''(b) SUBMISSION OF FINDINGS TO SURFACE TRANSPORTATION BOARD.—After an investigation under subsection (a), if the Secretary of Transportation believes that the rates or practices of a rail carrier subject to the jurisdiction of the Surface Transportation Board are detrimental to the objective specified in subsection (a), or that new rates or practices, new or additional port terminal facilities, or affirmative action by a rail carrier is necessary to promote that objective, the Secretary may submit findings to the Board for action the Board considers appropriate under existing law.

''§ 50303. Operating property and extending term of notes

''(a) GENERAL AUTHORITY.—The Secretary of Transportation may—

''(1) operate or lease docks, wharves, piers, or real property under the Secretary's control; and

''(2) make extensions and accept renewals of—

''(A) promissory notes and other evidences of indebtedness on property; and

''(B) mortgages and other contracts securing the property.

''(b) TERMS OF TRANSACTIONS.—A transaction under subsection (a) shall be on terms the Secretary considers necessary to carry out the purposes of this subtitle, but consistent with sound business practice.

''(c) AVAILABILITY OF AMOUNTS.—Amounts received by the Secretary from a transaction under this section are available for expenditure by the Secretary as provided in this subtitle.

''§ 50304. Sale and transfer of property

''(a) AUTHORITY TO SELL.—The Secretary of Transportation may sell property (other than vessels transferred under section 4 of the Merchant Marine Act, 1920 (ch. 250, 41 Stat. 990)) on terms the Secretary considers appropriate.

''(b) TRANSFERS FROM MILITARY TO CIVILIAN CONTROL.—When the President considers it in the interest of the United States, the President may transfer to the Secretary of Transportation possession and control of property described in the second paragraph of section 17 of the Merchant Marine Act, 1920 (ch. 250, 41 Stat. 994), as originally enacted, that is possessed and controlled by the Secretary of a military department.

''(c) TRANSFERS FROM CIVILIAN TO MILITARY CONTROL.—When the President considers it necessary, the President by executive order may transfer to the Secretary of a military department possession and control of property described in section 17 of the Merchant Marine Act, 1920 (ch. 250, 41 Stat. 994), as originally enacted, that is possessed and controlled by the Secretary of Transportation. The President's order shall state the need for the transfer and the period of the need. When the President decides that the need has ended, the possession and control shall revert to the Secretary of Transportation. The property may not be sold except as provided by law.

''§ 50305. Appointment of trustee or receiver and operation of vessels

''(a) APPOINTMENT OF TRUSTEES AND RECEIVERS.—

''(1) APPOINTMENT OF SECRETARY.—In a proceeding in a court of the United States in which a trustee or receiver may be appointed for a corporation operating a vessel of United States registry between the United States and a foreign country, on which the United States Government holds a mortgage, the court may appoint the Secretary of Transportation as the sole trustee or receiver (subject to the direction of the court) if—

''(A) the court finds that the appointment will—

''(i) inure to the advantage of the estate and the parties in interest; and

''(ii) tend to carry out the purposes of this subtitle; and

''(B) the Secretary expressly consents to the appointment.

''(2) APPOINTMENT OF OTHER PERSON.—The appointment of another person as trustee or receiver without a hearing becomes effective when ratified by the Secretary, but the Secretary may demand a hearing.

''(b) OPERATION OF VESSELS.—

''(1) IN GENERAL.—If the court is unwilling to allow the trustee or receiver to operate the vessel in foreign commerce without financial aid from the Government pending termination of the proceeding, and the Secretary certifies to the court that the continued operation of the vessel is essential to the foreign commerce of the United States and is reasonably calculated to carry out the purposes of this subtitle, the court may allow the Secretary to operate the vessel, either directly or through a managing agent or operator employed by the Secretary. The Secretary must agree to comply with terms imposed by the court sufficient to protect the parties in interest. The Secretary also must agree to pay all operating losses resulting from the operation. The operation shall be for the account of the trustee or receiver.

''(2) PAYMENT OF OPERATING LOSSES AND OTHER AMOUNTS.—The Secretary has no claim against the corporation, its estate, or its assets for operating losses paid by the Secretary, but the Secretary may pay amounts for depreciation the Secretary considers reasonable and other amounts the court considers just. The payment of operating losses and the other amounts and compliance with terms imposed by the court shall be in satisfaction of any claim against the Secretary resulting from the operation of the vessel.

''(3) DEEMED OPERATION BY GOVERNMENT.—A vessel operated by the Secretary under this subsection is deemed to be a vessel operated by the United States under chapter 309 of this title.

''§ 50306. Requiring testimony and records in investigations

''(a) IN GENERAL.—In conducting an investigation that the Secretary of Transportation considers necessary and proper to carry out this subtitle, the Secretary may administer oaths, take evidence, and subpoena persons to testify and produce documents relevant to the matter under investigation. Persons may be required to attend or produce documents from any place in the United States at any designated place of hearing.

''(b) FEES AND MILEAGE.—Persons subpoenaed by the Secretary under subsection (a) shall be paid the same fees and mileage paid to witnesses in the courts of the United States.

''(c) ENFORCEMENT OF SUBPOENAS.—If a person disobeys a subpoena issued under subsection (a), the Secretary may seek an order enforcing the subpoena from the district court of the United States for the district in which the person resides or does business. Process may be served in the judicial district in which the person resides or is found. The court may issue an order to obey the subpoena and punish a refusal to obey as a contempt of court.

''CHAPTER 505—OTHER GENERAL PROVISIONS

''§ 50501. Entities deemed citizens of the United States

''(a) IN GENERAL.—In this subtitle, a corporation, partnership, or association is deemed to be a citizen of the United States only if the controlling interest is owned by citizens of the United States. However, if the corporation, partnership, or association is operating a vessel in the coastwise trade, at least 75 percent of the interest must be owned by citizens of the United States.

''(b) ADDITIONAL REQUIREMENTS FOR CORPORATIONS.—In this subtitle, a corporation is deemed to be a citizen of the United States only if, in addition to satisfying the requirements in subsection (a)—

''(1) it is incorporated under the laws of the United States or a State;

''(2) its chief executive officer, by whatever title, and the chairman of its board of directors are citizens of the United States; and

''(3) no more of its directors are noncitizens than a minority of the number necessary to constitute a quorum.

''(c) DETERMINATION OF CONTROLLING CORPORATE INTEREST.—The controlling interest in a corporation is owned by citizens of the United States under subsection (a) only if—

''(1) title to the majority of the stock in the corporation is vested in citizens of the United States free from any trust or fiduciary obligation in favor of a person not a citizen of the United States;

''(2) the majority of the voting power in the corporation is vested in citizens of the United States;

''(3) there is no contract or understanding by which the majority of the voting power in the corporation may be exercised, directly or indirectly, in behalf of a person not a citizen of the United States; and

''(4) there is no other means by which control of the corporation is given to or permitted to be exercised by a person not a citizen of the United States.

''(d) DETERMINATION OF 75 PERCENT CORPORATE INTEREST.—At least 75 percent of the interest in a corporation is owned by citizens of the United States under subsection (a) only if—

''(1) title to at least 75 percent of the stock in the corporation is vested in citizens of the United States free from any trust or fiduciary obligation in favor of a person not a citizen of the United States;

''(2) at least 75 percent of the voting power in the corporation is vested in citizens of the United States;

''(3) there is no contract or understanding by which more than 25 percent of the voting power in the corporation may be exercised, directly or indirectly, in behalf of a person not a citizen of the United States; and

''(4) there is no other means by which control of more than 25 percent of any interest in the corporation is given to or permitted to be exercised by a person not a citizen of the United States.

''§ 50502. Applicability to receivers, trustees, successors, and assigns

''This subtitle applies to receivers, trustees, successors, and assigns of any person to whom this subtitle applies.

''§ 50503. Oceanographic research vessels

''An oceanographic research vessel (as defined in section 2101 of this title) is deemed not to be engaged in trade or commerce.

''§ 50504. Sailing school vessels

''(a) DEFINITIONS.—In this section, the terms 'sailing school instructor', 'sailing school student', and 'sailing school vessel' have the meaning given those terms in section 2101 of this title.

''(b) NOT SEAMEN.—A sailing school student or sailing school instructor is deemed not to be a seaman under—

''(1) parts B, F, and G of subtitle II of this title; or

''(2) the maritime law doctrines of maintenance and cure or warranty of seaworthiness.

''(c) NOT MERCHANT VESSEL OR ENGAGED IN TRADE OR COMMERCE.—A sailing school vessel is deemed not to be—

''(1) a merchant vessel under section 11101(a)–(c) of this title; or

''(2) a vessel engaged in trade or commerce.

''(d) EVIDENCE OF FINANCIAL RESPONSIBILITY.—The owner or charterer of a sailing school vessel shall maintain evidence of financial responsibility to meet liability for death or injury to sailing school students and sailing school instructors on a voyage on the vessel. The amount of financial responsibility shall be at least $50,000 for each student and instructor. Financial responsibility under this subsection may be evidenced by insurance or other adequate financial resources.

''PART B—MERCHANT MARINE SERVICE

''CHAPTER 511—GENERAL

''§ 51101. Policy

''It is the policy of the United States that merchant marine vessels of the United States should be operated by highly trained and efficient citizens of the United States and that the United States Navy and the merchant marine of the United States should work closely together to promote the maximum integration of the total seapower forces of the United States.

''§ 51102. Definitions

''In this part:

''(1) ACADEMY.—The term 'Academy' means the United States Merchant Marine Academy located at Kings Point, New York, and maintained under chapter 513 of this title.

''(2) COST OF EDUCATION PROVIDED.—The term 'cost of education provided' means the financial costs incurred by the United States Government for providing training or financial assistance to students at the Academy and the State maritime academies, including direct financial assistance, room, board, classroom academics, and other training activities.

''(3) MERCHANT MARINE OFFICER.—The term 'merchant marine officer' means an individual issued a license by the Coast Guard authorizing service as—

''(A) a master, mate, or pilot on a documented vessel that—

''(i) is of at least 1,000 gross tons as measured under section 14502 of this title or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title; and

''(ii) operates on the oceans or the Great Lakes; or

''(B) an engineer officer on a documented vessel propelled by machinery of at least 4,000 horsepower.

''(4) STATE MARITIME ACADEMY.—The term 'State maritime academy' means—

''(A) a State maritime academy or college sponsored by a State and assisted under chapter 515 of this title; and

''(B) a regional maritime academy or college sponsored by a group of States and assisted under chapter 515 of this title.

''§ 51103. General authority of Secretary of Transportation

''(a) EDUCATION AND TRAINING.—The Secretary of Transportation may provide for the education and training of citizens of the United States for the safe and efficient operation of the merchant marine of the United States at all times, including operation as a naval and military auxiliary in time of war or national emergency.

''(b) SURPLUS PROPERTY FOR INSTRUCTIONAL PURPOSES.—

''(1) IN GENERAL.—The Secretary may cooperate with and assist the institutions named in paragraph (2) by making vessels, shipboard equipment, and other marine equipment, owned by the United States Government and determined to be excess or surplus, available to those institutions for instructional purposes, by gift, loan, sale, lease, or charter on terms the Secretary considers appropriate.

''(2) INSTITUTIONS.—The institutions referred to in paragraph (1) are—

''(A) the United States Merchant Marine Academy;

''(B) a State maritime academy; and

''(C) a nonprofit training institution jointly approved by the Secretary of Transportation and the Secretary of the department in which the Coast Guard is operating as offering training courses that meet Federal regulations for maritime training.

''(c) ASSISTANCE FROM OTHER AGENCIES.—

''(1) IN GENERAL.—The Secretary of Transportation may secure directly from an agency, on a reimbursable basis, information, facilities, and equipment necessary to carry out this part.

''(2) DETAILING PERSONNEL.—At the request of the Secretary, the head of an agency (including a military department) may detail, on a reimbursable basis, personnel from the agency to the Secretary to assist in carrying out this part.

''(d) ACADEMY PERSONNEL.—To carry out this part, the Secretary may—

''(1) employ an individual as a professor, lecturer, or instructor at the Academy, without regard to the provisions of title 5 governing appointments in the competitive service; and

''(2) pay the individual without regard to chapter 51 and subchapter III of chapter 53 of title 5.

''§ 51104. General authority of Secretary of the Navy

''The Secretary of the Navy, in cooperation with the Maritime Administrator and the head of each State maritime academy, shall ensure that—

''(1) the training of future merchant marine officers at the United States Merchant Marine Academy and at State maritime academies includes programs for naval science training in the operation of merchant vessels as a naval and military auxiliary; and

''(2) naval officer training programs for future officers, insofar as possible, are maintained at designated maritime academies consistent with Navy standards and needs.

''CHAPTER 513—UNITED STATES MERCHANT MARINE ACADEMY

''§ 51301. Maintenance of the Academy

''The Secretary of Transportation shall maintain the United States Merchant Marine Academy to provide instruction to individuals to prepare them for service in the merchant marine of the United States.

''§ 51302. Nomination and competitive appointment of cadets

''(a) REQUIREMENTS.—An individual may be nominated for a competitive appointment as a cadet at the United States Merchant Marine Academy only if the individual—

''(1) is a citizen or national of the United States; and

''(2) meets the minimum requirements that the Secretary of Transportation shall establish.

''(b) NOMINATORS.—Nominations for competitive appointments for the positions allocated under subsection (c) may be made as follows:

''(1) A Senator may nominate residents of the State represented by that Senator.

''(2) A Member of the House of Representatives may nominate residents of the State in which the congressional district represented by that Member is located.

''(3) A Delegate to the House of Representatives from the District of Columbia, the Virgin Islands, Guam, or American Samoa may nominate residents of the jurisdiction represented by that Delegate.

''(4) The Resident Commissioner to the United States from Puerto Rico may nominate residents of Puerto Rico.

''(5) The Governor of the Northern Mariana Islands may nominate residents of the Northern Mariana Islands.

''(6) The Panama Canal Commission may nominate—

''(A) residents, or sons or daughters of residents, of an area or installation in Panama and made available to the United States under the Panama Canal Treaty of 1977, the agreements relating to and implementing that Treaty, signed September 7, 1977, and the Agreement Between the United States of America and the Republic of Panama Concerning Air Traffic Control and Related Services, concluded January 8, 1979; and

''(B) sons or daughters of personnel of the United States Government and the Panama Canal Commission residing in Panama.

''(c) ALLOCATION OF POSITIONS.—Positions for competitive appointments shall be allocated each year as follows:

''(1) Positions shall be allocated for residents of each State nominated by the Members of Congress from that State in proportion to the representation in Congress from that State.

''(2) Four positions shall be allocated for residents of the District of Columbia nominated by the Delegate to the House of Representatives from the District of Columbia.

''(3) One position each shall be allocated for residents of the Virgin Islands, Guam, and American Samoa nominated by the Delegates to the House of Representatives from the Virgin Islands, Guam, and American Samoa, respectively.

''(4) One position shall be allocated for a resident of Puerto Rico nominated by the Resident Commissioner to the United States from Puerto Rico.

''(5) One position shall be allocated for a resident of the Northern Mariana Islands nominated by the Governor of the Northern Mariana Islands.

''(6) Two positions shall be allocated for individuals nominated by the Panama Canal Commission.

''(d) COMPETITIVE SYSTEM FOR APPOINTMENT.—

''(1) ESTABLISHMENT OF SYSTEM.—The Secretary shall establish a competitive system for selecting individuals nominated under subsection (b) to fill the positions allocated under subsection (c). The system must determine the relative merit of each individual based on competitive examinations, an assessment of the individual's academic background, and other effective indicators of motivation and probability of successful completion of training at the Academy.

''(2) APPOINTMENTS BY JURISDICTION.—The Secretary shall appoint individuals to fill the positions allocated under subsection (c) for each jurisdiction in the order of merit of the individuals nominated from that jurisdiction.

''(3) REMAINING UNFILLED POSITIONS.—If positions remain unfilled after the appointments are made under paragraph (2), the Secretary shall appoint individuals to fill the positions in the order of merit of the remaining individuals nominated from all jurisdictions.

''§ 51303. Non-competitive appointments

''The Secretary of Transportation may appoint each year without competition as cadets at the United States Merchant Marine Academy not more than 40 qualified individuals with qualities the Secretary considers to be of special value to the Academy. In making these appointments, the Secretary shall try to achieve a national demographic balance at the Academy.

''§ 51304. Additional appointments from particular areas

''(a) OTHER COUNTRIES IN WESTERN HEMISPHERE.—The President may appoint individuals from countries in the Western Hemisphere other than the United States to receive instruction at the United States Merchant Marine Academy. Not more than 12 individuals may receive instruction under this subsection at the same time, and not more than 2 individuals from the same country may receive instruction under this subsection at the same time.

''(b) OTHER COUNTRIES GENERALLY.—

''(1) APPOINTMENT.—The Secretary of Transportation, with the approval of the Secretary of State, may appoint individuals from countries other than the United States to receive instruction at the Academy. Not more than 30 individuals may receive instruction under this subsection at the same time.

''(2) REIMBURSEMENT.—The Secretary of Transportation shall ensure that the country from which an individual comes under this subsection will reimburse the Secretary for the cost (as determined by the Secretary) of the instruction and allowances received by the individual.

''(c) PANAMA.—

''(1) APPOINTMENT.—The Secretary of Transportation, with the approval of the Secretary of State, may appoint individuals from Panama to receive instruction at the Academy. Individuals appointed under this subsection are in addition to those appointed under any other provision of this chapter.

''(2) REIMBURSEMENT.—The Secretary of Transportation shall be reimbursed for the cost (as determined by the Secretary) of the instruction and allowances received by an individual appointed under this subsection.

''(d) ALLOWANCES AND REGULATIONS.—Individuals receiving instruction under this section are entitled to the same allowances and are subject to the same regulations on admission, attendance, discipline, resignation, discharge, dismissal, and graduation, as cadets at the Academy appointed from the United States.

''§ 51305. Prohibited basis for appointment

''Preference may not be given to an individual for appointment as a cadet at the United States Merchant Marine Academy because one or more members of the individual's immediate family are alumni of the Academy.

''§ 51306. Cadet commitment agreements

''(a) AGREEMENT REQUIREMENTS.—A citizen of the United States appointed as a cadet at the United States Merchant Marine Academy must sign, as a condition of the appointment, an agreement to—

''(1) complete the course of instruction at the Academy;

''(2) fulfill the requirements for a license as an officer in the merchant marine of the United States before graduation from the Academy;

''(3) maintain a valid license as an officer in the merchant marine of the United States for at least 6 years after graduation from the Academy, accompanied by the appropriate national and international endorsements and certification required by the Coast Guard for service aboard vessels on domestic and international voyages;

''(4) apply for, and accept if tendered, an appointment as a commissioned officer in the Naval Reserve (including the Merchant Marine Reserve, Naval Reserve), the Coast Guard Reserve, or any other reserve unit of an armed force of the United States, and, if tendered the appointment, to serve for at least 6 years after graduation from the Academy;

''(5) serve the foreign and domestic commerce and the national defense of the United States for at least 5 years after graduation from the Academy—

''(A) as a merchant marine officer on a documented vessel or a vessel owned and operated by the United States Government or by a State;

''(B) as an employee in a United States maritime-related industry, profession, or marine science (as determined by the Secretary of Transportation), if the Secretary determines that service under subparagraph (A) is not available to the individual;

''(C) as a commissioned officer on active duty in an armed force of the United States, as a commissioned officer in the National Oceanic and Atmospheric Administration, or in other maritime-related Federal employment which serves the national security interests of the United States, as determined by the Secretary; or

''(D) by a combination of the service alternatives referred to in subparagraphs (A)–(C); and

''(6) report to the Secretary on compliance with this subsection.

''(b) FAILURE TO COMPLETE COURSE OF INSTRUCTION.—

''(1) ACTIVE DUTY.—If the Secretary of Transportation determines that an individual who has attended the Academy for at least 2 years has failed to fulfill the part of the agreement described in subsection (a)(1), the individual may be ordered by the Secretary of Defense to serve on active duty in one of the armed forces of the United States for a period of not more than 2 years. In cases of hardship as determined by the Secretary of Transportation, the Secretary of Transportation may waive this paragraph in whole or in part.

''(2) RECOVERY OF COST.—If the Secretary of Defense is unable or unwilling to order an individual to serve on active duty under paragraph (1), or if the Secretary of Transportation determines that reimbursement of the cost of education provided would better serve the interests of the United States, the Secretary of Transportation may recover from the individual the cost of education provided by the Government.

''(c) FAILURE TO CARRY OUT OTHER REQUIREMENTS.—

''(1) ACTIVE DUTY.—If the Secretary of Transportation determines that an individual has failed to fulfill any part of the agreement described in subsection (a)(2)–(6), the individual may be ordered to serve on active duty for a period of at least 3 years but not more than the unexpired period (as determined by the Secretary) of the service required by subsection (a)(5). The Secretary of Transportation, in consultation with the Secretary of Defense, shall determine in which service the individual shall serve. In cases of hardship as determined by the Secretary of Transportation, the Secretary of Transportation may waive this paragraph in whole or in part.

''(2) RECOVERY OF COST.—If the Secretary of Defense is unable or unwilling to order an individual to serve on active duty under paragraph (1), or if the Secretary of Transportation determines that reimbursement of the cost of education provided would better serve the interests of the United States, the Secretary of Transportation may recover from the individual the cost of education provided. The Secretary may reduce the amount to be recovered to reflect partial performance of service obligations and other factors the Secretary determines merit a reduction.

''(d) ACTIONS TO RECOVER COST.—To aid in the recovery of the cost of education provided by the Government under a commitment agreement under this section, the Secretary of Transportation may—

''(1) request the Attorney General to bring a civil action against the individual; and

''(2) make use of the Federal debt collection procedures in chapter 176 of title 28 or other applicable administrative remedies.

''§ 51307. Places of training

''The Secretary of Transportation may provide for the training of cadets at the United States Merchant Marine Academy—

''(1) on vessels owned or subsidized by the United States Government;

''(2) on other documented vessels, with the permission of the owner; and

''(3) in shipyards or plants and with industrial or educational organizations.

''§ 51308. Uniforms, textbooks, and transportation allowances

''The Secretary of Transportation shall provide cadets at the United States Merchant Marine Academy—

''(1) all required uniforms and textbooks; and

''(2) allowances for transportation (including reimbursement of traveling expenses) when traveling under orders as a cadet.

''§ 51309. Academic degree

''(a) BACHELOR'S DEGREE.—

''(1) IN GENERAL.—The Superintendent of the United States Merchant Marine Academy may confer the degree of bachelor of science on an individual who—

''(A) has met the conditions prescribed by the Secretary of Transportation; and

''(B) if a citizen of the United States, has passed the examination for a merchant marine officer's license.

''(2) EFFECT OF PHYSICAL DISQUALIFICATION.—An individual not allowed to take the examination for a merchant marine officer's license only because of physical disqualification may not be denied a degree for not taking the examination.

''(b) MASTER'S DEGREE.—The Superintendent of the Academy may confer a master's degree on an individual who has met the conditions prescribed by the Secretary. A master's degree program may be funded through non-appropriated funds. To maintain the appropriate academic standards, the program shall be accredited by the appropriate accreditation body. The Secretary may prescribe regulations necessary to administer such a program.

''(c) GRADUATION NOT ENTITLEMENT TO HOLD LICENSE.—Graduation from the Academy does not entitle an individual to hold a license authorizing service on a merchant vessel.

''§ 51310. Deferment of service obligation under cadet commitment agreements

''The Secretary of Transportation may defer the service commitment of an individual under section 51306(a)(5) of this title (as specified in the cadet commitment agreement) for not more

than 2 years if the individual is engaged in a graduate course of study approved by the Secretary. However, deferment of service as a commissioned officer under section 51306(a)(5) must be approved by the Secretary of the military department that has jurisdiction over the service or by the Secretary of Commerce for service with the National Oceanic and Atmospheric Administration.

"§ 51311. Midshipman status in the Naval Reserve

''(a) APPLICATION REQUIREMENT.—Before being appointed as a cadet at the United States Merchant Marine Academy, a citizen of the United States must agree to apply for midshipman status in the Naval Reserve (including the Merchant Marine Reserve, Naval Reserve).

''(b) APPOINTMENT.—

''(1) IN GENERAL.—A citizen of the United States appointed as a cadet at the Academy shall be appointed by the Secretary of the Navy as a midshipman in the Naval Reserve (including the Merchant Marine Reserve, Naval Reserve).

''(2) RIGHTS AND PRIVILEGES.—The Secretary of the Navy shall provide for cadets of the Academy who are midshipmen in the United States Naval Reserve to be—

''(A) issued an identification card (referred to as a 'military ID card'); and

''(B) entitled to all rights and privileges in accordance with the same eligibility criteria as apply to other members of the Ready Reserve of the reserve components of the armed forces.

''(3) COORDINATION.—The Secretary of the Navy shall carry out paragraphs (1) and (2) in coordination with the Secretary of Transportation.

"§ 51312. Board of Visitors

''(a) IN GENERAL.—A Board of Visitors to the United States Merchant Marine Academy shall be established, for a term of 2 years commencing at the beginning of each Congress, to visit the Academy annually on a date determined by the Secretary of Transportation and to make recommendations on the operation of the Academy.

''(b) APPOINTMENT.—

''(1) IN GENERAL.—The Board shall be composed of—

''(A) 2 Senators appointed by the chairman of the Committee on Commerce, Science, and Transportation of the Senate;

''(B) 3 Members of the House of Representatives appointed by the chairman of the Committee on Armed Services of the House of Representatives;

''(C) 1 Senator appointed by the Vice President;

''(D) 2 Members of the House of Representatives appointed by the Speaker of the House of Representatives; and

''(E) the chairmen of the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Armed Services of the House of Representatives, as ex officio members.

''(2) SUBSTITUTE APPOINTMENT.—If an appointed member of the Board is unable to visit the Academy as provided in subsection (a), another individual may be appointed as a substitute in the manner provided in paragraph (1).

''(c) STAFF.—The chairmen of the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Armed Services of the House of Representatives may designate staff members of their committees to serve without reimbursement as staff for the Board.

''(d) TRAVEL EXPENSES.—When serving away from home or regular place of business, a member of the Board or a staff member designated under subsection (c) shall be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5.

"§ 51313. Advisory Board

''(a) IN GENERAL.—An Advisory Board to the United States Merchant Marine Academy shall be established to visit the Academy at least once during each academic year, for the purpose of examining the course of instruction and management of the Academy and advising the Maritime Administrator and the Superintendent of the Academy.

''(b) APPOINTMENT AND TERMS.—The Board shall be composed of not more than 7 individuals appointed by the Secretary of Transportation. The individuals must be distinguished in education and other fields related to the Academy. Members of the Board shall be appointed for terms of not more than 3 years and may be reappointed. The Secretary shall designate one of the members as chairman.

''(c) TRAVEL EXPENSES.—When serving away from home or regular place of business, a member of the Board shall be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5.

''(d) RELATIONSHIP TO OTHER LAW.—The Federal Advisory Committee Act (5 App. U.S.C.) does not apply to the Board.

"§ 51314. Limitation on charges and fees for attendance

''(a) PROHIBITION.—Except as provided in subsection (b), no charge or fee for tuition, room, or board for attendance at the United States Merchant Marine Academy may be imposed unless the charge or fee is specifically authorized by a law enacted after October 5, 1994.

''(b) EXCEPTION.—The prohibition specified in subsection (a) does not apply with respect to any item or service provided to cadets for which a charge or fee is imposed as of October 5, 1994. The Secretary of Transportation shall notify Congress of any change made by the Academy in the amount of a charge or fee authorized under this subsection.

"CHAPTER 515—STATE MARITIME ACADEMY SUPPORT PROGRAM

"§ 51501. General support program

''(a) ASSISTANCE TO STATE MARITIME ACADEMIES.—The Secretary of Transportation shall cooperate with and assist State maritime academies in providing instruction to individuals to prepare them for service in the merchant marine of the United States.

''(b) COURSE DEVELOPMENT.—The Secretary shall provide to each State maritime academy guidance and assistance in developing courses on the operation and maintenance of new vessels, on equipment, and on innovations being introduced to the merchant marine of the United States.

"§ 51502. Detailing of personnel

''At the request of the Governor of a State, the President may detail, without reimbursement, personnel of the Navy, the Coast Guard, and the Maritime Service to a State maritime academy to serve as a superintendent, professor, lecturer, or instructor at the academy.

"§ 51503. Regional maritime academies

''The Governors of the States cooperating to sponsor a regional maritime academy shall designate in writing one of those States to conduct the affairs of that academy. A regional maritime academy is eligible for assistance from the United States Government on the same basis as a State maritime academy sponsored by a single State.

"§ 51504. Use of training vessels

''(a) APPLICATIONS TO USE VESSELS.—The Governor of a State sponsoring a State maritime academy (or the Governor of the State designated to conduct the affairs of a regional maritime academy) may apply in writing to the Secretary of Transportation to obtain the use of a training vessel for the academy. A vessel provided under this section remains the property of the United States Government.

''(b) GENERAL AUTHORITY.—Subject to subsection (c), the Secretary may provide to a State maritime academy, for use as a training vessel, a suitable vessel under the control of the Secretary or made available to the Secretary under subsection (e). If a suitable vessel is not available, the Secretary may build and provide a suitable vessel.

''(c) APPROVAL REQUIREMENTS.—The Secretary may provide a vessel under this section only if—

''(1) an application has been made under subsection (a);

''(2) the State maritime academy satisfies section 51506(a) of this title; and

''(3) a suitable port will be available for the safe mooring of the vessel while the academy is using the vessel.

''(d) PREPARATION AND MAINTENANCE.—A vessel provided under this section shall be—

''(1) repaired, reconditioned, and equipped (with all apparel, charts, books, and instruments of navigation) as necessary for use as a training vessel; and

''(2) maintained in good repair by the Secretary.

''(e) AGENCY VESSELS.—An agency may provide to the Secretary, for use by a State maritime academy, a vessel (including equipment) that—

''(1) is suitable for training purposes; and

''(2) can be provided without detriment to the service to which the vessel is assigned.

''(f) FUEL COSTS.—The Secretary may pay to a State maritime academy the costs of fuel used by a vessel provided under this section while used for training.

''(g) REMOVING VESSELS FROM SERVICE AND VESSEL SHARING.—The Secretary may not—

''(1) take a vessel, currently in use as a training vessel under this section, out of service to implement an alternative program (including vessel sharing) unless the vessel is incapable of being maintained in good repair as required by subsection (d); or

''(2) implement a program requiring a State maritime academy to share its training vessel with another State maritime academy, except with the express consent of Congress.

"§ 51505. Annual payments for maintenance and support

''(a) PAYMENT AGREEMENTS.—The Secretary of Transportation may make an agreement (effective for not more than 4 years) with the following academies to provide annual payments to those academies for their maintenance and support:

''(1) One State maritime academy in each State that satisfies section 51506(a) of this title.

''(2) Each regional maritime academy that satisfies section 51506(a) of this title.

''(b) PAYMENTS.—

''(1) IN GENERAL.—Subject to paragraph (2), an annual payment to an academy under subsection (a) shall be at least equal to the amount given to the academy for its maintenance and support by the State in which it is located, or, for a regional maritime academy, by all States cooperating to sponsor the academy.

''(2) MAXIMUM.—The amount under paragraph (1) may not be more than $25,000. However, if the academy satisfies section 51506(b) of this title, the amount shall be—

''(A) $100,000 for a State maritime academy; and

''(B) $200,000 for a regional maritime academy.

"§ 51506. Conditions to receiving payments and use of vessels

''(a) GENERAL CONDITIONS.—As conditions of receiving an annual payment or the use of a vessel under this chapter, a State maritime academy must—

''(1) provide courses of instruction on navigation, marine engineering (including steam and diesel propulsion), the operation and maintenance of new vessels and equipment, and innovations being introduced to the merchant marine of the United States;

''(2) agree in writing to conform to the standards for courses, training facilities, admissions, and instruction that the Secretary of Transportation may establish after consultation with the superintendents of State maritime academies; and

''(3) agree in writing to require, as a condition for graduation, that each individual who is a citizen of the United States and who is attending the academy in a merchant marine officer preparation program pass the examination required for the issuance of a license under section 7101 of this title.

''(b) ADDITIONAL CONDITION TO PAYMENTS OF MORE THAN $25,000.—As a condition of receiving an annual payment of more than $25,000 under section 51505 of this title, a State maritime academy also must agree to admit each year a number of citizens of the United States who meet its admission requirements and reside in a State not supporting that academy. The Secretary shall determine the number of individuals to be admitted by each academy under this subsection. The number may not be more than one-third of the total number of individuals attending the academy at any time.

"§ 51507. Places of training

''The Secretary of Transportation may provide for the training of students attending a State maritime academy—

''(1) on vessels owned or subsidized by the United States Government;

''(2) on other documented vessels, with the permission of the owner; and

''(3) in shipyards or plants and with industrial or educational organizations.

"§ 51508. Allowances for students

''Under regulations prescribed by the Secretary of Transportation, a student at a State maritime academy shall receive from the Secretary allowances for transportation (including reimbursement of traveling expenses) when traveling under orders to receive training under section 51507 of this title.

"§ 51509. Student incentive payment agreements

''(a) GENERAL AUTHORITY.—If a State maritime academy has an agreement with the Secretary of Transportation under section 51505 of this title, the Secretary may make an agreement with a student at the academy who is a citizen of the United States to make student incentive payments to the individual. An agreement with a student may not be effective for more than 4 academic years. The Secretary shall allocate payments under this section among the various State maritime academies in an equitable manner.

''(b) PAYMENTS.—Payments under an agreement under this section shall be equal to $4,000 each academic year and be paid, as prescribed by the Secretary, while the individual is attending the academy. The payments shall be used for uniforms, books, and subsistence.

''(c) MIDSHIPMAN AND ENLISTED RESERVE STATUS.—An agreement under this section shall require the student to accept midshipman and enlisted reserve status in the Naval Reserve (including the Merchant Marine Reserve, Naval Reserve) before receiving any payments under the agreement.

''(d) AGREEMENT REQUIREMENTS.—An agreement under this section shall require the student to—

''(1) complete the course of instruction at the academy the individual is attending;

''(2) take the examination for a license as an officer in the merchant marine of the United States before graduation from the academy and fulfill the requirements for such a license within 3 months after graduation from the academy;

''(3) maintain a valid license as an officer in the merchant marine of the United States for at least 6 years after graduation from the academy, accompanied by the appropriate national and international endorsements and certification required by the Coast Guard for service aboard vessels on domestic and international voyages;

''(4) accept, if tendered, an appointment as a commissioned officer in the Naval Reserve (including the Merchant Marine Reserve, Naval Reserve), the Coast Guard Reserve, or any other reserve unit of an armed force of the United States, and, if tendered the appointment, to serve for at least 6 years after graduation from the academy;

''(5) serve the foreign and domestic commerce and the national defense of the United States for at least 3 years after graduation from the academy—

''(A) as a merchant marine officer on a documented vessel or a vessel owned and operated by the United States Government or by a State;

''(B) as an employee in a United States maritime-related industry, profession, or marine science (as determined by the Secretary), if the Secretary determines that service under subparagraph (A) is not available to the individual;

''(C) as a commissioned officer on active duty in an armed force of the United States, as a commissioned officer in the National Oceanic and Atmospheric Administration, or in other maritime-related Federal employment which serves the national security interests of the United States, as determined by the Secretary; or

''(D) by a combination of the service alternatives referred to in subparagraphs (A)–(C); and

''(6) report to the Secretary on compliance with this subsection.

''(e) FAILURE TO COMPLETE COURSE OF INSTRUCTION.—

''(1) ACTIVE DUTY.—If the Secretary of Transportation determines that an individual who has accepted the payments described in subsection (b) for a minimum of 2 academic years has failed to fulfill the part of the agreement described in subsection (d)(1), the individual may be ordered by the Secretary of Defense to serve on active duty in the armed forces of the United States for a period of not more than 2 years. In cases of hardship as determined by the Secretary of Transportation, the Secretary of Transportation may waive this paragraph in whole or in part.

''(2) RECOVERY OF COST.—If the Secretary of Defense is unable or unwilling to order an individual to serve on active duty under paragraph (1), or if the Secretary of Transportation determines that reimbursement of the cost of education provided would better serve the interests of the United States, the Secretary of Transportation may recover from the individual the amount of student incentive payments, plus interest and attorney fees. The Secretary may reduce the amount to be recovered to reflect partial performance of service obligations and other factors the Secretary determines merit a reduction.

''(f) FAILURE TO CARRY OUT OTHER REQUIREMENTS.—

''(1) ACTIVE DUTY.—If the Secretary of Transportation determines that an individual has failed to fulfill any part of the agreement described in subsection (d)(2)–(6), the individual may be ordered to serve on active duty for a period of at least 2 years but not more than the unexpired period (as determined by the Secretary) of the service required by subsection (d)(5). The Secretary of Transportation, in consultation with the Secretary of Defense, shall determine in which service the individual shall serve. In cases of hardship as determined by the Secretary of Transportation, the Secretary of Transportation may waive this paragraph in whole or in part.

''(2) RECOVERY OF COST.—If the Secretary of Defense is unable or unwilling to order an individual to serve on active duty under paragraph (1), or if the Secretary of Transportation determines that reimbursement of the cost of education provided would better serve the interests of the United States, the Secretary of Transportation may recover from the individual the amount of student incentive payments, plus interest and attorney fees. The Secretary may reduce the amount to be recovered to reflect partial performance of service obligations and other factors the Secretary determines merit a reduction.

''(g) ACTIONS TO RECOVER COST.—To aid in the recovery of the cost of education provided by the Government under a commitment agreement under this section, the Secretary of Transportation may—

''(1) request the Attorney General to bring a civil action against the individual; and

''(2) make use of the Federal debt collection procedures in chapter 176 of title 28 or other applicable administrative remedies.

"§ 51510. Deferment of service obligation under student incentive payment agreements

''The Secretary of Transportation may defer the service commitment of an individual under section 51509(d)(5) of this title (as specified in the agreement under section 51509) for not more than 2 years if the individual is engaged in a graduate course of study approved by the Secretary. However, deferment of service as a commissioned officer on active duty must be approved by the Secretary of the affected military department (or the Secretary of Commerce, for service with the National Oceanic and Atmospheric Administration).

"§ 51511. Midshipman status in the Naval Reserve

''A citizen of the United States attending a State maritime academy may be appointed by the Secretary of the Navy as a midshipman in the Naval Reserve (including the Merchant Marine Reserve, Naval Reserve).

"CHAPTER 517—OTHER SUPPORT FOR MERCHANT MARINE TRAINING

"§ 51701. United States Maritime Service

''(a) GENERAL AUTHORITY.—The Secretary of Transportation may establish and maintain a voluntary organization, to be known as the United States Maritime Service, for the training of citizens of the United States to serve on merchant vessels of the United States.

''(b) SPECIFIC AUTHORITY.—The Secretary may—

''(1) determine the number of individuals to be enrolled for training and reserve purposes in the Service;

''(2) fix the rates of pay and allowances of the individuals without regard to chapter 51 or subchapter III of chapter 53 of title 5;

''(3) prescribe the course of study and the periods of training for the Service; and

''(4) prescribe the uniform of the Service and the rules on providing and wearing the uniform.

''(c) RANKS, GRADES, AND RATINGS.—The ranks, grades, and ratings for personnel of the Service shall be the same as those prescribed for personnel of the Coast Guard.

''(d) MEDALS AND AWARDS.—The Secretary may establish and maintain a medals and awards program to recognize distinguished service, superior achievement, professional performance, and other commendable achievement by personnel of the Service.

''§ 51702. Civilian nautical schools

''(a) DEFINITION.—In this section, the term 'civilian nautical school' means a school operated in the United States (except the United States Merchant Marine Academy, a State maritime academy, or another school operated by the United States Government) that offers instruction to individuals quartered on a vessel primarily to train them for service in the merchant marine.

''(b) INSPECTION.—Each civilian nautical school is subject to inspection by the Secretary of Transportation.

''(c) RATING AND CERTIFICATION.—The Secretary may, under regulations the Secretary may prescribe, provide for the rating and certification of civilian nautical schools as to the adequacy of their course of instruction, the competence of their instructors, and the suitability of the equipment used in their course of instruction.

''§ 51703. Additional training

''(a) GENERAL AUTHORITY.—The Secretary of Transportation may provide additional training on maritime subjects to supplement other training opportunities and make the training available to the personnel of the merchant marine of the United States and individuals preparing for a career in the merchant marine of the United States.

''(b) EQUIPMENT, SUPPLIES, AND CONTRACTS.—The Secretary may—

''(1) prepare or buy equipment or supplies required for the additional training; and

''(2) without regard to section 3709 of the Revised Statutes (41 U.S.C. 5), make contracts for services the Secretary considers necessary to prepare the equipment and supplies and to supervise and administer the additional training.

''§ 51704. Training for maritime oil pollution prevention, response, and clean-up

''(a) ASSISTANCE IN ESTABLISHING PROGRAM.—The Secretary of Transportation shall assist maritime training institutions approved by the Secretary in establishing a training program for maritime oil pollution prevention, response, and clean-up.

''(b) PROVIDING TRAINING VESSELS.—Subject to subsection (c), the Secretary may provide, with title free of all liens, to maritime training institutions that have a program established under subsection (a), offshore supply vessels and tug/supply vessels that were built in the United States and are in the possession of the Maritime Administration because of a default on a loan guaranteed under chapter 537 of this title.

''(c) REQUIREMENTS.—In addition to any other requirements the Secretary considers appropriate, the following requirements apply to vessels provided under this section:

''(1) The vessel shall be offered to the institution at a location selected by the Secretary.

''(2) The institution shall use the vessel to train students and appropriate maritime industry personnel in oil spill prevention, response, clean-up, and related skills.

''(3) The institution shall make the vessel and qualified students available to appropriate Federal, State, and local oil spill response authorities when there is a maritime oil spill.

''(4) The institution may not sell, trade, charter, donate, scrap, or in any way alter or dispose of the vessel without prior approval of the Secretary.

''(5) The institution may not use the vessel in competition with a privately-owned vessel documented under chapter 121 of this title or titled under the law of a State, unless necessary to carry out this section.

''(6) When the institution can no longer use the vessel for its training program, the institution shall return the vessel to the Secretary. The Secretary shall take possession at the institution and thereafter may provide the vessel to another institution under this section or dispose of the vessel.

''CHAPTER 519—MERCHANT MARINE AWARDS

''§ 51901. Awards for individual acts or service

''(a) GENERAL AUTHORITY.—The Secretary of Transportation may award decorations and medals of appropriate design (including ribbons, ribbon bars, emblems, rosettes, miniature facsimiles, plaques, citations, or other suitable devices or insignia) for individual acts or service in the merchant marine of the United States. The design may be similar to the design of a decoration or medal authorized for members of the armed forces for similar acts or service.

''(b) SPECIFIC AUTHORITY.—The Secretary may award—

''(1) a Merchant Marine Distinguished Service Medal to an individual for outstanding acts, conduct, or valor beyond the line of duty;

''(2) a Merchant Marine Meritorious Service Medal to an individual for meritorious acts, conduct, or valor in the line of duty, but not of the outstanding character that would warrant the award of the Merchant Marine Distinguished Service Medal;

''(3) a decoration or medal to an individual for service during a war, national emergency proclaimed by the President or Congress, or operations by the armed forces outside the continental United States under conditions of danger to life and property; and

''(4) a decoration or medal to an individual for other acts or service of conspicuous gallantry, intrepidity, and extraordinary heroism under conditions of danger to life and property that would warrant a similar decoration or medal for a member of the armed forces.

''§ 51902. Gallant Ship Award

''(a) AWARDS TO VESSELS.—The Secretary of Transportation may award a Gallant Ship Award and a citation to a vessel (including a foreign vessel) participating in outstanding or gallant action in a marine disaster or other emergency to save life or property at sea. The Secretary may award a plaque to the vessel, and a replica of the plaque may be preserved as a permanent historical record.

''(b) AWARDS TO CREWS.—The Secretary of Transportation may award an appropriate citation ribbon bar to the master and each individual serving, at the time of the action, on a vessel issued an award under subsection (a).

''(c) CONSULTATION.—The Secretary of Transportation shall consult with the Secretary of State before awarding an award or citation to a foreign vessel or its crew under this section.

''§ 51903. Multiple awards

''An individual may not be awarded more than one of any type of decoration or medal under this chapter. For each succeeding act or service justifying the same decoration or medal, a suitable device may be awarded to be worn with the decoration or medal.

''§ 51904. Presentation to representatives

''If an individual to be issued an award under this chapter is unable to accept the award personally, the Secretary of Transportation may present the award to an appropriate representative.

''§ 51905. Flags and grave markers

''Except as authorized under another law, the Secretary of Transportation may issue, at no cost, a flag of the United States and a grave marker to the family or personal representative of a deceased individual who served in the merchant marine of the United States in support of the armed forces of the United States or its allies during a war or national emergency.

''§ 51906. Special certificates for civilian service to armed forces

''(a) GENERAL AUTHORITY.—The Maritime Administrator may issue a special certificate to an individual, or the personal representative of an individual, in recognition of service of that individual in the merchant marine of the United States, if the service has been determined to be active duty under section 401 of the GI Bill Improvement Act of 1977 (Public Law 95–202; 38 U.S.C. 106 note).

''(b) RELATIONSHIP TO OTHER LAWS.—Issuance of a certificate under subsection (a) does not entitle an individual to any rights, privileges, or benefits under a law of the United States.

''§ 51907. Manufacture and sale of awards and replacements

''The Secretary of Transportation may—

''(1) authorize private persons to manufacture decorations and medals authorized under this chapter or a prior law; and

''(2) provide at cost, or authorize private persons to sell at reasonable prices, replacements for those decorations and medals.

''§ 51908. Prohibition against unauthorized manufacture, sale, possession, or display of awards

''(a) PROHIBITION.—Except as authorized under this chapter, a person may not manufacture, sell, possess, or display a decoration or medal provided for in this chapter.

''(b) CIVIL PENALTY.—A person violating this section is liable to the United States Government for a civil penalty of not more than $2,000.

''CHAPTER 521—MISCELLANEOUS

''§ 52101. Reemployment rights for certain merchant seamen

''(a) IN GENERAL.—An individual who is certified by the Secretary of Transportation under subsection (c) shall be entitled to reemployment rights and other benefits substantially equivalent to the rights and benefits provided for by chapter 43 of title 38 for any member of a reserve component of the armed forces of the United States who is ordered to active duty.

''(b) TIME FOR APPLICATION.—An individual may submit an application for certification under subsection (c) to the Secretary not later than 45 days after the date the individual completes a period of employment described in subsection (c)(1)(A) with respect to which the application is submitted.

''(c) CERTIFICATION DETERMINATION.—Not later than 20 days after the date the Secretary receives from an individual an application for certification under this subsection, the Secretary shall—

''(1) determine whether the individual—

''(A) was employed in the activation or operation of a vessel—

''(i) in the National Defense Reserve Fleet maintained under section 11 of the Merchant Ship Sales Act of 1946 (50 App. U.S.C. 1744) in a period in which the vessel was in use or being activated for use under subsection (b) of that section;

''(ii) requisitioned or purchased under chapter 563 of this title; or

''(iii) owned, chartered, or controlled by the United States Government and used by the Government for a war, armed conflict, national emergency, or maritime mobilization need (including for training purposes or testing for readiness and suitability for mission performance); and

''(B) during the period of that employment, possessed a valid license, certificate of registry, or merchant mariner's document issued under chapter 71 or 73 of this title; and

''(2) if the Secretary makes affirmative determinations under subparagraphs (A) and (B) of paragraph (1), certify that individual under this subsection.

''(d) EQUIVALENCE TO MILITARY SELECTIVE SERVICE ACT CERTIFICATE.—For purposes of reemployment rights and benefits provided by this section, a certification under subsection (c) shall be considered to be the equivalent of a certificate described in section 9(a) of the Military Selective Service Act (50 App. U.S.C. 459(a)).

''PART C—FINANCIAL ASSISTANCE PROGRAMS''.

(c) CHAPTERS FOLLOWING CHAPTER 531.—Subtitle V of title 46, United States Code, is amended by adding at the end the following:

''CHAPTER 533—CONSTRUCTION RESERVE FUNDS

''§ 53301. Definitions

''(a) IN GENERAL.—In this chapter:

''(1) CONSTRUCTION CONTRACT.—The term 'construction contract' includes, for a taxpayer constructing a new vessel in a shipyard owned by that taxpayer, an agreement between the taxpayer and the Secretary of Transportation for that construction containing provisions the Secretary considers advisable to carry out this chapter.

''(2) NEW VESSEL.—The term 'new vessel' means—

''(A) a vessel—

''(i) constructed in the United States after December 31, 1939, constructed with a construction-differential subsidy under title V of the Merchant Marine Act, 1936, or constructed with financing or a financing guarantee under chapter 537 or 575 of this title;

''(ii) documented or agreed with the Secretary to be documented under the laws of the United States; and

''(iii)(I) of a type, size, and speed that the Secretary determines is suitable for use on the high seas or Great Lakes in carrying out this subtitle, but not less than 2,000 gross tons or less than 12 knots speed unless the Secretary certifies in each case that a vessel of lesser tonnage or speed is desirable for use by the United States Government in case of war or national emergency; or

''(II) constructed to replace a vessel bought or requisitioned by the Government; and

''(B) a vessel reconstructed or reconditioned for use only on the Great Lakes, including the Saint Lawrence River and Gulf, if the Secretary finds that the reconstruction or reconditioning will promote the objectives of this subtitle.

''(b) ADDITIONAL TAX-RELATED TERMS.—Other terms used in this chapter have the same meaning as in chapter 1 of the Internal Revenue Code of 1986 (26 U.S.C. ch. 1).

''§ 53302. Authority for construction reserve funds

''(a) GENERAL AUTHORITY.—An eligible person under section 53303 of this title may establish a construction reserve fund for the construction, reconstruction, reconditioning, or acquisition of a new vessel or for other purposes authorized by this chapter.

''(b) APPLICATION OF CERTAIN LAWS AND REGULATIONS.—The fund shall be established, maintained, expended, and used as provided by this chapter and regulations prescribed jointly by the Secretary of Transportation and the Secretary of the Treasury.

''§ 53303. Persons eligible to establish funds

''A construction reserve fund may be established by a citizen of the United States that—

''(1) is operating a vessel in the foreign or domestic commerce of the United States or in the fisheries;

''(2) owns, in whole or in part, a vessel being operated in the foreign or domestic commerce of the United States or in the fisheries;

''(3) was operating a vessel in the foreign or domestic commerce of the United States or in the fisheries when it was bought or requisitioned by the United States Government;

''(4) owned, in whole or in part, a vessel being operated in the foreign or domestic commerce of the United States or in the fisheries when it was bought or requisitioned by the Government; or

''(5) had acquired or was having constructed a vessel to operate in the foreign or domestic commerce of the United States or in the fisheries when it was bought or requisitioned by the Government.

''§ 53304. Vessel ownership

''In this chapter, a vessel is deemed to be constructed or acquired by a taxpayer if constructed or acquired by a corporation when the taxpayer owns at least 95 percent of each class of stock of the corporation.

''§ 53305. Eligible fund deposits

''A construction reserve fund may include deposits of—

''(1) the proceeds from the sale of a vessel;

''(2) indemnities for the loss of a vessel;

''(3) earnings from the operation of a documented vessel and from services incident to the operation; and

''(4) interest or other amounts accrued on deposits in the fund.

''§ 53306. Recognition of gain for tax purposes

''(a) DEFINITIONS.—In this section, the terms 'net proceeds' and 'net indemnity' mean the sum of—

''(1) the adjusted basis of the vessel; and

''(2) the amount of gain the taxpayer would recognize without regard to this section.

''(b) RECOGNITION OF GAIN.—In computing net income under the income or excess profits tax laws of the United States, a taxpayer does not recognize a gain on the sale or the actual or constructive total loss of a vessel if the taxpayer—

''(1) deposits an amount equal to the net proceeds of the sale or the net indemnity for the loss in a construction reserve fund within 60 days after receiving the payment of proceeds or indemnity; and

''(2) elects under this section not to recognize the gain.

''(c) WHEN ELECTION MUST BE MADE.—

''(1) IN GENERAL.—Except as provided in paragraph (2), the taxpayer must make the election referred to in subsection (b) in the taxpayer's income tax return for the taxable year in which the gain was realized.

''(2) RECEIPT AFTER TAXABLE YEAR.—If the vessel is bought or requisitioned by the United States Government, or is lost, and the taxpayer receives payment for the vessel or indemnity for the loss from the Government after the end of the taxable year in which it was bought, requisitioned, or lost, the taxpayer must make the election referred to in subsection (b) within 60 days after receiving the payment or indemnity, on a form prescribed by the Secretary of the Treasury.

''(d) EFFECT OF STATUTE OF LIMITATION.—If the taxpayer makes an election under subsection (c)(2), and computation or recomputation under this section is otherwise allowable but is prevented by a statute of limitation on the date the election is made or within 6 months thereafter, the computation or recomputation nevertheless shall be made notwithstanding the statute if the taxpayer files a claim for the computation or recomputation within 6 months after the date of making the election.

''§ 53307. Basis for determining gain or loss and for depreciating new vessels

''Under the income or excess profits tax laws of the United States, the basis for determining a gain or loss and for depreciation of a new vessel constructed, reconstructed, reconditioned, or acquired by the taxpayer, or for which purchase-money indebtedness is liquidated as provided in section 53310 of this title, with amounts from a construction reserve fund, shall be reduced by that part of the deposits in the fund expended in the construction, reconstruction, reconditioning, acquisition, or liquidation of purchase-money indebtedness of the new vessel that represents a gain not recognized for tax purposes under section 53306 of this title.

''§ 53308. Order and proportions of deposits and withdrawals

''In this chapter—

''(1) if the net proceeds of a sale or the net indemnity for a loss is deposited in more than one deposit, the amount consisting of the gain shall be deemed to be deposited first;

''(2) amounts expended, obligated, or otherwise withdrawn shall be applied against the amounts deposited in the fund in the order of deposit; and

''(3) if a deposit consists in part of a gain not recognized under section 53306 of this title, any expenditure, obligation, or withdrawal applied against that deposit shall be deemed to be a gain in the proportion that the part of the deposit consisting of a gain bears to the total amount of the deposit.

''§ 53309. Accumulation of deposits

''For any taxable year, amounts on deposit in a construction reserve fund on the last day of the taxable year, for which the requirements of section 53310 of this title have been satisfied (to the extent they apply on the last day of the taxable year), are deemed to have been retained for the reasonable needs of the business within the meaning of section 537(a) of the Internal Revenue Code of 1986 (26 U.S.C. 537(a)).

''§ 53310. Obligation of deposits and period for construction of certain vessels

''(a) APPLICATION OF SECTIONS 53306 AND 53309.—Sections 53306 and 53309 of this title apply to a deposit in a construction reserve fund only if, within 3 years after the date of the deposit (and any extension under subsection (c))—

''(1)(A) a contract is made for the construction or acquisition of a new vessel or, with the approval of the Secretary of Transportation, for a part interest in a new vessel or for the reconstruction or reconditioning of a new vessel;

''(B) the deposit is expended or obligated for expenditure under that contract;

''(C) at least 12.5 percent of the construction or contract price of the vessel is paid or irrevocably committed for payment; and

''(D) the plans and specifications for the vessel are approved by the Secretary to the extent the Secretary considers necessary; or

''(2) the deposit is expended or obligated for expenditure for the liquidation of existing or subsequently incurred purchase-money indebtedness to a person not a parent company of, or a company affiliated or associated with, the mortgagor on a new vessel.

''(b) ADDITIONAL REQUIREMENTS FOR CERTAIN VESSELS.—In addition to the requirements of subsection (a)(1), for a vessel not constructed under a construction-differential subsidy contract or not bought from the Secretary of Transportation—

''(1) at least 5 percent of the construction (or, if the contract covers more than one vessel, at

least 5 percent of the construction of the first vessel) must be completed within 6 months after the date of the construction contract (or within the period of an extension under subsection (c)), as estimated by the Secretary and certified by the Secretary to the Secretary of the Treasury; and

''(2) construction under the contract must be completed with reasonable dispatch thereafter.

''(c) EXTENSIONS.—The Secretary of Transportation may grant extensions of the period within which the deposits must be expended or obligated or within which the construction must have progressed to the extent of 5 percent completion under this section. However, the extensions may not be for a total of more than 2 years for the expenditure or obligation of deposits or one year for the progress of construction.

''§ 53311. Taxation of deposits on failure of conditions

''A deposited gain, if otherwise taxable income under the law applicable to the taxable year in which the gain was realized, shall be included in gross income for that taxable year, except for purposes of the declared value excess profits tax and the capital stock tax, if—

''(1) the deposited gain is not expended or obligated within the appropriate period under section 53310 of this title;

''(2) the deposited gain is withdrawn before the end of that period;

''(3) the construction related to that deposited gain has not progressed to the extent of 5 percent of completion within the appropriate period under section 53310 of this title; or

''(4) the Secretary of Transportation finds and certifies to the Secretary of the Treasury that, for causes within the control of the taxpayer, the entire construction related to that deposited gain is not completed with reasonable dispatch.

''§ 53312. Assessment and collection of deficiency tax

''Notwithstanding any other provision of law, a deficiency in tax for a taxable year resulting from the inclusion of an amount in gross income as provided by section 53311 of this title, and the amount to be treated as a deficiency under section 53311 instead of as an adjustment for the declared value excess profits tax, may be assessed or a civil action may be brought to collect the deficiency without assessment, at any time. Interest on a deficiency or amount to be treated as a deficiency does not begin until the date the deposited gain or part of the deposited gain in question is required to be included in gross income under section 51111.

''CHAPTER 535—CAPITAL CONSTRUCTION FUNDS

''§ 53501. Definitions

''In this chapter:

''(1) AGREEMENT VESSEL.—The term 'agreement vessel' means—

''(A) an eligible vessel or a qualified vessel that is subject to an agreement under this chapter; and

''(B) a barge or container that is part of the complement of a vessel described in subparagraph (A) if provided for in the agreement.

''(2) ELIGIBLE VESSEL.—The term 'eligible vessel' means—

''(A) a vessel—

''(i) constructed in the United States (and, if reconstructed, reconstructed in the United States), constructed outside the United States but documented under the laws of the United States on April 15, 1970, or constructed outside the United States for use in the United States foreign trade pursuant to a contract made before April 15, 1970;

''(ii) documented under the laws of the United States; and

''(iii) operated in the foreign or domestic trade of the United States or in the fisheries of the United States; and

''(B) a commercial fishing vessel—

''(i) constructed in the United States and, if reconstructed, reconstructed in the United States;

''(ii) of at least 2 net tons but less than 5 net tons;

''(iii) owned by a citizen of the United States;

''(iv) having its home port in the United States; and

''(v) operated in the commercial fisheries of the United States.

''(3) JOINT REGULATIONS.—The term 'joint regulations' means regulations prescribed jointly by the Secretary and the Secretary of the Treasury under section 53502(b) of this title.

''(4) NONCONTIGUOUS TRADE.—The term 'noncontiguous trade' means—

''(A) trade between—

''(i) one of the contiguous 48 States; and

''(ii) Alaska, Hawaii, Puerto Rico, or an insular territory or possession of the United States; and

''(B) trade between—

''(i) a place in Alaska, Hawaii, Puerto Rico, or an insular territory or possession of the United States; and

''(ii) another place in Alaska, Hawaii, Puerto Rico, or an insular territory or possession of the United States.

''(5) QUALIFIED VESSEL.—The term 'qualified vessel' means—

''(A) a vessel—

''(i) constructed in the United States (and, if reconstructed, reconstructed in the United States), constructed outside the United States but documented under the laws of the United States on April 15, 1970, or constructed outside the United States for use in the United States foreign trade pursuant to a contract made before April 15, 1970;

''(ii) documented under the laws of the United States; and

''(iii) agreed, between the Secretary and the person maintaining the capital construction fund established under section 53503 of this title, to be operated in the United States foreign, Great Lakes, or noncontiguous domestic trade or in the fisheries of the United States; and

''(B) a commercial fishing vessel—

''(i) constructed in the United States and, if reconstructed, reconstructed in the United States;

''(ii) of at least 2 net tons but less than 5 net tons;

''(iii) owned by a citizen of the United States;

''(iv) having its home port in the United States; and

''(v) operated in the commercial fisheries of the United States.

''(6) SECRETARY.—The term 'Secretary' means—

''(A) the Secretary of Commerce with respect to an eligible vessel or a qualified vessel operated or to be operated in the fisheries of the United States; and

''(B) the Secretary of Transportation with respect to other vessels.

''(7) UNITED STATES FOREIGN TRADE.—The term 'United States foreign trade' includes those areas in domestic trade in which a vessel built with a construction-differential subsidy is allowed to operate under the first sentence of section 506 of the Merchant Marine Act, 1936.

''(8) VESSEL.—The term 'vessel' includes—

''(A) cargo handling equipment that the Secretary determines is intended for use primarily on the vessel; and

''(B) an ocean-going towing vessel, an ocean-going barge, or a comparable towing vessel or barge operated on the Great Lakes.

''§ 53502. Regulations

''(a) IN GENERAL.—Except as provided in subsection (b), the Secretary shall prescribe regulations to carry out this chapter.

''(b) TAX LIABILITY.—The Secretary and the Secretary of the Treasury shall prescribe joint regulations for the determination of tax liability under this chapter.

''§ 53503. Establishing a capital construction fund

''(a) IN GENERAL.—A citizen of the United States owning or leasing an eligible vessel may make an agreement with the Secretary under this chapter to establish a capital construction fund for the vessel.

''(b) ALLOWABLE PURPOSE.—The purpose of the agreement shall be to provide replacement vessels, additional vessels, or reconstructed vessels, built in the United States and documented under the laws of the United States, for operation in the United States foreign, Great Lakes, or noncontiguous domestic trade or in the fisheries of the United States.

''§ 53504. Deposits and withdrawals

''(a) REQUIRED DEPOSITS.—An agreement to establish a capital construction fund shall provide for the deposit in the fund of the amounts agreed to be appropriate to provide for qualified withdrawals under section 53509 of this title.

''(b) APPLICABLE REQUIREMENTS.—Deposits in and withdrawals from the fund are subject to the requirements included in the agreement or prescribed by the Secretary by regulation. However, the Secretary may not require a person to deposit in the fund for a taxable year more than 50 percent of that portion of the person's taxable income for that year (as determined under section 53505(a)(1) of this title) that is attributable to the operation of an agreement vessel.

''§ 53505. Ceiling on deposits

''(a) MAXIMUM DEPOSITS.—The amount deposited in a capital construction fund for a taxable year may not exceed the sum of—

''(1) that portion of the taxable income of the owner or lessee for the taxable year (computed under chapter 1 of the Internal Revenue Code of 1986 (26 U.S.C. ch. 1) but without regard to the carryback of net operating loss or net capital loss or this chapter) that is attributable to the operation of agreement vessels in the foreign or domestic trade of the United States or in the fisheries of the United States;

''(2) the amount allowable as a deduction under section 167 of such Code (26 U.S.C. 167) for the taxable year for agreement vessels;

''(3) if the transaction is not taken into account for purposes of paragraph (1), the net proceeds (as defined in joint regulations) from the disposition of an agreement vessel or from insurance or indemnity attributable to an agreement vessel; and

''(4) the receipts from the investment or reinvestment of amounts held in the fund.

''(b) REDUCTIONS FOR LESSEES.—For a lessee, the maximum amount that may be deposited for an agreement vessel under subsection (a)(2) for any period shall be reduced by any amount the owner is required or permitted, under the capital construction fund agreement, to deposit for that period for the vessel under subsection (a)(2).

''§ 53506. Investment and fiduciary requirements

''(a) IN GENERAL.—Amounts in a capital construction fund shall be kept in the depository

specified in the agreement and shall be subject to trustee and other fiduciary requirements prescribed by the Secretary. Except as provided in subsection (b), amounts in the fund may be invested only in interest-bearing securities approved by the Secretary.

''(b) STOCK INVESTMENTS.—

''(1) IN GENERAL.—With the approval of the Secretary, an agreed percentage (but not more than 60 percent) of the assets of the fund may be invested in the stock of domestic corporations that—

''(A) is fully listed and registered on an exchange registered with the Securities and Exchange Commission as a national securities exchange; and

''(B) would be acquired by a prudent investor seeking a reasonable income and the preservation of capital.

''(2) PREFERRED STOCK.—The preferred stock of a corporation is deemed to satisfy the requirements of this subsection, even though it may not be registered and listed because it is nonvoting stock, if the common stock of the corporation satisfies the requirements and the preferred stock otherwise would satisfy the requirements.

''(c) MAINTAINING AGREED PERCENTAGE.—If at any time the fair market value of the stock in the fund is more than the agreed percentage of the assets in the fund, any subsequent investment of amounts deposited in the fund, and any subsequent withdrawal from the fund, shall be made in a way that tends to restore the fair market value of the stock to not more than the agreed percentage.

''§ 53507. Nontaxation of deposits

''(a) TAX TREATMENT.—Subject to subsection (b), under the Internal Revenue Code of 1986 (26 U.S.C. 1 et seq.)—

''(1) taxable income (determined without regard to this chapter and section 7518 of such Code (26 U.S.C. 7518)) for the taxable year shall be reduced by the amount deposited for the taxable year out of amounts referred to in section 53505(a)(1) of this title;

''(2) a gain from a transaction referred to in section 53505(a)(3) of this title shall not be taken into account if an amount equal to the net proceeds (as defined in joint regulations) from the transaction is deposited in the fund;

''(3) the earnings (including gains and losses) from the investment and reinvestment of amounts held in the fund shall not be taken into account;

''(4) the earnings and profits of a corporation (within the meaning of section 316 of such Code (26 U.S.C. 316)) shall be determined without regard to this chapter and section 7518 of such Code (26 U.S.C. 7518); and

''(5) in applying the tax imposed by section 531 of such Code (26 U.S.C. 531), amounts held in the fund shall not be taken into account.

''(b) CONDITION.—This section applies to an amount only if the amount is deposited in the fund under the agreement within the time provided in joint regulations.

''§ 53508. Separate accounts within a fund

''(a) IN GENERAL.—A capital construction fund shall have three accounts:

''(1) The capital account.

''(2) The capital gain account.

''(3) The ordinary income account.

''(b) CAPITAL ACCOUNT.—The capital account shall consist of—

''(1) amounts referred to in section 53505(a)(2) of this title;

''(2) amounts referred to in section 53505(a)(3) of this title, except that portion representing a gain not taken into account because of section 53507(a)(2) of this title;

''(3) the percentage applicable under section 243(a)(1) of the Internal Revenue Code of 1986 (26 U.S.C. 243(a)(1)) of any dividend received by the fund for which the person maintaining the fund would be allowed (were it not for section 53507(a)(3) of this title) a deduction under section 243 of such Code (26 U.S.C. 243); and

''(4) interest income exempt from taxation under section 103 of such Code (26 U.S.C. 103).

''(c) CAPITAL GAIN ACCOUNT.—The capital gain account shall consist of—

''(1) amounts representing capital gains on assets held for more than 6 months and referred to in section 53505(a)(3) or (4) of this title; minus

''(2) amounts representing capital losses on assets held in the fund for more than 6 months.

''(d) ORDINARY INCOME ACCOUNT.—The ordinary income account shall consist of—

''(1) amounts referred to in section 53505(a)(1) of this title;

''(2)(A) amounts representing capital gains on assets held for not more than 6 months and referred to in section 53505(a)(3) or (4) of this title; minus

''(B) amounts representing capital losses on assets held in the fund for not more than 6 months;

''(3) interest (except tax-exempt interest referred to in subsection (b)(4)) and other ordinary income (except any dividend referred to in paragraph (5)) received on assets held in the fund;

''(4) ordinary income from a transaction described in section 53505(a)(3) of this title; and

''(5) that portion of any dividend referred to in subsection (b)(3) not taken into account under subsection (b)(3).

''(e) WHEN LOSSES ALLOWED.—Except on termination of a fund, capital losses referred to in subsection (c) or (d)(2) shall be allowed only as an offset to gains referred to in subsection (c) or (d)(2), respectively.

''§ 53509. Qualified withdrawals

''(a) IN GENERAL.—Subject to subsection (b), a withdrawal from a capital construction fund is a qualified withdrawal if it is made under the terms of the agreement and is for—

''(1) the acquisition, construction, or reconstruction of a qualified vessel or a barge or container that is part of the complement of a qualified vessel; or

''(2) the payment of the principal on indebtedness incurred in the acquisition, construction, or reconstruction of a qualified vessel or a barge or container that is part of the complement of a qualified vessel.

''(b) BARGES AND CONTAINERS.—Except as provided in regulations prescribed by the Secretary, subsection (a) applies to a barge or container only if it is constructed in the United States.

''(c) TREATMENT AS NONQUALIFIED WITHDRAWAL.—Under joint regulations, if the Secretary determines that a substantial obligation under an agreement is not being fulfilled, the Secretary, after notice and opportunity for a hearing to the person maintaining the fund, may treat any amount in the fund as an amount withdrawn from the fund in a nonqualified withdrawal.

''§ 53510. Tax treatment of qualified withdrawals and basis of property

''(a) ORDER OF WITHDRAWALS.—A qualified withdrawal from a capital construction fund shall be treated as made—

''(1) first from the capital account;

''(2) second from the capital gain account; and

''(3) third from the ordinary income account.

''(b) ORDINARY INCOME ACCOUNT WITHDRAWALS.—If a portion of a qualified withdrawal for a vessel, barge, or container is made from the ordinary income account, the basis of the vessel, barge, or container shall be reduced by an amount equal to that portion.

''(c) CAPITAL GAIN ACCOUNT WITHDRAWALS.—If a portion of a qualified withdrawal for a vessel, barge, or container is made from the capital gain account, the basis of the vessel, barge, or container shall be reduced by an amount equal to that portion.

''(d) WITHDRAWALS TO PAY PRINCIPAL.—If a portion of a qualified withdrawal to pay the principal on indebtedness is made from the ordinary income account or the capital gain account, an amount equal to the total reduction that would be required by subsections (b) and (c) if the withdrawal were a qualified withdrawal for a purpose described in those subsections shall be applied, in the order provided in joint regulations, to reduce the basis of vessels, barges, and containers owned by the person maintaining the fund. The remaining amount of the withdrawal shall be treated as a nonqualified withdrawal.

''(e) GAIN ON PROPERTY WITH REDUCED BASIS.—If property, the basis of which was reduced under subsection (b), (c), or (d), is disposed of, any gain realized on the disposition, to the extent it does not exceed the total reduction in the basis of the property under those subsections, shall be treated as an amount referred to in section 53511(c)(1) of this title withdrawn on the date of disposition of the property. Subject to conditions prescribed in joint regulations, this subsection does not apply to a disposition if there is a redeposit, in an amount determined under joint regulations, that restores the fund as far as practicable to the position it was in before the withdrawal.

''§ 53511. Tax treatment of nonqualified withdrawals

''(a) IN GENERAL.—Except as provided in section 53513 of this title, a withdrawal from a fund that is not a qualified withdrawal shall be treated as a nonqualified withdrawal.

''(b) ORDER OF WITHDRAWALS.—A nonqualified withdrawal shall be treated as made—

''(1) first from the ordinary income account;

''(2) second from the capital gain account; and

''(3) third from the capital account.

''(c) TAX TREATMENT.—For purposes of the Internal Revenue Code of 1986 (26 U.S.C. 1 et seq.)—

''(1) a nonqualified withdrawal from the ordinary income account shall be included in income as an item of ordinary income for the taxable year in which the withdrawal is made;

''(2) a nonqualified withdrawal from the capital gain account shall be included in income for the taxable year in which the withdrawal is made as an item of gain realized during that year from the disposition of an asset held for more than 6 months; and

''(3) for the period through the last date prescribed for payment of tax for the taxable year in which the withdrawal is made—

''(A) no interest shall be payable under section 6601 of such Code (26 U.S.C. 6601) and no addition to the tax shall be payable under section 6651 of such Code (26 U.S.C. 6651);

''(B) interest on the amount of the additional tax attributable to an amount treated as a nonqualified withdrawal from the ordinary income account or the capital gain account shall be paid at the rate determined under subsection (d) from the last date prescribed for payment of the tax for the taxable year for which the amount was deposited in the fund; and

''(C) no interest shall be payable on amounts treated as withdrawn on a last-in-first-out basis under section 53512 of this title.

''(d) INTEREST RATE.—The rate of interest under subsection (c)(3)(B) for a nonqualified withdrawal made in a taxable year beginning after 1971 shall be determined and published jointly by the Secretary and the Secretary of the Treasury. The rate shall be such that its relationship to 8 percent is comparable, as determined by the Secretaries under joint regulations, to the relationship between—

''(1) the money rates and investment yields for the calendar year immediately before the beginning of the taxable year; and

''(2) the money rates and investment yields for the calendar year 1970.

''(e) NONQUALIFIED WITHDRAWALS.—

''(1) IN GENERAL.—The following applicable percentage of any amount that remains in a capital construction fund at the close of the following specified taxable year following the taxable year for which the amount was deposited shall be treated as a nonqualified withdrawal:

"If the amount remains in the fund at the close of the—	*The applicable percentage is—*
''26th taxable year	*20 percent*
''27th taxable year	*40 percent*
''28th taxable year	*60 percent*
''29th taxable year	*80 percent*
''30th taxable year	*100 percent.*

''(2) EARNINGS.—The earnings of a capital construction fund for any taxable year (except net gains) shall be treated under this subsection as an amount deposited for the taxable year.

''(3) CONTRACT FOR QUALIFIED WITHDRAWAL.—Under paragraph (1), an amount shall not be treated as remaining in a capital construction fund at the close of a taxable year to the extent there is a binding contract at the close of the taxable year for a qualified withdrawal of the amount for an identified item for which the withdrawal may be made.

''(4) EXCESS EARNINGS.—If the Secretary determines that the balance in a capital construction fund exceeds the amount appropriate to meet the vessel construction program objectives of the person that established the fund, the amount of the excess shall be treated as a nonqualified withdrawal under paragraph (1) unless the person develops appropriate program objectives within 3 years to dissipate the excess.

''(5) AMOUNTS IN FUND ON JANUARY 1, 1987.—Under this subsection, amounts in a capital construction fund on January 1, 1987, shall be treated as having been deposited in that fund on that date.

''(f) TAX DETERMINATIONS.—

''(1) IN GENERAL.—For a taxable year for which there is a nonqualified withdrawal (including an amount treated as a nonqualified withdrawal under subsection (e)), the tax imposed by chapter 1 of the Internal Revenue Code of 1986 (26 U.S.C. ch. 1) shall be determined by—

''(A) excluding the withdrawal from gross income; and

''(B) increasing the tax imposed by chapter 1 of such Code by the product of the amount of the withdrawal and the highest tax rate specified in section 1 (or section 11 for a corporation) of such Code (26 U.S.C. 1, 11).

''(2) MAXIMUM TAX RATE.—For that portion of a nonqualified withdrawal made from the capital gain account during a taxable year to which section 1(h) or 1201(a) of such Code (26 U.S.C. 1(h), 1201(a)) applies, the tax rate used under paragraph (1)(B) may not exceed 15 percent (or 34 percent for a corporation).

''(3) TAX BENEFIT RULE.—If any portion of a nonqualified withdrawal is properly attributable to deposits (except earnings on deposits) made by the taxpayer in a taxable year that did not reduce the taxpayer's liability for tax under chapter 1 of such Code (26 U.S.C. ch. 1) for a taxable year before the taxable year in which the withdrawal occurs—

''(A) that portion shall not be taken into account under paragraph (1); and

''(B) an amount equal to that portion shall be allowed as a deduction under section 172 of such Code (26 U.S.C. 172) for the taxable year in which the withdrawal occurs.

''(4) COORDINATION WITH DEDUCTION FOR NET OPERATING LOSSES.—A nonqualified withdrawal excluded from gross income under paragraph (1) shall be excluded in determining taxable income under section 172(b)(2) of such Code (26 U.S.C. 172(b)(2)).

''§ 53512. FIFO and LIFO withdrawals

''(a) FIFO.—Except as provided in subsection (b), an amount withdrawn from an account under this chapter shall be treated as withdrawn on a first-in-first-out basis.

''(b) LIFO.—An amount withdrawn from an account under this chapter shall be treated as withdrawn on a last-in-first-out basis if it is—

''(1) a nonqualified withdrawal for research, development, and design expenses incident to new and advanced vessel design, machinery, and equipment; or

''(2) an amount treated as a nonqualified withdrawal under section 53510(d) of this title.

''§ 53513. Corporate reorganizations and partnership changes

''Under joint regulations—

''(1) a transfer of a capital construction fund from one person to another person in a transaction to which section 381 of the Internal Revenue Code of 1986 (26 U.S.C. 381) applies may be treated as if the transaction is not a nonqualified withdrawal; and

''(2) a similar rule shall be applied to a continuation of a partnership (within the meaning of subchapter K of chapter 1 of such Code (26 U.S.C. 701 et seq.)).

''§ 53514. Relationship of old fund to new fund

''(a) DEFINITION.—In this section, the term 'old fund' means a capital construction fund maintained before October 21, 1970.

''(b) ELECTION TO MAINTAIN OLD FUND.—A person maintaining an old fund may elect to continue the old fund, but may not—

''(1) hold amounts in the old fund beyond the expiration date provided in the agreement under which the old fund is maintained (determined without regard to an extension or renewal made after April 14, 1970); or

''(2) maintain simultaneously the old fund and a new fund established under this chapter.

''(c) APPLICATION OF NEW FUND AGREEMENT TO OLD FUND AMOUNTS.—If a person makes an agreement under this chapter to establish a new fund, the person may agree to extend the agreement to some or all of the amounts in an old fund. Each item in the old fund to be transferred shall be transferred in a nontaxable transaction to the appropriate account in the new fund. For purposes of section 53511(c)(3) of this title, the date of the deposit of an item so transferred shall be July 1, 1971, or the date of the deposit in the old fund, whichever is later.

''§ 53515. Records and reports

''A person maintaining a fund under this chapter shall keep records and make reports as required by the Secretary or the Secretary of the Treasury.

''§ 53516. Termination of agreement after change in regulations

''If, after an agreement has been made under this chapter, a change is made either in the joint regulations or in the regulations prescribed by the Secretary under this chapter that could have a substantial effect on the rights or duties of a person maintaining a fund under this chapter, that person may terminate the agreement.

''§ 53517. Reports

''(a) IN GENERAL.—Within 120 days after the close of each calendar year, the Secretary of Transportation and the Secretary of Commerce each shall provide the Secretary of the Treasury a written report on the capital construction funds under the particular Secretary's jurisdiction for the calendar year.

''(b) CONTENTS.—The report shall state the name and taxpayer identification number of each person—

''(1) establishing a capital construction fund during the calendar year;

''(2) maintaining a capital construction fund on the last day of the calendar year;

''(3) terminating a capital construction fund during the calendar year;

''(4) making a deposit to or withdrawal from a capital construction fund during the calendar year, and the amount of the deposit or withdrawal; or

''(5) having been determined during the calendar year to have failed to fulfill a substantial obligation under a capital construction fund agreement to which the person is a party.

''CHAPTER 537—LOANS AND GUARANTEES

''SUBCHAPTER I—GENERAL

''SUBCHAPTER I—GENERAL

''§ 53701. Definitions

''In this chapter:

''(1) ACTUAL COST.—The term 'actual cost' means the sum of—

''(A) all amounts paid by or for the account of the obligor as of the date on which a determination is made under section 53715(d)(1) of this title; and

''(B) all amounts that the Secretary reasonably estimates the obligor will become obligated to pay from time to time thereafter, for the construction, reconstruction, or reconditioning of the vessel, including guarantee fees that will become payable under section 53714 of this title in connection with all obligations issued for construction, reconstruction, or reconditioning of the vessel or equipment to be delivered, and all obligations issued for the delivered vessel or equipment.

''(2) CONSTRUCTION, RECONSTRUCTION, AND RECONDITIONING.—The terms 'construction', 'reconstruction', and 'reconditioning' include designing, inspecting, outfitting, and equipping.

''(3) DEPRECIATED ACTUAL COST.—The term 'depreciated actual cost' of a vessel means—

''(A) if the vessel was not reconstructed or reconditioned, the actual cost of the vessel depreciated on a straight line basis over the useful life of the vessel as determined by the Secretary, not to exceed 25 years from the date of delivery by the builder; or

''(B) if the vessel was reconstructed or reconditioned, the sum of—

''(i) the actual cost of the vessel depreciated on a straight line basis from the date of delivery by the builder to the date of the reconstruction or reconditioning, using the original useful life of the vessel, and from the date of the reconstruction or reconditioning, using a useful life of the vessel determined by the Secretary; and

''(ii) any amount paid or obligated to be paid for the reconstruction or reconditioning, depreciated on a straight line basis using a useful life of the vessel determined by the Secretary.

''(4) ELIGIBLE EXPORT VESSEL.—The term 'eligible export vessel' means a vessel that—

''(A) is constructed, reconstructed, or reconditioned in the United States for use in worldwide trade; and

''(B) will, on delivery or redelivery, become or remain documented under the laws of a country other than the United States.

''(5) FISHERY FACILITY.—

''(A) IN GENERAL.—Subject to subparagraph (B), the term 'fishery facility' means—

''(i) for operations on land—

''(I) a structure or appurtenance thereto designed for the unloading and receiving from vessels, the processing, the holding pending processing, the distribution after processing, or the holding pending distribution, of fish from a fishery;

''(II) the land necessary for the structure or appurtenance; and

''(III) equipment that is for use with the structure or appurtenance and that is necessary for performing a function referred to in subclause (I);

''(ii) for operations not on land, a vessel built in the United States and used for, equipped to be used for, or of a type normally used for, the processing of fish; or

''(iii) for aquaculture, including operations on land or elsewhere—

''(I) a structure or appurtenance thereto designed for aquaculture;

''(II) the land necessary for the structure or appurtenance;

''(III) equipment that is for use with the structure or appurtenance and that is necessary for performing a function referred to in subclause (I); and

''(IV) a vessel built in the United States and used for, equipped to be used for, or of a type normally used for, aquaculture.

''(B) REQUIRED OWNERSHIP.—Under subparagraph (A), the structure, appurtenance, land, equipment, or vessel must be owned by—

''(i) an individual who is a citizen of the United States; or

''(ii) an entity that is a citizen of the United States under section 50501 of this title and that is at least 75 percent owned (as determined under that section) by citizens of the United States.

''(6) FISHING VESSEL.—The term 'fishing vessel' has the meaning given that term in section 3 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1802), and any reference in this chapter to a vessel designed principally for commercial use in the fishing trade or industry is deemed to be a reference to a fishing vessel.

''(7) MORTGAGE.—The term 'mortgage' includes—

''(A) a preferred mortgage as defined in section 31301 of this title; and

''(B) a mortgage on a vessel that will become a preferred mortgage when filed or recorded under chapter 313 of this title.

''(8) OBLIGATION.—The term 'obligation' means an instrument of indebtedness issued for a purpose described in section 53706 of this title, except—

''(A) an obligation issued by the Secretary under section 53723 of this title; and

''(B) an obligation eligible for investment of funds under section 53715(f) or 53717 of this title.

''(9) OBLIGEE.—The term 'obligee' means the holder of an obligation.

''(10) OBLIGOR.—The term 'obligor' means a party primarily liable for payment of the principal of or interest on an obligation.

''(11) OCEAN THERMAL ENERGY CONVERSION FACILITY OR PLANTSHIP.—The term 'ocean thermal energy conversion facility or plantship' means an at-sea facility or vessel, whether mobile, floating unmoored, moored, or standing on the seabed, that uses temperature differences in ocean water to produce electricity or another form of energy capable of being used directly to perform work, and includes—

''(A) equipment installed on the facility or vessel to use the electricity or other form of energy to produce, process, refine, or manufacture a product;

''(B) a cable or pipeline used to deliver the electricity, freshwater, or product to shore; and

''(C) other associated equipment and appurtenances of the facility or vessel to the extent they are located seaward of the high water mark.

''(12) SECRETARY.—The term 'Secretary' means—

''(A) the Secretary of Commerce with respect to fishing vessels and fishery facilities; and

''(B) the Secretary of Transportation with respect to other vessels and general shipyard facilities (as defined in section 53733(a) of this title).

''(13) VESSEL.—The term 'vessel' means any type of vessel, whether in existence or under construction, including—

''(A) a cargo vessel;

''(B) a passenger vessel;

''(C) a combination cargo and passenger vessel;

''(D) a tanker;

''(E) a tug or towboat;

''(F) a barge;

''(G) a dredge;

''(H) a floating drydock with a capacity of at least 35,000 lifting tons and a beam of at least 125 feet between the wing walls;

''(I) an oceanographic research vessel;

''(J) an instruction vessel;

''(K) a pollution treatment, abatement, or control vessel;

''(L) a fishing vessel whose ownership meets the citizenship requirements under section 50501 of this title for documenting vessels to operate in the coastwise trade; and

''(M) an ocean thermal energy conversion facility or plantship that is or will be documented under the laws of the United States.

''§ 53702. General authority

''(a) IN GENERAL.—The Secretary, on terms the Secretary may prescribe, may guarantee or make a commitment to guarantee the payment of the principal of and interest on an obligation eligible to be guaranteed under this chapter. A guarantee or commitment to guarantee shall cover 100 percent of the principal and interest.

''(b) DIRECT LOANS FOR FISHERIES.—

''(1) IN GENERAL.—Notwithstanding any other provision of this chapter, any obligation involving a fishing vessel, fishery facility, aquaculture facility, individual fishing quota, or fishing capacity reduction program issued under this chapter after October 11, 1996, shall be a direct loan obligation for which the Secretary shall be the obligee, rather than an obligation issued to an obligee other than the Secretary and guaranteed by the Secretary. A direct loan obligation under this subsection shall be treated in the same manner and to the same extent as an obligation guaranteed under this chapter except with respect to provisions of this chapter that by their nature can only be applied to obligations guaranteed under this chapter.

''(2) INTEREST RATE.—Notwithstanding any other provision of this chapter, the annual rate of interest an obligor shall pay on a direct loan obligation under this subsection is 2 percent plus the additional percent the Secretary must pay as interest to borrow from the Treasury the funds to make the loan.

''§ 53703. Application procedures

''(a) TIME FOR DECISION.—

''(1) IN GENERAL.—The Secretary shall approve or deny an application for a loan guarantee under this chapter within 270 days after the date on which the signed application is received by the Secretary.

''(2) EXTENSION.—On request by an applicant, the Secretary may extend the 270-day period in paragraph (1) to a date not later than 2 years after the date on which the signed application was received by the Secretary.

''(b) CERTIFICATION OF REVIEW.—The Secretary may not guarantee or make a commitment to guarantee an obligation under this chapter unless the Secretary certifies that a full and fair consideration of all the regulatory requirements, including economic soundness and financial requirements applicable to the obligor and related parties, and a thorough assessment of the technical, economic, and financial aspects of the loan application, has been made.

''§ 53704. Funding limits

''(a) GENERAL LIMITATIONS.—The total unpaid principal amount of obligations guaranteed under this chapter and outstanding at one time may not exceed $12,000,000,000. Of that amount—

''(1) $850,000,000 shall be limited to obligations related to fishing vessels and fishery facilities; and

''(2) $3,000,000,000 shall be limited to obligations related to eligible export vessels.

''(b) ADDITIONAL LIMITATIONS.—Additional limitations may not be imposed on new commitments to guarantee loans for any fiscal year, except in amounts established in advance by annual authorization laws. A vessel eligible for a guarantee under this chapter may not be denied eligibility because of its type.

''(c) LIMITS BASED ON RISK FACTORS.—

''(1) DEFINITION.—In this subsection, the term 'cost' has the meaning given that term in section 502 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a).

''(2) SYSTEM OF RISK CATEGORIES.—The Secretary shall—

''(A) establish, and update annually, a system of risk categories for obligations guaranteed under this chapter that categorizes the relative risk of guarantees based on the risk factors set forth in paragraph (4);

''(B) determine annually for each risk category a subsidy rate equivalent to the cost of obligations in the category, expressed as a percentage of the amount guaranteed for obligations in the category; and

''(C) ensure that each risk category is comprised of loans that are relatively homogeneous in cost and share characteristics predictive of defaults and other costs, given the facts known at the time of obligation or commitment, using a risk category system that is based on historical analysis of program data and statistical evidence concerning the likely costs of defaults or other costs that are expected to be associated with the loans in the category.

''(3) USE OF SYSTEM.—

''(A) PLACING OBLIGATION IN CATEGORY.—Before making a guarantee under this chapter for an obligation, and annually for projects subject to a guarantee, the Secretary shall apply the risk factors specified in paragraph (4) to place the obligation in a risk category established under paragraph (2).

''(B) REDUCTION OF AVAILABLE AMOUNT.—The Secretary shall consider the total amount available to the Secretary for making guarantees under this chapter to be reduced by the amount determined by multiplying—

''(i) the amount guaranteed under this chapter for an obligation; by

''(ii) the subsidy rate for the category in which the obligation is placed under subparagraph (A).

''(C) ESTIMATED COST.—The estimated cost to the United States Government of a guarantee under this chapter for an obligation is deemed to be the amount determined under subparagraph (B) for the obligation.

''(D) RESTRICTION ON FURTHER GUARANTEES.—The Secretary may not guarantee obligations under this chapter after the total amount available to the Secretary under appropriations laws for the cost of loan guarantees is considered to be reduced to zero under subparagraph (B).

''(4) RISK FACTORS.—The risk factors referred to in this subsection are—

''(A) if applicable, the country risk for each eligible export vessel financed or to be financed by an obligation;

''(B) the period for which an obligation is guaranteed or to be guaranteed;

''(C) the amount of an obligation guaranteed or to be guaranteed in relation to the total cost of the project financed or to be financed by the obligation;

''(D) the financial condition of an obligor or applicant for a guarantee;

''(E) if applicable, other guarantees related to the project;

''(F) if applicable, the projected employment of each vessel or equipment to be financed with an obligation;

''(G) if applicable, the projected market that will be served by each vessel or equipment to be financed with an obligation;

''(H) the collateral provided for a guarantee for an obligation;

''(I) the management and operating experience of an obligor or applicant for a guarantee;

''(J) whether a guarantee under this chapter is or will be in effect during the construction period of the project; and

''(K) the concentration risk presented by an unduly large percentage of loans outstanding by any one borrower or group of affiliated borrowers.

''§ 53705. Pledge of United States Government

''(a) FULL FAITH AND CREDIT.—The full faith and credit of the United States Government is pledged to the payment of a guarantee made under this chapter, for both principal and interest, including interest (as may be provided for in the guarantee) accruing between the date of default under a guaranteed obligation and the date of payment in full of the guarantee.

''(b) INCONTESTABILITY.—A guarantee or commitment to guarantee made under this chapter is conclusive evidence of the eligibility of the obligation for the guarantee. The validity of a guarantee or commitment to guarantee made under this chapter is incontestable.

''§ 53706. Eligible purposes of obligations

''(a) IN GENERAL.—To be eligible for a guarantee under this chapter, an obligation must aid in any of the following:

''(1)(A) Financing (including reimbursement of an obligor for expenditures previously made for) the construction, reconstruction, or reconditioning of a vessel (including an eligible export vessel) designed principally for research, or for commercial use—

''(i) in the coastwise or intercoastal trade;

''(ii) on the Great Lakes, or on bays, sounds, rivers, harbors, or inland lakes of the United States;

''(iii) in foreign trade as defined in section 109(b) of this title;

''(iv) as an ocean thermal energy conversion facility or plantship;

''(v) as a floating drydock in the construction, reconstruction, reconditioning, or repair of vessels; or

''(vi) as an eligible export vessel in worldwide trade.

''(B) A guarantee under subparagraph (A) may not be made more than one year after delivery of the vessel (or redelivery if the vessel was reconstructed or reconditioned) unless the proceeds of the obligation are used to finance the construction, reconstruction, or reconditioning of a vessel or of facilities or equipment related to marine operations.

''(2) Financing (including reimbursement of an obligor for expenditures previously made for) the construction, reconstruction, reconditioning, or purchase of a vessel owned by citizens of the United States and designed principally for research, or for commercial use in the fishing industry.

''(3) Financing the purchase, reconstruction, or reconditioning of a vessel or fishery facility—

''(A) for which an obligation was guaranteed under this chapter; and

''(B) that, under subchapter II of this chapter—

''(i) is a vessel or fishery facility for which an obligation was accelerated and paid;

''(ii) was acquired by the Federal Ship Financing Fund or successor account under section 53717 of this title; or

''(iii) was sold at foreclosure begun or intervened in by the Secretary.

''(4) Financing any part of the repayment to the United States Government of any amount of a construction-differential subsidy paid for a vessel.

''(5) Refinancing an existing obligation (regardless of whether guaranteed under this chapter) issued for a purpose described in paragraphs (1)–(4), including a short-term obligation incurred to obtain temporary funds with the intention of refinancing.

''(6) Financing or refinancing (including reimbursement of an obligor for expenditures previously made for) the construction, reconstruction, reconditioning, or purchase of a fishery facility.

''(7) Financing or refinancing (including reimbursement of an obligor for expenditures previously made for) the purchase of an individual fishing quota in accordance with section 303(d)(4) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1853(d)(4)).

''(b) NON-VESSELS TREATED AS VESSELS.—An obligation guaranteed under subsection (a)(6) or (7) shall be treated, for purposes of this chapter, in the same manner and to the same extent as an obligation that aids in financing the construction, reconstruction, reconditioning, or purchase of a vessel, except with respect to provisions that by their nature can only be applied to vessels.

''(c) PRIORITIES FOR CERTAIN VESSELS.—In guaranteeing or making a commitment to guarantee an obligation under this chapter, the Secretary shall give priority to—

''(1) a vessel that is otherwise eligible for a guarantee and is constructed with assistance under subtitle D of the Maritime Security Act of 2003 (46 U.S.C. 53101 note); and

''(2) after applying paragraph (1), a vessel that is otherwise eligible for a guarantee and that the Secretary of Defense determines—

''(A) is suitable for service as a naval auxiliary in time of war or national emergency; and

''(B) meets a shortfall in sealift capacity or capability.

''§ 53707. Findings related to obligors and operators

''(a) RESPONSIBLE OBLIGOR.—The Secretary may not guarantee or make a commitment to guarantee an obligation under this chapter unless the Secretary finds that the obligor is responsible and has the ability, experience, financial resources, and other qualifications necessary for the adequate operation and maintenance of each vessel that will serve as security for the guarantee.

''(b) OPERATORS OF LINER VESSELS.—The Secretary of Transportation may not guarantee or make a commitment to guarantee a loan for the construction, reconstruction, or reconditioning of a liner vessel under this chapter unless the Chairman of the Federal Maritime Commission certifies that the operator of the vessel has not been found by the Commission to have committed, within the previous 5 years—

''(1) a violation of part A of subtitle IV of this title that involves unjust or unfair discriminatory treatment or undue or unreasonable prejudice or disadvantage with respect to a United States shipper, ocean transportation intermediary, ocean common carrier, or port; or

''(2) a violation of part B of subtitle IV of this title.

''(c) OPERATORS OF FISHING VESSELS.—The Secretary of Commerce may not guarantee or make a commitment to guarantee a loan for the construction, reconstruction, or reconditioning of a fishing vessel under this chapter if the operator of the vessel has been—

''(1) held liable, or the vessel has been held liable in rem, for a civil penalty under section 308 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1858) and the operator has not paid the penalty;

''(2) found guilty of an offense under section 309 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1859) and not paid the assessed fine or served the assessed sentence;

''(3) held liable for a civil or criminal penalty under section 105 of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1375) and not paid the assessed fine or served the assessed sentence; or

''(4) held liable for a civil penalty by the Coast Guard under this title or title 33 and not paid the assessed fine.

''(d) WAIVERS CONCERNING FINANCIAL CONDITION.—The Secretary shall prescribe regulations concerning circumstances under which waivers of, or exceptions to, otherwise applicable regulatory requirements concerning financial condition can be made. The regulations shall require that—

''(1) the economic soundness requirements in section 53708(a) of this title are met after the waiver of the financial condition requirement; and

''(2) the waiver shall provide for the imposition of other requirements on the obligor designed to compensate for the increased risk associated with the obligor's failure to meet regulatory requirements applicable to financial condition.

''§ 53708. Findings related to economic soundness

''(a) BY SECRETARY OF TRANSPORTATION.—The Secretary of Transportation may not guarantee or make a commitment to guarantee an obligation under this chapter unless the Secretary finds that the property or project for which the obligation will be executed will be economically sound. In making that finding, the Secretary shall consider—

''(1) the need in the particular segment of the maritime industry for new or additional capacity, including any impact on existing equipment for which a guarantee under this chapter is in effect;

''(2) the market potential for employment of the vessel over the life of the guarantee;

''(3) projected revenues and expenses associated with employment of the vessel;

''(4) any charter, contract of affreightment, transportation agreement, or similar agreement or undertaking relevant to the employment of the vessel;

''(5) other relevant criteria; and

''(6) for inland waterways, the need for technical improvements, including increased fuel efficiency or improved safety.

''(b) BY SECRETARY OF COMMERCE.—The Secretary of Commerce may not guarantee or make a commitment to guarantee an obligation under this chapter unless the Secretary finds, at or prior to the time the commitment is made or the guarantee becomes effective, that—

''(1) the property or project for which the obligation will be executed will be economically sound; and

''(2) for a fishing vessel, the purpose of the financing or refinancing is consistent with—

''(A) the wise use of the fisheries resources and the development, advancement, management, conservation, and protection of the fisheries resources; or

''(B) the need for technical improvements, including increased fuel efficiency or improved safety.

''(c) USED FISHING VESSELS AND FACILITIES.—The Secretary of Commerce may not guarantee or make a commitment to guarantee an obligation under this chapter for the purchase of a used fishing vessel or used fishery facility unless the vessel or facility will be—

''(1) reconstructed or reconditioned in the United States and will contribute to the development of the United States fishing industry; or

''(2) used—

''(A) in the harvesting of fish from an underused fishery; or

''(B) for a purpose described in the definition of 'fishery facility' in section 53701 of this title with respect to an underused fishery.

''(d) INDEPENDENT ANALYSIS.—The Secretary may make a determination that aspects of an application under this chapter require independent analysis to be conducted by third party experts due to risk factors associated with markets, technology, financial structures, or other risk factors identified by the Secretary. Any independent analysis conducted under this subsection shall be performed by a party chosen by the Secretary.

''(e) ADDITIONAL EQUITY BECAUSE OF INCREASED RISKS.—Notwithstanding any other provision of this chapter, the Secretary may make a determination that an application under this title requires additional equity because of increased risk factors associated with markets, technology, financial structures, or other risk factors identified by the Secretary.

''§ 53709. Amount of obligations

''(a) IN GENERAL.—The principal of an obligation may not be guaranteed in an amount greater than the amount determined by multiplying the percentage applicable under subsection (b) by—

''(1) the amount paid by or for the account of the obligor (as determined by the Secretary, which determination shall be conclusive) for the construction, reconstruction, or reconditioning of the vessel used as security for the guarantee; or

''(2) if the obligor creates an escrow fund under section 53715 of this title, the actual cost of the vessel.

''(b) LIMITATIONS ON AMOUNT BORROWED.—

''(1) IN GENERAL.—Except as otherwise provided, the principal amount of an obligation guaranteed under this chapter may not exceed 75 percent of the actual cost or depreciated actual cost, as determined by the Secretary, of the vessel used as security for the guarantee.

''(2) CERTAIN APPROVED VESSELS.—The principal amount may not exceed 87.5 percent of the actual cost or depreciated actual cost if—

''(A) the size and speed of the vessel are approved by the Secretary;

''(B) the vessel is or would have been eligible for mortgage aid for construction under section 509 of the Merchant Marine Act, 1936, or would have been eligible except that the vessel was built with a construction-differential subsidy and the subsidy has been repaid; and

''(C) the vessel is of a type described in that section for which the minimum down payment required by that section is 12.5 percent of the cost of the vessel.

''(3) BARGES.—For a barge constructed without a construction-differential subsidy or for which the subsidy has been repaid, the principal amount may not exceed 87.5 percent of the actual cost or depreciated actual cost.

''(4) FISHING VESSELS AND FISHERY FACILITIES.—For a fishing vessel or fishery facility, the principal amount may not exceed 80 percent of the actual cost or depreciated actual cost. However, debt for the vessel or facility may not be placed through the Federal Financing Bank.

''(5) OTEC.—For an ocean thermal energy conversion facility or plantship constructed without a construction-differential subsidy, the principal amount may not exceed 87.5 percent of the actual cost or depreciated actual cost of the facility or plantship.

''(6) ELIGIBLE EXPORT VESSELS.—For an eligible export vessel, the principal amount may not exceed 87.5 percent of the actual cost or depreciated actual cost.

''(c) SECURITY INVOLVING MULTIPLE VESSELS.—The principal amount of an obligation having more than one vessel as security for the guarantee may not exceed the sum of the principal amounts allowable for all the vessels.

''(d) PROHIBITION ON UNIFORM PERCENTAGE LIMITATIONS.—The Secretary may not establish a percentage under any provision of subsection (b) that is to be applied uniformly to all guarantees or commitments to guarantee made under that provision.

''(e) PROHIBITION ON MINIMUM PRINCIPAL AMOUNT.—The Secretary may not establish, as a condition of eligibility for a guarantee under this chapter, a minimum principal amount for an obligation covering the reconstruction or reconditioning of a fishing vessel or fishery facility. For purposes of this chapter, the reconstruction or reconditioning of a fishing vessel or fishery facility does not include the routine minor repair or maintenance of the vessel or facility.

''§ 53710. Contents of obligations

''(a) IN GENERAL.—An obligation guaranteed under this chapter must—

''(1) provide for payments by the obligor satisfactory to the Secretary;

''(2) provide for interest (exclusive of guarantee fees and other fees) at a rate not more than the annual rate on the unpaid principal that the Secretary determines is reasonable, considering the range of interest rates prevailing in the private market for similar loans and the risks assumed by the Secretary;

''(3) have a maturity date satisfactory to the Secretary, but—

''(A) not more than 25 years after the date of delivery of the vessel used as security for the guarantee; or

''(B) if the vessel has been reconstructed or reconditioned, not more than the later of—

''(i) 25 years after the date of delivery of the vessel; or

''(ii) the remaining years of useful life of the vessel as determined by the Secretary; and

''(4) provide, or a related agreement must provide, that if the vessel used as security for the guarantee is a delivered vessel, the vessel shall be—

''(A) in class A–1, American Bureau of Shipping, or meet other standards acceptable to the Secretary, with all required certificates, including marine inspection certificates of the Coast Guard or, in the case of an eligible export vessel, of the appropriate foreign authorities under a treaty, convention, or other international agreement to which the United States is a party, and with all outstanding requirements and recommendations necessary for class retention accomplished, unless the Secretary permits a deferment of repairs necessary to meet these requirements; and

''(B) well equipped, in good repair, and in every respect seaworthy and fit for service.

''(b) PROVISIONS FOR CERTAIN PASSENGER VESSELS.—

''(1) IN GENERAL.—With the Secretary's approval, if the vessel used as security for the guarantee is a passenger vessel having the tonnage, speed, passenger accommodations, and other characteristics described in section 503 of the Merchant Marine Act, 1936, an obligation guaranteed under this chapter or a related agreement may provide that—

''(A) the only recourse by the United States Government against the obligor for payments under the guarantee will be repossession of the vessel and assignment of insurance claims; and

''(B) the obligor's liability for payments under the guarantee will be satisfied and discharged by the surrender of the vessel and all interest in the vessel to the Government in the condition described in paragraph (2).

''(2) SURRENDER OF VESSEL.—

''(A) IN GENERAL.—On surrender, the vessel must be—

''(i) free and clear of all liens and encumbrances except the security interest conveyed to the Secretary under this chapter;

''(ii) in class; and

''(iii) in as good order and condition (ordinary wear and tear excepted) as when acquired by the obligor.

''(B) COVERING DEFICIENCIES BY INSURANCE.—To the extent covered by insurance, a deficiency related to a requirement in subparagraph (A) may be satisfied by assignment of the obligor's insurance claims to the Government.

''(c) OTHER PROVISIONS TO PROTECT SECURITY INTERESTS.—An obligation guaranteed under this chapter and any related agreement must contain other provisions for the protection of the security interests of the Government (including acceleration, assumption, and subrogation provisions and the issuance of notes by the obligor to the Secretary), liens and releases of liens, payment of taxes, and other matters that the Secretary may prescribe.

''§ 53711. Security interest

''(a) IN GENERAL.—The Secretary may guarantee an obligation under this chapter only if the obligor conveys or agrees to convey to the Secretary a security interest the Secretary considers necessary to protect the interest of the United States Government.

''(b) MULTIPLE VESSELS AND TYPES OF SECURITY.—The security interest may relate to more than one vessel and may consist of more than one type of security. If the security interest relates to more than one vessel, the obligation may have the latest maturity date allowable under section 53710(a)(3) of this title for any of the vessels used as security for the guarantee. However, the Secretary may require such payments of principal prior to maturity, with respect to all related obligations, as the Secretary considers necessary to maintain adequate security for the guarantee.

''§ 53712. Monitoring financial condition and operations of obligor

''(a) IN GENERAL.—The Secretary shall monitor the financial condition and operations of the obligor on a regular basis during the term of the guarantee. The Secretary shall document the results of the monitoring on an annual or quarterly basis depending on the condition of the obligor. If the Secretary determines that the financial condition of the obligor warrants additional protections to the Secretary, the Secretary shall take appropriate action under subsection (b). If the Secretary determines that the financial condition of the obligor jeopardizes its continued ability to perform its responsibilities in connection with the guarantee of an obligation by the Secretary, the Secretary shall make an immediate determination whether default should take place and whether further measures described in subsection (b) should be taken to protect the interests of the Secretary while ensuring that program objectives are met.

''(b) CONTRACT PROVISIONS TO PROTECT SECRETARY.—The Secretary shall include provisions in a loan agreement with an obligor that provides additional authority to the Secretary to take action to limit potential losses in connection with a defaulted loan or a loan that is in jeopardy due to the deteriorating financial condition of the obligor. These provisions include requirements for additional collateral or greater equity contributions that are effective upon the occurrence of verifiable conditions relating to the obligor's financial condition or the status of the vessel or shipyard project.

''§ 53713. Administrative fees

''(a) IN GENERAL.—The Secretary shall charge and collect from the obligor fees the Secretary considers reasonable for—

''(1) investigating an application for a guarantee;

''(2) appraising property offered as security for a guarantee;

''(3) issuing a commitment;

''(4) providing services related to an escrow fund under section 53715 of this title; and

''(5) inspecting property during construction, reconstruction, or reconditioning.

''(b) TOTAL FEE LIMITATION.—The total fees under subsection (a) may not exceed 0.5 percent of the original principal amount of the obligations to be guaranteed.

''(c) FEES FOR INDEPENDENT ANALYSIS.—The Secretary may charge and collect fees to cover the costs of independent analysis under section 53708(d) of this title. Notwithstanding section 3302 of title 31, any fee collected under this subsection shall—

''(1) be credited as an offsetting collection to the account that finances the administration of the loan guarantee program;

''(2) be available for expenditure only to pay the costs of activities and services for which the fee is imposed; and

''(3) remain available until expended.

''§ 53714. Guarantee fees

''(a) REGULATIONS.—Subject to this section, the Secretary shall prescribe regulations to assess a fee for guaranteeing an obligation under this chapter.

''(b) COMPUTATION OF FEE.—

''(1) IN GENERAL.—The amount of the fee for a guarantee under this chapter shall be equal to the sum of the amounts determined under paragraph (2) for the years in which the guarantee is in effect.

''(2) PRESENT VALUE FOR EACH YEAR.—The amount referred to in paragraph (1) for a year in which the guarantee is in effect is the present value of the amount calculated under paragraph (3). To determine the present value, the Secretary shall apply a discount rate determined by the Secretary of the Treasury, considering current market yields on outstanding obligations of the United States Government having periods to maturity comparable to the period to maturity for the guaranteed obligation.

''(3) CALCULATION OF AMOUNT.—The amount referred to in paragraph (2) shall be calculated by multiplying—

''(A) the estimated average unpaid principal amount of the obligation that will be outstanding during the year (excluding the average amount, other than interest, on deposit during the year in an escrow fund under section 53715 of this title); by

''(B) the fee rate set under paragraph (4).

''(4) SETTING FEE RATES.—To set the fee rate referred to in paragraph (3)(B), the Secretary shall establish a formula that—

''(A) takes into account the security provided for the guaranteed obligation; and

''(B) is a sliding scale based on the creditworthiness of the obligor, using—

''(i) the lowest allowable rate under paragraph (5) for the most creditworthy obligors; and

''(ii) the highest allowable rate under paragraph (5) for the least creditworthy obligors.

''(5) PERMISSIBLE RANGE OF RATES.—The fee rate set under paragraph (4) shall be—

''(A) for a delivered vessel or equipment, at least 0.5 percent and not more than 1 percent; and

''(B) for a vessel to be constructed, reconstructed, or reconditioned or equipment to be delivered, at least 0.25 percent and not more than 0.5 percent.

''(c) WHEN FEE COLLECTED.—A fee for the guarantee of an obligation under this chapter shall be collected not later than the date on which an amount is first paid on the obligation.

''(d) FINANCING THE FEE.—A fee paid under this section is eligible to be financed under this chapter and shall be included in the actual cost of the obligation guaranteed.

''(e) NOT REFUNDABLE.—A fee paid under this section is not refundable. However, an obligor shall receive credit for the amount paid for the remaining term of the obligation if the obligation is refinanced and guaranteed under this chapter after the refinancing.

''§ 53715. Escrow fund

''(a) IN GENERAL.—If the proceeds of an obligation guaranteed under this chapter are to be used to finance the construction, reconstruction, or reconditioning of a vessel that will serve as security for a guarantee under this chapter, the Secretary may accept and hold in escrow, under an escrow agreement with the obligor, a portion of the proceeds of all obligations guaranteed under this chapter whose proceeds are to be so used which is equal to—

''(1) the excess of—

''(A) the principal amount of all obligations whose proceeds are to be so used; over

''(B) 75 percent or 87.5 percent, whichever is applicable under section 53709(b) of this title, of the amount paid by or for the account of the obligor for the construction, reconstruction, or reconditioning of the vessel; plus

''(2) any interest the Secretary may require on the amount described in paragraph (1).

''(b) SECURITY INVOLVING BOTH UNCOMPLETED AND DELIVERED VESSELS.—If the security for the guarantee of an obligation relates both to a vessel to be constructed, reconstructed, or reconditioned and to a delivered vessel, the principal amount of the obligation shall be prorated for purposes of subsection (a) under regulations prescribed by the Secretary.

''(c) DISBURSEMENT BEFORE TERMINATION OF AGREEMENT.—

''(1) PURPOSES.—The Secretary shall disburse amounts in the escrow fund, as specified in the escrow agreement, to—

''(A) pay amounts the obligor is obligated to pay for—

''(i) the construction, reconstruction, or reconditioning of a vessel used as security for the guarantee; and

''(ii) interest on the obligations;

''(B) redeem the obligations under a refinancing guaranteed under this chapter; and

''(C) pay any excess interest deposits to the obligor at times provided for in the escrow agreement.

''(2) MANNER OF PAYMENT.—If a payment becomes due under the guarantee before the termination of the escrow agreement, the amount in the escrow fund at the time the payment becomes due, including realized income not yet paid to the obligor, shall be paid into the appropriate account under section 53717 of this title. The amount shall be credited against amounts due or to become due from the obligor to the Secretary on the guaranteed obligations or, to the extent not so required, be paid to the obligor.

''(d) PAYMENTS REQUIRED BEFORE DISBURSEMENT.—

''(1) IN GENERAL.—No disbursement shall be made under subsection (c) to any person until the total amount paid by or for the account of the obligor from sources other than the proceeds of the obligation equals at least 25 percent or 12.5 percent, whichever is applicable under section 53709(b) of this title, of the aggregate actual cost of the vessel, as previously approved by the Secretary. If the aggregate actual cost of the vessel has increased since the Secretary's initial approval or if it increases after the first disbursement is permitted under this subsection, then no further disbursements shall be made under subsection (c) until the total amount paid by or for the account of the obligor from sources other than the proceeds of the obligation equals at least 25 percent or 12.5 percent, as applicable, of the increase, as determined by the Secretary, in the aggregate actual cost of the vessel. This paragraph does not require the Secretary to consent to finance any increase in actual cost unless the Secretary determines that such an increase in the obligation meets all the terms and conditions of this chapter or other applicable law.

''(2) DOCUMENTED PROOF OF PROGRESS REQUIREMENT.—The Secretary shall, by regulation, establish a transparent, independent, and risk-based process for verifying and documenting the progress of projects under construction before disbursing guaranteed loan funds. At a minimum, the process shall require documented proof of progress in connection with the construction, reconstruction, or reconditioning of a vessel or vessels before disbursements are made from the escrow fund. The Secretary may require that the obligor provide a certificate from an independent party certifying that the requisite progress in construction, reconstruction, or reconditioning has taken place.

''(e) DISBURSEMENT ON TERMINATION OF AGREEMENT.—

''(1) IN GENERAL.—If a payment has not become due under the guarantee before the termination of the escrow agreement, the balance of the escrow fund at the time of termination shall be disbursed to—

''(A) prepay the excess of—

''(i) the principal amount of all obligations whose proceeds are to be used to finance the construction, reconstruction, or reconditioning of the vessel used or to be used as security for the guarantee; over

''(ii) 75 percent or 87.5 percent, whichever is applicable under section 53709(b) of this title, of the actual cost of the vessel to the extent paid; and

''(B) pay interest on that prepaid amount of principal.

''(2) REMAINING BALANCE.—Any remaining balance of the escrow fund shall be paid to the obligor.

''(f) INVESTMENT.—The Secretary may invest and reinvest any part of an escrow fund in obligations of the United States Government with maturities such that the escrow fund will be available as required for purposes of the escrow agreement. Investment income shall be paid to the obligor when received.

''(g) TERMS TO PROTECT GOVERNMENT.—The escrow agreement shall contain other terms the Secretary considers necessary to protect fully the interests of the Government.

''§ 53716. Deposit fund

''(a) IN GENERAL.—There is a deposit fund in the Treasury for purposes of this section. The Secretary, in accordance with an agreement under subsection (b), may deposit into and hold in the fund cash belonging to an obligor to serve as collateral for a guarantee made under this chapter with respect to the obligor.

''(b) AGREEMENT.—The Secretary and an obligor shall make a reserve fund or other collateral account agreement to govern the deposit, withdrawal, retention, use, and reinvestment of cash of the obligor held in the fund. The agreement shall contain—

''(1) terms and conditions required by this section;

''(2) terms that grant to the United States Government a security interest in all amounts deposited into the fund; and

''(3) any additional terms considered by the Secretary to be necessary to protect fully the interests of the Government.

''(c) INVESTMENT.—The Secretary may invest and reinvest any part of the amounts in the fund in obligations of the Government with maturities such that amounts in the fund will be available as required for purposes of the agreement under subsection (b). Cash balances in the fund in excess of current requirements shall be maintained in a form of uninvested funds, and the Secretary of the Treasury shall pay interest on these funds.

''(d) WITHDRAWALS.—

''(1) IN GENERAL.—Cash deposited into the fund may not be withdrawn without the consent of the Secretary.

''(2) USE OF INCOME.—Subject to paragraph (3), the Secretary may pay any income earned on cash of an obligor deposited into the fund in accordance with the agreement with the obligor under subsection (b).

''(3) RETENTION AGAINST DEFAULT.—The Secretary may retain and offset any or all of the cash of an obligor in the fund, and any income realized thereon, as part of the Secretary's recovery against the obligor in case of a default by the obligor on an obligation.

''§ 53717. Management of funds in the Treasury

''(a) DEFINITION.—In this section, the term 'FCRA' means the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et seq.).

''(b) LOAN GUARANTEES BY SECRETARY OF TRANSPORTATION.—

''(1) WHEN NOT SUBJECT TO FCRA.—The Secretary of Transportation shall account for payments and disbursements involving obligations guaranteed under this chapter and not subject to FCRA in an account in the Treasury entitled the Federal Ship Financing Fund Liquidating Account (a liquidating account as defined in FCRA).

''(2) WHEN SUBJECT TO FCRA.—The Secretary of Transportation shall account for payments and disbursements involving obligations guaranteed under this chapter and subject to FCRA in a separate account in the Treasury entitled the Federal Ship Financing Guaranteed Loan Financing Account (a financing account as defined in FCRA).

''(c) LOAN GUARANTEES BY SECRETARY OF COMMERCE.—

''(1) WHEN NOT SUBJECT TO FCRA.—The Secretary of Commerce shall account for payments and disbursements involving obligations guaranteed under this chapter and not subject to FCRA in a separate account in the Treasury established for this purpose.

''(2) WHEN SUBJECT TO FCRA.—The Secretary of Commerce shall account for payments and disbursements involving obligations guaranteed under this chapter and subject to FCRA in a separate account in the Treasury established for this purpose.

''(d) DIRECT LOANS BY SECRETARY OF COMMERCE.—The Secretary of Commerce shall account for payments and disbursements involving direct loans made under this chapter in a separate account in the Treasury established for this purpose.

''§ 53718. Annual report to Congress

''The Secretary of Transportation shall report to Congress annually on the loan guarantee program under this chapter. Each report shall include—

''(1) the size, in dollars, of the portfolio of loans guaranteed;

''(2) the size, in dollars, of projects in the portfolio facing financial difficulties;

''(3) the number and type of projects covered;

''(4) a profile of pending loan applications;

''(5) the amount of appropriations available for new guarantees;

''(6) a profile of each project approved since the last report; and

''(7) a profile of any defaults since the last report.

''SUBCHAPTER II—DEFAULT PROVISIONS

''§ 53721. Rights of obligee

''(a) DEMANDS BY OBLIGEES.—Except as provided in subsection (c), if an obligor has continued in default for 30 days in the payment of principal or interest on an obligation guaranteed under this chapter, the obligee or the obligee's agent may demand that the Secretary pay the unpaid principal amount of the obligation and the unpaid interest on the obligation to the date of payment. The demand must be made within the earlier of—

''(1) a period that may be specified in the guarantee or a related agreement; or

''(2) 90 days from the date of the default.

''(b) PAYMENTS BY SECRETARY.—

''(1) IN GENERAL.—If a demand is made under subsection (a), the Secretary shall pay to the obligee or the obligee's agent the unpaid principal amount of the obligation and the unpaid interest on the obligation to the date of payment. Payment shall be made within the earlier of—

''(A) a period that may be specified in the guarantee or a related agreement; or

''(B) 30 days from the date of the demand.

''(2) IF NO EXISTING DEFAULT.—The Secretary is not required to make payment under this subsection if, within the appropriate period under paragraph (1), the Secretary finds that the obligor was not in default or that the default was remedied before the demand.

''(c) ASSUMPTION OF RIGHTS AND OBLIGATIONS BEFORE DEMAND.—An obligee or the obligee's agent may not demand payment under this section if the Secretary, before the demand and on terms that may be provided in the obligation or a related agreement, has assumed the obligor's rights and duties under the obligation and any related agreement and made any payment in default. However, the guarantee of the obligation remains in effect after the Secretary's assumption.

''§ 53722. Actions by Secretary

''(a) GENERAL AUTHORITY.—On default under an obligation or related agreement between the Secretary and the obligor, the Secretary, on terms that may be provided in the obligation or agreement, may—

''(1) assume the obligor's rights and duties under the obligation or agreement, make any payment in default, and notify the obligee or the obligee's agent of the default and the Secretary's assumption; or

''(2) notify the obligee or the obligee's agent of the default.

''(b) DEMANDS BY OBLIGEES.—

''(1) DEMAND.—If the Secretary proceeds under subsection (a)(2), the obligee or the obligee's agent may demand that the Secretary pay the unpaid principal amount of the obligation and the unpaid interest on the obligation. The demand must be made within the earlier of—

''(A) a period that may be specified in the guarantee or a related agreement; or

''(B) 60 days from the date of the Secretary's notice.

''(2) PAYMENT.—If a demand is made under paragraph (1), the Secretary shall pay to the obligee or the obligee's agent the unpaid principal amount of the obligation and the unpaid interest on the obligation to the date of payment. Payment shall be made within the earlier of—

''(A) a period that may be specified in the guarantee or a related agreement; or

''(B) 30 days from the date of the demand.

''(c) CONTINUED EFFECT OF GUARANTEE.—A guarantee of an obligation remains in effect after an assumption of the obligation by the Secretary.

''(d) ADDITIONAL RESPONSES.—If there is a default on an obligation, the Secretary shall conduct operations under this chapter in a manner that—

''(1) maximizes the net present value return from the sale or disposition of assets associated with the obligation, including prompt referral to the Attorney General for collection as appropriate;

''(2) minimizes the amount of any loss realized in the resolution of the guarantee;

''(3) ensures adequate competition and fair and consistent treatment of offerors; and

''(4) requires appraisal of assets by an independent appraiser.

''§ 53723. Payments by Secretary and issuance of obligations

''(a) CASH PAYMENT.—Amounts required to be paid by the Secretary under section 53721 or 53722 of this title shall be paid in cash.

''(b) ISSUANCE OF OBLIGATIONS.—If amounts in the appropriate account under section 53717 of this title are not sufficient to make a payment required under section 53721 or 53722 of this title, the Secretary may issue obligations to the Secretary of the Treasury. The Secretary, with the approval of the Secretary of the Treasury, shall prescribe the form, denomination, maturity, and other terms (except the interest rate) of the obligations. The Secretary of the Treasury shall set the interest rate for the obligations, considering the current average market yield on outstanding marketable obligations of the United States Government of comparable maturities during the month before the obligations are issued.

''(c) PURCHASE OF OBLIGATIONS.—The Secretary of the Treasury shall purchase the obligations issued under this section. To purchase the obligations, the Secretary of the Treasury may use as a public debt transaction the proceeds from the sale of securities issued under chapter 31 of title 31. The purposes for which securities may be issued under that chapter are extended to include the purchase of obligations under this subsection. The Secretary of the Treasury may sell obligations purchased under this section. A redemption, purchase, or sale of the obligations by the Secretary of the Treasury is a public debt transaction of the Government.

''(d) DEPOSITS AND REDEMPTIONS.—The Secretary shall deposit amounts borrowed under this section in the appropriate account under section 53717 of this title and make redemptions of the obligations from that account.

''§ 53724. Rights to secured property

''(a) ACQUISITION OF SECURITY RIGHTS.—When the Secretary makes a payment on, or assumes, an obligation under section 53721 or 53722 of this title, the Secretary acquires the rights under the security agreement with the obligor in the security held by the Secretary to guarantee the obligation.

''(b) USE AND DISPOSITION OF SECURED PROPERTY.—Notwithstanding any other law relating to the acquisition, handling, or disposal of property by the United States Government, the Secretary has the right, in the Secretary's discretion, to complete, reconstruct, recondition, renovate, repair, maintain, operate, charter, or sell any property acquired under a security agreement with an obligor, or to place a vessel so acquired in the National Defense Reserve Fleet. The terms of a sale under this subsection shall be as approved by the Secretary.

''§ 53725. Actions against obligor

''(a) IN GENERAL.—For a default under a guaranteed obligation or related agreement, the Secretary may take any action against the obligor or another liable party that the Secretary considers necessary to protect the interests of the United States Government. A civil action may be brought in the name of the United States or the obligee. The obligee shall make available to the Government all records and evidence necessary to prosecute the action.

''(b) TITLE, POSSESSION, AND PURCHASE.—

''(1) IN GENERAL.—The Secretary may—

''(A) accept a conveyance of title to and possession of property from the obligor or another party liable to the Secretary; and

''(B) purchase the property for an amount not greater than the unpaid principal amount of the obligation and interest thereon.

''(2) PAYMENT OF EXCESS.—If, through the sale of property, the Secretary receives an amount of cash greater than the unpaid principal amount of the obligation, the unpaid interest on the obligation, and the expenses of collecting those amounts, the Secretary shall pay the excess to the obligor.

''SUBCHAPTER III—PARTICULAR PROJECTS

''§ 53731. Commercial demonstration ocean thermal energy conversion facilities and plantships

''(a) IN GENERAL.—Under subchapter I of this chapter, the Secretary may guarantee or make a commitment to guarantee the payment of the principal of and interest on an obligation that aids in financing (including reimbursement of an obligor for expenditures previously made for) the construction, reconstruction, or reconditioning of a commercial demonstration ocean thermal energy conversion facility or plantship. This section may be used to guarantee obligations for a total of not more than 5 separate facilities and plantships or a demonstrated 400 megawatt capacity, whichever comes first.

''(b) APPLICABILITY OF OTHER PROVISIONS.—Except as otherwise provided in this section, a guarantee or commitment to guarantee under this section is subject to all the provisions applicable to a guarantee or commitment to guarantee under subchapter I of this chapter.

''(c) ECONOMIC SOUNDNESS.—The required determination of economic soundness under section 53708 of this title applies to a guarantee or commitment to guarantee for that portion of a facility or plantship not to be supported with appropriated Federal funds.

''(d) REASONABLENESS OF RISK.—A guarantee or commitment to guarantee may not be made under this section unless the Secretary of Energy, in consultation with the Secretary, certifies to the Secretary that, for the facility or plantship for which the guarantee or commitment to guarantee is sought, there is sufficient guarantee of performance and payment to lower the risk to the United States Government to a reasonable level. In deciding whether to issue such a certification, the Secretary of Energy shall consider—

''(1) the successful demonstration of the technology to be used in the facility at a scale sufficient to establish the likelihood of technical and economic viability in the proposed market; and

''(2) the need of the United States to develop new and renewable sources of energy and the benefits to be realized from the construction and successful operation of the facility or plantship.

''(e) AMOUNT OF OBLIGATION.—The total principal amount of an obligation guaranteed under this section may not exceed 87.5 percent of—

''(1) the actual cost or depreciated actual cost of the facility or plantship; or

''(2) if the facility or plantship is supported with appropriated Federal funds, the total principal amount of that portion of the actual cost or depreciated actual cost for which the obligor is obligated to secure financing under the agreement between the obligor and the Department of Energy or other Federal agency.

''(f) OTEC DEMONSTRATION FUND.—

''(1) IN GENERAL.—There is a special subaccount, known as the OTEC Demonstration Fund, in the account established under section 53717(b)(1) of this title.

''(2) USE AND OPERATION.—The OTEC Demonstration Fund shall be used for obligation guarantees authorized under this section that do not qualify under subchapter I of this chapter. Except as otherwise provided in this section, the OTEC Demonstration Fund shall be operated in the same manner as the parent account. However—

''(A) amounts received by the Secretary under subchapter I of this chapter related to guarantees or commitments to guarantee made under this section shall be deposited only in the OTEC Demonstration Fund; and

''(B) when obligations issued by the Secretary under section 53723 of this title related to the OTEC Demonstration Fund are outstanding, any amount received by the Secretary under subchapter I of this chapter related to ocean thermal energy conversion facilities or plantships shall be deposited in the OTEC Demonstration Fund.

''(3) TRANSFERS.—Assets in the OTEC Demonstration Fund may be transferred to the parent account when and to the extent the balance in the OTEC Demonstration Fund exceeds the total guarantees or commitments to guarantee made under this section then outstanding, plus obligations issued by the Secretary under section 53723 of this title related to the OTEC Demonstration Fund.

''(4) LIABILITY.—The parent account is not liable for a guarantee or commitment to guarantee made under this section.

''(5) MAXIMUM UNPAID PRINCIPAL AMOUNT.—The total unpaid principal amount of the obligations guaranteed with the backing of the OTEC Demonstration Fund and outstanding at any one time may not exceed $1,650,000,000.

''(g) ISSUANCE AND PAYMENT OF OBLIGATIONS.—Section 53723 of this title applies to the OTEC Demonstration Fund. However, obligations issued by the Secretary under that section related to the OTEC Demonstration Fund shall be payable only from proceeds realized by the OTEC Demonstration Fund.

''(h) TAXATION OF INTEREST.—Interest on an obligation guaranteed under this section shall be included in gross income under chapter 1 of the Internal Revenue Code of 1986 (26 U.S.C. ch. 1).

''§ 53732. Eligible export vessels

''(a) APPLICABLE TERMS.—The Secretary may guarantee an obligation for an eligible export vessel in accordance with—

''(1) the terms applicable under this chapter for vessels documented under the laws of the United States; or

''(2) other terms the Secretary determines are more favorable than those terms and compatible with export credit terms offered by foreign governments for the sale of vessels built in foreign shipyards.

''(b) INTERAGENCY COUNCIL.—

''(1) ESTABLISHMENT.—There is an interagency council to carry out this section.

''(2) COMPOSITION.—The council is composed of the following individuals or their designees:

''(A) The Secretary of Transportation, who is the chairman of the council.

''(B) The Secretary of the Treasury.

''(C) The Secretary of State.

''(D) The Assistant to the President for Economic Policy.

''(E) The United States Trade Representative.

''(F) The President and Chairman of the Export-Import Bank of the United States.

''(3) FUNCTIONS.—The council shall—

''(A) obtain information on shipbuilding loan guarantees, direct and indirect subsidies, and other favorable treatment of shipyards provided by foreign governments to shipyards in competition with United States shipyards;

''(B) consult regularly with United States shipbuilders to obtain the essential information about international shipbuilding competition on which to set terms for loan guarantees under subsection (a)(2); and

''(C) provide guidance to the Secretary in establishing terms for loan guarantees under subsection (a)(2).

''(4) ANNUAL REPORT.—Not later than January 31 of each year, the Secretary shall submit to Congress a report on activities of the Secretary under this section during the preceding year. The report shall include—

''(A) documentation of sources of information about assistance by governments of other countries to shipyards in those countries; and

''(B) a summary of recommendations made to the Secretary during the preceding year about applications submitted to the Secretary during that year for loan guarantees to construct eligible export vessels.

''(c) REQUIRED FINDINGS.—

''(1) BENEFIT TO SHIPBUILDING INDUSTRY.—The Secretary may not guarantee or make a commitment to guarantee an obligation for an eligible export vessel unless the Secretary finds that the construction, reconstruction, or reconditioning of the vessel will aid in the transition of United States shipyards to commercial activities or will preserve shipbuilding assets that would be essential in time of war or national emergency.

''(2) PRIORITY OF DOCUMENTED VESSELS.—The Secretary may not make a commitment to guarantee an obligation for an eligible export vessel unless the Secretary determines that making the commitment will not result in denial of an economically sound application for a commitment to guarantee an obligation for a vessel documented under the laws of the United States and operating in the domestic or foreign commerce of the United States. The Secretary has sole discretion in making the determination. In making the determination, the Secretary shall consider—

''(A) the status and economic soundness of pending applications for commitments to guarantee obligations for vessels documented under the laws of the United States that are operating or will be operating in the domestic or foreign commerce of the United States; and

''(B) the amount of guarantee authority available.

''(d) RESTRICTION ON TRANSFER OF VESSEL.—The Secretary may not guarantee or make a commitment to guarantee an obligation for an eligible export vessel unless the owner of the vessel agrees with the Secretary that the vessel will not be transferred to a country designated by the Secretary of Defense as a country whose interests are hostile to the interests of the United States.

''(e) REVIEW BY SECRETARY OF DEFENSE.—

''(1) NOTIFICATION.—The Secretary shall promptly notify the Secretary of Defense of the receipt of an application for a loan guarantee for an eligible export vessel.

''(2) DISAPPROVAL.—The Secretary of Defense, within 30 days after receiving the notice, may disapprove the guarantee based on an assessment of the potential use of the vessel in a manner that may harm the national security interests of the United States. The Secretary may not disapprove a guarantee solely because of the type of vessel to be constructed.

''(3) DELEGATION.—The authority of the Secretary of Defense to disapprove a guarantee under this subsection may be delegated only to a civilian officer of the Department of Defense appointed by the President by and with the advice and consent of the Senate.

''(4) PROHIBITION.—The Secretary may not make a loan guarantee disapproved by the Secretary of Defense under this subsection.

''(f) EXPIRATION OF AUTHORITY.—The Secretary may not issue a commitment to guarantee an obligation for an eligible export vessel under this chapter after the last date on which such a commitment may be issued under any treaty or convention entered into after November 30, 1993, that prohibits guarantee of such an obligation.

''§ 53733. Shipyard modernization and improvement

''(a) DEFINITIONS.—In this section:

''(1) ADVANCED SHIPBUILDING TECHNOLOGY.—The term 'advanced shipbuilding technology' includes—

''(A) numerically controlled machine tools, robots, automated process control equipment, computerized flexible manufacturing systems, associated computer software, and other technology for improving shipbuilding and related industrial production that advance the state-of-the-art; and

''(B) novel techniques and processes designed to improve shipbuilding quality, productivity, and practice, and to promote sustainable development, including engineering design, quality assurance, concurrent engineering, continuous process production technology, energy efficiency, waste minimization, design for recyclability or parts reuse, inventory management, upgraded worker skills, and communications with customers and suppliers.

''(2) GENERAL SHIPYARD FACILITY.—The term 'general shipyard facility' means—

''(A) for operations on land—

''(i) a structure or appurtenance thereto designed for the construction, reconstruction, repair, rehabilitation, or refurbishment of a vessel, including a graving dock, building way, ship lift, wharf, or pier crane;

''(ii) the land necessary for the structure or appurtenance; and

''(iii) equipment that is for use with the structure or appurtenance and that is necessary for performing a function referred to in clause (i); and

''(B) for operations not on land, a vessel, floating drydock, or barge built in the United States and used for, equipped to be used for, or of a type normally used for, performing a function referred to in subparagraph (A)(i).

''(3) MODERN SHIPBUILDING TECHNOLOGY.—The term 'modern shipbuilding technology' means the best available proven technology, techniques, and processes appropriate to enhancing the productivity of shipyards.

''(b) GENERAL AUTHORITY.—Under subchapter I of this chapter, the Secretary may guarantee or make a commitment to guarantee the payment of the principal of and interest on an obligation for advanced shipbuilding technology and modern shipbuilding technology of a general shipyard facility in the United States. Only a private shipyard is eligible to receive a guarantee.

''(c) APPLICABILITY OF OTHER PROVISIONS.—Except as otherwise provided in this section, a guarantee or commitment to guarantee under this section is subject to all the provisions applicable to a guarantee or commitment to guarantee under subchapter I of this chapter.

''(d) AMOUNT OF OBLIGATION.—The principal amount of an obligation guaranteed under this chapter may not exceed 87.5 percent of the actual cost of the advanced shipbuilding technology or modern shipbuilding technology.

''(e) TRANSFER OF AMOUNTS.—The Secretary may accept the transfer of amounts from a department, agency, or instrumentality of the United States Government and may use those amounts to cover the cost (as defined in section 502 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a)) of making guarantees or commitments to guarantee under this section.

''§ 53734. Replacement of vessels because of changes in operating standards

''(a) GENERAL AUTHORITY.—Notwithstanding any other provision of this chapter, the Secretary, on terms the Secretary may prescribe, may guarantee or make a commitment to guarantee the payment of the principal of and interest on an obligation that aids in financing or refinancing (including reimbursement of an obligor for expenditures previously made for) a contract for the construction or reconstruction of a vessel if—

''(1) the vessel is designed and to be used for commercial use in coastwise, intercoastal, or foreign trade;

''(2) the construction or reconstruction is necessary to replace a vessel that cannot continue to be operated because of a change required by law in the standards for the operation of vessels, and the applicant for the guarantee or commitment would not otherwise legally be able to continue operating vessels in the trades in which the applicant operated vessels before the change;

''(3) the applicant is presently engaged in transporting cargoes in vessels of the type and class that will be constructed or reconstructed under this section and agrees to employ vessels constructed or reconstructed under this section as replacements only for vessels made obsolete by the change in operating standards;

''(4) the capacity of the vessels to be constructed or reconstructed under this section will not increase the cargo carrying capacity of the vessels being replaced;

''(5) the Secretary has not determined that the market demand for the vessel over its useful life will diminish so as to make granting the guarantee fiduciarily imprudent;

''(6) the vessel, if to be reconstructed, will have a useful life of at least 15 years after the reconstruction; and

''(7) the Secretary has considered the criteria specified in section 53708(a)(3)–(5) of this title.

''(b) TERM AND AMOUNT OF OBLIGATION.—

''(1) TERM.—The term of an obligation guaranteed under this section may not exceed 25 years.

''(2) AMOUNT.—The amount of an obligation guaranteed under this section may not exceed 87.5 percent of the actual cost or depreciated actual cost to the applicant for the construction or reconstruction of the vessel. The Secretary may not establish a percentage under this paragraph that is to be applied uniformly to all guarantees or commitments to guarantee made under this section.

''(c) APPLICABILITY OF OTHER PROVISIONS.—A guarantee or commitment to guarantee under this section is also subject to sections 53701, 53702(a), 53704, 53705, 53707(a), 53708(d) and (e), 53709(a), 53710(a)(1), (2), and (4) and (c), 53711(a), 53713, 53714, 53717, and 53721–53725 of this title.

''(d) SECURITY AGAINST DEFAULT.—The Secretary shall require by regulation that an applicant under this section provide adequate security against default.

''(e) GUARANTEE FEES.—The Secretary may establish a fee for the guarantee of an obligation under this section that is in addition to the fee established under section 53714 of this title. The fee may be—

''(1) an annual fee of not more than an additional 1 percent added to the fee established under section 53714 of this title; or

''(2) a fee based on the amount of the obligation versus the percentage of the obligor's fleet being replaced by vessels constructed or reconstructed under this section.

''§ 53735. Fisheries financing and capacity reduction

''(a) DEFINITION.—In this section, the term 'program' means a fishing capacity reduction program established under section 312 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1861a).

''(b) GUARANTEE AUTHORITY.—The Secretary may guarantee the repayment of debt obligations issued by entities under this section. Debt obligations to be guaranteed may be issued by any entity that has been approved by the Secretary and has agreed with the Secretary to conditions the Secretary considers necessary for this section to achieve the objective of the program and to protect the interest of the United States.

''(c) REQUIREMENTS OF OBLIGATIONS.—A debt obligation guaranteed under this section shall—

''(1) be treated in the same manner and to the same extent as other obligations guaranteed under this chapter, except with respect to provisions of this chapter that by their nature cannot be applied to obligations guaranteed under this section;

''(2) have the fishing fees established under the program paid into a separate subaccount of the fishing capacity reduction fund established under this section;

''(3) not exceed $100,000,000 in an unpaid principal amount outstanding at any one time for a program;

''(4) have such maturity (not to exceed 20 years), take such form, and contain such conditions as the Secretary determines necessary for the program to which they relate;

''(5) have as the exclusive source of repayment (subject to the second sentence of subsection (d)(2)) and as the exclusive payment security, the fishing fees established under the program; and

''(6) at the discretion of the Secretary be issued in the public market or sold to the Federal Financing Bank.

''(d) FISHING CAPACITY REDUCTION FUND.—

''(1) IN GENERAL.—There is a separate account in the Treasury, known as the Fishing Capacity Reduction Fund. Within the Fund, at least one subaccount shall be established for each program into which shall be paid all fishing fees established under the program and other amounts authorized for the program.

''(2) AVAILABILITY OF AMOUNTS.—Amounts in the Fund shall be available, without appropriation or fiscal year limitation, to the Secretary to pay the cost of the program, including payments to financial institutions to pay debt obligations incurred by entities under this section. Funds available for this purpose from other amounts available for the program may also be used to pay those debt obligations.

''(3) INVESTMENT.—Amounts in the Fund that are not currently needed for the purpose of this section shall be kept on deposit or invested in obligations of the United States Government.

''(e) REGULATIONS.—The Secretary shall prescribe regulations the Secretary considers necessary to carry out this section.

''CHAPTER 539—WAR RISK INSURANCE

''§ 53901. Definitions

''In this chapter:

''(1) AMERICAN VESSEL.—The term 'American vessel' includes—

''(A) a documented vessel with a registry or coastwise endorsement under chapter 121 of this title;

''(B) an undocumented vessel owned or chartered by or made available to the United States Government; and

''(C) a tug, barge, or other watercraft (whether or not documented) owned by a citizen of the United States and used in essential water transportation or in the fisheries, except only for sport fishing.

''(2) CARGO.—The term 'cargo' includes a loaded or empty container on a vessel.

''(3) TRANSPORTATION IN THE WATERBORNE COMMERCE OF THE UNITED STATES.—The term 'transportation in the waterborne commerce of the United States' includes the operation of a vessel in the fisheries, except only for sport fishing.

''(4) WAR RISKS.—The term 'war risks' includes, to the extent the Secretary of Transportation determines—

''(A) any part of a loss excluded from marine insurance coverage under a 'free of capture or seizure' clause or analogous clause; and

''(B) any other loss from a hostile act, including confiscation, expropriation, nationalization, or deprivation.

''§ 53902. Authority to provide insurance

''(a) IN GENERAL.—With the approval of the President, and after such consultation with interested agencies of United States Government as the President may require, the Secretary of Transportation may provide insurance and reinsurance against loss or damage from war risks as provided by this chapter whenever it appears to the Secretary that insurance adequate for the needs of the waterborne commerce of the United States cannot be obtained on reasonable terms and conditions from companies authorized to do insurance business in a State of the United States.

''(b) CONSIDERATION OF RISK.—Insurance or reinsurance under this chapter shall be based, insofar as practicable, on consideration of the risk involved.

''(c) AVAILABILITY OF VESSEL DURING WAR OR NATIONAL EMERGENCY.—Insurance or reinsurance for a vessel may be provided under this chapter only on the condition that the vessel will be available to the Government in time of war or national emergency.

''§ 53903. Insurable interests

''(a) IN GENERAL.—The Secretary of Transportation may provide insurance and reinsurance under this chapter for—

''(1) an American vessel, including a vessel under construction;

''(2) a foreign vessel—

''(A) owned by a citizen of the United States; or

''(B) engaged in transportation in the waterborne commerce of the United States or in such other transportation by water or such other services as the Secretary considers to be in the interest of the national defense or national economy of the United States, when so engaged;

''(3) cargo—

''(A) shipped or to be shipped on a vessel insurable under this section, including by express or registered mail;

''(B) owned by a citizen or resident of the United States;

''(C) imported to or exported from the United States, or sold or purchased by a citizen or resident of the United States, under a contract of sale or purchase the terms of which provide that the risk of loss by war risks or the obligation to provide insurance against war risks is on a citizen or resident of the United States; or

''(D) shipped between ports in the United States;

''(4) disbursements, including advances to masters and general average disbursements, and freight and passage money of a vessel insurable under this section;

''(5) personal effects of an individual on a vessel insurable under this section;

''(6) loss of life, injury, or detention by an enemy of the United States after capture, with respect to an individual on a vessel insurable under this section; and

''(7) statutory or contractual obligations or other liabilities of a vessel insurable under this section or of the owner or charterer of such a vessel, of a nature customarily covered by insurance.

''(b) CONSIDERATIONS FOR FOREIGN VESSELS.—In determining whether to provide insurance or reinsurance for a foreign vessel, the Secretary shall consider the characteristics, employment, and general management of the vessel by the owner or charterer.

''(c) NON-WAR RISKS.—Insurance of a risk under subsection (a)(5)–(7), insofar as it involves a liability related to an individual on the vessel, may include risks other than war risks to the extent the Secretary considers advisable.

''§ 53904. Liability insurance for persons involved in war or defense efforts

''(a) IN GENERAL.—The Secretary of Transportation may provide insurance under this chapter against legal liability that a person may incur in providing services or facilities for a vessel if, in the opinion of the Secretary, the insurance—

''(1) is required in prosecuting a war or for national defense; and

''(2) cannot be obtained at reasonable rates or on reasonable terms and conditions from approved companies authorized to do insurance business in a State of the United States.

''(b) LIMITATIONS.—Employer liability insurance and worker compensation insurance against legal liability to employees may not be provided under this section.

''§ 53905. Agency insurance

''(a) IN GENERAL.—With the approval of the President, an agency of the United States Government may obtain insurance provided for by this chapter from the Secretary of Transportation, except as provided in sections 17302 and 17303 of title 40.

''(b) PREMIUM WAIVERS.—With the approval of the President, the Secretary of Transportation may provide insurance under this chapter at the request of the Secretary of Defense and other agencies the President may prescribe, without payment of an insurance premium if the Secretary of Defense or agency agrees to indemnify the Secretary of Transportation against loss covered by the insurance. The Secretary of Defense and agencies may make such an indemnity agreement.

''(c) PRESIDENTIAL APPROVAL.—The signature of the President (or an official designated by the President) on the agreement shall be treated as the approval required by section 53902(a) of this title.

''§ 53906. Hull insurance valuation

''(a) STATED VALUATION.—The valuation in a hull insurance policy for actual or constructive total loss of the insured vessel shall be a stated valuation determined by the Secretary of Transportation. The stated valuation—

''(1) shall exclude national defense features paid for by the United States Government; and

''(2) may not exceed the amount that would be payable if the ownership of the vessel had been requisitioned under chapter 563 of this title at the time the insurance attached under the policy.

''(b) REJECTING STATED VALUATION.—Within 60 days after the insurance attaches under a policy referred to in subsection (a) or within 60 days after the Secretary determines the valuation, whichever is later, the insured may reject the valuation and pay, at the rate provided in the policy, premiums based on the asserted valuation the insured specifies at the time of rejection. However, the asserted valuation is not binding on the Government in any subsequent action on the policy.

''(c) AMOUNT OF CLAIM.—If a vessel is actually or constructively totally lost and the insured under a policy referred to in subsection (a) has not rejected the stated valuation determined by the Secretary, the amount of a claim adjusted, compromised, settled, adjudged, or paid may not exceed the stated valuation. However, if the insured has rejected the valuation, the insured—

''(1) shall be paid, as a tentative advance only, 75 percent of the stated valuation; and

''(2) may bring a civil action against the United States in a court having jurisdiction of the claim to recover a valuation equal to the just compensation the court determines would have been payable if the ownership of the vessel had been requisitioned under chapter 563 of this title at the time the insurance attached under the policy.

''(d) ADJUSTING PREMIUMS.—If a court makes a determination as provided under subsection (c)(2), premiums paid under the policy shall be adjusted based on the court's determination and the rates provided for in the policy.

''§ 53907. Reinsurance

''(a) IN GENERAL.—To the extent the Secretary of Transportation is authorized to provide insurance under this chapter, the Secretary may provide reinsurance to a company authorized to do insurance business in a State of the United States. The Secretary may obtain reinsurance from such a company for any insurance provided by the Secretary under this chapter.

''(b) RATES.—The Secretary may not provide reinsurance at rates less than, nor obtain reinsurance at rates more than, the rates established by the Secretary on the same or similar risks or the rates charged by the insurance company for the insurance reinsured, whichever is more advantageous to the Secretary. However, the Secretary may provide an allowance to the insurance company for the costs of services and facilities the company provides, in an amount the Secretary considers reasonable according to good business practice. The allowance to the company may not include any amount for soliciting or stimulating insurance business.

''§ 53908. Additional insurance privately obtained

''With the approval of the Secretary of Transportation, a person having an insurable interest in a vessel may obtain insurance on the vessel with other underwriting agents in addition to the insurance with the Secretary. The Secretary is not entitled to the benefit of the additional insurance.

''§ 53909. War risk insurance revolving fund

''(a) IN GENERAL.—There is a war risk insurance revolving fund in the Treasury.

''(b) DEPOSITS.—There shall be deposited in the fund amounts appropriated to carry out this chapter and amounts received in carrying out this chapter.

''(c) PAYMENTS.—There shall be paid from the fund amounts for return premiums, losses, settlements, judgments, and all liabilities incurred by the United States Government under this chapter.

''(d) INVESTMENT.—The Secretary of Transportation may request the Secretary of the Treasury to invest such portion of the fund as is not, in the judgment of the Secretary of Transportation, required to meet the current needs of the fund. These investments shall be made by the Secretary of the Treasury in public debt securities of the Government, with maturities suitable to the needs of the fund, and bearing interest rates determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the Government of comparable maturity. Interest and benefits from the securities shall be deposited in the fund.

''§ 53910. Administrative

''(a) ACCORDANCE WITH COMMERCIAL PRACTICE.—In carrying out this chapter, the Secretary of Transportation may act in accordance with commercial practice in the marine insurance business.

''(b) REGULATIONS.—The Secretary may prescribe regulations the Secretary considers appropriate to carry out this chapter.

''(c) POLICIES, RATES, AND ANNUAL FEES.—The Secretary may prescribe and change forms and policies, and fix and change the amounts insured and rates of premium, under this chapter.

''(d) ANNUAL FEES.—The Secretary may charge and collect an annual fee in an amount calculated to cover the expenses of processing applications for insurance, employing underwriting agents, and appointing experts under this chapter.

''(e) PAYMENT OF CLAIMS AND JUDGMENTS.—The Secretary may settle and pay claims, and pay judgments against the United States, related to insurance under this chapter.

''(f) UNDERWRITING AGENTS.—

''(1) IN GENERAL.—The Secretary may, and when the Secretary finds it practical to do so shall, employ a domestic company or group of domestic companies, authorized to do marine insurance business in a State of the United States, to act as underwriting agent for the Secretary. The services of an underwriting agent may be used in adjusting claims, but a claim may not be paid until approved by the Secretary.

''(2) COMPENSATION.—The Secretary may allow the company or group of companies reasonable compensation for services as the underwriting agent. The compensation may include an allowance for expenses reasonably incurred by the agent, but may not include any amount for soliciting or stimulating business.

''(g) FEES FOR ARRANGING INSURANCE.—Except as provided in subsection (f)(2), the Secretary may not pay an insurance broker or other person acting in a similar intermediary capacity a fee or other consideration for participating in arranging insurance when the Secretary directly insures any of the risk.

''(h) EMPLOYMENT OF MARINE INSURANCE EXPERTS.—The Secretary, without regard to the laws and regulations on the employment of Federal employees, may appoint and prescribe the duties of experts in marine insurance as the Secretary considers necessary to carry out this chapter.

''(i) SERVICES OF OTHER GOVERNMENT AGENCIES.—With the consent of another agency of the United States Government, the Secretary may use information, services, facilities, officers, and employees of the agency in carrying out this chapter.

''(j) VESSEL LOCATION REPORTING.—The Secretary may prescribe by regulation vessel location reporting requirements for a vessel insured under this chapter.

''§ 53911. Civil actions for losses

''(a) IN GENERAL.—If there is a disagreement about a loss insured under this chapter, a civil action in admiralty may be brought against the United States in the district court of the United States for the district in which the plaintiff or the plaintiff's agent resides. If the plaintiff has

no residence in the United States, the action may be brought in the United States District Court for the District of Columbia or in the district court for any district in which the Attorney General agrees to accept service. Any person who may have an interest in the insurance may be made a party, either initially or on the motion of either party.

''(b) EXCLUSIVE REMEDY.—A civil action against the United States under this section is exclusive of any other action by reason of the same subject matter against an officer, employee, or agent employed or retained by the Government under this chapter.

''(c) PROCEDURE.—A civil action under this section shall be heard and determined under chapter 309 of this title.

''(d) TOLLING OF LIMITATIONS PERIOD.—If a claim is filed with the Secretary of Transportation, the running of the limitations period for bringing a civil action is suspended until the Secretary denies the claim, and for 60 days thereafter. The Secretary is deemed to have denied the claim if the Secretary does not act on the claim within 6 months after the claim is filed, unless the Secretary for good cause shown agrees with the claimant on a different period for the Secretary to act on the claim.

''(e) INTERPLEADER.—If the Secretary acknowledges the indebtedness of the Government under the insurance and there is a dispute about the persons entitled to receive payment, the Government may bring a civil action interpleading those persons. The action shall be brought in the United States District Court for the District of Columbia or in the district court for the district in which any of those persons resides. A person not residing or found in the district may be made a party by service in any reasonable manner the court directs. If the court is satisfied that unknown persons might make a claim under the insurance, the court may direct service on those unknown persons by publication in the Federal Register. Judgment after service by publication in the Federal Register discharges the Government from further liability to all persons.

''§ 53912. Expiration date

''The authority of the Secretary of Transportation to provide insurance and reinsurance under this chapter expires on December 31, 2010.

''PART D—PROMOTIONAL PROGRAMS

''CHAPTER 551—COASTWISE TRADE

''§ 55101. Application of coastwise laws

''(a) IN GENERAL.—Except as provided in subsection (b), the coastwise laws apply to the United States, including the island territories and possessions of the United States.

''(b) EXCEPTIONS.—The coastwise laws do not apply to—

''(1) American Samoa;

''(2) the Northern Mariana Islands, except as provided in section 502(b) of the Covenant To Establish a Commonwealth of the Northern Mariana Islands in Political Union With the United States of America (48 U.S.C. 1801 note);

''(3) Canton Island until the President declares by proclamation that the coastwise laws apply to Canton Island; or

''(4) the Virgin Islands until the President declares by proclamation that the coastwise laws apply to the Virgin Islands.

''§ 55102. Transportation of merchandise

''(a) DEFINITION.—In this section, the term 'merchandise' includes—

''(1) merchandise owned by the United States Government, a State, or a subdivision of a State; and

''(2) valueless material.

''(b) REQUIREMENTS.—Except as otherwise provided in this chapter or chapter 121 of this title, a vessel may not provide any part of the transportation of merchandise by water, or by land and water, between points in the United States to which the coastwise laws apply, either directly or via a foreign port, unless the vessel—

''(1) is wholly owned by citizens of the United States for purposes of engaging in the coastwise trade; and

''(2) has been issued a certificate of documentation with a coastwise endorsement under chapter 121 or is exempt from documentation but would otherwise be eligible for such a certificate and endorsement.

''(c) PENALTY.—Merchandise transported in violation of subsection (b) is liable to seizure by and forfeiture to the Government. Alternatively, an amount equal to the value of the merchandise (as determined by the Secretary of Homeland Security) or the actual cost of the transportation, whichever is greater, may be recovered from any person transporting the merchandise or causing the merchandise to be transported.

''§ 55103. Transportation of passengers

''(a) IN GENERAL.—Except as otherwise provided in this chapter or chapter 121 of this title, a vessel may not transport passengers between ports or places in the United States to which the coastwise laws apply, either directly or via a foreign port, unless the vessel—

''(1) is wholly owned by citizens of the United States for purposes of engaging in the coastwise trade; and

''(2) has been issued a certificate of documentation with a coastwise endorsement under chapter 121 or is exempt from documentation but would otherwise be eligible for such a certificate and endorsement.

''(b) PENALTY.—The penalty for violating subsection (a) is $300 for each passenger transported and landed.

''§ 55104. Transportation of passengers between Puerto Rico and other ports in the United States

''(a) DEFINITIONS.—In this section:

''(1) CERTIFICATE.—The term 'certificate' means a certificate of financial responsibility for indemnification of passengers for nonperformance of transportation issued by the Federal Maritime Commission under section 44102 of this title.

''(2) PASSENGER VESSEL.—The term 'passenger vessel' means a vessel of similar size, or offering similar service, as any other vessel transporting passengers under subsection (b).

''(b) EXEMPTION.—Except as otherwise provided in this section, a vessel not qualified to engage in the coastwise trade may transport passengers between a port in Puerto Rico and another port in the United States.

''(c) EXPIRATION OF EXEMPTION.—

''(1) WHEN COASTWISE-QUALIFIED VESSEL OFFERING SERVICE.—On a showing to the Secretary of the department in which the Coast Guard is operating, by the vessel owner or charterer, that a United States passenger vessel qualified to engage in the coastwise trade is offering or advertising passenger service between a port in Puerto Rico and another port in the United States pursuant to a certificate, the Secretary shall notify the owner or operator of each vessel transporting passengers under subsection (b) to terminate that transportation within 270 days after the Secretary's notification. Except as provided in subsection (d), the authority to transport passengers under subsection (b) expires at the end of that 270-day period.

''(2) WHEN NON-COASTWISE-QUALIFIED VESSEL OFFERING SERVICE.—On a showing to the Secretary, by the vessel owner or charterer, that a United States passenger vessel not qualified to engage in the coastwise trade is offering or advertising passenger service between a port in Puerto Rico and another port in the United States pursuant to a certificate, the Secretary shall notify the owner or operator of each foreign vessel transporting passengers under subsection (b) to terminate that transportation within 270 days after the Secretary's notification. Except as provided in subsection (d), the authority of a foreign vessel to transport passengers under subsection (b) expires at the end of that 270-day period.

''(d) DELAYING EXPIRATION.—If the vessel offering or advertising the service described in subsection (c) has not begun that service within 270 days after the Secretary's notification, the expiration provided by subsection (c) is delayed until 90 days after the vessel offering or advertising the service begins that service.

''(e) REINSTATEMENT OF EXEMPTION.—If the Secretary finds that the service on which an expiration was based is no longer available, the expired authority to transport passengers is reinstated.

''§ 55105. Transportation of hazardous waste

''(a) IN GENERAL.—The transportation of hazardous waste, as defined in section 1004(5) of the Resource Conservation and Recovery Act of 1976 (42 U.S.C. 6903(5)), from a point in the United States to sea for incineration is deemed to be transportation of merchandise under section 55102 of this title.

''(b) NONAPPLICATION TO CERTAIN FOREIGN VESSELS.—

''(1) IN GENERAL.—Subsection (a) does not apply to transportation performed by a foreign ocean incineration vessel owned by or under construction on May 1, 1982, for a corporation wholly owned by citizens of the United States under section 50501(a)–(c) of this title.

''(2) STANDARDS FOR INCINERATION EQUIPMENT.—Incineration equipment on a vessel described in paragraph (1) must meet standards of the Coast Guard and the Environmental Protection Agency.

''(3) INSPECTION.—A vessel described in paragraph (1) shall be inspected by the Coast Guard, regardless of whether inspected by the nation in which it is registered. The inspection shall be the same as would be required of a vessel of the United States, including drydock inspection and internal examination of tanks and void spaces. The inspection may be made concurrently with an inspection by that nation or within one year after the initial issuance or next scheduled issuance of the Safety of Life at Sea Safety Construction Certificate. In making the inspection, the Coast Guard shall refer to the condition of the hull and superstructure established by the initial foreign certification as the basis for evaluating the current condition of the hull and superstructure. The Coast Guard shall allow the substitution of fittings, material, apparatus, equipment, and appliances different from those required for vessels of the United States if satisfied they are equivalent and at least as effective as those required for vessels of the United

States. A satisfactory inspection under this paragraph shall be certified in writing by the Secretary of the department in which the Coast Guard is operating.

''(c) EFFECTIVE DATE.—Subsection (a) is not effective until an appropriate vessel has been built and documented under chapter 121 of this title.

''§ 55106. Merchandise transferred between barges

''(a) IN GENERAL.—On terms and conditions the Secretary of Homeland Security may prescribe by regulation, the Secretary may suspend the application of section 55102 of this title to the transportation of merchandise that is transferred, when moving in the foreign trade of the United States, from a barge certified by the owner or operator as designed specifically for carriage on a vessel and carried regularly on a vessel in foreign trade, to another such barge owned or leased by the same owner or operator. However, this subsection does not apply to transportation between the continental United States and noncontiguous States, territories, or possessions to which the coastwise laws apply.

''(b) RECIPROCITY REQUIREMENT FOR FOREIGN VESSELS.—This section applies to a vessel of foreign registry only if the Secretary of Homeland Security finds, based on information from the Secretary of State, that the government of the nation of registry extends reciprocal privileges to vessels of the United States.

''§ 55107. Empty cargo containers and barges

''(a) IN GENERAL.—Subject to subsections (b) and (c), and on terms and conditions the Secretary of Homeland Security may prescribe by regulation, section 55102 of this title does not apply to the transportation of—

''(1) empty cargo vans, empty lift vans, or empty shipping tanks;

''(2) equipment for use with cargo vans, lift vans, or shipping tanks;

''(3) empty barges specifically designed for carriage aboard a vessel and equipment (except propulsion equipment) for use with those barges;

''(4) empty instruments for international traffic exempted from the customs laws under section 322(a) of the Tariff Act of 1930 (19 U.S.C. 1322(a)); or

''(5) stevedoring equipment and material.

''(b) CONDITIONS.—

''(1) PARAGRAPHS (1)–(4).—Paragraphs (1)–(4) of subsection (a) apply only if the items named are owned or leased by the owner or operator of the vessel and transported for its use in handling its cargo in foreign trade.

''(2) PARAGRAPH (5).—Paragraph (5) of subsection (a) applies only if the items named are—

''(A) owned or leased by the owner or operator of the vessel or by the stevedoring company having the contract for the loading or unloading of the vessel; and

''(B) transported without charge for use in the handling of cargo in foreign trade.

''(c) RECIPROCITY REQUIREMENT FOR FOREIGN VESSELS.—This section applies to a vessel of foreign registry only if the Secretary of Homeland Security finds, based on information from the Secretary of State, that the government of the nation of registry extends reciprocal privileges to vessels of the United States.

''§ 55108. Platform jackets

''(a) DEFINITIONS.—In this section:

''(1) COASTWISE QUALIFIED VESSEL.—The term 'coastwise qualified vessel' means a vessel that has been issued a certificate of documentation with a coastwise endorsement under chapter 121 of this title.

''(2) PLATFORM JACKET.—The term 'platform jacket' refers to a single physical component and includes any type of offshore exploration, development, or production structure or component thereof, including—

''(A) platform jackets;

''(B) tension leg or SPAR platform superstructures (including the deck, drilling rig and support utilities, and supporting structure);

''(C) hull (including vertical legs and connecting pontoons or vertical cylinder);

''(D) tower and base sections of a platform jacket;

''(E) jacket structures; and

''(F) deck modules (known as 'topsides').

''(b) AUTHORIZED TRANSPORTATION.—Section 55102 of this title does not apply to the transportation of a platform jacket in or on a non-coastwise qualified launch barge between two points in the United States, at one of which there is an installation or other device within the meaning of section 4(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1333(a)), if—

''(1) the launch barge was built before December 31, 2000, and has a launch capacity of at least 12,000 long tons; and

''(2) the Secretary of Transportation makes a determination, in accordance with procedures established under subsection (c), that a suitable coastwise qualified vessel is not available for use in the transportation and, if needed, launch or installation of a platform jacket.

''(c) PROCEDURES TO MAXIMIZE USE OF COASTWISE QUALIFIED VESSELS.—The Secretary of Transportation shall adopt procedures implementing this section that are reasonably designed to provide timely information so as to maximize the use of coastwise qualified vessels. The procedures shall, among other things, establish that for purposes of this section, a coastwise qualified vessel shall be deemed to be not available only if—

''(1) on application by an owner or operator for the use of a non-coastwise qualified launch barge for transportation of a platform jacket under this section (which application shall include all relevant information, including engineering details and timing requirements), the Secretary promptly publishes a notice in the Federal Register—

''(A) describing the project and the platform jacket involved;

''(B) advising that all relevant information reasonably needed to assess the transportation requirements for the platform jacket will be made available to interested parties on request; and

''(C) requesting that information on the availability of coastwise qualified vessels be submitted within 30 days after publication of that notice; and

''(2)(A) no information is submitted to the Secretary within that 30 day period; or

''(B) the owner or operator of a coastwise qualified vessel submits information to the Secretary asserting that the owner or operator has a suitable coastwise qualified vessel available for the transportation, but the Secretary determines, within 90 days after the notice is first published, that the coastwise qualified vessel is not suitable or reasonably available for the transportation.

''§ 55109. Dredging

''(a) IN GENERAL.—Except as provided in subsection (b), a vessel may engage in dredging in the navigable waters of the United States only if—

''(1) the vessel is wholly owned by citizens of the United States for purposes of engaging in the coastwise trade;

''(2) the charterer, if any, is a citizen of the United States for purposes of engaging in the coastwise trade; and

''(3) the vessel has been issued a certificate of documentation with a coastwise endorsement under chapter 121 of this title or is exempt from documentation but would otherwise be eligible for such a certificate and endorsement.

''(b) DREDGING OF GOLD IN ALASKA.—A documented vessel with a registry endorsement may engage in the dredging of gold in Alaska.

''(c) PENALTY.—If a vessel is operated in knowing violation of this section, the vessel and its equipment are liable to seizure by and forfeiture to the United States Government.

''§ 55110. Transportation of dredged material

''Section 55102 of this title applies to the transportation of valueless material or dredged material, regardless of whether it has commercial value, from a point in the United States or on the high seas within the exclusive economic zone, to another point in the United States or on the high seas within the exclusive economic zone.

''§ 55111. Towing

''(a) IN GENERAL.—Except when towing a vessel in distress, a vessel may not do any part of any towing described in subsection (b) unless the towing vessel—

''(1) is wholly owned by citizens of the United States for purposes of engaging in the coastwise trade; and

''(2) has been issued a certificate of documentation with a coastwise endorsement under chapter 121 of this title or is exempt from documentation but would otherwise be eligible for such a certificate and endorsement.

''(b) APPLICABLE TOWING.—Subsection (a) applies to the towing of—

''(1) a vessel between ports or places in the United States to which the coastwise laws apply, either directly or via a foreign port or place;

''(2) a vessel from point to point within the harbors of ports or places to which the coastwise laws apply; or

''(3) a vessel transporting valueless material or dredged material, regardless of whether it has commercial value, from a point in the United States or on the high seas within the exclusive economic zone, to another point in the United States or on the high seas within the exclusive economic zone.

''(c) PENALTIES.—

''(1) OWNER AND MASTER.—The owner and master of a vessel towing another vessel in violation of this section are each liable for a penalty of at least $350 but not more than $1,100. A penalty under this paragraph constitutes a lien on the vessel. The lien is enforceable in a district court of the United States for any district in which the vessel is found. Clearance may not be granted to the vessel until the penalties have been paid.

''(2) VESSEL.—In addition to the penalties under paragraph (1), the towing vessel is liable for a penalty of $60 per ton based on the tonnage of each towed vessel.

''§ 55112. Vessel escort operations and towing assistance

''(a) IN GENERAL.—Except in the case of a vessel in distress, only a vessel of the United States may perform the following escort vessel operations within the navigable waters of the United States:

''(1) Operations that commence or terminate at a port or place in the United States.

''(2) Operations required by United States law or regulation.

''(3) Operations provided in whole or in part within or through navigation facilities owned, maintained, or operated by the United States Government or the approaches to those facilities, other than facilities operated by the St. Lawrence Seaway Development Corporation on the St. Lawrence River portion of the Seaway.

''(b) ESCORT VESSELS.—For purposes of this section, an escort vessel is—

''(1) any vessel that is assigned and dedicated to assist another vessel, whether or not tethered to that vessel, solely as a safety precaution to assist in controlling the speed or course of the assisted vessel in the event of a steering or propulsion equipment failure, or any other similar emergency circumstance, or in restricted waters where additional assistance in maneuvering the vessel is required to ensure its safe operation; and

''(2) in the case of a vessel being towed under section 55111 of this title, any vessel that is assigned and dedicated to the vessel being towed in addition to any towing vessel required under that section.

''(c) RELATIONSHIP TO OTHER LAW.—This section does not affect section 55111 of this title.

''(d) PENALTY.—A person violating this section is liable to the Government for a civil penalty of not more than $10,000 for each day during which the violation occurs.

"§ 55113. Use of foreign documented oil spill response vessels

''Notwithstanding any other provision of law, an oil spill response vessel documented under the laws of a foreign country may operate in waters of the United States on an emergency and temporary basis, for the purpose of recovering, transporting, and unloading in a United States port oil discharged as a result of an oil spill in or near those waters, if—

''(1) an adequate number and type of oil spill response vessels documented under the laws of the United States cannot be engaged to recover oil from an oil spill in or near those waters in a timely manner, as determined by the Federal On-Scene Coordinator for a discharge or threat of a discharge of oil; and

''(2) the foreign country has by its laws accorded to vessels of the United States the same privileges accorded to vessels of the foreign country under this section.

"§ 55114. Unloading fish from foreign vessels

''(a) PROHIBITIONS.—Except as otherwise provided by this section or a treaty or convention to which the United States is a party, a foreign vessel may not unload, in a port of the United States—

''(1) its catch of fish taken on board on the high seas or fish products processed from that catch of fish; or

''(2) fish or fish products taken on board that vessel on the high seas from a vessel engaged in fishing operations or the processing of fish or fish products.

''(b) REGULATIONS ON OBTAINING INFORMATION.—The Secretary of Commerce may prescribe regulations the Secretary considers necessary to obtain information on the transportation of fish products by vessels of the United States for foreign fish processing vessels to points in the United States.

''(c) VIRGIN ISLANDS.—

''(1) IN GENERAL.—A foreign vessel of not more than 50 feet overall in length may unload its catch of fresh fish (whole or with the heads, viscera, or fins removed, but not frozen, otherwise processed, or further advanced) in a port of the Virgin Islands for immediate consumption in those islands. Fish unloaded under this paragraph may be sold or transferred only for immediate consumption. In the absence of satisfactory evidence that a sale or transfer to an agent, representative, or employee of a freezer or cannery is for immediate consumption, the sale or transfer is deemed not to be for immediate consumption. This paragraph does not prohibit the freezing, smoking, or other processing of fresh fish by the ultimate consumer of the fish.

''(2) SEIZURE, FORFEITURE, AND PENALTY.—Fish unloaded in the Virgin Islands that are retained, sold, or transferred, except as allowed by paragraph (1), are liable to seizure by and forfeiture to the United States Government. A person retaining, selling, transferring, buying, or receiving the fish is liable to the Government for a civil penalty of not more than $1,000 for each violation. A penalty or forfeiture under this paragraph may be compromised, modified, or remitted under section 2107(b) of this title.

''(d) NORTHERN MARIANA ISLANDS.—Subsection (a) does not apply to the Northern Mariana Islands.

"§ 55115. Supplies on fish processing vessels

''Section 55102 of this title does not apply to supplies aboard a United States documented fish processing vessel that are necessary and used for processing or assembling fishery products aboard such a vessel.

"§ 55116. Canadian rail lines

''Section 55102 of this title does not apply to the transportation of merchandise between points in the continental United States, including Alaska, over through routes in part over Canadian rail lines and connecting water facilities if the routes are recognized by the Surface Transportation Board and rate tariffs for the routes have been filed with the Board.

"§ 55117. Great Lakes rail route

''Section 55102 of this title does not apply to the transportation of merchandise loaded on a railroad car or to a motor vehicle with or without a trailer, and with its passengers or contents when accompanied by the operator, when the railroad car or motor vehicle is transported in a railroad car ferry operated between fixed terminals on the Great Lakes as part of a rail route, if—

''(1) the car ferry is owned by a common carrier by water and operated as part of a rail route with the approval of the Surface Transportation Board;

''(2) the stock of the common carrier by water, or its predecessor, was owned or controlled by a common carrier by rail prior to June 5, 1920;

''(3) the stock of the common carrier owning the car ferry is, with the approval of the Board, now owned or controlled by a common carrier by rail; and

''(4) the car ferry is built in and documented under the laws of the United States.

"§ 55118. Foreign railroads whose road enters by ferry, tugboat, or towboat

''A foreign railroad, whose road enters the United States by ferry, tugboat, or towboat, may own and operate a vessel not having a coastwise endorsement in connection with the water transportation of the passenger, freight, express, baggage, and mail cars used by that road, together with the passengers, freight, express matter, baggage, and mails transported in those cars. However, the foreign railroad is subject to the same restrictions imposed by law on a vessel of the United States entering a port of the United States from the same foreign country. Except as otherwise authorized by this chapter, the ferry, tugboat, or towboat may not, under penalty of forfeiture, be used in the transportation of merchandise between ports or places in the United States to which the coastwise laws apply.

"§ 55119. Yukon River

''Section 55102 of this title does not apply to the transportation of merchandise on the Yukon River until the Alaska Railroad is completed and the Secretary of Transportation finds that proper facilities will be available for transportation by citizens of the United States to properly handle the traffic.

"§ 55120. Transshipment of imported merchandise intended for immediate exportation

''The Secretary of Homeland Security may prescribe regulations for the transshipment and transportation of merchandise that is imported into the United States by sea for immediate exportation to a foreign port by sea, or by a river, the right to ascend or descend which for the purposes of commerce is secured by treaty to the citizens of the United States and the subjects of a foreign power.

"§ 55121. Transportation of merchandise and passengers on Canadian vessels

''(a) BETWEEN ROCHESTER AND ALEXANDRIA BAY.—Until passenger service is established by vessels of the United States between the port of Rochester, New York, and the port of Alexandria Bay, New York, the Secretary of Homeland Security may issue annually permits to Canadian passenger vessels to transport passengers between those ports. Canadian vessels holding such a permit are not subject to section 55103 of this title.

''(b) WITHIN ALASKA OR BETWEEN ALASKA AND OTHER POINTS IN THE UNITED STATES.—Until the Secretary of Transportation determines that service by vessels of the United States is available to provide the transportation described in paragraph (1) or (2), sections 55102 and 55103 of this title do not apply to the transportation on Canadian vessels of—

''(1) passengers between ports in southeastern Alaska; or

''(2) passengers or merchandise between Hyder, Alaska, and other points in southeastern Alaska or in the United States outside Alaska.

"CHAPTER 553—PASSENGER AND CARGO PREFERENCES

''SUBCHAPTER I—GENERAL

''SUBCHAPTER II—EXPORT TRANSPORTATION OF AGRICULTURAL COMMODITIES

''SUBCHAPTER III—AMERICAN GREAT LAKES VESSELS

''SUBCHAPTER I—GENERAL

"§ 55301. Priority loading for coal

''A vessel engaged in the coastwise transportation of coal produced in the United States, from a port in the United States to another port in the United States, shall be given priority in loading at any of those ports ahead of a waiting vessel engaged in the export transportation of coal produced in the United States. However, if the Secretary of Transportation finds that it is in the national interest, the Secretary may eliminate this priority loading at any port. The Secretary shall report to Congress within 30 days an action eliminating priority loading under this section.

"§ 55302. Transportation of United States Government personnel

''(a) IN GENERAL.—An officer or employee of the United States Government traveling by sea on official business overseas or to or from a territory or possession of the United States shall travel and transport personal effects on a vessel documented under the laws of the United Sates if such a vessel is available, unless the necessity of the mission requires the use of a foreign vessel.

''(b) REGULATIONS.—The Administrator of General Services shall prescribe regulations under which agencies may not pay for or reimburse an officer or employee for travel or transportation expenses incurred on a foreign vessel in the absence of satisfactory proof of the necessity of using the vessel.

"§ 55303. Motor vehicles owned by United States Government personnel

''Notwithstanding any other law, privately-owned American shipping services may be used

to transport motor vehicles owned by personnel of the United States Government whenever transportation of those vehicles at Government expense is otherwise authorized by law.

"§ 55304. Exports financed by the United States Government

"It is the sense of Congress that any loans made by an instrumentality of the United States Government to foster the exporting of agricultural or other products shall provide that the products may be transported only on vessels of the United States unless, as to any or all of those products, the Secretary of Transportation, after investigation, certifies to the instrumentality that vessels of the United States are not available in sufficient number, in sufficient tonnage capacity, on necessary schedules, or at reasonable rates.

"§ 55305. Cargoes procured, furnished, or financed by the United States Government

"(a) DEFINITION.—In this section, the term 'privately-owned commercial vessel of the United States' does not include a vessel that, after September 21, 1961, was built or rebuilt outside the United States or documented under the laws of a foreign country, until the vessel has been documented under the laws of the United States for at least 3 years.

"(b) MINIMUM TONNAGE.—When the United States Government procures, contracts for, or otherwise obtains for its own account, or furnishes to or for the account of a foreign country without provision for reimbursement, any equipment, materials, or commodities, within or without the United States, or advances funds or credits, or guarantees the convertibility of foreign currencies in connection with the furnishing of the equipment, materials, or commodities, the appropriate agencies shall take steps necessary and practicable to ensure that at least 50 percent of the gross tonnage of the equipment, materials, or commodities (computed separately for dry bulk carriers, dry cargo liners, and tankers) which may be transported on ocean vessels is transported on privately-owned commercial vessels of the United States, to the extent those vessels are available at fair and reasonable rates for commercial vessels of the United States, in a manner that will ensure a fair and reasonable participation of commercial vessels of the United States in those cargoes by geographic areas.

"(c) WAIVERS.—The President, the Secretary of Defense, or Congress (by concurrent resolution or otherwise) may waive this section temporarily by—

"(1) declaring the existence of an emergency justifying a waiver; and

"(2) notifying the appropriate agencies of the waiver.

"(d) PROGRAMS OF OTHER AGENCIES.—An agency having responsibility under this section shall administer its programs with respect to this section under regulations prescribed by the Secretary of Transportation. The Secretary shall review the administration of those programs and report annually to Congress on their administration.

"SUBCHAPTER II—EXPORT TRANSPORTATION OF AGRICULTURAL COMMODITIES

"§ 55311. Findings and purposes

"(a) FINDINGS.—Congress finds that—

"(1) a productive and healthy agricultural industry and a strong and active United States maritime industry are vitally important to the economic well-being and security of the United States;

"(2) both industries must compete in international markets increasingly dominated by foreign trade barriers and the subsidization practices of foreign governments; and

"(3) increased agricultural exports and the use of merchant vessels of the United States contribute positively to the United States balance of trade and generate employment opportunities in the United States.

"(b) PURPOSES.—The purposes of this subchapter are to—

"(1) enable the Secretary of Agriculture to plan export programs effectively, by clarifying the ocean transportation requirements applicable to those programs;

"(2) take immediate and positive steps to promote the growth of the cargo-carrying capacity of the United States merchant marine;

"(3) expand international trade in United States agricultural commodities and products and develop, maintain, and expand markets for United States agricultural exports;

"(4) improve the efficiency of administration of both the commodity purchasing and selling activities and the ocean transportation activities associated with export programs sponsored by the Secretary;

"(5) stimulate and promote the agricultural and maritime industries of the United States and encourage cooperative efforts by both industries to address their common problems; and

"(6) provide for the appropriate disposition of these findings and purposes.

"§ 55312. Determining prevailing world market price

"(a) AGRICULTURAL COMMODITIES AND PRODUCTS.—The prevailing world market price for agricultural commodities or their products shall be determined under this subchapter under procedures prescribed by the Secretary of Agriculture. The Secretary shall prescribe the procedures by regulation, with notice and opportunity for public comment under section 553 of title 5.

"(b) SERVICES AND NON-AGRICULTURAL COMMODITIES AND PRODUCTS.—If a determination of the prevailing world market price of any other type of materials, goods, equipment, or service is required to determine whether a barter or exchange transaction is subject to section 55314(b)(6) or (7) of this title, the determination shall be made by the Secretary of Agriculture in consultation with the heads of other appropriate agencies.

"§ 55313. Exemption of certain agricultural exports from cargo preference provisions

"Sections 55304 and 55305 of this title do not apply to export activities of the Secretary of Agriculture or the Commodity Credit Corporation under which—

"(1) agricultural commodities or their products acquired by the Corporation are made available to United States exporters, users, processors, or foreign purchasers for the purpose of developing, maintaining, or expanding export markets for United States agricultural commodities or their products at prevailing world market prices;

"(2) payments are made available to United States exporters, users, or processors or, except as provided in section 55314 of this title, cash grants are made available to foreign purchasers, for the purpose described in paragraph (1);

"(3) commercial credit guarantees are blended with direct credits from the Corporation to reduce the effective rate of interest on export sales of United States agricultural commodities or their products;

"(4) credit or credit guarantees for not more than 3 years are extended by the Corporation to finance or guarantee export sales of United States agricultural commodities or their products; or

"(5) agricultural commodities or their products owned or controlled by or under loan from the Corporation are exchanged or bartered for materials, goods, equipment, or services at least equal in value to the agricultural commodities or their products for which they are exchanged or bartered (determined on the basis of prevailing world market prices at the time of the exchange or barter), but this paragraph does not exempt from the cargo preference provisions referred to in section 55314(b) of this title any requirement otherwise applicable to the materials, goods, equipment, or services imported under the transaction.

"§ 55314. Transportation requirements for certain exports sponsored by the Secretary of Agriculture

"(a) MINIMUM TONNAGE.—

"(1) IN GENERAL.—In addition to the requirement under section 55305 of this title for the transportation of a percentage of gross tonnage on commercial vessels of the United States, 25 percent of the gross tonnage of agricultural commodities or their products specified in subsection (b) shall be transported each calendar year on commercial vessels of the United States that—

"(A) are necessary for national security; and

"(B) if more than 25 years old, were rebuilt within the last 5 years and certified by the Secretary of Transportation as having a useful life of at least 5 years after that rebuilding.

"(2) CALENDAR YEAR.—To provide for effective and equitable administration of the cargo preference laws, the calendar year for the purpose of compliance with minimum percentage requirements is the 12-month period beginning October 1 of each year.

"(b) APPLICABLE EXPORT ACTIVITY.—This section applies to export activity (except inspection or weighing activities, other activities carried out for health or safety, or technical assistance provided in the handling of commercial transactions) of the Secretary of Agriculture or the Commodity Credit Corporation—

"(1) carried out under the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 et seq.);

"(2) carried out under section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431);

"(3) carried out under the Bill Emerson Humanitarian Trust Act (7 U.S.C. 1736f–1);

"(4) under which agricultural commodities or their products are—

"(A) donated through foreign governments or private or public agencies, including intergovernmental organizations; or

"(B) sold for foreign currencies or for dollars on credit terms of more than 10 years;

"(5) under which agricultural commodities or their products are made available for emergency food relief at less than prevailing world market prices;

"(6) under which a cash grant is made directly or through an intermediary to a foreign purchaser to enable the purchaser to obtain United States agricultural commodities or their products in an amount greater than the difference between the prevailing world market price and the United States market price, free along side vessel at a United States port; or

"(7) under which agricultural commodities owned or controlled by or under loan from the Corporation are exchanged or bartered for materials, goods, equipment, or services produced in foreign countries, except export activities described in section 55313(5) of this title.

"(c) ADDITIONAL REQUIREMENTS.—

"(1) APPLICATION OF SECTION 55305.—The requirement for transportation on vessels of the United States under subsection (a) is subject to the same terms and conditions as provided in section 55305 of this title.

"(2) ALLOCATION OF COMMODITIES.—Subject to paragraph (3), in carrying out this section and section 55305 of this title, the Corporation shall take steps necessary and practicable, and consistent with this section and section 55305, without detriment to any port range to allocate, on the principle of lowest landed cost without regard to the country of registry of the vessel, 25 percent of the bagged, processed, or fortified commodities provided under title II of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1721 et seq.).

"(3) CALCULATIONS.—In carrying out paragraph (2), first there shall be calculated the allocation of 100 percent of the quantity to be procured on an overall lowest landed cost basis without regard to the country of registry of the vessel, and then there shall be allocated to the

Great Lakes port range any cargoes for which it has the lowest landed cost under that calculation. The requirements for transportation on vessels of the United States under this section and section 55305 of this title do not apply to commodities allocated to the Great Lakes port range under paragraph (2). Commodities allocated to the Great Lakes port range under paragraph (2) may not be reallocated or diverted to another port range to meet those requirements to the extent that the total tonnage of commodities to which paragraph (2) applies that is furnished and transported from the Great Lakes port range is less than 25 percent of the total annual tonnage of the commodities furnished.

''(4) AWARDING CONTRACTS.—In awarding a contract for the transportation by vessel of commodities from the Great Lakes port range pursuant to an export activity referred to in subsection (b), an agency—

''(A) shall consider expressions of freight interest for any vessel from a vessel operator who meets reasonable requirements for financial and operational integrity; and

''(B) may not deny award of the contract to a person based on the type of vessel on which the transportation would be provided (including on the basis that the transportation would not be provided on a liner vessel, as that term is used in the Shipping Act of 1984, as in effect on November 14, 1995), if the person otherwise satisfies reasonable requirements for financial and operational integrity.

''(5) NONAVAILABILITY OF VESSELS.—A determination of nonavailability of vessels of the United States resulting from the application of this subsection may not reduce the gross tonnage of commodities required by this section and section 55305 of this title to be transported on vessels of the United States.

''§ 55315. Minimum tonnage

''(a) DEFINITION.—In this section, the term 'base period' means the 5-year period running from the sixth through the second prior fiscal years.

''(b) REQUIREMENT.—For each fiscal year, the minimum quantity of agricultural commodities to be exported under programs subject to section 55314 of this title is the average of the tonnage exported under those programs during the base period, discarding the high and low years.

''(c) WAIVERS.—The President may waive the minimum quantity for a fiscal year under this section if the President determines and reports to Congress, together with reasons, that the quantity cannot be used effectively for the purposes of those programs or, based on a certification by the Secretary of Agriculture, that the commodities are not available for reasons that include the unavailability of funds.

''§ 55316. Financing the transportation of agricultural commodities

''(a) FINANCING OF INCREASED CHARGES.—The Secretary of Transportation shall finance any increased ocean freight charges incurred in any fiscal year that result from the application of section 55314 of this title.

''(b) REIMBURSEMENT OF INCREASED CHARGES.—

''(1) IN GENERAL.—The Secretary of Transportation shall reimburse the Secretary of Agriculture and the Commodity Credit Corporation for the amount by which, in any fiscal year—

''(A) the total cost of ocean freight and ocean freight differential for which obligations are incurred by the Secretary of Agriculture and the Corporation on exports of agricultural commodities and their products under the agricultural export programs specified in section 55314(b) of this title; exceeds

''(B) 20 percent of the value of the commodities and their products and the cost of the ocean freight and ocean freight differential on which obligations are incurred by the Secretary of Agriculture and the Corporation during that fiscal year.

''(2) COMMODITIES SHIPPED FROM INVENTORY.—For purposes of this subsection, commodities shipped from the inventory of the Corporation shall be valued as provided in section 412(d) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736f(d)).

''(c) ISSUANCE AND PURCHASE OF OBLIGATIONS.—

''(1) ISSUANCE.—To meet the expenses required to be assumed under subsections (a) and (b), the Secretary of Transportation shall issue obligations to the Secretary of the Treasury. The Secretary of Transportation, with the approval of the Secretary of the Treasury, shall prescribe the form, denomination, maturity, and other terms (except the interest rate) of the obligations. The Secretary of the Treasury shall set the interest rate for the obligations, considering the average market yield on outstanding marketable obligations of the United States Government of comparable maturities during the month before the obligations are issued.

''(2) PURCHASE.—The Secretary of the Treasury shall purchase the obligations issued under this subsection. To purchase the obligations, the Secretary of the Treasury may use as a public debt transaction the proceeds from the sale of securities issued under chapter 31 of title 31. The purposes for which securities may be issued under that chapter are extended to include the purchase of obligations under this subsection. A redemption or purchase of the obligations by the Secretary of the Treasury is a public debt transaction of the Government.

''(d) SOURCE OF FUNDS FOR REIMBURSEMENT.—Reimbursement of the Secretary of Transportation for costs incurred under this section shall be made with appropriated funds rather than through cancellation of notes.

''(e) APPROPRIATIONS.—

''(1) AUTHORIZATION.—Each fiscal year, there is authorized to be appropriated an amount sufficient to reimburse the Secretary of Transportation for the costs incurred under this section, including administrative expenses and the principal and interest due on obligations issued to the Secretary of the Treasury.

''(2) APPROPRIATION FOR ADMINISTRATIVE EXPENSES.—Each fiscal year, such amounts as may be necessary are hereby appropriated to pay interest and to liquidate debt on obligations issued to the Secretary of the Treasury under this section.

''(f) NOTIFICATION TO CONGRESS OF INSUFFICIENCY.—If the Secretary of Transportation is unable to obtain the funds necessary to finance the increased ocean freight charges resulting from the requirements of subsections (a) and (b) and section 55314(a) of this title, the Secretary shall notify Congress within 10 working days of the discovery of the insufficiency.

''§ 55317. Termination of subchapter

''This subchapter terminates 90 days after the date on which a notification is made under section 55316(f) of this title, except for shipments of agricultural commodities and their products subject to contracts made before the end of that 90-day period, unless within that 90-day period the Secretary of Transportation proclaims that funds are available to finance increased freight charges resulting from the requirements of sections 55314(a) and 55316(a) and (b) of this title. On the termination of this subchapter under this section—

''(1) this subchapter does not exempt export activities from, or subject export activities to, the cargo preference laws; and

''(2) the 50-percent requirement in section 55305 of this title remains in effect.

''§ 55318. Effect on other law

''This subchapter does not affect chapter 5 of title 5.

''SUBCHAPTER III—AMERICAN GREAT LAKES VESSELS

''§ 55331. Definitions

''In this subchapter:

''(1) AMERICAN GREAT LAKES VESSEL.—The term 'American Great Lakes vessel' means a vessel so designated under section 55332 of this title, but only during the period the designation is in effect.

''(2) GREAT LAKES.—The term 'Great Lakes' means Lake Superior, Lake Michigan, Lake Huron, Lake Erie, Lake Ontario, the Saint Lawrence River west of Saint Regis, New York, and their connecting and tributary waters.

''(3) GREAT LAKES SHIPPING SEASON.—The term 'Great Lakes shipping season' means the period each year during which the Saint Lawrence Seaway is open for navigation by vessels, as declared by the Saint Lawrence Seaway Development Corporation.

''§ 55332. Designating American Great Lakes vessels

''(a) DESIGNATIONS.—The Secretary of Transportation shall designate a vessel as an American Great Lakes vessel if—

''(1) an application for designation is submitted to the Secretary under regulations prescribed by the Secretary;

''(2) the vessel is documented under the laws of the United States;

''(3) the vessel, on the effective date of the designation, is—

''(A) at least 1, but not more than 6, years old; or

''(B) at least 1, but not more than 11, years old if the Secretary finds that suitable vessels are not available to provide the type of service for which the vessel will be used after the designation;

''(4) the vessel has not previously been designated as an American Great Lakes vessel; and

''(5) the owner makes an agreement as provided under subsection (b).

''(b) AGREEMENTS.—A vessel may be designated as an American Great Lakes vessel only if the person that will be the owner of the vessel at the time of the designation makes an agreement with the Secretary providing that if the Secretary determines that the vessel is necessary to the defense of the United States, the United States Government will have an exclusive right, during the 120-day period following the date of a revocation of the designation under section 55335 of this title, to purchase the vessel for a price equal to the greater of—

''(1) the approximate world market value of the vessel; or

''(2) the cost of the vessel to the owner less a reasonable amount for depreciation.

''(c) CERTAIN FOREIGN DOCUMENTATION AND SALE NOT PROHIBITED.—Notwithstanding any other law, if the Government does not exercise its right of purchase under an agreement under subsection (b), the owner of the vessel is not prohibited from—

''(1) documenting the vessel under the laws of a foreign country; or

''(2) selling the vessel to a person not a citizen of the United States.

''(d) REGULATIONS.—The Secretary shall prescribe regulations establishing requirements for submitting applications under this section.

''§ 55333. Exemption from restriction on transporting certain cargo

''The 3-year documentation requirement of section 55305(a) of this title does not apply to a vessel designated as an American Great Lakes vessel during the period of its designation.

''§ 55334. Restrictions on operations

''(a) PROHIBITIONS.—Except as provided in subsection (b), an American Great Lakes vessel may not be used to—

''(1) engage in trade—

''(A) from a port in the United States that is not located on the Great Lakes; or

''(B) between ports in the United States;

''(2) transport bulk cargo (as defined in section 40102 of this title) that is subject to section 55305 or 55314 of this title or section 2631 of title 10; or

''(3) provide a service (except ocean freight service) as—

''(A) a contract carrier; or

''(B) a common carrier on a fixed advertised schedule offering frequent sailings at regular intervals in the foreign trade of the United States.

''(b) OFF-SEASON EXCEPTION.—An American Great Lakes vessel may be used for not more than 90 days during any 12-month period to engage in trade prohibited by subsection (a)(1)(A), except during the Great Lakes shipping season.

''§ 55335. Revocations and terminations of designations

''(a) REVOCATIONS.—After notice and an opportunity for a hearing, the Secretary of Transportation may revoke a designation of a vessel as an American Great Lakes vessel if the Secretary finds that—

''(1) the vessel does not meet a requirement for the designation;

''(2) the vessel has been operated in violation of this subchapter; or

''(3) the owner or operator of the vessel has violated an agreement made under section 55332(b) of this title.

''(b) TERMINATIONS.—On petition and a showing of good cause by the owner of a vessel, the Secretary may terminate the designation of a vessel as an American Great Lakes vessel. The Secretary may impose conditions in a termination order to prevent significant adverse effects on other operators of vessels of the United States.

''§ 55336. Civil penalty

''After notice and an opportunity for a hearing, the Secretary of Transportation may impose a civil penalty of not more than $1,000,000 on the owner of an American Great Lakes vessel for any act for which the designation may be revoked under section 55335 of this title.

''CHAPTER 555—MISCELLANEOUS

''§ 55501. Mobile trade fairs

''(a) IN GENERAL.—The Secretary of Commerce shall encourage and promote the development and use of mobile trade fairs designed to show and sell the products of United States business and agriculture at foreign ports and at other commercial centers throughout the world where the operators of the fairs use, insofar as practicable, vessels and aircraft of the United States in transporting their exhibits.

''(b) TECHNICAL AND FINANCIAL ASSISTANCE.—When the Secretary determines that a mobile trade fair provides an economical and effective means of promoting export sales, the Secretary may provide to the operator of the fair—

''(1) technical assistance and support; and

''(2) financial assistance to defray certain expenses incurred outside the United States, except the cost of transportation on foreign vessels and aircraft.

''(c) USE OF FOREIGN CURRENCIES.—To carry out this section, the President may use, in addition to amounts appropriated to carry out trade promotion activities, foreign currencies owned by or owed to the United States Government.

''PART E—CONTROL OF MERCHANT MARINE CAPABILITIES

''CHAPTER 561—RESTRICTIONS ON TRANSFERS

''§ 56101. Approval required to transfer vessel to noncitizen

''(a) RESTRICTIONS.—

''(1) IN GENERAL.—Except as otherwise provided in this section, section 12119 of this title, or section 611 of the Merchant Marine Act, 1936, a person may not, without the approval of the Secretary of Transportation—

''(A) sell, lease, charter, deliver, or in any other manner transfer, or agree to sell, lease, charter, deliver, or in any other manner transfer, to a person not a citizen of the United States, an interest in or control of—

''(i) a documented vessel owned by a citizen of the United States; or

''(ii) a vessel last documented under the laws of the United States; or

''(B) place under foreign registry, or operate under the authority of a foreign country, a documented vessel or a vessel last documented under the laws of the United States.

''(2) EXCEPTIONS.—Paragraph (1)(A) does not apply to a vessel that has been operated only for pleasure or only as a fishing vessel, fish processing vessel, or fish tender vessel (as defined in section 2101 of this title).

''(b) APPROVAL BEFORE DOCUMENTATION.—To promote financing with respect to a vessel to be documented under chapter 121 of this title, the Secretary may grant approval under subsection (a) before the vessel is documented.

''(c) EXCEPTIONS.—Notwithstanding any other provision of this subtitle, the Merchant Marine Act, 1936, or any contract with the Secretary made under this subtitle or that Act, a person may place a vessel under foreign registry without the approval of the Secretary if—

''(1)(A) the Secretary, in conjunction with the Secretary of Defense, determines that at least one replacement vessel of equal or greater military capability and of a capacity that is equivalent or greater, as measured by deadweight tons, gross tons, or container equivalent units, as appropriate, is documented under chapter 121 of this title by the owner of the vessel placed under foreign registry; and

''(B) the replacement vessel is not more than 10 years old on the date of that documentation; or

''(2) an operating agreement covering the vessel under chapter 531 of this title has expired.

''(d) STATUS OF PROHIBITED TRANSACTION.—A charter, sale, or transfer of a vessel, or of an interest in or control of a vessel, in violation of this section is void.

''(e) PENALTIES.—

''(1) CRIMINAL PENALTY.—A person that knowingly sells, charters, or transfers a vessel, or an interest in or control of a vessel, in violation of this section shall be fined under title 18, imprisoned for not more than 5 years, or both.

''(2) CIVIL PENALTY.—A person that sells, charters, or transfers a vessel, or an interest in or control of a vessel, in violation of this section is liable to the United States Government for a civil penalty of not more than $10,000 for each violation.

''(3) FORFEITURE.—A documented vessel may be seized by and forfeited to the Government if, in violation of this section, a person—

''(A) knowingly sells, charters, or transfers the vessel or an interest in or control of the vessel; or

''(B) places the vessel under foreign registry or operates the vessel under the authority of a foreign country.

''§ 56102. Additional controls during war or national emergency

''(a) IN GENERAL.—During war, or a national emergency declared by Presidential proclamation, a person may not, without the approval of the Secretary of Transportation—

''(1) place under foreign registry a vessel owned in whole or in part by a citizen of the United States or a corporation incorporated under the laws of the United States or of a State;

''(2) sell, mortgage, lease, charter, deliver, or in any other manner transfer, or agree to sell, mortgage, lease, charter, deliver, or in any other manner transfer, to a person not a citizen of the United States—

''(A) a vessel owned as described in paragraph (1), or an interest therein;

''(B) a vessel documented under the laws of the United States, or an interest therein; or

''(C) a facility for building or repairing vessels, or an interest therein;

''(3) issue, assign, or transfer to a person not a citizen of the United States an instrument of indebtedness secured by a mortgage of a vessel to a trustee, by an assignment of an owner's interest in a vessel under construction to a trustee, or by a mortgage of a facility for building or repairing vessels to a trustee, unless the trustee or a substitute trustee is approved by the Secretary under subsection (b);

''(4) enter into an agreement or understanding to construct a vessel in the United States for, or to be delivered to, a person not a citizen of the United States without expressly stipulating that construction will not begin until after the war or national emergency has ended;

''(5) enter into an agreement or understanding whereby there is vested in, or for the benefit of, a person not a citizen of the United States the controlling interest in a corporation that is incorporated under the laws of the United States or a State and that owns a vessel or facility for building or repairing vessels; or

''(6) cause or procure a vessel, constructed in whole or in part in the United States and never cleared for a foreign port, to depart from a port of the United States before it has been documented under the laws of the United States.

''(b) TRUSTEES.—

''(1) APPROVAL.—The Secretary shall approve a trustee or substitute trustee under subsection (a)(3) if and only if the trustee is a bank or trust company that—

''(A) is organized as a corporation, and is doing business, under the laws of the United States or a State;

''(B) is authorized under those laws to exercise corporate trust powers;

''(C) is a citizen of the United States;

''(D) is subject to supervision or examination by Federal or State authority; and

''(E) has a combined capital and surplus (as set forth in its most recent published report of condition) of at least $3,000,000.

''(2) DISAPPROVAL.—If a trustee or substitute trustee ceases to meet the conditions in paragraph (1), the Secretary shall disapprove the trustee or substitute trustee. After the disapproval, the restrictions on transfer or assignment without the Secretary's approval in subsection (a)(3) apply.

''(3) OPERATION OF VESSEL.—During a period when subsection (a) applies, a trustee referred to in subsection (a)(3), even though approved as a trustee by the Secretary, may not operate the vessel under the mortgage or assignment without the Secretary's approval.

''(c) STATUS OF PROHIBITED TRANSACTION.—A transaction in violation of this section is void.

''(d) RECOVERY OF CONSIDERATION.—

''(1) IN GENERAL.—A person that deposited or paid consideration in connection with a transaction prohibited by this section may recover the consideration after tender of the vessel, facility, stock, or other security, or interest therein, to the person entitled to it, or the forfeiture thereof to the United States Government.

''(2) EXCEPTION.—Paragraph (1) does not apply if the person in whose interest the consideration was deposited, or to whom it was paid, entered into the transaction in the belief that the person depositing or paying the consideration was a citizen of the United States.

''(e) PENALTIES.—

''(1) CRIMINAL PENALTY.—A person that violates, or attempts or conspires to violate, this section shall be fined under title 18, imprisoned for not more than 5 years, or both.

''(2) FORFEITURE.—The following shall be forfeited to the Government:

''(A) A vessel, a facility for building or repairing vessels, or an interest in a vessel or such a facility, that is sold, mortgaged, leased, chartered, delivered, transferred, or documented, or agreed to be sold, mortgaged, leased, chartered,

delivered, transferred, or documented, in violation of this section.

''(B) Stock and other securities sold or transferred, or agreed to be sold or transferred, in violation of this section.

''(C) A vessel departing in violation of subsection (a)(6).

''§ 56103. Conditional approvals

''(a) IN GENERAL.—In approving an act or transaction under section 56101 or 56102 of this title, the Secretary of Transportation may do so absolutely or upon conditions the Secretary considers advisable. The Secretary shall state the conditions in the notice of approval.

''(b) VIOLATIONS.—A violation of a condition of approval is subject to the same penalties as a violation resulting from an act done without the required approval. The violation occurs at the time the condition is violated.

''§ 56104. Penalty for false statements

''A person that knowingly makes a false statement of a material fact to the Secretary of Transportation or another officer, employee, or agent of the Department of Transportation, to obtain the Secretary's approval under section 56101 or 56102 of this title, shall be fined under title 18, imprisoned for not more than 5 years, or both.

''§ 56105. Forfeiture procedure

''(a) IN GENERAL.—A forfeiture under this chapter may be enforced in the same way as a forfeiture under the laws on the collection of duties. However, such a forfeiture may be remitted without seizure of the vessel.

''(b) PRIOR CONVICTIONS.—In a proceeding under this chapter to enforce a forfeiture, a prior criminal conviction of a person for a violation of this chapter with respect to the subject matter of the forfeiture is prima facie evidence of the violation against the person convicted.

''CHAPTER 563—EMERGENCY ACQUISITION OF VESSELS

''§ 56301. General authority

''During a national emergency declared by Presidential proclamation, or a period for which the President has proclaimed that the security of the national defense makes it advisable, the Secretary of Transportation may requisition or purchase, or requisition or charter the use of, a vessel owned by citizens of the United States, a documented vessel, or a vessel under construction in the United States.

''§ 56302. Charter terms

''(a) IN GENERAL.—If a vessel is requisitioned for use but not ownership under this chapter, the Secretary of Transportation, at the time of requisition or as soon thereafter as the situation allows, shall offer the person entitled to possession of the vessel a charter containing—

''(1) the terms the Secretary believes should govern the relationship between the United States Government and the person; and

''(2) the rate of hire the Secretary considers just compensation for the use of the vessel and the services required under the charter.

''(b) REFUSAL TO ACCEPT.—If the person does not accept the charter and rate of hire, the parties shall proceed as provided in section 56304 of this title.

''§ 56303. Compensation

''(a) IN GENERAL.—As soon as practicable, the Secretary of Transportation shall determine and pay just compensation for a vessel requisitioned under this chapter.

''(b) FACTORS NOT AFFECTING VALUE.—The value of a vessel may not be considered enhanced by the circumstances requiring its requisition. Consequential damages arising from the requisition may not be paid.

''(c) EFFECT OF CONSTRUCTION-DIFFERENTIAL SUBSIDY.—

''(1) IF PAID.—If a construction-differential subsidy has been paid for the vessel, the value of the vessel at the time of requisition shall be determined under section 802 of the Merchant Marine Act, 1936.

''(2) IF NOT PAID.—If a construction-differential subsidy has not been paid for the vessel, the value of any national defense features previously paid for by the United States Government shall be excluded.

''(d) LOSS OR DAMAGE DURING CHARTER.—If a vessel is lost or damaged by a risk assumed by the Government under the charter, but a valuation for the vessel or a means of compensation has not been agreed to, the Secretary shall pay just compensation for the loss or damage, to the extent the person is not reimbursed through insurance.

''§ 56304. Disputed compensation

''If the person entitled to compensation disputes the amount of just compensation determined by the Secretary of Transportation under this chapter, the Secretary shall pay the person, as a tentative advance, 75 percent of the amount determined. The person may bring a civil action against the United States to recover just compensation. If the tentative advance paid under this section is greater than the amount of the court's judgment, the person shall refund the difference.

''§ 56305. Vessel encumbrances

''(a) IN GENERAL.—The existence of an encumbrance on a vessel does not prevent the requisition of the vessel under this chapter.

''(b) DEPOSIT IN TREASURY.—

''(1) IN GENERAL.—If an encumbrance exists, the Secretary of Transportation may deposit part of the compensation or advance of compensation to be paid under this chapter (but not more than the total amount of all encumbrances) in a fund in the Treasury. The Secretary shall publish notice of the creation of the fund in the Federal Register.

''(2) AVAILABILITY OF AMOUNTS DEPOSITED.—Amounts deposited in the fund shall be available to pay the compensation or any of the encumbrances (including encumbrances stipulated to in a court of the United States or a State) existing at the time the vessel was requisitioned.

''(c) CIVIL ACTION.—

''(1) IN GENERAL.—Within 6 months after publication of notice under subsection (b), the holder of an encumbrance may bring a civil action in admiralty, according to the principles of libels in rem, against the fund.

''(2) VENUE.—The action must be brought in the district court of the United States—

''(A) from whose custody the vessel was or may be requisitioned; or

''(B) in whose district the vessel was located when it was requisitioned.

''(3) SERVICE OF PROCESS.—Service of process shall be made on the appropriate United States Attorney, the Attorney General, and the Secretary, in the manner provided by the Federal Rules of Civil Procedure (28 App. U.S.C.). Notice of the action shall be given to all interested persons as ordered by the court.

''(4) AS BETWEEN PRIVATE PARTIES.—The action shall proceed and be determined according to the principles of law and the rules of practice applicable in like cases between private parties.

''§ 56306. Use and transfer of vessels

''(a) IN GENERAL.—The Secretary of Transportation may repair, recondition, reconstruct, operate, or charter for operation, a vessel acquired under this chapter.

''(b) TRANSFER TO OTHER AGENCIES.—The Secretary may transfer the possession or control of a vessel acquired under this chapter to another department or agency of the United States Government on terms and conditions approved by the President. The department or agency shall promptly reimburse the Secretary for expenditures for just compensation, purchase price, charter hire, repairs, reconditioning, or reconstruction.

''§ 56307. Return of vessels

''When a vessel requisitioned for use but not ownership is returned to the owner, the Secretary of Transportation shall—

''(1) return the vessel in a condition at least as good as when taken, less ordinary wear and tear; or

''(2) pay the owner an amount sufficient to recondition the vessel to that condition, less ordinary wear and tear.

''CHAPTER 565—ESSENTIAL VESSELS AFFECTED BY NEUTRALITY ACT

''§ 56501. Definition

''In this chapter, the term 'essential vessel' means a vessel that is—

''(1)(A) security for a mortgage indebtedness to the United States Government; or

''(B) constructed under this subtitle or required by a contract under this subtitle to be operated on a certain essential foreign trade route; and

''(2) necessary in the interests of commerce and national defense to be maintained in condition for prompt use.

''§ 56502. Adjusting obligations and arranging maintenance

''(a) GENERAL AUTHORITY.—On written application, the Secretary of Transportation may adjust obligations and arrange for maintenance of an essential vessel as provided in this chapter if the Secretary determines, after any investigation or proceeding the Secretary considers desirable, that—

''(1) the operation of the vessel in the service, route, or line to which it is assigned under this subtitle, or in which it otherwise would be operated, is not—

''(A) lawful under the Neutrality Act of 1939 (22 U.S.C. 441 et seq.) or a proclamation issued under that Act; or

''(B) compatible with maintaining the availability of the vessel for national defense and commerce;

''(2) it is not feasible under existing law to employ the vessel in any other service or operation in foreign or domestic trade (except temporary or emergency operation under section 56503(b)(5) of this title); and

''(3) the applicant, because of the restrictions of the Neutrality Act of 1939 (22 U.S.C. 441 et seq.) or the withdrawal of vessels for national defense under paragraph (1), is not earning or will not earn a reasonable return on the capital necessarily employed in its business.

''(b) EFFECTIVE PERIOD.—Adjustments and arrangements under subsection (a) shall continue in effect only as long as the circumstances described in subsection (a) continue to exist.

''§ 56503. Types of adjustments and arrangements

''(a) SUSPENSION REQUIREMENTS.—An adjustment or arrangement under this chapter shall include suspension of—

''(1) the requirement to operate the vessel in foreign trade under the applicable operating-differential or construction-differential subsidy contract or mortgage or other agreement; and

''(2) the right to operating-differential subsidy for the vessel.

''(b) DISCRETIONARY ADJUSTMENTS AND ARRANGEMENTS.—To the extent the Secretary of

Transportation considers appropriate to carry out the purposes of this subtitle, an adjustment or arrangement under this chapter may include any of the following:

''(1) Lay-up of the vessel by the owner or in the custody of the Secretary, with payment or reimbursement by the Secretary of necessary and proper expenses (including reasonable overhead and insurance) or a fixed periodic allowance instead of payment or reimbursement.

''(2) Postponement, for not more than the total period of the lay-up, of the maturity date of each installment of the principal of obligations to the United States Government for the vessel (regardless of whether the maturity date is during a lay-up period), or rearrangement of those maturities.

''(3) Postponement or cancellation of interest accruing on the obligations during a lay-up period.

''(4) Extension, for not more than the total period of the lay-up, of the 20-year life limitation for the vessel and other limitations and provisions of this subtitle based on a 20-year life.

''(5) Provision for temporary or emergency employment of the vessel (instead of lay-up) as may be practicable, with such arrangements for management of the vessel, payment of expenses, and application of the proceeds of the employment, as the Secretary may approve, with any period of operation being included as part of the lay-up period.

''(6) Payment to the Secretary, on termination of the arrangements with the applicant, of the applicant's net profits (earned while the arrangements were in effect) in excess of 10 percent a year on the capital necessarily employed in the applicant's business, as reimbursement for obligations postponed or canceled and expenses incurred or paid by the Secretary under this section.

''(c) LAID-UP VESSELS.—Under subsection (b)(6), capital of the applicant represented by a vessel of the applicant laid-up or operated under this section shall be included in capital necessarily employed in the applicant's business. The Secretary may require a vessel laid-up or operated under this section to be security for reimbursement.

''§ 56504. Changes in adjustments and arrangements

''The Secretary of Transportation may change an adjustment or arrangement made under this chapter as the Secretary considers necessary to carry out this chapter.

''PART F—GOVERNMENT-OWNED MERCHANT VESSELS

''CHAPTER 571—GENERAL AUTHORITY

''§ 57101. Placement of vessels in National Defense Reserve Fleet

''(a) IN GENERAL.—Any vessel acquired by the Maritime Administration shall be placed in the National Defense Reserve Fleet maintained under section 11 of the Merchant Ship Sales Act of 1946 (50 App. U.S.C. 1744).

''(b) REMOVAL FROM FLEET.—A vessel placed in the Fleet under subsection (a) may not be traded out or sold from the Fleet, except as provided in section 57102, 57103, or 57104 or chapter 533, 537, 573, or 575 of this title.

''§ 57102. Disposition of vessels not worth preserving

''(a) IN GENERAL.—If the Secretary of Transportation determines that a vessel owned by the Maritime Administration is of insufficient value for commercial or military operation to warrant its further preservation, the Secretary may scrap the vessel or sell the vessel for cash.

''(b) SELLING PROCEDURE.—The sale of a vessel under subsection (a) shall be made on the basis of competitive sealed bids, after an appraisal and due advertisement. The purchaser does not have to be a citizen of the United States. The purchaser shall provide a surety bond, with a surety approved by the Secretary, to ensure that the vessel will not be operated in the foreign trade of the United States at any time within 10 years after the sale, in competition with a vessel owned by a citizen of the United States and documented under the laws of the United States.

''§ 57103. Sale of obsolete vessels in National Defense Reserve Fleet

''(a) IN GENERAL.—The Secretary of Transportation may convey the right, title, and interest of the United States Government in any vessel of the National Defense Reserve Fleet that has been identified by the Secretary as an obsolete vessel of insufficient value to warrant its further preservation, if the recipient—

''(1) is a non-profit organization, a State, or a municipal corporation or political subdivision of a State;

''(2) agrees not to use, or allow others to use, the vessel for commercial transportation purposes;

''(3) agrees to make the vessel available to the Government whenever the Secretary indicates that it is needed by the Government;

''(4) agrees to hold the Government harmless for any claims arising from exposure to asbestos, polychlorinated biphenyls, lead paint, or other hazardous substances after conveyance of the vessel, except for claims arising from use of the vessel by the Government;

''(5) has a conveyance plan and a business plan that describes the intended use of the vessel, each of which has been submitted to and approved by the Secretary;

''(6) has provided proof, as determined by the Secretary, of resources sufficient to accomplish the transfer, necessary repairs and modifications, and initiation of the intended use of the vessel; and

''(7) agrees that when the recipient no longer requires the vessel for use as described in the business plan required under paragraph (5)—

''(A) the recipient will, at the discretion of the Secretary, reconvey the vessel to the Government in good condition except for ordinary wear and tear; or

''(B) if the Board of Trustees of the recipient has decided to dissolve the recipient according to the laws of the State in which the recipient is incorporated, then—

''(i) the recipient shall distribute the vessel, as an asset of the recipient, to a person that has been determined exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 501(c)(3)), or to the Federal Government or a State or local government for a public purpose; and

''(ii) the vessel shall be disposed of by a court of competent jurisdiction of the county in which the principal office of the recipient is located, for such purposes as the court shall determine, or to such organizations as the court shall determine are organized exclusively for public purposes.

''(b) OTHER EQUIPMENT.—At the Secretary's discretion, additional equipment from other obsolete vessels of the Fleet may be conveyed to assist the recipient with maintenance, repairs, or modifications.

''(c) ADDITIONAL TERMS.—The Secretary may require any additional terms the Secretary considers appropriate.

''(d) DELIVERY OF VESSEL.—If conveyance is made under this section, the vessel shall be delivered to the recipient at a time and place to be determined by the Secretary. The vessel shall be conveyed in an 'as is' condition.

''(e) LIMITATIONS.—If at any time prior to delivery of the vessel to the recipient, the Secretary determines that a different disposition of the vessel would better serve the interests of the Government, the Secretary shall pursue the more favorable disposition of the obsolete vessel and shall not be liable for any damages that may result from an intended recipient's reliance upon a proposed transfer.

''(f) REVERSION.—The Secretary shall include in any conveyance under this section terms under which all right, title, and interest conveyed by the Secretary shall revert to the Government if the Secretary determines the vessel has been used other than as described in the business plan required under subsection (a)(5).

''§ 57104. Acquisition of vessels from sale of obsolete vessels

''(a) IN GENERAL.—The Secretary of Transportation may acquire suitable documented vessels with amounts in the Vessel Operations Revolving Fund derived from the sale of obsolete vessels in the National Defense Reserve Fleet.

''(b) VALUATION.—The acquired and obsolete vessels shall be valued at their scrap value in domestic or foreign markets as of the date of the acquisition for or sale from the Fleet. However, the value assigned to those vessels shall be determined on the same basis, with consideration given to the fair value of the cost of moving the vessel sold from the Fleet to the place of scrapping.

''(c) COSTS INCIDENT TO LAY-UP.—Costs incident to the lay-up of the vessel acquired under this section may be paid from amounts in the Fund.

''(d) TRANSFERS TO NON-CITIZENS.—A vessel sold from the Fleet under this section may be scrapped in an approved foreign market without obtaining additional separate approval from the Secretary to transfer the vessel to a person not a citizen of the United States.

''§ 57105. Acquisition of vessels for essential services, routes, or lines

''(a) IN GENERAL.—The Secretary of Transportation may acquire a vessel, by purchase or otherwise, if—

''(1) the Secretary considers the vessel necessary to establish, maintain, improve, or serve as a replacement on an essential service, route, or line in the foreign commerce of the United States, as determined under section 50103 of this title;

''(2) the vessel was constructed in the United States; and

''(3) the Secretary of the Navy has certified to the Secretary of Transportation that the vessel is suitable for economical and speedy conversion into a naval or military auxiliary or otherwise suitable for use by the United States Government in time of war or national emergency.

''(b) PRICE.—The price paid for the vessel shall be based on a fair and reasonable valuation. However, the price may not exceed by more than 5 percent the cost of the vessel to the owner (excluding any construction-differential subsidy and the cost of national defense features paid by the Secretary of Transportation) plus the actual cost previously expended for reconditioning, less depreciation based on a 25-year life for a dry-cargo or passenger vessel and a 20-year life for a tanker or other liquid bulk carrier vessel.

''(c) DOCUMENTATION.—A vessel acquired under this section that is not documented under the laws of the United States at the time of acquisition shall be so documented as soon as practicable.

"§ 57106. Maintenance, improvement, and operation of vessels

''(a) IN GENERAL.—The Secretary of Transportation may maintain, repair, recondition, remodel, and improve vessels owned by the United States Government and in the possession or under the control of the Secretary, to equip them adequately for competition in the foreign trade of the United States. The Secretary may operate such a vessel or charter the vessel on terms and conditions the Secretary considers appropriate to carry out the purposes of this subtitle.

''(b) DOCUMENTATION AND RESTRICTIONS ON OPERATION.—A vessel reconditioned, remodeled, or improved under subsection (a) shall be documented under the laws of the United States and remain so documented for at least 5 years after completion of the reconditioning, remodeling, or improvement. During that period, it shall be operated on voyages that are not exclusively coastwise.

"§ 57107. Vessels for other agencies

''(a) IN GENERAL.—The Secretary of Transportation may construct, reconstruct, repair, equip, and outfit, by contract or otherwise, vessels or parts thereof, for any other department or agency of the United States Government to the extent the other department or agency is authorized by law to do so for its own account.

''(b) EFFECT ON CONTRACT AUTHORIZATION.—An obligation incurred or expenditure made by the Secretary under this section does not affect any contract authorization of the Secretary, but instead shall be charged against the existing appropriation or contract authorization of the department or agency.

"§ 57108. Consideration of ballast and equipment in determining selling price

''The Maritime Administration may not sell a vessel until its ballast and equipment have been inventoried and their value considered in determining the selling price of the vessel.

"§ 57109. Operation of vessels purchased, chartered, or leased from Secretary of Transportation

''Unless otherwise authorized by the Secretary of Transportation, a vessel purchased, chartered, or leased from the Secretary may be operated only under a certificate of documentation with a registry or coastwise endorsement. Such a vessel, while employed solely as a merchant vessel, is subject to the laws, regulations, and liabilities governing merchant vessels, whether the United States Government has an interest in the vessel as an owner or holds a mortgage, lien, or other interest.

"CHAPTER 573—VESSEL TRADE-IN PROGRAM

"§ 57301. Definitions

''In this chapter:

''(1) NEW VESSEL.—The term 'new vessel' means a vessel—

''(A) constructed under this subtitle and acquired within 2 years after the date of completion; or

''(B) constructed in a domestic shipyard on private account and not under this subtitle, and documented under the laws of the United States.

''(2) OBSOLETE VESSEL.—The term 'obsolete vessel' means a vessel that—

''(A) is of at least 1,350 gross tons;

''(B) the Secretary of Transportation believes should, because of its age, obsolescence, or other reasons, be replaced in the public interest; and

''(C) has been owned by a citizen of the United States for at least 3 years immediately before its acquisition under this chapter.

"§ 57302. Authority to acquire vessels

''To promote the construction of new, safe, and efficient vessels to carry the domestic and foreign waterborne commerce of the United States, the Secretary of Transportation may acquire an obsolete vessel in exchange for an allowance of credit toward the cost of construction or purchase of a new vessel as provided in this chapter.

"§ 57303. Utility value and tonnage requirements

''(a) UTILITY VALUE.—The utility value of a new vessel to be acquired under this chapter for operation in the domestic or foreign commerce of the United States may not be substantially less than that of the obsolete vessel acquired in exchange under this chapter.

''(b) TONNAGE.—If the Secretary of Transportation finds that the new vessel will have a utility value at least equal to that of the obsolete vessel, the new vessel may be of lesser gross tonnage than the obsolete vessel. However, the gross tonnage of the new vessel must be at least one-third the gross tonnage of the obsolete vessel.

"§ 57304. Eligible acquisition dates

''At the option of the owner, the acquisition of an obsolete vessel under this chapter shall occur—

''(1) when the owner contracts for the construction or purchase of a new vessel; or

''(2) within 5 days of the actual date of delivery of the new vessel to the owner.

"§ 57305. Determination of trade-in allowance

''(a) IN GENERAL.—The Secretary of Transportation shall determine the trade-in allowance for an obsolete vessel at the time of acquisition of the vessel. The allowance shall be the fair value of the vessel. In determining the value, the Secretary shall consider—

''(1) the scrap value of the obsolete vessel in American and foreign markets;

''(2) the depreciated value based on a 20-year or 25-year life, whichever applies to the obsolete vessel; and

''(3) the market value of the obsolete vessel for operation in world commerce or in the domestic or foreign commerce of the United States.

''(b) USE OF OBSOLETE VESSELS.—If acquisition of the obsolete vessel occurs when the owner contracts for the construction of the new vessel, and the owner uses the obsolete vessel during the period of construction of the new vessel, the Secretary shall reduce the trade-in allowance by an amount representing the fair value of that use. The Secretary shall establish the rate for use of the obsolete vessel when the contract for construction of the new vessel is made.

"§ 57306. Payment of trade-in allowance

''(a) ACQUISITION AT TIME OF CONTRACT.—If acquisition of an obsolete vessel under this chapter occurs when the owner contracts for the construction or purchase of the new vessel, the Secretary of Transportation shall apply the trade-in allowance to the purchase price of the new vessel rather than paying it to the owner. If the new vessel is constructed under this subtitle, the Secretary may apply the trade-in allowance to the required cash payments on terms and conditions the Secretary may prescribe. If the new vessel is not constructed under this subtitle, the Secretary shall pay the trade-in allowance to the builder of the vessel for the account of the owner when the Secretary acquires the obsolete vessel.

''(b) ACQUISITION AT TIME OF DELIVERY.—If acquisition of the obsolete vessel occurs when the new vessel is delivered to the owner, the Secretary shall deposit the trade-in allowance in the owner's capital construction fund.

"§ 57307. Recognition of gain for tax purposes

''The owner of an obsolete vessel does not recognize a gain under the Federal income tax laws when the vessel is transferred to the Secretary of Transportation in exchange for a trade-in allowance under this chapter. The basis of the new vessel acquired with the allowance is the same as the basis of the obsolete vessel—

''(1) increased by the difference between the cost of the new vessel and the trade-in allowance of the obsolete vessel; and

''(2) decreased by the amount of loss recognized on the transfer.

"§ 57308. Use of vessels at least 25 years old

''An obsolete vessel acquired under this chapter that is or becomes at least 25 years old may not be used for commercial operation. However, the vessel may be used—

''(1) during a period in which vessels may be requisitioned under chapter 563 of this title; or

''(2) except as otherwise provided in this subtitle, on trade routes serving only the foreign trade of the United States.

"CHAPTER 575—CONSTRUCTION, CHARTER, AND SALE OF VESSELS

''SUBCHAPTER I—GENERAL

''SUBCHAPTER II—CHARTERS

''SUBCHAPTER III—MISCELLANEOUS

''SUBCHAPTER I—GENERAL

"§ 57501. Completion of long-range program

''Whenever the Secretary of Transportation determines that the objectives and policies declared in sections 50101 and 50102 of this title cannot be fully realized within a reasonable time under titles V and VI of the Merchant Marine Act, 1936, and the President approves the determination, the Secretary, in accordance with this chapter, shall complete the long-range program described in section 50102 of this title.

"§ 57502. Construction, reconditioning, and remodeling of vessels

''(a) IN GENERAL.—The Secretary of Transportation may have new vessels constructed, and have old vessels reconditioned or remodeled, as the Secretary determines necessary to carry out the objectives of this subtitle.

''(b) PLACE OF WORK.—Construction, reconditioning, and remodeling of vessels under subsection (a) shall take place in shipyards in the continental United States (including Alaska and Hawaii). However, if satisfactory contracts cannot be obtained from private shipbuilders, the Secretary may have the work done in navy yards.

''(c) APPLICABILITY OF CONSTRUCTION-DIFFERENTIAL SUBSIDY PROVISIONS.—Contracts for the construction, reconstruction, or reconditioning of a vessel by a private shipbuilder under this chapter are subject to the provisions of title V of the Merchant Marine Act, 1936, applicable to a contract with a private shipbuilder for the construction of a vessel under title V of that Act.

''§ 57503. Competitive bidding

''(a) ADVERTISEMENT AND BIDDING.—The Secretary of Transportation may make a contract with a private shipbuilder for the construction of a new vessel, or for the reconstruction or reconditioning of an existing vessel, only after due advertisement and upon sealed competitive bids.

''(b) OPENING OF BIDS.—Bids required under this section shall be opened at the time and place stated in the advertisement for bids. All interested persons, including representatives of the press, shall be permitted to attend. The results of the bidding shall be publicly announced.

''§ 57504. Charter or sale of vessels acquired by Department of Transportation

''Vessels transferred to or otherwise acquired by the Department of Transportation in any manner may be chartered or sold by the Secretary of Transportation as provided in this chapter.

''§ 57505. Employment of vessels on foreign trade routes

''(a) IN GENERAL.—The Secretary of Transportation shall arrange for the employment of the Department of Transportation's vessels in steamship lines on such trade routes, exclusively serving the foreign trade of the United States, as the Secretary determines are essential for the development and maintenance of the commerce of the United States and the national defense. However, the Secretary shall first determine that those routes are not being adequately served by existing steamship lines privately owned and operated by citizens of the United States and documented under the laws of the United States.

''(b) POLICY TO ENCOURAGE PRIVATE OPERATION.—The Secretary shall have a policy of encouraging private operation of each essential steamship line now owned by the United States Government by—

''(1) selling the line to a citizen of the United States; or

''(2) demising the Secretary's vessels on bareboat charter to citizens of the United States who agree to maintain the line in the manner provided in this chapter.

''§ 57506. Minimum selling price of vessels

''(a) IN GENERAL.—A vessel constructed under this subtitle or the Merchant Marine Act, 1936, may not be sold by the Secretary of Transportation for less than the price specified in this section.

''(b) OPERATION IN FOREIGN TRADE.—If the vessel is to be operated in foreign trade, the minimum price is the estimated foreign construction cost (exclusive of national defense features) determined as of the date the construction contract is executed, less depreciation under subsection (d).

''(c) OPERATION IN DOMESTIC TRADE.—If the vessel is to be operated in domestic trade, the minimum price is the cost of construction in the United States (exclusive of national defense features), less depreciation under subsection (d).

''(d) DEPRECIATION.—Depreciation under subsections (b) and (c) shall be based on—

''(1) a 25-year life for dry-cargo and passenger vessels; and

''(2) a 20-year life for tankers and other bulk liquid carrier vessels.

''SUBCHAPTER II—CHARTERS

''§ 57511. Demise charters

''A charter by the Secretary of Transportation under this chapter shall demise the vessel to the charterer subject to all usual conditions contained in a bareboat charter. The charter shall be for a term the Secretary considers to be in the best interest of the United States Government and the merchant marine.

''§ 57512. Competitive bidding

''(a) IN GENERAL.—The Secretary of Transportation may charter a vessel of the Department of Transportation to a private operator only on the basis of competitive sealed bidding. The bids must be submitted in strict compliance with the terms and conditions of a public advertisement soliciting the bids.

''(b) ADVERTISEMENT FOR BIDS.—An advertisement for bids shall state—

''(1) the number, type, and tonnage of the vessels being offered for bareboat charter for operation as a steamship line on a designated trade route;

''(2) the minimum number of sailings required;

''(3) the length of time of the charter;

''(4) the right of the Secretary to reject all bids; and

''(5) other information the Secretary considers necessary for the information of prospective bidders.

''(c) OPENING OF BIDS.—Bids required under this section shall be opened at the time and place stated in the advertisement for bids. All interested persons, including representatives of the press, shall be permitted to attend. The results of the bidding shall be publicly announced.

''§ 57513. Minimum bid

''The Secretary of Transportation shall reject any bid for the charter under this subchapter of a vessel constructed under this subtitle or the Merchant Marine Act, 1936, if the charter hire offered is lower than the minimum charter hire would be if the vessel were chartered under section 57531 of this title.

''§ 57514. Qualifications of bidders

''(a) CONSIDERATIONS.—In deciding whether to award a charter to a bidder, the Secretary of Transportation shall consider—

''(1) the bidder's financial resources, credit standing, and practical experience in operating vessels; and

''(2) other factors a prudent business person would consider in entering into a transaction involving a large capital investment.

''(b) DISQUALIFICATIONS.—The Secretary may not charter a vessel to a person appearing to lack sufficient capital, credit, and experience to operate the vessel successfully over the period covered by the charter.

''§ 57515. Awarding of charters

''(a) IN GENERAL.—The Secretary of Transportation shall award the charter to the bidder proposing to pay the highest monthly charter hire. However, the Secretary may reject the highest or most advantageous or any other bid if the Secretary considers the charter hire offered too low or determines that the bidder lacks the qualifications required by section 57514 of this title.

''(b) HIGHEST BID REJECTED.—If the Secretary rejects the highest bid, the Secretary may—

''(1) award the charter to the next highest bidder; or

''(2) reject all bids and either readvertise the line or operate the line until conditions appear more favorable to reoffer the line for private charter.

''(c) REASON FOR REJECTION.—On request of a bidder, the reason for rejection shall be stated in writing to the bidder.

''§ 57516. Operating-differential subsidies

''If the Secretary of Transportation considers it necessary, the Secretary may make a contract with a charterer of a vessel owned by the Secretary for payment of an operating-differential subsidy, on the same terms and conditions, and subject to the same limitations and restrictions, as otherwise provided with respect to payment of operating-differential subsidies to operators of privately-owned vessels.

''§ 57517. Recovery of excess profits

''(a) IN GENERAL.—A charter under this chapter shall provide that if, at the end of a calendar year subsequent to the execution of the charter, the cumulative net voyage profit (after payment of the charter hire reserved in the charter and payment of the charterer's fair and reasonable overhead expenses applicable to operation of the chartered vessel) exceeds 10 percent a year of the charterer's capital necessarily employed in the business of the chartered vessel, the charterer shall pay to the Secretary of Transportation, as additional charter hire, half the cumulative net voyage profit in excess of 10 percent a year. However, any cumulative net voyage profit accounted for under this subsection is not to be included in the calculation of cumulative net voyage profit in any subsequent year.

''(b) TERMS TO BE DEFINED AND USED.—The Secretary shall define the terms 'net voyage profit', 'fair and reasonable overhead expenses', and 'capital necessarily employed' for this section. Each advertisement for bids and each charter shall contain these definitions, stating the formula for determining each of these three amounts.

''§ 57518. Performance bond

''The Secretary of Transportation shall require a charterer of a vessel of the Secretary to deposit with the Secretary an undertaking, with approved sureties, in such amount as the Secretary may require as security for the faithful performance of the terms of the charter, including indemnity against liens on the chartered vessel.

''§ 57519. Insurance

''A charter under this chapter shall require the charterer to carry, at the charterer's expense, insurance on the chartered vessel covering all marine and port risks, protection and indemnity risks, and all other hazards and liabilities, adequate to cover damages claimed against and losses sustained by the chartered vessel arising during the term of the charter. The insurance shall be in such form, in such amount, and with such companies as the Secretary of Transportation may require. In accordance with law, any of the insurance risks may be underwritten by the Secretary.

''§ 57520. Vessel maintenance

''(a) IN GENERAL.—A charter under this chapter shall require the charterer, at the charterer's expense, to—

''(1) keep the chartered vessel in good repair and efficient operating condition; and

''(2) make any repairs required by the Secretary of Transportation.

''(b) INSPECTION.—The charter shall provide that the Secretary has the right to inspect the vessel at any time to ascertain its condition.

''§ 57521. Termination of charter during national emergency

''A charter under this chapter shall provide that during a national emergency proclaimed by the President or a period for which the President has proclaimed that the security of the national defense makes it advisable, the Secretary of Transportation may terminate the charter without cost to the United States Government on such notice to the charterer as the President determines.

''SUBCHAPTER III—MISCELLANEOUS

''§ 57531. Construction and charter of vessels for unsuccessful routes

''(a) IN GENERAL.—If the Secretary of Transportation finds that a trade route determined to be essential under section 50103 of this title cannot be successfully developed and maintained and the Secretary's replacement program cannot be achieved under private operation of the trade route by a citizen of the United States with vessels documented under chapter 121 of this title, without further aid by the United States Government in addition to the financial aid authorized under titles V and VI of the Merchant Marine Act, 1936, the Secretary, without advertisement or competition, may—

''(1) have constructed, in private shipyards or in navy yards, vessels of the types necessary for the trade route; and

''(2) demise charter those new vessels to the operator of vessels of the United States established on the trade route.

''(b) AMOUNT OF CHARTER HIRE.—

''(1) IN GENERAL.—The annual charter hire under subsection (a) shall be at least 4 percent of the price (referred to in this section as the 'foreign cost') at which the vessel would be sold if constructed under title V of the Merchant Marine Act, 1936, plus—

''(A) a percentage of the depreciated foreign cost computed annually determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the Government with remaining periods to maturity comparable to the term of the charter, adjusted to the nearest one-eighth percent; and

''(B) an allowance adequate in the judgment of the Secretary of Transportation to cover administrative costs.

''(2) DEPRECIATION.—Depreciation under paragraph (1)(A) shall be based on—

''(A) a 25-year life for dry-cargo and passenger vessels; and

''(B) a 20-year life for tankers and other bulk liquid carrier vessels.

''(c) OPTION TO PURCHASE.—The charter may contain an option to the charterer to purchase the vessels from the Secretary of Transportation within 5 years after delivery under the charter, on the same terms and conditions as provided in title V of the Merchant Marine Act, 1936, for the purchase of new vessels from the Secretary. However—

''(1) the purchase price shall be the foreign cost less depreciation to the date of purchase based on the useful life specified in subsection (b)(2);

''(2) the required cash payment payable at the time of the purchase shall be 25 percent of the purchase price;

''(3) the charter may provide that any part of the charter hire paid in excess of the minimum charter hire provided for in this section may be credited against the cash payment payable at the time of the purchase;

''(4) the balance of the purchase price shall be paid within the remaining years of useful life (as specified in subsection (b)(2)) after the date of delivery of the vessel under the charter and in approximately equal annual installments, except that the first installment, which shall be payable on the next ensuing anniversary date of the delivery under the charter, shall be a proportionate part of the annual installment; and

''(5) interest shall be payable on the unpaid balances from the date of purchase, at a rate not less than—

''(A) a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the Government with remaining periods to maturity comparable to the average maturities of the loans, adjusted to the nearest one-eighth percent; plus

''(B) an allowance adequate in the judgment of the Secretary of Transportation to cover administrative costs.

''(d) OPERATION OF VESSEL.—

''(1) PERMISSIBLE VOYAGES.—The charter shall provide for operation of the vessel exclusively—

''(A) in foreign trade;

''(B) on a round-the-world voyage;

''(C) on a round voyage from the west coast of the United States to a European port that includes an intercoastal port of the United States;

''(D) on a round voyage from the Atlantic coast of the United States to the Orient that includes an intercoastal port of the United States; or

''(E) on a voyage in foreign trade on which the vessel may stop at Hawaii or an island territory or possession of the United States.

''(2) DOMESTIC TRADE.—The charter shall provide if the vessel is operated in domestic trade on any of the services specified in paragraph (1), the charterer will pay annually to the Secretary of Transportation that proportion of 1/25 of the difference between the domestic and foreign cost of the vessel as the gross revenue derived from the domestic trade bears to the gross revenue derived from the entire voyages completed during the preceding year.

''§ 57532. Operation of experimental vessels

''(a) DEFINITION.—In this section, the term 'experimental vessel' means a vessel owned by the United States Government (including a vessel in the National Defense Reserve Fleet) that has been constructed, reconditioned, or remodeled for experimental or testing purposes.

''(b) AUTHORITY TO OPERATE.—The Secretary of Transportation, for the purpose of practical development, trial, and testing, may operate an experimental vessel under a bareboat charter or general agency agreement in the foreign or domestic trade of the United States or for use for the account of a department or agency of the Government, without regard to other provisions of this subtitle and other laws related to chartering and general agency operations. Not more than 10 vessels may be operated and tested under this section in any one year.

''(c) TERMS OF OPERATION.—Operation of a vessel under this section shall be on terms the Secretary considers appropriate to carry out the purposes of this subtitle. A bareboat charter under this section shall be at reasonable rates and include restrictions the Secretary considers appropriate to protect the public interest, including provisions for recapture of profits under section 57517 of this title. A charter or general agency agreement under this section shall be reviewed annually to determine whether conditions exist to justify continuance of the charter or agreement.

''(d) RIGHTS OF SEAMEN.—A seaman engaged in vessel operations of the Secretary under this section and employed through a general agent in connection with a charter or agreement under this section is entitled to all the rights and remedies provided in sections 1(a) and (c), 3(c), and 4 of the Act of March 24, 1943 (50 App. U.S.C. 1291(a), (c), 1293(c), 1294).

''PART G—RESTRICTIONS AND PENALTIES

''CHAPTER 581—RESTRICTIONS AND PENALTIES

''§ 58101. Operating in domestic intercoastal or coastwise service

''(a) PROHIBITION.—A subsidy may not be awarded or paid to a contractor under the operating-differential subsidy program, and a vessel may not be chartered to a person under chapter 575 of this title, if the contractor or charterer, or a holding company, subsidiary, affiliate, or associate of the contractor or charterer, or an officer, director, agent, or executive thereof, directly or indirectly—

''(1) owns, charters, or operates a vessel engaged in the domestic intercoastal or coastwise service; or

''(2) owns a pecuniary interest in a person that owns, charters, or operates a vessel in the domestic intercoastal or coastwise service.

''(b) WAIVER.—A person may apply to the Secretary of Transportation for a waiver of subsection (a). Before deciding on the waiver, the Secretary shall give the applicant and other interested persons an opportunity for a hearing. The Secretary may not grant the waiver if the Secretary finds it would—

''(1) result in unfair competition to a person operating exclusively in the domestic intercoastal or coastwise service; or

''(2) be prejudicial to the objectives and policy of this subtitle.

''(c) CONTINUOUS OPERATION SINCE 1935.—The Secretary shall grant an application under subsection (b) without requiring further proof that the public interest and convenience will be served and without further proceedings as to the competition in the route or trade, if the contractor or other person, or a predecessor in interest, was in bona-fide operation as a common carrier by water in the domestic intercoastal or coastwise trade in 1935 over the route or in the trade for which the application is made and has so operated since that time or, if engaged in furnishing seasonal service only, was in bona-fide operation in 1935 during the season ordinarily covered by its operation, except in either event as to interruptions of service over which the applicant or its predecessor in interest had no control.

''(d) DIVERSION INTO INTERCOASTAL OR COASTWISE OPERATIONS.—If an application under subsection (b) is approved, a person referred to in this section may not divert, directly or indirectly, money, property, or any other thing of value, used in a foreign-trade operation for which a subsidy is paid by the United States Government, into intercoastal or coastwise operations.

''§ 58102. Default on payment or maintenance of reserves

''The Secretary of Transportation may supervise the number and compensation of all officers and employees of a contractor under the operating-differential subsidy program or a charterer under chapter 575 of this title, receiving an operating-differential subsidy, if the contractor or charterer—

''(1) is in default on a mortgage, note, purchase contract, or other obligation to the Secretary; or

''(2) has not maintained, in a manner satisfactory to the Secretary, all of the reserves provided for in this subtitle.

''§ 58103. Employing another person as managing or operating agent

''(a) PROHIBITION.—Except with the written consent of the Secretary of Transportation, a contractor holding a contract under the operating-differential subsidy program or under chapter 575 of this title may not—

''(1) employ another person as the managing or operating agent of the operator; or

''(2) charter a vessel, on which an operating-differential subsidy is to be paid, for operation by another person.

''(b) APPLICABILITY OF PROVISIONS TO CHARTERER.—If a charter prohibited by this section is made, the person operating the chartered vessel is subject to all the provisions of this subtitle and the operating-differential subsidy program, including limitations of profits and salaries.

''§ 58104. Willful violation constitutes breach of contract or charter

''A willful violation of any provision of sections 58101–58103 of this title constitutes a breach of the contract or charter. On determining that a violation has occurred, the Secretary of Transportation may declare the contract or charter rescinded.

''§ 58105. Preferences for cargo in which charterer has interest

''A contractor receiving an operating-differential subsidy, or a charterer under chapter 575 of this title, may not unjustly discriminate in any manner so as to give preference, directly or indirectly, to cargo in which the contractor or charterer has a direct or indirect ownership, purchase, or vending interest.

''§ 58106. Concerted discriminatory activities

''(a) PROHIBITION.—A contractor receiving an operating-differential subsidy, or a charterer

under chapter 575 of this title, may not continue as a party to or conform to an agreement with another carrier by water, or engage in a practice in concert with another carrier by water, that is unjustly discriminatory or unfair to any other citizen of the United States operating a common carrier by water employing only vessels documented under the laws of the United States on an established trade route from and to a United States port.

''(b) GOVERNMENT PAYMENT PROHIBITED.—No payment or subsidy of any kind may be paid, directly or indirectly, out of funds of the United States Government to a contractor or charterer that has violated subsection (a).

''(c) CIVIL ACTION.—A person whose business or property is injured by a violation of subsection (a) may bring a civil action in the district court of the United States for the district in which the defendant resides, is found, or has an agent. If the person prevails, the person shall be awarded—

''(1) 3 times the damages; and

''(2) costs, including reasonable attorney fees.

''§ 58107. Discrimination at ports by water common carriers

''(a) PROHIBITION.—A common carrier by water may not, directly or indirectly, through an agreement, conference, association, understanding, or otherwise, prevent or attempt to prevent any other common carrier by water from serving any port described in subsection (b) at the same rates the first carrier charges at the nearest port already regularly served by it.

''(b) PORTS.—A port referred to in subsection (a) is one that is—

''(1) designed for the accommodation of oceangoing vessels;

''(2) located on an improvement project authorized by law or by a Federal agency; and

''(3) located within the continental limits of the United States.

''(c) OTHER AUTHORITY NOT LIMITED.—This section does not limit the authority otherwise vested in the Secretary of Transportation and the Federal Maritime Commission.

''§ 58108. Charges for transportation subject to subtitle IV of title 49

''(a) PROHIBITION.—A carrier may not charge, collect, or receive for transportation subject to subtitle IV of title 49 of persons or property, under any joint rate, fare, or charge, or under any export, import, or other proportional rate, fare, or charge, that is based in whole or in part on the fact that the persons or property affected are to be transported to, or have been transported from, a port in a territory or possession of the United States or in a foreign country, by a carrier by water in foreign commerce, any lower rate, fare, or charge than the carrier charges, collects, or receives for the transportation of persons or similar property for the same distance, in the same direction, and over the same route, in commerce wholly within the United States, unless the vessel used for the transportation is or was at the time of the transportation documented under the laws of the United States.

''(b) SUSPENSION OF PROHIBITION.—Whenever the Secretary of Transportation believes that adequate shipping facilities to or from any port in a territory or possession of the United States or a foreign country are not being provided by vessels documented under the laws of the United States, the Secretary shall certify this fact to the Surface Transportation Board. On receiving the certification, the Board may by order suspend the operation of subsection (a) with respect to the rates, fares, and charges for the transportation by rail of persons and property transported from or to be transported to those ports, for such time and under such terms and conditions as the Secretary may specify in the order or in any supplemental order.

''(c) TERMINATION OF SUSPENSION.—Whenever the Secretary believes that adequate shipping facilities are being provided to those ports by vessels documented under the laws of the United States, and certifies that fact to the Board, the Board may order the termination of the suspension.

''§ 58109. Penalties

''(a) INDIVIDUALS.—An individual convicted of violating section 58101(d), 58103, or 58105 of this title shall be fined under title 18, imprisoned for at least one year but not more than 5 years, or both.

''(b) ORGANIZATIONS.—An organization convicted of committing an act prohibited by this subtitle shall be fined under title 18.

''(c) INELIGIBILITY TO RECEIVE BENEFITS.—An individual or organization convicted of violating a section referred to in subsection (a) is ineligible, at the discretion of the Secretary of Transportation, to receive any benefit under the construction-differential subsidy or operating-differential subsidy programs, or a charter under chapter 575 of this title, for 5 years after the conviction.''.

SEC. 9. SUBTITLE VI OF TITLE 46.

(a) REDESIGNATION.—Title 46, United States Code, is amended by redesignating subtitle VI as subtitle VII.

(b) NEW SUBTITLE.—Title 46, United States Code, is amended by inserting after subtitle V the following:

''Subtitle VI—Clearance, Tonnage Taxes, and Duties

''CHAPTER 601—ARRIVAL AND DEPARTURE REQUIREMENTS

''§ 60101. Boarding arriving vessels before inspection

''(a) REGULATIONS.—The Secretary of Homeland Security shall prescribe and enforce regulations on the boarding of a vessel arriving at a port of the United States before the vessel has been inspected and secured.

''(b) CRIMINAL PENALTY.—A person violating a regulation prescribed under this section shall be fined under title 18, imprisoned for not more than 6 months, or both.

''(c) RELATIONSHIP TO OTHER LAW.—This section shall be construed as supplementary to section 2279 of title 18.

''§ 60102. Production of certificate on entry

''On entry of a vessel documented under chapter 121 of this title, the master or other individual in charge of the vessel shall produce the certificate of documentation to the customs officer at the place where the vessel is entered. If the certificate is not produced, the vessel is not entitled to the privileges of a documented vessel.

''§ 60103. Oath of ownership on entry

''(a) REQUIRED STATEMENT.—On entry of a vessel of the United States from a foreign port, the individual designated under subsection (b) shall state under oath that—

''(1) the vessel's certificate of documentation contains the names of all the owners of the vessel; or

''(2) part of the ownership has been transferred since the certificate was issued and, to the best of the individual's knowledge and belief, the vessel is still owned only by citizens of the United States.

''(b) PERSON TO MAKE STATEMENT.—The statement under subsection (a) shall be made by—

''(1) an owner if one resides at the port of entry; or

''(2) the master if an owner does not reside at the port of entry.

''(c) CONSEQUENCE OF NOT MAKING STATEMENT.—If the appropriate individual does not make the statement required by this section, the vessel is not entitled to the privileges of a vessel of the United States.

''§ 60104. Depositing certificates of documentation with consular officers

''(a) REQUIREMENT OF MASTER.—When a vessel owned by citizens of the United States, on a voyage from a port in the United States, arrives at a foreign port, the master of the vessel shall deposit the vessel's certificate of documentation with a consular officer at the foreign port if there is a consular officer at that port.

''(b) RETURN OF CERTIFICATE.—When the master produces a clearance from the appropriate officer of the foreign port, the consular officer shall return the certificate of documentation to the master if the master has complied with the provisions of law related to the discharge of seamen in a foreign country and the payment of fees of consular officers.

''(c) CIVIL PENALTY AND COLLECTION.—The master of a vessel failing to deposit the certificate of documentation as required by subsection (a) is liable to the United States Government for a civil penalty of $500. The consular officer shall bring an action to recover the penalty in any court of competent jurisdiction. The action shall be brought in the name of the consular officer for the benefit of the United States.

''§ 60105. Clearance of vessels

''(a) VESSELS OF THE UNITED STATES.—Except as otherwise provided by law, a vessel of the United States shall obtain clearance from the Secretary of Homeland Security before proceeding from a port or place in the United States—

''(1) for a foreign port or place;

''(2) for another port or place in the United States if the vessel has on board foreign merchandise for which entry has not been made; or

''(3) outside the territorial sea to visit a hovering vessel or to receive merchandise while outside the territorial sea.

''(b) OTHER VESSELS.—Except as otherwise provided by law, a vessel that is not a vessel of the United States shall obtain clearance from the Secretary before proceeding from a port or place in the United States—

''(1) for a foreign port or place;

''(2) for another port or place in the United States; or

''(3) outside the territorial sea to visit a hovering vessel or to receive or deliver merchandise while outside the territorial sea.

''(c) REGULATIONS.—The Secretary may by regulation—

''(1) prescribe the manner in which clearance under this section is to be obtained, including the documents, data, or information which shall be submitted or transmitted, pursuant to an authorized data interchange system, to obtain the clearance;

''(2) permit clearance to be obtained before all requirements for clearance are complied with, but only if the owner or operator of the vessel files a bond in an amount set by the Secretary conditioned on the compliance by the owner or operator with all specified requirements for clearance within a time period (not exceeding 4 business days) established by the Secretary; and

''(3) permit clearance to be obtained at a place other than a designated port of entry, under conditions the Secretary may prescribe.

''§ 60106. State inspection laws

''When State law requires a certificate of inspection for goods carried on a vessel, a vessel

transporting the goods may not be cleared until the certificate is produced.

"§ 60107. Payment of fees on departing vessel

''A departing vessel may be cleared only when all legal fees that have accrued on the vessel are paid and proof of payment is presented to the individual granting the clearance.

"§ 60108. Duty to transport tendered cargo

''Clearance may be refused to a vessel or vehicle transporting cargo destined for a domestic or foreign port when the owner, master, or other individual in charge refuses to accept cargo tendered in good condition, with proper charges, for the same or an intermediate port by a citizen of the United States. This section does not apply if the vessel or vehicle is already fully loaded (giving appropriate consideration to its proper loading) or is not adaptable to transport the tendered cargo.

"§ 60109. Duty to transport money and securities of the United States Government

''Before being given clearance, a vessel owned by a citizen of the United States and bound on a voyage from a port in the United States to another port in the United States or in a foreign country, or on a voyage from a port in a foreign country to a port in the United States, shall receive on board any bullion, coin, notes, bonds, or other securities of the United States Government that an agency, consular officer, or other agent of the Government offers. The vessel shall transport the items securely and deliver them promptly to the proper authorities or consignees on arriving at the port of destination. Compensation shall be paid for services provided under this section that is equal to compensation paid to other carriers in the ordinary transaction of business.

"CHAPTER 603—TONNAGE TAXES AND LIGHT MONEY

"§ 60301. Regular tonnage taxes

''(a) LOWER RATE.—A tax is imposed at the rate of 2 cents per ton (but not more than a total of 10 cents per ton per year) at each entry in a port of the United States of—

''(1) a vessel entering from a foreign port or place in North America, Central America, the West Indies Islands, the Bahama Islands, the Bermuda Islands, or the coast of South America bordering the Caribbean Sea; or

''(2) a vessel returning to the same port or place in the United States from which it departed, and not entering the United States from another port or place, except—

''(A) a vessel of the United States;

''(B) a recreational vessel (as defined in section 2101 of this title); or

''(C) a barge.

''(b) HIGHER RATE.—A tax is imposed at the rate of 6 cents per ton (but not more than a total of 30 cents per ton per year) on a vessel at each entry in a port of the United States from a foreign port or place not named in subsection (a)(1).

''(c) EXCEPTION FOR VESSELS ENTERING OTHER THAN BY SEA.—Subsection (a) does not apply to a vessel entering other than by sea from a foreign port or place at which tonnage, lighthouse, or other equivalent taxes are not imposed on vessels of the United States.

"§ 60302. Special tonnage taxes

''(a) ENTRY FROM FOREIGN PORT OR PLACE.—Regardless of whether a tax is imposed under section 60301 of this title, a tax is imposed on a vessel at each entry in a port of the United States from a foreign port or place at the following rates:

''(1) 30 cents per ton on a vessel built in the United States but owned in any part by a subject of a foreign country.

''(2) 50 cents per ton on other vessels not of the United States.

''(3) 50 cents per ton on a vessel of the United States having an officer who is not a citizen of the United States.

''(4) $2 per ton on a foreign vessel entering from a foreign port or place at which vessels of the United States are not ordinarily allowed to enter and trade.

''(b) VESSELS NOT OF THE UNITED STATES TRANSPORTING PROPERTY BETWEEN DISTRICTS.—Regardless of whether a tax is imposed under section 60301 of this title, a tax of 50 cents per ton is imposed on a vessel not of the United States at each entry in one customs district from another district when transporting goods loaded in one district to be delivered in another district.

''(c) EXCEPTION FOR VESSELS BECOMING DOCUMENTED.—The tax of 50 cents per ton under this section does not apply to a vessel that—

''(1) is owned only by citizens of the United States; and

''(2) after entering a port of the United States, becomes documented as a vessel of the United States before leaving that port.

"§ 60303. Light money

''(a) IMPOSITION OF TAX.—A tax of 50 cents per ton, to be called 'light money', is imposed on a vessel not of the United States at each entry in a port of the United States. This tax shall be imposed and collected under the same regulations that apply to tonnage taxes.

''(b) EXCEPTION FOR VESSELS OWNED BY CITIZENS.—

''(1) IN GENERAL.—Subsection (a) does not apply to a vessel owned only by citizens of the United States if—

''(A) the vessel is carrying a regular document issued by a customhouse of the United States proving the vessel to be owned only by citizens of the United States; and

''(B) on entry of the vessel from a foreign port, the individual designated under paragraph (2) states under oath that—

''(i) the document contains the names of all the owners of the vessel; or

''(ii) part of the ownership has been transferred since the document was issued and, to the best of that individual's knowledge and belief, the vessel is still owned only by citizens of the United States.

''(2) PERSON TO MAKE STATEMENT.—The statement under paragraph (1)(B) shall be made by—

''(A) an owner if one resides at the port of entry; or

''(B) the master if an owner does not reside at the port of entry.

''(c) EXCEPTION FOR VESSELS BECOMING DOCUMENTED.—Subsection (a) section does not apply to a vessel that—

''(1) is owned only by citizens of the United States; and

''(2) after entering a port of the United States, becomes documented as a vessel of the United States before leaving that port.

"§ 60304. Presidential suspension of tonnage taxes and light money

''If the President is satisfied that the government of a foreign country does not impose discriminating or countervailing duties to the disadvantage of the United States, the President shall suspend the imposition of special tonnage taxes and light money under sections 60302 and 60303 of this title on vessels of that country.

"§ 60305. Vessels in distress

''A vessel is exempt from tonnage taxes and light money when it enters because it is in distress.

"§ 60306. Vessels not engaged in trade

''A vessel is exempt from tonnage taxes and light money when not engaged in trade.

"§ 60307. Vessels engaged in coastwise trade or the fisheries

''A vessel with a registry endorsement or a coastwise endorsement, trading from one port in the United States to another port in the United States or employed in the bank, whale, or other fisheries, is exempt from tonnage taxes and light money.

"§ 60308. Vessels engaged in Great Lakes trade

''A documented vessel with a registry endorsement, engaged in foreign trade on the Great Lakes or their tributary or connecting waters in trade with Canada, does not become subject to tonnage taxes or light money because of that trade.

"§ 60309. Passenger vessels making trips between ports of the United States and foreign ports

''A passenger vessel making at least 3 trips per week between a port of the United States and a foreign port is exempt from tonnage taxes and light money.

"§ 60310. Vessels making daily trips on interior waters

''A vessel making regular daily trips between a port of the United States and a port of Canada only on interior waters not navigable to the ocean is exempt from tonnage taxes and light money, except on its first clearing each year.

"§ 60311. Hospital vessels in time of war

''In time of war, a hospital vessel is exempt from tonnage taxes, light money, and pilotage charges in the ports of the United States if the vessel is one for which the conditions of the international convention for the exemption of hospital ships from taxation in time of war, concluded at The Hague on December 21, 1904, are satisfied. The President by proclamation shall name the vessels for which the conditions are satisfied and state when the exemption begins and ends.

"§ 60312. Rights under treaties preserved

''This chapter and chapter 605 of this title do not affect a right or privilege of a foreign country relating to tonnage taxes or other duties on vessels under a law or treaty of the United States.

"CHAPTER 605—DISCRIMINATING DUTIES AND RECIPROCAL PRIVILEGES

"§ 60501. Vessels allowed to import

s''(a) IN GENERAL.—Except as otherwise provided by treaty, goods may be imported into the United States from a foreign port or place only in—

''(1) a vessel of the United States; or

''(2) a foreign vessel owned only by citizens or subjects of the country—

''(A) in which the goods are grown, produced, or manufactured; or

''(B) from which the goods can only be, or most usually are, first shipped for transportation.

''(b) EXCEPTION FOR VESSELS OF COUNTRIES NOT MAINTAINING SIMILAR RESTRICTIONS.—Subsection (a) does not apply to a vessel of a foreign country that does not maintain a similar restriction against United States documented vessels.

''(c) EXCEPTION FOR VESSELS BECOMING DOCUMENTED.—Subsection (a) does not apply to a vessel that—

''(1) is owned only by citizens of the United States; and

''(2) after entering a port of the United States, becomes documented as a vessel of the United States before leaving that port.

''(d) SEIZURE AND FORFEITURE.—If goods are imported in violation of this section, the goods and the vessel in which they are imported, along with its equipment and other cargo, may be seized by and forfeited to the United States Government.

''§ 60502. Discriminating duty on goods imported in foreign vessels or from contiguous countries

''(a) IMPOSITION OF DUTY.—A discriminating duty of 10 percent ad valorem (in addition to other duties imposed by law) is imposed on goods—

''(1) imported in a vessel not of the United States unless the vessel—

''(A) is entitled by law or treaty to enter the ports of the United States on payment of the same duties as are payable on goods imported in a vessel of the United States; or

''(B)(i) is owned only by citizens of the United States; and

''(ii) after entering a port of the United States, becomes documented as a vessel of the United States before leaving that port; or

''(2) produced or manufactured in a foreign country not contiguous to the United States and imported from a country contiguous to the United States, unless imported in the usual course of strictly retail trade.

''(b) SEIZURE AND FORFEITURE.—If goods are imported without payment of the duty required by this section, the goods and the vessel in which they are imported may be seized by, and forfeited to, the United States Government.

''§ 60503. Reciprocal suspension of discriminating duties

''(a) GENERAL AUTHORITY.—On receiving satisfactory proof from the government of a foreign country that it has suspended, in any part, the imposition of discriminating duties for any class of vessels owned by citizens of the United States or goods imported in those vessels, the President may proclaim a reciprocal suspension of discriminating duties for the same class of vessels owned by citizens of that country or goods imported in those vessels.

''(b) EFFECTIVE AND EXPIRATION DATES.—A suspension under this section takes effect retroactively from the date the President received the proof from the foreign government, and expires when that government stops granting the reciprocal suspension.

''§ 60504. Reciprocal privileges for recreational vessels

''When the President is satisfied that yachts owned by residents of the United States and used only for pleasure are allowed to arrive at, depart from, and cruise in the waters of a foreign port without entering, clearing, or paying any duties or fees (including cruising license fees), the Secretary of Homeland Security may allow yachts from that foreign port used only for pleasure to arrive at and depart from the ports of the United States and to cruise in the waters of the United States without paying any duties or fees. However, the Secretary may require foreign yachts to obtain a license to cruise in the waters of the United States. The license shall be in the form prescribed by the Secretary and contain limitations about length of time, direction, place of cruising and action, and other matters the Secretary considers appropriate. The license shall be issued without cost to the yacht.

''§ 60505. Retaliatory suspension of commercial privileges

''(a) GENERAL AUTHORITY.—The President may proclaim a suspension of commercial privileges to vessels of a foreign country when—

''(1) vessels of that country have been given the same commercial privileges in the ports and waters of the United States given to vessels of the United States (except the privilege of engaging in coastwise commerce); and

''(2) vessels of the United States are denied commercial privileges in the ports or waters of that country given to vessels of that country.

''(b) APPLICATION.—A suspension under this section shall apply to the same commercial privileges denied to vessels of the United States in the ports or waters of the foreign country, and to the same class of vessels of that country as the class of vessels of the United States denied the privileges.

''(c) EFFECTIVE DATE.—The President shall designate the effective date of the suspension in the proclamation.

''(d) PENALTIES.—

''(1) SEIZURE AND FORFEITURE.—If the master, officer, or agent of a vessel of a foreign country does an act for the vessel in the ports or waters of the United States in violation of a proclamation issued under this section, the vessel and the goods on the vessel may be seized by, and forfeited to, the United States Government.

''(2) FINE OR IMPRISONMENT.—A person opposing an official of the Government enforcing this section shall be fined under title 18, imprisoned for not more than 2 years, or both.

''§ 60506. Retaliation against British dominions of North America

''(a) GENERAL AUTHORITY.—The President by proclamation may prohibit vessels of the British dominions of North America, their masters and crews, and products of or coming from those dominions, from entering waters, ports, or places of the United States when the President is satisfied that—

''(1) fishermen or fishing vessels of the United States in waters, ports, or places of the British dominions of North America are being or recently have been—

''(A) denied rights provided by law or treaty;

''(B) subjected to unreasonable restrictions in the exercise of those rights; or

''(C) otherwise harassed;

''(2) fishermen or fishing vessels of the United States, having a permit under the laws of the United States to dock or trade at a port or place in the British dominions of North America, are being or recently have been—

''(A) denied the privilege of entering the port or place in the same manner and under the same regulations applicable to trading vessels of the most-favored-nation;

''(B) prevented from buying supplies allowed to be sold to trading vessels of the most-favored-nation; or

''(C) otherwise harassed; or

''(3) other vessels of the United States or their masters or crews in waters, ports, or places of the British dominions of North America are being or recently have been—

''(A) denied privileges given to vessels of the most-favored-nation or their masters or crews; or

''(B) otherwise harassed.

''(b) COVERAGE AND EXCEPTIONS.—The President may apply a proclamation under this section to any of the subjects named, and may include exceptions for vessels in distress or need of supplies. The President may change, revoke, and renew the proclamation.

''(c) PENALTIES.—A person violating a proclamation issued under this section shall be fined under title 18, imprisoned for not more than 2 years, or both. A vessel or goods found in waters, ports, or places of the United States in violation of the proclamation may be seized by, and forfeited to, the United States Government.

''§ 60507. Suspension of free passage through Saint Marys Falls Canal

''(a) PURPOSE.—The purpose of this section is to secure reciprocal advantages for the citizens, ports, and vessels of the United States.

''(b) GENERAL AUTHORITY.—When the President is satisfied that vessels of the United States, or passengers or cargo being transported to a port of the United States, are prohibited from passing through a canal or lock connected with the navigation of the Saint Lawrence River, the Great Lakes, or their connecting waterways, or burdened in that passage by tolls or other means that are unreasonable in view of the free passage through the Saint Marys Falls Canal allowed to vessels of all countries, the President by proclamation may suspend the right of free passage through the Saint Marys Falls Canal for vessels owned by subjects of the country imposing the prohibition, tolls, or other burdens and for passengers and cargo being transported to the ports of that country, even when carried in vessels of the United States. The suspension shall apply to the extent and for the time the President considers appropriate.

''(c) IMPOSITION OF TOLL.—

''(1) IN GENERAL.—During a suspension under this section, the President shall impose a toll of not more than $2 per ton on cargo and not more than $5 on each passenger.

''(2) EXCEPTIONS.—Notwithstanding paragraph (1), a toll may not be imposed on passengers or cargo landed at Ogdensburg, New York, or any port west of Ogdensburg and south of a line drawn from the northern boundary of New York through the Saint Lawrence River, the Great Lakes, and their connecting channels to the northern boundary of Minnesota.

''(d) COLLECTION OF TOLL.—

''(1) IN GENERAL.—A toll imposed under this section shall be collected under regulations prescribed by the Secretary of Homeland Security. The Secretary may require the master of a vessel to provide a sworn statement of the amount and kind of cargo, the number of passengers, and the destination of the passengers and cargo.

''(2) PROOF OF LANDING.—When applicable, the Secretary also may require satisfactory proof that the passengers and cargo were landed at a port described in subsection (c)(2). Until that proof is provided, the Secretary may assume the passengers and cargo were not landed at such a port, and the amount of a toll that otherwise would be imposed is a lien enforceable against the vessel when found in the waters of the United States.''.

SEC. 10. SUBTITLE VII OF TITLE 46.

Subtitle VII of title 46, United States Code, as redesignated by section 9(a) of this Act, is amended as follows:

(1) The subtitle heading and analysis are amended to read as follows:

''Subtitle VII—Security and Drug Enforcement

''Chapter	*Sec.*
''701. Port Security	***70101***
''703. Maritime Security	***70301***
''705. Maritime Drug Law Enforcement	***70501''.***

(2) Add after chapter 701 the following:

''CHAPTER 703—MARITIME SECURITY

''§ 70301. Definitions

''In this chapter:

''(1) COMMON CARRIER.—The term 'common carrier' has the meaning given that term in section 40102 of this title.

''(2) PASSENGER VESSEL.—The term 'passenger vessel' has the meaning given that term in section 2101 of this title.

''(3) SECRETARY.—The term 'Secretary' means the Secretary of the department in which the Coast Guard is operating.

"§ 70302. International measures for seaport and vessel security

''Congress encourages the President to continue to seek agreement on international seaport and vessel security through the International Maritime Organization. In developing an agreement, each member country of the International Maritime Organization should consult with appropriate private sector interests in that country. The agreement would establish seaport and vessel security measures and could include—

''(1) seaport screening of cargo and baggage similar to that done at airports;

''(2) security measures to restrict access to cargo, vessels, and dockside property to authorized personnel only;

''(3) additional security on board vessels;

''(4) licensing or certification of compliance with appropriate security standards; and

''(5) other appropriate measures to prevent unlawful acts against passengers and crews on vessels.

"§ 70303. Security standards at foreign ports

''(a) GENERAL REQUIREMENTS.—The Secretary shall develop and implement a plan to assess the effectiveness of the security measures maintained at foreign ports that the Secretary, in consultation with the Secretary of State, determines pose a high risk of acts of terrorism against passenger vessels. In carrying out this subsection, the Secretary shall consult with the Secretary of State about the terrorist threat that exists in each country and poses a high risk of acts of terrorism against passenger vessels.

''(b) NOTICE AND RECOMMENDATIONS TO OTHER COUNTRIES.—If the Secretary, after implementing the plan under subsection (a), determines that a port does not maintain and administer effective security measures, the Secretary of State (after being informed by the Secretary) shall—

''(1) notify the appropriate government authorities of the country in which the port is located of the determination; and

''(2) recommend steps necessary to bring the security measures at that port up to the standard used by the Secretary in making the assessment under subsection (a).

''(c) ANTITERRORISM ASSISTANCE.—The President is encouraged to provide antiterrorism assistance related to maritime security under chapter 8 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2349aa et seq.) to foreign countries, especially for a port that the Secretary determines under subsection (b) does not maintain and administer effective security measures.

"§ 70304. Travel advisories on security at foreign ports

''(a) GENERAL REQUIREMENTS.—On being notified by the Secretary that the Secretary has determined that a condition exists that threatens the safety or security of passengers, passenger vessels, or crew traveling to or from a foreign port that the Secretary has determined under section 70303(b) of this title does not maintain and administer effective security measures, the Secretary of State immediately shall issue a travel advisory for that port. The Secretary of State shall take the necessary steps to widely publicize the travel advisory.

''(b) LIFTING ADVISORIES.—A travel advisory issued under subsection (a) may be lifted only if the Secretary, in consultation with the Secretary of State, has determined that effective security measures are maintained and administered at the port.

''(c) NOTICE TO CONGRESS.—The Secretary of State shall notify Congress immediately of any change in the status of a travel advisory issued under this section.

"§ 70305. Suspension of passenger services

''(a) GENERAL AUTHORITY.—Whenever the President determines that a foreign nation permits the use of territory under its jurisdiction as a base of operations or training for, or as a sanctuary for, or in any way arms, aids, or abets, a terrorist or terrorist group that knowingly uses the illegal seizure of passenger vessels or the threat thereof as an instrument of policy, the President may suspend the right of any passenger vessel common carrier to operate to or from, and the right of any passenger vessel of the United States to use, a port in that foreign nation for passenger service. The suspension may be without notice or hearing and for as long as the President determines is necessary to ensure the security of passenger vessels against unlawful seizure.

''(b) PROHIBITION.—A passenger vessel common carrier, or a passenger vessel of the United States, may not operate in violation of a suspension under this section.

''(c) PENALTIES.—

''(1) DENIAL OF ENTRY.—If a person operates a vessel in violation of this section, the Secretary may deny the vessels of that person entry to ports of the United States.

''(2) CIVIL PENALTY.—A person violating this section is liable to the United States Government for a civil penalty of not more than $50,000. Each day a vessel uses a prohibited port is a separate violation.

"§ 70306. Report on terrorist threats

''(a) CONTENT.—Not later than February 28 of each year, the Secretary shall submit a report to Congress on the threat from acts of terrorism to United States ports and vessels operating from those ports. The Secretary shall include a description of activities undertaken under title I of the Maritime Transportation Security Act of 2002 (Public Law 107–295, 116 Stat. 2066) and an analysis of the effect of those activities on port security against acts of terrorism.

''(b) SUBMISSION.—The report shall be submitted to the Committee on International Relations and the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Foreign Relations and the Committee on Commerce, Science, and Transportation of the Senate. Any classified information in the report shall be submitted separately as an addendum.

"CHAPTER 705—MARITIME DRUG LAW ENFORCEMENT

"§ 70501. Findings and declarations

''Congress finds and declares that trafficking in controlled substances aboard vessels is a serious international problem, is universally condemned, and presents a specific threat to the security and societal well-being of the United States.

"§ 70502. Definitions

''(a) APPLICATION OF OTHER DEFINITIONS.—The definitions in section 102 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802) apply to this chapter.

''(b) VESSEL OF THE UNITED STATES.—In this chapter, the term 'vessel of the United States' means—

''(1) a vessel documented under chapter 121 of this title or numbered as provided in chapter 123 of this title;

''(2) a vessel owned in any part by an individual who is a citizen of the United States, the United States Government, the government of a State or political subdivision of a State, or a corporation incorporated under the laws of the United States or of a State, unless—

''(A) the vessel has been granted the nationality of a foreign nation under article 5 of the 1958 Convention on the High Seas; and

''(B) a claim of nationality or registry for the vessel is made by the master or individual in charge at the time of the enforcement action by an officer or employee of the United States who is authorized to enforce applicable provisions of United States law; and

''(3) a vessel that was once documented under the laws of the United States and, in violation of the laws of the United States, was sold to a person not a citizen of the United States, placed under foreign registry, or operated under the authority of a foreign nation, whether or not the vessel has been granted the nationality of a foreign nation.

''(c) VESSEL SUBJECT TO THE JURISDICTION OF THE UNITED STATES.—

''(1) IN GENERAL.—In this chapter, the term 'vessel subject to the jurisdiction of the United States' includes—

''(A) a vessel without nationality;

''(B) a vessel assimilated to a vessel without nationality under paragraph (2) of article 6 of the 1958 Convention on the High Seas;

''(C) a vessel registered in a foreign nation if that nation has consented or waived objection to the enforcement of United States law by the United States;

''(D) a vessel in the customs waters of the United States;

''(E) a vessel in the territorial waters of a foreign nation if the nation consents to the enforcement of United States law by the United States; and

''(F) a vessel in the contiguous zone of the United States, as defined in Presidential Proclamation 7219 of September 2, 1999 (43 U.S.C. 1331 note), that—

''(i) is entering the United States;

''(ii) has departed the United States; or

''(iii) is a hovering vessel as defined in section 401 of the Tariff Act of 1930 (19 U.S.C. 1401).

''(2) CONSENT OR WAIVER OF OBJECTION.—Consent or waiver of objection by a foreign nation to the enforcement of United States law by the United States under paragraph (1)(C) or (E)—

''(A) may be obtained by radio, telephone, or similar oral or electronic means; and

''(B) is proved conclusively by certification of the Secretary of State or the Secretary's designee.

''(d) VESSEL WITHOUT NATIONALITY.—

''(1) IN GENERAL.—In this chapter, the term 'vessel without nationality' includes—

''(A) a vessel aboard which the master or individual in charge makes a claim of registry that is denied by the nation whose registry is claimed;

''(B) a vessel aboard which the master or individual in charge fails, on request of an officer of the United States authorized to enforce applicable provisions of United States law, to make a claim of nationality or registry for that vessel; and

''(C) a vessel aboard which the master or individual in charge makes a claim of registry and for which the claimed nation of registry does not affirmatively and unequivocally assert that the vessel is of its nationality.

''(2) VERIFICATION OR DENIAL.—A claim of registry under paragraph (1)(A) or (C) may be verified or denied by radio, telephone, or similar oral or electronic means. The denial of such a claim is proved conclusively by certification of the Secretary of State or the Secretary's designee.

''(e) CLAIM OF NATIONALITY OR REGISTRY.—A claim of nationality or registry under this section includes only—

''(1) possession on board the vessel and production of documents evidencing the vessel's nationality as provided in article 5 of the 1958 Convention on the High Seas;

''(2) flying its nation's ensign or flag; or

''(3) a verbal claim of nationality or registry by the master or individual in charge of the vessel.

''§ 70503. Manufacture, distribution, or possession of controlled substances on vessels

''(a) PROHIBITIONS.—An individual may not knowingly or intentionally manufacture or distribute, or possess with intent to manufacture or distribute, a controlled substance on board—

''(1) a vessel of the United States or a vessel subject to the jurisdiction of the United States; or

''(2) any vessel if the individual is a citizen of the United States or a resident alien of the United States.

''(b) EXTENSION BEYOND TERRITORIAL JURISDICTION.—Subsection (a) applies even though the act is committed outside the territorial jurisdiction of the United States.

''(c) NONAPPLICATION.—

''(1) IN GENERAL.—Subject to paragraph (2), subsection (a) does not apply to—

''(A) a common or contract carrier or an employee of the carrier who possesses or distributes a controlled substance in the lawful and usual course of the carrier's business; or

''(B) a public vessel of the United States or an individual on board the vessel who possesses or distributes a controlled substance in the lawful course of the individual's duties.

''(2) ENTERED IN MANIFEST.—Paragraph (1) applies only if the controlled substance is part of the cargo entered in the vessel's manifest and is intended to be imported lawfully into the country of destination for scientific, medical, or other lawful purposes.

''(d) BURDEN OF PROOF.—The United States Government is not required to negative a defense provided by subsection (c) in a complaint, information, indictment, or other pleading or in a trial or other proceeding. The burden of going forward with the evidence supporting the defense is on the person claiming its benefit.

''§ 70504. Jurisdiction and venue

''(a) JURISDICTION.—Jurisdiction of the United States with respect to a vessel subject to this chapter is not an element of an offense. Jurisdictional issues arising under this chapter are preliminary questions of law to be determined solely by the trial judge.

''(b) VENUE.—A person violating section 70503 of this title shall be tried in the district court of the United States for—

''(1) the district at which the person enters the United States; or

''(2) the District of Columbia.

''§ 70505. Failure to comply with international law as a defense

''A person charged with violating section 70503 of this title does not have standing to raise a claim of failure to comply with international law as a basis for a defense. A claim of failure to comply with international law in the enforcement of this chapter may be made only by a foreign nation. A failure to comply with international law does not divest a court of jurisdiction and is not a defense to a proceeding under this chapter.

''§ 70506. Penalties

''(a) VIOLATIONS.—A person violating section 70503 of this title shall be punished as provided in section 1010 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 960). However, if the offense is a second or subsequent offense as provided in section 1012(b) of that Act (21 U.S.C. 962(b)), the person shall be punished as provided in section 1012 of that Act (21 U.S.C. 962).

''(b) ATTEMPTS AND CONSPIRACIES.—A person attempting or conspiring to violate section 70503 of this title is subject to the same penalties as provided for violating section 70503.

''§ 70507. Forfeitures

''(a) IN GENERAL.—Property described in section 511(a) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 881(a)) that is used or intended for use to commit, or to facilitate the commission of, an offense under section 70503 of this title may be seized and forfeited in the same manner that similar property may be seized and forfeited under section 511 of that Act (21 U.S.C. 881).

''(b) PRIMA FACIE EVIDENCE OF VIOLATION.—Practices commonly recognized as smuggling tactics may provide prima facie evidence of intent to use a vessel to commit, or to facilitate the commission of, an offense under section 70503 of this title, and may support seizure and forfeiture of the vessel, even in the absence of controlled substances aboard the vessel. The following indicia, among others, may be considered, in the totality of the circumstances, to be prima facie evidence that a vessel is intended to be used to commit, or to facilitate the commission of, such an offense:

''(1) The construction or adaptation of the vessel in a manner that facilitates smuggling, including—

''(A) the configuration of the vessel to ride low in the water or present a low hull profile to avoid being detected visually or by radar;

''(B) the presence of any compartment or equipment that is built or fitted out for smuggling, not including items such as a safe or lockbox reasonably used for the storage of personal valuables;

''(C) the presence of an auxiliary tank not installed in accordance with applicable law or installed in such a manner as to enhance the vessel's smuggling capability;

''(D) the presence of engines that are excessively over-powered in relation to the design and size of the vessel;

''(E) the presence of materials used to reduce or alter the heat or radar signature of the vessel and avoid detection;

''(F) the presence of a camouflaging paint scheme, or of materials used to camouflage the vessel, to avoid detection; or

''(G) the display of false vessel registration numbers, false indicia of vessel nationality, false vessel name, or false vessel homeport.

''(2) The presence or absence of equipment, personnel, or cargo inconsistent with the type or declared purpose of the vessel.

''(3) The presence of excessive fuel, lube oil, food, water, or spare parts, inconsistent with legitimate vessel operation, inconsistent with the construction or equipment of the vessel, or inconsistent with the character of the vessel's stated purpose.

''(4) The operation of the vessel without lights during times lights are required to be displayed under applicable law or regulation and in a manner of navigation consistent with smuggling tactics used to avoid detection by law enforcement authorities.

''(5) The failure of the vessel to stop or respond or heave to when hailed by government authority, especially where the vessel conducts evasive maneuvering when hailed.

''(6) The declaration to government authority of apparently false information about the vessel, crew, or voyage or the failure to identify the vessel by name or country of registration when requested to do so by government authority.

''(7) The presence of controlled substance residue on the vessel, on an item aboard the vessel, or on an individual aboard the vessel, of a quantity or other nature that reasonably indicates manufacturing or distribution activity.

''(8) The use of petroleum products or other substances on the vessel to foil the detection of controlled substance residue.

''(9) The presence of a controlled substance in the water in the vicinity of the vessel, where given the currents, weather conditions, and course and speed of the vessel, the quantity or other nature is such that it reasonably indicates manufacturing or distribution activity.''.

SEC. 11. SUBTITLE VIII OF TITLE 46.

Title 46, United States Code, is amended by adding after subtitle VII the following:

''Subtitle VIII—Miscellaneous

''CHAPTER 801—WRECKS AND SALVAGE

''§ 80101. Vessel stranded on foreign coast

''(a) DUTIES OF CONSULAR OFFICER.—When a vessel of the United States is stranded on a coast of a foreign country, the consular officer in that country shall take proper measures, to the extent the laws of that country allow, to—

''(1) save and secure the vessel and property on the vessel; and

''(2) prepare an inventory of the property that is saved.

''(b) DELIVERY TO OWNER.—After deducting the expenses, the consular officer shall deliver the property, with an inventory, to the owner of the property.

''(c) LIMITATION ON TAKING POSSESSION.—A consular officer may not take possession of property under this section when the owner, master, or consignee is present or able to take possession of the property.

''§ 80102. License to salvage on Florida coast

''(a) LICENSING REQUIREMENTS.—To be regularly employed in the business of salvaging on the coast of Florida, a vessel and its master each must have a license issued by a judge of the district court of the United States for a judicial district of Florida.

''(b) JUDICIAL FINDINGS.—Before issuing a license under this section, the judge must be satisfied, when the license is for—

''(1) a vessel, that the vessel is seaworthy and properly equipped for the business of saving property shipwrecked and in distress; or

''(2) a master, that the master is trustworthy and innocent of any fraud or misconduct related to property shipwrecked or saved on the coast.

''§ 80103. Property on Florida coast to be taken to port of entry

''(a) IN GENERAL.—Property taken from a wreck, the sea, or a key or shoal, on the coast of Florida and within the jurisdiction of the United States, shall be brought to a port of entry of the United States.

''(b) SEIZURE AND FORFEITURE.—A vessel transporting property described in subsection (a) to a foreign port may be seized by, and forfeited to, the United States Government. A forfeiture under this subsection accrues half to the informer and half to the Government.

''§ 80104. Salvaging operations by foreign vessels

''(a) PROHIBITION.—Except as provided in this section or section 80105 of this title, a foreign vessel may not, under penalty of forfeiture, engage in salvaging operations on the Atlantic or Pacific coast of the United States, in any portion of the Great Lakes or their connecting or tributary waters, including any portion of the Saint Lawrence River through which the international boundary line extends, or in territorial waters of the United States on the Gulf of Mexico.

''(b) WHEN SUITABLE VESSEL NOT AVAILABLE.—The Secretary of Homeland Security may authorize a foreign vessel to engage in salvaging operations in a particular locality if, on investigation, the Secretary is satisfied that there is not available in that locality a suitable vessel that is—

''(1) owned only by citizens of the United States (including a Bowaters corporation under section 12118 of this title); and

''(2) documented under chapter 121 of this title or numbered under chapter 123 of this title.

''(c) OPERATIONS AUTHORIZED BY TREATY.—This section does not prohibit or restrict assistance to vessels or salvaging operations authorized by treaty, including—

''(1) article II of the Treaty between the United States and Great Britain concerning reciprocal rights for United States and Canada in the conveyance of prisoners and wrecking and salvage, signed at Washington, May 18, 1908 (35 Stat. 2036); or

''(2) the Treaty between the United States of America and Mexico to facilitate assistance to and salvage of vessels in territorial waters, signed at Mexico City, June 13, 1935 (49 Stat. 3359).

''§ 80105. Canadian vessels aiding vessels in United States waters

''(a) IN GENERAL.—Canadian vessels and wrecking equipment may give aid to Canadian or other vessels and property wrecked, disabled, or in distress in the waters of the United States contiguous to Canada, including—

''(1) the canal and improvement of the waters between Lake Erie and Lake Huron; and

''(2) the Saint Marys River and canal.

''(b) RECIPROCITY.—This section does not apply after the President proclaims that privileges reciprocal to those under subsection (a) have been withdrawn or rendered inoperative by the Government of Canada.

''§ 80106. International agreement on derelicts

''The President may make an international agreement with other governments interested in the navigation of the North Atlantic Ocean, providing for the reporting, marking, and removal of dangerous wrecks, derelicts, and other menaces to navigation outside the coast waters of the countries bordering the North Atlantic Ocean.

''§ 80107. Salvors of life to share in remuneration

''(a) ENTITLEMENT OF SALVORS.—A salvor of human life, who gave aid following an accident giving rise to salvage, is entitled to a fair share of the payment awarded to the salvor for salvaging the vessel or other property or preventing or minimizing damage to the environment.

''(b) COMMON OWNERSHIP OF VESSELS.—The right to remuneration for aid or salvage services is not affected by common ownership of the vessels giving and receiving the aid or salvage services.

''(c) TIME LIMIT ON BRINGING ACTIONS.—A civil action to recover remuneration for giving aid or salvage services must be brought within 2 years after the date the aid or salvage services were given, unless the court in which the action is brought is satisfied that during that 2-year period there had not been a reasonable opportunity to seize the aided or salvaged vessel within the jurisdiction of the court or within the territorial waters of the country of the plaintiff's residence or principal place of business.

''(d) NONAPPLICATION.—This section does not apply to a vessel of war or a vessel owned by the United States Government appropriated only to a public service.

''CHAPTER 803—ICE AND DERELICTS

''Sec.
''80301. International agreements.
''80302. Patrol services.
''80303. Speed of vessel in ice region.

''§ 80301. International agreements

''(a) GENERAL AUTHORITY.—The President may make agreements with interested maritime countries to—

''(1) maintain in the North Atlantic Ocean a service of ice patrol, of study and observation of ice and current conditions, and of assistance to vessels and their crews requiring assistance within the limits of the patrol;

''(2) maintain a service of study and observation of ice and current conditions in the waters affecting the set and drift of ice in the North Atlantic Ocean; and

''(3) take all practicable steps to ensure the destruction or removal of derelicts in the northern part of the Atlantic Ocean, east of the line drawn from Cape Sable to a point in latitude 34 degrees north, longitude 70 degrees west, if the destruction or removal is necessary.

''(b) PAYMENT BETWEEN COUNTRIES.—The President may include in an agreement under subsection (a) a provision for—

''(1) payment to the United States Government by other countries for their proportionate share of the expense of maintaining the services; or

''(2) contribution by the Government for its proportionate share if the agreement provides for another country to maintain the services.

''§ 80302. Patrol services

''(a) GENERAL REQUIREMENTS.—Unless the agreements made under section 80301 of this title provide otherwise, an ice patrol shall be maintained during the entire ice season in guarding the southeastern, southern, and southwestern limits of the region of icebergs in the vicinity of the Grand Banks of Newfoundland. The patrol shall inform trans-Atlantic and other passing vessels by radio and other available means of the ice conditions and the extent of the dangerous region. During the ice season, there shall be maintained a service of study of ice and current conditions, a service of providing assistance to vessels and crews requiring assistance, and a service of removing and destroying derelicts. Any of these services may be maintained during the remainder of the year as may be advisable.

''(b) WARNINGS TO VESSELS.—An ice patrol vessel shall warn any vessel known to be approaching a dangerous area and recommend safe routes.

''(c) RECORDING AND REPORTING INCIDENTS.—

''(1) RECORDING.—An ice patrol vessel shall record the name of a vessel and the facts of the case when the patrol observes or knows that the vessel—

''(A) is on other than a regular recognized or advertised route crossing the North Atlantic Ocean;

''(B) has crossed the fishing banks of Newfoundland north of latitude 43 degrees north during the fishing season; or

''(C) has passed through regions known or believed to be endangered by ice when proceeding to and from ports of North America.

''(2) REPORTING.—The name of the vessel and all pertinent information about the incident shall be reported to the government of the country to which the vessel belongs if that government requests.

''(d) ADMINISTRATION.—The Commandant of the Coast Guard, under the direction of the Secretary of the department in which the Coast Guard is operating, shall carry out the services provided for in this section and shall assign necessary vessels, material, and personnel of the Coast Guard. On request of such Secretary, the head of an agency may detail personnel, lend or contribute material or equipment, or otherwise assist in carrying out the services provided for in this section.

''(e) ANNUAL REPORT.—The Commandant shall publish an annual report of the activities of the services provided for in this section. A copy of the report shall be provided to each interested foreign government and to each agency assisting in the work.

''§ 80303. Speed of vessel in ice region

''(a) REQUIREMENT.—The master of a vessel of the United States, when ice is reported on or near the vessel's course, shall proceed at a moderate speed or change the course of the vessel to go well clear of the danger zone.

''(b) CIVIL PENALTY.—A master violating this section is liable to the United States Government for a civil penalty of not more than $500.

''CHAPTER 805—SAFE CONTAINERS FOR INTERNATIONAL CARGO

''Sec.
''80501. Definitions.
''80502. Application of Convention.
''80503. General authority of the Secretary.
''80504. Approval and examination.
''80505. Enforcement.
''80506. Delegation of authority.
''80507. Employee protection.
''80508. Amendments to Convention.
''80509. Civil penalty.

''§ 80501. Definitions

''In this chapter:

''(1) CONTAINER.—The term 'container' has the meaning given that term in the Convention.

''(2) CONVENTION.—The term 'Convention' means the International Convention for Safe Containers, and its annexes, done at Geneva, Switzerland, December 2, 1972.

''(3) INTERNATIONAL TRANSPORT.—The term 'international transport' means the transportation of a container between—

''(A) a place in a foreign country and a place in the jurisdiction of the United States; or

''(B) two places outside the United States by United States carriers.

''(4) OWNER.—The term 'owner' includes the lessee or bailee of a container if a written lease or bailment provides for the lessee or bailee to exercise the owner's responsibility for maintaining and examining the container.

''(5) SAFETY APPROVAL PLATE.—The term 'safety approval plate' has the meaning given that term in annex I of the Convention.

''§ 80502. Application of Convention

''The Convention applies to an owner of a container used in international transport if the owner is domiciled or has its principal office in the United States.

''§ 80503. General authority of the Secretary

''(a) IN GENERAL.—The Secretary of the department in which the Coast Guard is operating shall carry out the Convention and this chapter in the United States.

''(b) REGULATIONS.—The Secretary shall prescribe regulations to carry out this chapter. The regulations shall—

''(1) establish procedures for testing, inspecting, and initially approving containers and designs for containers, including procedures for attaching, invalidating, and removing safety approval plates for containers;

''(2) establish procedures to be followed by the owners of containers for the periodic examination of containers as provided in the Convention; and

''(3) provide a method for developing, collecting, and disseminating information about container safety and the international transport of containers.

''(c) SAFETY APPROVAL PLATES.—If the owner of a container without a safety approval plate establishes that the container satisfies the standards of the Convention, the Secretary may authorize a safety approval plate to be attached to the container.

''(d) SCHEDULE OF FEES.—The Secretary may prescribe a schedule of fees for services performed by the Secretary, or by a person delegated authority under section 80506 of this title, for the testing, inspection, and initial approval of containers and container designs.

''(e) ENCOURAGING INTERMODAL TRANSPORT.—To the maximum extent possible, the Secretary shall encourage the development and use of intermodal transport, using containers built to facilitate economical, safe, and expeditious handling of containerized cargo without intermediate reloading when it is being transported over land, air, and sea areas.

''§ 80504. Approval and examination

''(a) DOMICILE AND PRINCIPAL OFFICE IN UNITED STATES.—A container owner domiciled and having its principal office in the United States shall have the container—

''(1) approved initially under procedures prescribed by the Secretary of the department in which the Coast Guard is operating or by the

government of another country that is a party to the Convention; and

''(2) examined periodically as provided in the Convention under procedures prescribed by the Secretary.

''(b) DOMICILE OR PRINCIPAL OFFICE IN UNITED STATES.—A container owner domiciled or having its principal office in the United States shall have the container—

''(1) approved initially under procedures prescribed by the Secretary or by the government of another country that is a party to the Convention; and

''(2) examined periodically as provided in the Convention, under procedures prescribed by the government of the country in which the owner is domiciled or has its principal office, as long as that country is a party to the Convention.

''(c) NEITHER DOMICILE NOR PRINCIPAL OFFICE IN UNITED STATES.—A container owner neither domiciled nor having its principal office in the United States or another country that is a party to the Convention may submit a container for initial approval and periodic examination under procedures prescribed by the Secretary.

''§ 80505. Enforcement

''(a) IN GENERAL.—To enforce the Convention, this chapter, and regulations prescribed under this chapter, the Secretary of the department in which the Coast Guard is operating may—

''(1) examine, or require to be examined, containers in international transport;

''(2) approve designs for containers;

''(3) inspect and test containers being manufactured;

''(4) issue a detention order removing or excluding a container from service until the container owner satisfies the Secretary that the container meets the standards of the Convention, if the container—

''(A) does not have a safety approval plate attached to it; or

''(B) has a safety approval plate attached but there is significant evidence that the container is in a condition that creates an obvious risk to safety;

''(5) take other appropriate action, including issuing necessary orders, to remove a container from service or restrict its use if the container is not in compliance with the Convention, this chapter, or regulations prescribed under this chapter, but does not present an obvious risk to safety; and

''(6) allow a container found to be unsafe or without a safety approval plate to be moved to another location for repair or other disposition, under restrictions consistent with the intent of the Convention.

''(b) PAYMENT OF EXPENSES.—

''(1) EXAMINATION.—The owner of a container involved in an action by the Secretary under this section related to an examination of the container shall pay or reimburse the Secretary for the expenses arising from that action, except for the costs of routine examinations of the container or a safety approval plate.

''(2) TESTING, INSPECTION, AND INITIAL APPROVAL.—The owner of a container submitted to the procedure established by the Secretary for testing, inspection, and initial approval, and the manufacturer of a container that submits a design to the procedure established by the Secretary for testing, inspection, and initial approval, shall pay or reimburse the Secretary for the expenses arising from the testing, inspection, or approval.

''(3) CREDIT TO APPROPRIATION.—Amounts received by the Secretary as reimbursement shall be credited to the appropriation for operating expenses of the Coast Guard.

''(c) PRESUMPTION BASED ON SAFETY APPROVAL PLATE.—A container bearing a safety approval plate authorized by a country that is a party to the Convention is presumed to be in a safe condition unless there is significant evidence that the container is in a condition that creates an obvious risk to safety.

''(d) NOTICE OF ORDERS.—

''(1) IN GENERAL.—When the Secretary issues a detention or other order under this section, the Secretary promptly shall notify in writing—

''(A) the owner of the container;

''(B) the owner's agent; or

''(C) if the identity of the owner is not apparent from the container or shipping documents, the custodian.

''(2) INFORMATION TO INCLUDE.—The notification shall identify the container involved, give the location of the container, and describe the condition or situation giving rise to the order.

''(e) DURATION OF ORDERS.—An order issued by the Secretary under this section remains in effect until—

''(1) the Secretary declares the container to be in compliance with the standards of the Convention; or

''(2) the container is removed permanently from service.

''(f) NOTICE OF DEFECTIVE CONTAINER TO COUNTRY ISSUING SAFETY APPROVAL PLATE.—If the Secretary has reason to believe that a container bearing a safety approval plate issued by another country was defective at the time of approval, the Secretary shall notify that country.

''§ 80506. Delegation of authority

''(a) IN GENERAL.—The Secretary of the department in which the Coast Guard is operating may delegate to any person, including a public or private agency or nonprofit organization, authority to grant initial approval for containers and designs and to attach safety approval plates.

''(b) REGULATIONS.—Before making a delegation under this section, the Secretary shall prescribe regulations establishing—

''(1) criteria to be followed in selecting a person to whom authority is to be delegated;

''(2) a detailed description of the duties and powers to be carried out by the person to whom authority is delegated, including the records the person shall keep; and

''(3) the review the Secretary will conduct to decide whether the person is carrying out the delegated duties and powers properly.

''(c) INSPECTION OF RECORDS.—A person delegated authority under this section shall make available to the Secretary for inspection, on request, records the person is required to keep.

''(d) PENALTIES AND ORDERS.—A person delegated authority under this section may not—

''(1) assess or collect, or attempt to assess or collect, a penalty for violation of the Convention, this chapter, or an order issued by the Secretary under this chapter; or

''(2) issue or attempt to issue a detention or other order.

''(e) PUBLICATION.—The Secretary shall publish in the Federal Register or other appropriate publication—

''(1) the name and address of each person to whom authority is delegated;

''(2) the duties and powers delegated; and

''(3) the period of the delegation.

''(f) REVOCATION.—The Secretary may revoke a delegation of authority under this section at any time.

''§ 80507. Employee protection

''(a) PROHIBITION.—A person may not discharge or discriminate against an employee because the employee has reported the existence of an unsafe container or a violation of this chapter or a regulation prescribed under this chapter.

''(b) COMPLAINTS.—An employee alleging to have been discharged or discriminated against in violation of subsection (a) may file a complaint with the Secretary of Labor. The complaint must be filed within 60 days after the violation.

''(c) ENFORCEMENT.—The Secretary of Labor may investigate the complaint. If the Secretary of Labor finds there has been a violation, the Secretary of Labor may bring a civil action in an appropriate district court of the United States. The court has jurisdiction to restrain violations of subsection (a) and order appropriate relief, including reinstatement of the employee to the employee's former position with back pay.

''(d) NOTICE TO COMPLAINANT.—Within 30 days after receiving a complaint under this section, the Secretary of Labor shall notify the complainant of the intended action on the complaint.

''§ 80508. Amendments to Convention

''(a) PROPOSALS BY UNITED STATES.—The Secretary of State, with the concurrence of the Secretary of the department in which the Coast Guard is operating, may propose amendments to the Convention or request a conference for amending the Convention as provided in article IX of the Convention.

''(b) PROPOSALS BY OTHER COUNTRIES.—An amendment communicated to the United States under article IX(2) of the Convention may be accepted for the United States by the President, with the advice and consent of the Senate. The President may declare that the United States does not accept an amendment.

''(c) AMENDMENTS TO ANNEXES.—

''(1) IN GENERAL.—The Secretary of State, with the concurrence of the Secretary of the department in which the Coast Guard is operating—

''(A) may propose amendments to the annexes to the Convention;

''(B) may propose a conference for amending annexes to the Convention; and

''(C) shall consider and act on amendments to the annexes to the Convention adopted by the Maritime Safety Committee of the International Maritime Organization and communicated to the United States under article X(2) of the Convention.

''(2) ACTION FOLLOWING APPROVAL OR OBJECTION.—If a proposed amendment to an annex is approved by the United States, the amendment shall enter into force as provided in article X of the Convention. If a proposed amendment is objected to, the Secretary of State promptly shall communicate the objection as provided in article X(3) of the Convention.

''(d) APPOINTMENT OF ARBITRATOR.—The Secretary of State, with the concurrence of the Secretary of the department in which the Coast Guard is operating, shall appoint an arbitrator when one is required to resolve a dispute within the meaning of article XIII of the Convention.

''§ 80509. Civil penalty

''(a) IN GENERAL.—An owner, agent, or custodian who has been notified of an order issued under section 80505 of this title and fails to take reasonable and prompt action to prevent or stop a container subject to the order from being moved in violation of the order is liable to the United States Government for a civil penalty of not more than $5,000 for each container moved. Each day the container remains in service while the order is in effect is a separate violation.

''(b) ASSESSMENT AND COLLECTION.—

''(1) IN GENERAL.—After notice and an opportunity for a hearing, the Secretary of the department in which the Coast Guard is operating shall assess and collect any penalty under this section.

''(2) FACTORS TO CONSIDER.—In determining the amount of the penalty, the Secretary shall consider the gravity of the violation, the hazards involved, and the record of the person charged with respect to violations of the Convention, this chapter, or regulations prescribed under this chapter.

''(3) REMISSION, MITIGATION, OR COMPROMISE.—The Secretary may remit, mitigate, or compromise a penalty under this section.

''(4) ENFORCEMENT.—If a person fails to pay a penalty under this section, the Secretary shall refer the matter to the Attorney General for collection in an appropriate district court of the United States.''.

SEC. 12. MARITIME ADMINISTRATION.

Section 109 of title 49, United States Code, is amended to read as follows:

''§ 109. Maritime Administration

''(a) ORGANIZATION.—The Maritime Administration is an administration in the Department of Transportation.

''(b) MARITIME ADMINISTRATOR.—The head of the Maritime Administration is the Maritime Administrator, who is appointed by the President by and with the advice and consent of the Senate. The Administrator shall report directly to the Secretary of Transportation and carry out the duties prescribed by the Secretary.

''(c) DEPUTY MARITIME ADMINISTRATOR.—The Maritime Administration shall have a Deputy Maritime Administrator, who is appointed in the competitive service by the Secretary, after consultation with the Administrator. The Deputy Administrator shall carry out the duties prescribed by the Administrator. The Deputy Administrator shall be Acting Administrator during the absence or disability of the Administrator and, unless the Secretary designates another individual, during a vacancy in the office of Administrator.

''(d) DUTIES AND POWERS VESTED IN SECRETARY.—All duties and powers of the Maritime Administration are vested in the Secretary.

''(e) REGIONAL OFFICES.—The Maritime Administration shall have regional offices for the Atlantic, Gulf, Great Lakes, and Pacific port ranges, and may have other regional offices as necessary. The Secretary shall appoint a qualified individual as Director of each regional office. The Secretary shall carry out appropriate activities and programs of the Maritime Administration through the regional offices.

''(f) INTERAGENCY AND INDUSTRY RELATIONS.—The Secretary shall establish and maintain liaison with other agencies, and with representative trade organizations throughout the United States, concerned with the transportation of commodities by water in the export and import foreign commerce of the United States, for the purpose of securing preference to vessels of the United States for the transportation of those commodities.

''(g) DETAILING OFFICERS FROM ARMED FORCES.—To assist the Secretary in carrying out duties and powers relating to the Maritime Administration, not more than five officers of the armed forces may be detailed to the Secretary at any one time, in addition to details authorized by any other law. During the period of a detail, the Secretary shall pay the officer an amount that, when added to the officer's pay and allowances as an officer in the armed forces, makes the officer's total pay and allowances equal to the amount that would be paid to an individual performing work the Secretary considers to be of similar importance, difficulty, and responsibility as that performed by the officer during the detail.

''(h) CONTRACTS AND AUDITS.—

''(1) CONTRACTS.—In the same manner that a private corporation may make a contract within the scope of its authority under its charter, the Secretary may make contracts for the United States Government and disburse amounts to—

''(A) carry out the Secretary's duties and powers under this section and subtitle V of title 46; and

''(B) protect, preserve, and improve collateral held by the Secretary to secure indebtedness.

''(2) AUDITS.—The financial transactions of the Secretary under paragraph (1) shall be audited by the Comptroller General. The Comptroller General shall allow credit for an expenditure shown to be necessary because of the nature of the business activities authorized by this section or subtitle V of title 46. At least once a year, the Comptroller General shall report to Congress any departure by the Secretary from this section or subtitle V of title 46.

''(i) AUTHORIZATION OF APPROPRIATIONS.—

''(1) IN GENERAL.—Except as otherwise provided in this subsection, there are authorized to be appropriated such amounts as may be necessary to carry out the duties and powers of the Secretary relating to the Maritime Administration.

''(2) LIMITATIONS.—Only those amounts specifically authorized by law may be appropriated for the use of the Maritime Administration for—

''(A) acquisition, construction, or reconstruction of vessels;

''(B) construction-differential subsidies incident to the construction, reconstruction, or reconditioning of vessels;

''(C) costs of national defense features;

''(D) payments of obligations incurred for operating-differential subsidies;

''(E) expenses necessary for research and development activities, including reimbursement of the Vessel Operations Revolving Fund for losses resulting from expenses of experimental vessel operations;

''(F) the Vessel Operations Revolving Fund;

''(G) National Defense Reserve Fleet expenses;

''(H) expenses necessary to carry out part B of subtitle V of title 46; and

''(I) other operations and training expenses related to the development of waterborne transportation systems, the use of waterborne transportation systems, and general administration.

''(3) TRAINING VESSELS.—Amounts may not be appropriated for the purchase or construction of training vessels for State maritime academies unless the Secretary has approved a plan for sharing training vessels between State maritime academies.''.

SEC. 13. AMENDMENTS RELATING TO MARITIME SECURITY ACT OF 2003.

(a) AMENDMENTS TO CHAPTER 531.—Chapter 531 of title 46, United States Code, is amended as follows:

(1) In section 53102—

(A) in the headings of paragraphs (1), (2), and (4) of subsection (c), strike ''SECTION 2'' and substitute ''SECTION 50501'';

(B) in subsection (c)(1), (2)(A)(i) and (ii)(II) and (B), and (4)(B), strike ''section 2 of the Shipping Act, 1916 (46 U.S.C. App. 802)'' and substitute ''section 50501 of this title'';

(C) in subsection (d), strike ''the first section of Public Law 81–891 (64 Stat. 1120; 46 U.S.C. App. note prec. 3)'' and substitute ''section 501 of this title''; and

(D) in subsection (e)(1)—

(i) strike ''a documented vessel (as that term is defined in section 12101 of this title)'' and substitute ''documented under chapter 121 of this title,''; and

(ii) in subparagraph (B), strike ''a documented vessel (as defined in that section)'' and substitute ''documented under chapter 121''.

(2) In section 53103(c)—

(A) in the heading of paragraph (1)(C), strike ''SECTION 2'' and substitute ''SECTION 50501'';

(B) in paragraphs (1)(A)(iii) and (C)(i) and (ii), strike ''section 2 of the Shipping Act, 1916 (46 U.S.C. App. 802)'' and substitute ''section 50501 of this title'';

(C) in paragraph (1)(B), strike ''subparagraphs'' and substitute ''subparagraph''; and

(D) in paragraph (3)(B), strike ''agreement'' and substitute ''agreements''.

(3) In section 53104—

(A) in subsection (c)(3)(B)(ii)(I) and (II), strike ''section 2 of the Shipping Act, 1916 (46 U.S.C. App. 802)'' and substitute ''section 50501 of this title'';

(B) in subsection (e)(2), strike ''section 9 of the Shipping Act, 1916 (46 U.S.C. App. 808)'' and substitute ''section 56101 of this title''; and

(C) in subsection (e)(3), strike ''section 902 of the Merchant Marine Act, 1936 (46 U.S.C. App. 1242)'' and ''section 902 of such Act'' and substitute ''chapter 563 of this title'' and ''chapter 563'', respectively.

(4) In section 53105—

(A) in subsection (a)(1)(A), strike ''section 12105'' and substitute ''section 12111''; and

(B) in subsection (f), strike ''approve'' and substitute ''approves''.

(5) In section 53106—

(A) in subsection (d)(1), strike ''section 2631 of title 10, United States Code, the Act of March 26, 1934 (46 U.S.C. App. 1241–1), section 901(a), 901(b), or 901b of the Merchant Marine Act, 1936 (46 U.S.C. App. 1241(a), 1241(b), or 1241f)'' and substitute ''section 55302(a), 55304, 55305, or 55314 of this title, section 2631 of title 10'';

(B) in subsection (d)(2), strike ''section 901(a), 901(b), or 901b of the Merchant Marine Act, 1936 (46 U.S.C. App. 1241(a), 1241(b), or 1241f),'' and substitute ''section 55302(a), 55305, or 55314 of this title''; and

(C) in subsection (e)(2), strike ''section 2(c) of the Shipping Act, 1916 (46 U.S.C. App. 802(c))'' and substitute ''section 50501 of this title, applying the 75 percent ownership requirement of that section''.

(6) In section 53107(f)—

(A) strike ''section 2631 of title 10, United States Code, the Act of March 26, 1934 (46 U.S.C. App. 1241–1), section 901(a), 901(b), or 901b of the Merchant Marine Act, 1936 (46 U.S.C. App. 1241(a), 1241(b), or 1241f)'' and substitute ''section 55302(a), 55304, 55305, or 55314 of this title, section 2631 of title 10''; and

(B) strike ''section 2631 of title 10, United States Code, the Act of March 26, 1934 (46 U.S.C. App. 1241–1), and sections 901(a), 901(b), and 901b of the Merchant Marine Act, 1936 (46 U.S.C. App. 1241(a), 1241(b), and 1241b)'' and substitute ''sections 55302(a), 55304, 55305, and 55314 of this title and section 2631 of title 10''.

(7) In section 53108(b), strike ''section 901(b)(1) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1241(b)(1))'' and substitute ''section 55305(a) of this title''.

(b) OTHER CONFORMING PROVISIONS.—If this Act is enacted prior to October 1, 2005, then—

(1) until that date, the reference in section 12111(c)(3) of title 46, United States Code, as enacted by this Act, to ''chapter 531 of this title'' is deemed instead to be a reference to ''subtitle B of title VI of the Merchant Marine Act, 1936''; and

(2) section 3534(b)(1) of the Maritime Security Act of 2003 (Public Law 108–136, 117 Stat. 1818) is repealed.

SEC. 14. AMENDMENTS TO PARTIALLY RESTATED PROVISIONS.

(a) Section 2793 of the Revised Statutes (19 U.S.C. 288, 46 App. U.S.C. 111, 123) is amended by striking ''or tonnage tax''.

(b) Section 809(a) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1213(a)), is amended by striking ''and section 211(a)''.

SEC. 15. ADDITIONAL AMENDMENTS TO TITLE 46.

Title 46, United States Code, is amended as follows:

(1) The analysis of subtitle II is amended as follows:

(A) In each chapter item, capitalize the first letter of each word containing 4 or more letters.

(B) Strike the item for chapter 39.

(C) The item for chapter 45 is amended to read as follows:

''45. Uninspected Commercial Fishing Industry Vessels ..... 4501''.

(2) Section 2101 is amended as follows:

(A) Paragraphs (2), (3), (3a), (6), (10), (10a), (12), (17b), (36), (41), (44), (45), and (46) are repealed.

(B) In paragraph (8a), insert ''Prevention'' after ''Abuse''.

(C) In paragraph (18), strike ''those''.

(D) In paragraph (34)—

(i) strike '', except in part H,''; and

(ii) strike ''head'' and substitute ''Secretary''.

(3) In section 2102(b), strike ''West'' and ''East'' and substitute ''west'' and ''east'', respectively.

(4) In section 2106, strike ''a district court of the United States'' and substitute ''the district court of the United States for any district''.

(5) Section 2108 is repealed.

(6) In section 2110—

(A) in subsection (a)(2), strike ''part B of this title'' and substitute ''part B of this subtitle'';

(B) in subsection (b)(2)(A)(iii), strike the period at the end and substitute ''; and'';

(C) in subsection (b)(5), strike ''fees'' and substitute ''fee'';

(D) in subsection (f), strike ''Secretary of the Treasury shall deny the clearance required by section 4197 of the Revised Statutes of the United States (46 App. U.S.C. 91)'' and substitute ''Secretary of Homeland Security shall deny the clearance required by section 60105 of this title''; and

(E) In subsection (j), strike ''state'' and substitute ''State''.

(7) In section 2301, strike ''section'' and substitute ''sections 2304 and''.

(8) In section 2304—

(A) insert the paragraph designation ''(1)'' after ''(a)''; and

(B) insert at the end of subsection (a) the following new paragraph:

''(2) Paragraph (1) does not apply to a vessel of war or a vessel owned by the United States Government appropriated only to a public service.''.

(9) In section 2306(a)(2), strike ''section 212(A) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1122a),'' and substitute ''section 50113 of this title''.

(10) In section 3205(d), strike ''Secretary of the Treasury shall withhold or revoke the clearance required by section 4197 of the Revised Statutes (46 App. U.S.C. 91)'' and substitute ''Secretary of Homeland Security shall withhold or revoke the clearance required by section 60105 of this title''.

(11) In section 3302—

(A) in subsection (b), insert a comma after ''fishing vessel'';

(B) in subsection (j)(2)(B), strike ''section 1304 of the Merchant Marine Act, 1936 (46 App. U.S.C. 1295c)'' and substitute ''chapter 515 of this title''; and

(C) in subsection (l)(1)(C), strike ''Inc..'' and substitute ''Inc.''.

(12) In section 3306(d), strike ''section 1302(3) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1295a(3))'' and substitute ''section 51102 of this title''.

(13) In section 3318(f), strike the period after ''felony''.

(14) In the analysis of chapter 37, the item for section 3719 is amended to read as follows:

''3719. Reduction of oil spills from single hull non-self-propelled tank vessels.''.

(15) In paragraphs (1)(C), (2), and (3) of section 3703a(c), strike ''documentation under section 4136 of the Revised Statutes of the United States (46 App. U.S.C. 14)'' and substitute ''documentation as a wrecked vessel under section 12112 of this title''.

(16) In section 3704, strike ''section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883),'' and substitute ''chapter 551 of this title''.

(17) In section 3718(e)(1), strike ''Secretary of the Treasury'' and ''section 4197 of the Revised Statutes of the United States (46 App. U.S.C. 91)'' and substitute ''Secretary of Homeland Security'' and ''section 60105 of this title'', respectively.

(18) In section 4702, strike the subsection ''(a)'' designation.

(19) In section 4705—

(A) strike ''subcontractor not'' and substitute ''subcontractor are not'';

(B) strike ''(a)(1)'' and substitute ''(a)'';

(C) strike ''(2) Paragraph (1)'' and substitute ''(b) Subsection (a)'';

(D) strike ''(A)'' and substitute ''(1)''; and

(E) strike ''(B)'' and substitute ''(2)''.

(20) In section 5113(b), strike ''section 4197 of the Revised Statutes (46 App. U.S.C. 91)'' and substitute ''section 60105 of this title''.

(21) In section 6101, redesignate the second subsection (g) and subsection (h) as subsections (h) and (i), respectively.

(22) In section 8103(a), strike ''Only'' and substitute ''Except as otherwise provided in this title, only''.

(23) In section 9307(b)(2)(A), strike ''The'' and substitute ''the''.

(24) In section 12503(a), in the matter before paragraph (1), strike ''delegee'' and substitute ''delegate''.

(25) In section 13102(a), insert ''(26 U.S.C. 9504)'' after ''Internal Revenue Code of 1986''.

(26) In section 14305(a)—

(A) in paragraph (1), strike ''and sections 12106(c) and 12108(c)'' and substitute ''of this subtitle and section 12116'';

(B) in paragraph (5), strike ''section 4283 of the Revised Statutes of the United States (46 App. U.S.C. 183)'' and substitute ''section 30506 of this title'';

(C) in paragraph (6), strike ''sections 27 and 27A of the Act of June 5, 1920 (46 App. U.S.C. 883 and 883–1)'' and substitute ''sections 12118 and 12132 of this title''; and

(D) in paragraph (7), strike ''Act of July 14, 1956 (46 App. U.S.C. 883a)'' and substitute ''section 12139(b) of this title''.

(27) In section 31306(a), strike ''section 9 or 37 of the Shipping Act, 1916 (46 App. U.S.C. 808, 835)'' and substitute ''section 56102 or 56103 of this title''.

(28) In section 31308, strike ''title XI of the Merchant Marine Act, 1936 (46 App. U.S.C. 1271 et seq.)'' and substitute ''chapter 537 of this title''.

(29) In section 31322—

(A) in subsection (a)(4)(A), strike ''section 12102(c)'' and substitute ''section 12113(c)'';

(B) in subsection (a)(4)(E), strike ''under section 12102(a)'' and substitute ''for purposes of documentation under section 12103''; and

(C) in subsection (f)(2), strike ''section 12102(c)'' and substitute ''section 12113(c)''.

(30) In section 31325(b)(3)(B), strike ''section 9 or 37 of the Shipping Act, 1936 (46 App. U.S.C. 808, 835)'' and substitute ''section 56101 or 56102 of this title''.

(31) In section 31326(b)—

(A) in paragraph (1), strike ''title XI of the Merchant Marine Act, 1936 (46 App. U.S.C. 1101 et seq.)'' and substitute ''chapter 537 of this title,''; and

(B) in paragraph (2), strike ''title XI of that Act'' and substitute ''chapter 537 of this title''.

(32) In section 31329—

(A) in subsection (a)(1), strike ''section 12102'' and substitute ''section 12103''; and

(B) in subsection (b)—

(i) in paragraph (2), strike ''section 902 of the Merchant Marine Act, 1936 (46 App. U.S.C. 1242)'' and substitute ''chapter 563 of this title''; and

(ii) in paragraph (3), strike ''sale foreign within the terms of the first proviso of section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883)'' and substitute ''sale to a person not a citizen of the United States under section 12132 of this title''.

(33)(A) Sections 70118 and 70119, as added by section 801(a) of the Coast Guard and Maritime Transportation Act of 2004 (Public Law 108–293, 118 Stat. 1078), are redesignated as sections 70117 and 70118, respectively, and moved to appear immediately after section 70116 of title 46, United States Code.

(B) Sections 70117 and 70118, as added by section 802(a)(2) of such Act, are redesignated as sections 70120 and 70121, respectively, and moved to appear immediately after section 70119 of title 46, United States Code.

(C) In section 70120(a) (as redesignated by subparagraph (B)), strike ''section 70120'' and substitute ''section 70119''.

(D) In section 70121(a) (as redesignated by subparagraph (B))—

(i) strike ''section 70120'' and substitute ''section 70119''; and

(ii) strike ''section 4197 of the Revised Statutes of the United States (46 U.S.C. App. 91)'' and substitute ''section 60105 of this title''.

(E) In the analysis of chapter 701, strike the items relating to sections 70117–70119 and substitute the following:

''70117. Firearms, arrests, and seizure of property.

''70118. Enforcement by State and local officers.

''70119. Civil penalty.

''70120. In rem liability for civil penalties and certain costs.

''70121. Withholding of clearance.''.

SEC. 16. RECREATIONAL BOATING SAFETY TECHNICAL AMENDMENTS.

(a) SECTION 2102.—Section 2102 of title 46, United States Code, is amended by—

(1) striking subsection (a); and

(2) striking the subsection (b) designation.

(b) CHAPTER 131.—Chapter 131 of title 46, United States Code, is amended as follows:

(1) Redesignate sections 13101 to 13106 as sections 13102 to 13107.

(2) Insert as the first section the following:

''§ 13101. Definitions

''In this chapter:

''(1) ELIGIBLE STATE.—The term 'eligible State' means a State that has a State recreational boating safety program accepted by the Secretary.

''(2) STATE RECREATIONAL BOATING SAFETY PROGRAM.—The term 'State recreational boating safety program' means education, assistance, and enforcement activities conducted for maritime casualty prevention, reduction, and reporting for recreational boating.''.

(3) In the chapter analysis, redesignate items 13101 to 13106 as items 13102 to 13107 and insert as the first item the following:

''13101. Definitions.''.

(c) CROSS REFERENCES.—

(1) Section 4 of the Dingell-Johnson Sport Fish Restoration Act (16 U.S.C. 777c) is amended by striking ''13106'' wherever appearing and substituting ''13107''.

(2) Section 9504(c) of the Internal Revenue Code of 1986 (26 U.S.C. 9504(c)) is amended by striking ''section 13106'' and substituting ''section 13107''.

(3) Section 13102(c) of title 46, United States Code, as redesignated by subsection (b), is amended by striking ''section 13103'' and substituting ''section 13104''.

(4) Section 13103(c) of title 46, United States Code, as redesignated by subsection (b), is amended by striking ''section 13106'' and substituting ''section 13107''.

(5) Section 13107(a)(1) of title 46, United States Code, as redesignated by subsection (b), is amended by striking ''section 13103'' and substituting ''section 13104''.

(6) Section 13108(a) of title 46, United States Code, is amended by—

(A) striking ''section 13103'' and substituting ''section 13104''; and

(B) striking ''section 13105'' and substituting ''section 13106''.

(7) Section 31322(d)(1)(A) of title 46, United States Code, is amended by striking ''section 13106(b)(8)'' and substituting ''section 13107(b)(8)''.

SEC. 17. CONFORMING AMENDMENTS TO OTHER LAWS.

(a) TITLE 10.—Title 10, United States Code, is amended as follows:

(1) In section 374(b)(4)(A)(iv), strike ''The Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.)'' and substitute ''Chapter 705 of title 46''.

(2) In section 2218(d)(2), strike ''sections 508 and 510 of the Merchant Marine Act of 1936 (46 U.S.C. App. 1158, 1160), shall be deposited in the Fund'' and substitute ''sections 57101–57104 and chapter 573 of title 46''.

(3) In section 2350b(g)(2), strike ''section 901(b) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1241(b))'' and substitute ''section 55305 of title 46''.

(4) In section 2645—

(A) in subsection (c), strike ''the second sentence of section 1208(a) of the Merchant Marine

Act, 1936 (46 U.S.C. App. 1288(a))'' and substitute ''section 53909(b) of title 46'';

(B) in subsection (h)(1), strike ''title XII of the Merchant Marine Act, 1936 (46 U.S.C. App. 1281 et seq.),'' and substitute ''chapter 539 of title 46''; and

(C) in subsection (h)(2), strike ''the first sentence of section 1208(a) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1288(a))'' and substitute ''section 53909(a) of title 46''.

(5) In section 5985, strike ''section 1304 of the Merchant Marine Act, 1936 (46 U.S.C. App. 1295c),'' and substitute ''chapter 515 of title 46''.

(6) In section 7721(a), strike ''the Act of March 3, 1925 (commonly referred to as the 'Public Vessels Act') (46 U.S.C. App. 781–790)'' and substitute ''chapter 311 of title 46''.

(b) TITLE 11.—Title 11, United States Code, is amended as follows:

(1) In section 362(b)—

(A) in paragraph (12), strike ''section 207 or title XI of the Merchant Marine Act, 1936'' and substitute ''chapter 537 of title 46 or section 109(h) of title 49''; and

(B) in paragraph (13), strike ''section 207 or title XI of the Merchant Marine Act, 1936'' and substitute ''chapter 537 of title 46''.

(2) In section 1110(a)(3)(A)(ii), strike ''documented vessel (as defined in section 30101(1) of title 46)'' and substitute ''vessel documented under chapter 121 of title 46''.

(c) TITLE 14.—Sections 821(b) and 823a(b) of title 14, United States Code, are each amended by striking paragraphs (3)–(5) and substituting the following:

''(3) Section 30101 of title 46 (popularly known as the Admiralty Extension Act).

''(4) Chapter 309 of title 46 (known as the Suits in Admiralty Act).

''(5) Chapter 311 of title 46 (known as the Public Vessels Act).''.

(d) TITLE 18.—Title 18, United States Code, is amended as follows:

(1) In section 229F(9)(C), strike ''section 3(b) of the Maritime Drug Enforcement Act, as amended (46 U.S.C., App. sec. 1903(b))'' and substitute ''section 70502(b) of title 46, United States Code''.

(2) In section 507—

(A) in the first paragraph, strike ''recording, registry, or enrollment of any vessel, in the office of any collector of the customs, or a license to any vessel for carrying on the coasting trade or fisheries of the United States'' and substitute ''documentation of any vessel'';

(B) in the first paragraph, strike ''collector or other''; and

(C) in the second paragraph, strike ''license,''.

(3) In section 924—

(A) in subsections (c)(2), (e)(2)(A)(i), (g)(2), and (k)(1), strike ''the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.)'' and substitute ''chapter 705 of title 46''; and

(B) in subsection (g)(2), strike ''802 et seq.'' and substitute ''801 et seq.''.

(4) In section 929(a)(2), strike ''the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.)'' and substitute ''chapter 705 of title 46''.

(5) In section 965(a), strike ''section 4197 of the Revised Statutes of the United States (46 U.S.C. App. 91)'' and substitute ''section 60105 of title 46''.

(6) In section 2277(a), strike ''registered, enrolled, or licensed'' and substitute ''documented''.

(7) In section 3142(e) and (f)(1)(C), strike ''the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.)'' and substitute ''chapter 705 of title 46''.

(e) INTERNAL REVENUE CODE OF 1986.—The Internal Revenue Code of 1986 (26 U.S.C. 1 et seq.) is amended as follows:

(1) In section 56(c)(2)—

(A) strike ''section 607 of the Merchant Marine Act, 1936 (46 U.S.C. 1177)'' and substitute ''chapter 535 of title 46, United States Code''; and

(B) in subparagraphs (A) and (B), strike ''such section 607'' substitute ''such chapter 535''.

(2) In section 140(a)(4), strike ''section 607(d) of the Merchant Marine Act, 1936 (46 U.S.C. 1177)'' and substitute ''section 53507 of title 46, United States Code''.

(3) In section 543(a)(1)(B), strike ''section 511 or 607 of the Merchant Marine Act, 1936 (46 U.S.C. App. 1161 or 1177)'' and substitute ''chapter 533 or 535 of title 46, United States Code''.

(4) In section 1023(2), strike ''section 511 of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1161)'' and substitute ''chapter 533 of title 46, United States Code''.

(5) In section 1061—

(A) in paragraph (1), strike ''section 510 of the Merchant Marine Act, 1936, see subsection (e) of that section, as amended August 4, 1939 (46 U.S.C. App. 1160)'' and substitute ''chapter 573 of title 46, United States Code, see section 57307 of title 46'';

(B) in paragraph (2), strike ''section 511 of such Act, as amended (46 U.S.C. App. 1161)'' and substitute ''chapter 533 of title 46, United States Code''; and

(C) strike paragraph (3).

(6) In section 7518—

(A) in subsection (a)(1), strike ''section 607 of the Merchant Marine Act, 1936'' and substitute ''chapter 535 of title 46 of the United States Code'';

(B) in subsections (a)(2) and (c)(1)(A) and (D), strike ''section 607 of the Merchant Marine Act, 1936'' and substitute ''chapter 535 of title 46, United States Code''; and

(C) in subsection (g)(3)(C)(iii), strike ''Merchant Marine Act of 1936'' and substitute ''Merchant Marine Act, 1936,''.

(f) TITLE 28.—Title 28, United States Code, is amended as follows:

(1) In section 994(h)(1)(B) and (2)(B), strike ''the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.)'' and substitute ''chapter 705 of title 46''.

(2) In section 1605(d), strike ''the Ship Mortgage Act, 1920 (46 U.S.C. 911 and following)'' and ''that Act'' and substitute ''section 31301 of title 46'' and ''chapter 313 of title 46'', respectively.

(3) In section 2342(3)—

(A) in subparagraph (A), strike ''section 2, 9, 37, or 41 of the Shipping Act, 1916 (46 U.S.C. App. 802, 803, 808, 835, 839, and 841a)'' and substitute ''section 50501, 50502, 56101–56104, or 57109 of title 46''; and

(B) strike subparagraph (B) and substitute the following:

''(B) the Federal Maritime Commission issued pursuant to section 305, 41304, 41308, or 41309 or chapter 421 or 441 of title 46;''.

(4) In section 2680(d), strike ''sections 741–752, 781–790 of Title 46,'' and substitute ''chapter 309 or 311 of title 46''.

(g) TITLE 40.—Title 40, United States Code, is amended as follows:

(1) In section 548, strike ''the Merchant Marine Act, 1936 (46 App. U.S.C. 1101 et seq.),'' and substitute ''part F of subtitle V of title 46''.

(2) In section 3134(b), strike ''the Merchant Marine Act, 1936 (46 App. U.S.C. 1101 et seq.)'' and substitute ''subtitle V of title 46''.

(3) In section 3313(a)—

(A) in the matter before paragraph (1), strike ''Except for the authority contained in section 3305(b) of this title, the'' and substitute ''The''; and

(B) in paragraph (1), strike ''shall'' and substitute ''shall, except for the authority contained in section 3305(b) of this title,''.

(h) TITLE 49.—Title 49, United States Code, is amended as follows:

(1) In section 5122(c)(1), strike ''Secretary of the Treasury'' and ''section 4197 of the Revised Statutes of the United States (46 App. U.S.C. 91)'' and substitute ''Secretary of Homeland Security'' and ''section 60105 of title 46'', respectively.

(2) In section 5901(3)(B), strike ''section 3 of the Shipping Act of 1984 (46 App. U.S.C. 1702)'' and substitute ''section 40102 of title 46''.

(i) MISCELLANEOUS.—Section 5501(a) of the Oceans Act of 1992 (Public Law 102–587, 106 Stat. 5084) is amended by adding the following:

''(3) The exceptions provided by paragraph (2) shall apply under section 55109 of title 46, United States Code, to the same extent as under former section 1 of the Act of May 28, 1906, as amended by paragraph (1).''

SEC. 18. TRANSITIONAL AND SAVINGS PROVISIONS.

(a) CUTOFF DATE.—This Act replaces certain provisions enacted on or before April 30, 2005. If a law enacted after that date amends or repeals a provision replaced by this Act, that law is deemed to amend or repeal, as the case may be, the corresponding provision enacted by this Act. If a law enacted after that date is otherwise inconsistent with this Act, it supersedes this Act to the extent of the inconsistency.

(b) ORIGINAL DATE OF ENACTMENT UNCHANGED.—For purposes of determining whether one provision supersedes another based on enactment later in time, the date of enactment of a provision enacted by this Act is deemed to be the date of enactment of the provision it replaced.

(c) REFERENCES TO PROVISIONS REPLACED.—A reference to a provision replaced by this Act is deemed to refer to the corresponding provision enacted by this Act.

(d) LAWS GOVERNING APPLICABILITY OF PRIOR AMENDMENTS.—This Act does not affect any law governing the applicability of an amendment to a provision replaced by this Act, notwithstanding the repeal by this Act of the provision that was amended. To the extent that any such law governed the applicability of a provision replaced by this Act, that law governs the applicability of the corresponding provision enacted by this Act.

(e) REGULATIONS, ORDERS, AND OTHER ADMINISTRATIVE ACTIONS.—A regulation, order, or other administrative action in effect under a provision replaced by this Act continues in effect under the corresponding provision enacted by this Act.

(f) ACTIONS TAKEN AND OFFENSES COMMITTED.—An action taken or an offense committed under a provision replaced by this Act is deemed to have been taken or committed under the corresponding provision enacted by this Act.

SEC. 19. REPEALS.

The following provisions are repealed, except with respect to rights and duties that matured, penalties that were incurred, or proceedings that were begun before the date of enactment of this Act:

Revised Statutes

Revised Statutes Section	*United States Code*	
	Title	*Section*
2792	*46 App.*	*124*
4136	*46 App.*	*14*

Revised Statutes—Continued

Revised Statutes Section	United States Code	
	Title	Section
4173	46 App.	42
4184	46 App.	57
4188	46 App.	59
4197	46 App.	91
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4226	46 App.	129
4227	46 App.	135
4228	46 App.	141
4238	46 App.	721
4239	46 App.	722
4240	46 App.	723
4241	46 App.	724
4281	46 App.	181
4282	46 App.	182
4283	46 App.	183
4283A	46 App.	183b
4283B	46 App.	183c
4284	46 App.	184
4285	46 App.	185
4286	46 App.	186
4287	46 App.	187
4289	46 App.	188
4309	46 App.	354
4310	46 App.	355
4311	46 App.	251
4320	46 App.	262
4336	46 App.	277
4370	46 App.	316
4373	46 App.	321
4374	46 App.	322
4375	46 App.	323
4376	46 App.	324
4378	46 App.	326
4379	46 App.	327
4380	46 App.	328
4493	46 App.	491

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Apr. 18	110		18	31	336
1878					
June 19	324		20	175	725
1884					
June 26	121	14	23	57	121
		18	23	57	189
July 5	221	3	23	119	3
		8(c)	.....	.....	9
1886					
June 19	421	8	24	81	289
		9	24	81	320
		17	24	82	142
1887					
Mar. 3	339		24	475	143
1892					
July 26	248	1	27	267	144
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1893					
Feb. 13	105	1	27	445	190
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		8	27	446	190 nt
Oct. 31	No. 13		28	13	726
1898					
Feb. 17	26	1	30	248	290
		3	30	248	291
1900					
Mar. 31	120	1–3	31	58	163
1906					
May 28	2566	1 (except as may be applicable under section 5501(a)(2) of Pub. L. 102–587).	34	204	292
1908					
Mar. 24	96	1	35	46	133
		2	35	46	134
May 28	212	5	35	425	104
1909					
Aug. 5	6	36	36	111	121

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Mar. 8	*86*		*36*	*234*	*132*
1912					
Aug. 1	*268*	*1*	*37*	*242*	*727*
		3	*37*	*242*	*729*
		4	*37*	*242*	*730*
		5	*37*	*242*	*731*
1913					
Oct. 3	*16*	*IV(J)(1)–(3)*	*38*	*195*	*19 U.S.C. 128, 130, 131; 46 App. 146*
1915					
Mar. 4	*153*	*20*	*38*	*1185*	*688*
	171		*38*	*1193*	*19 U.S.C. 128, 131; 46 App. 121, 128, 146*
1916					
Sept. 7	*451*	*1*	*39*	*728*	*801*
		2(a)–(c)	*39*	*729*	*802*
		2(d)	*39*	*729*	*803*
		9	*39*	*730*	*808*
		12	*39*	*732*	*811*
		34	*39*	*738*	*833*
		36	*39*	*738*	*834*
		37	.....	.....	*835*
		38	.....	.....	*836*
		39	.....	.....	*837*
		41	.....	.....	*839*
		46	.....	.....	*842*
1920					
Mar. 9	*95*	*1*	*41*	*525*	*741*
		2	*41*	*525*	*742*
		3	*41*	*526*	*743*
		4	*41*	*526*	*744*
		5	*41*	*526*	*745, 745 nt*
		6	*41*	*527*	*746*
		7	*41*	*527*	*747*
		8	*41*	*527*	*748*
		9	*41*	*527*	*749*
		10	*41*	*528*	*750*
		11	*41*	*528*	*751*
		12	*41*	*528*	*752*
Mar. 30	*111*	*1*	*41*	*537*	*761*
		2	*41*	*537*	*762*
		4	*41*	*537*	*764*
		5	*41*	*537*	*765*
		6	*41*	*537*	*766*
		7	*41*	*538*	*767*
		8	*41*	*538*	*768*
June 5	*250*	*1*	*41*	*988*	*861*
		6	*41*	*991*	*865*
		7	*41*	*991*	*866*
		8	*41*	*992*	*867*
		9	*41*	*992*	*868*
		10	*41*	*992*	*869*
		12	*41*	*993*	*871*
		13	*41*	*993*	*872*
		17	*41*	*994*	*875*
		19	*41*	*995*	*876*
		21	*41*	*997*	*877*
		27	*41*	*999*	*883*
		27A	.....	.....	*883–1*
		28	*41*	*999*	*884*
		36	*41*	*1007*	*887*
		37	*41*	*1008*	*888*
		39	*41*	*1008*	*889*
1925					
Mar. 3	*428*	*1*	*43*	*1112*	*781*
		2	*43*	*1112*	*782*
		3	*43*	*1112*	*783*
		4	*43*	*1112*	*784*
		5	*43*	*1113*	*785*
		6	*43*	*1113*	*786*
		7	*43*	*1113*	*787*
		8	*43*	*1113*	*788*
		9	*43*	*1113*	*789*
		10	*43*	*1113*	*790*
1928					
May 22	*675*	*1*	*45*	*689*	*891*
		202	*45*	*690*	*891b*
		203	*45*	*690*	*891c*
		703	*45*	*698*	*891u*
		704	*45*	*698*	*891v*
		705	*45*	*698*	*891w*
		706	*45*	*698*	*891x*
1932					
June 30	*314*	*306*	*47*	*408*	*804a*
	315		*47*	*420*	*743a, 745*
1934					
Mar. 26	*90*		*48*	*500*	*1241–1*
June 14	*523*		*48*	*963*	*48 U.S.C. 1664*
1936					
June 25	*807*	*1*	*49*	*1922*	*738*

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June 29	858	101	49	1985	1101
		201	49	1985	1111
		202	49	1986	1112
		204	49	1987	1114
		205	49	1987	1115
		206	49	1987	1116
		207	49	1988	1117
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		212(A)			1122a
		212(B)			1122b
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		302			1132
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		511 (added by Act Oct. 10, 1940)			1161
		607	49	2005	1177
		701	49	2008	1191
		702	49	2008	1192
		703	49	2008	1193
		704	49	2008	1194
		705	49	2009	1195
		706	49	2009	1196
		707	49	2009	1197
		708	49	2009	1198
		709	49	2010	1199
		710	49	2010	1200
		711	49	2010	1201
		712	49	2010	1202
		713	49	2010	1203
		714	49	2011	1204
		715			1205
		805	49	2012	1223
		806(b)–(d)	49	2014	1228
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		809(b)			1213
		810	49	2015	1227
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		901a			1241e
		901b			1241f
		901c			1241g
		901d			1241h
		901e			1241i
		901f			1241j
		901g			1241k
		901h			1241l
		901i			1241m
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1938					
Apr. 26	174		52	223	289a
June 25	681	1st proviso on p. 1119	52	1119	1111a
1940					
June 29	442		54	684	1242a
1941					
Feb. 6	5	4	55	6	1125a
1947					
Mar. 22	20	proviso under heading ''Independent Offices''	61	18	1116a
1948					
June 19	526		62	496	740
June 30	775	101 (last proviso on p. 1199)	62	1199	864a
1949					
June 29	281	1 (proviso)	63	349	864b
1950					
Dec. 27	1155	1, 2	64	1120	3 nt prec.
1951					
June 2	121	pars. under heading ''Vessel Operations Revolving Fund''	65	59	1241a
Nov. 1	664	par. under heading ''War-Risk Insurance Revolving Fund''.	65	746	1288a
1956					
June 20	415	101 (par. beginning with ''Vessel operations revolving fund'').	70	319	1241b, 1241b nt
July 14	600	2	70	544	883a
		3	70	544	883b
Aug. 1	846		70	897	1241c
1957					
June 13	85–52	101 (1st proviso on p. 73)	71	73	1177a
1958					
June 25	85–469	101 (par. under heading ''Federal Ship Mortgage Insurance Fund'').	72	231	1280
1960					
June 12	86–518	9	74	217	1125 nt
1961					
June 30	87–77		75	196	289b
Sept. 13	87–220	2	75	493	251a
		3	75	493	251b
1965					
June 30	89–56		79	195	1111 nt
July 30	89–99	1	79	424	441
		3	79	424	443
		4	79	424	444
1966					
Nov. 6	89–777	2	80	1356	817d
		3	80	1357	817e
1976					
July 14	94–361	603	90	929	1126–1
Oct. 4	94–455	807	90	1606	1177–1
1977					
Dec. 13	95–208	1	91	1475	1501 nt
		2	91	1475	1501
		3	91	1476	1502
		4	91	1476	1503
		5	91	1477	1504
		6	91	1478	1505
		7	91	1479	1506
		8	91	1479	1507
1980					
Sept. 15	96–350	1	94	1159	1901
		2	94	1160	1902
		3	94	1160	1903
		4	94	1160	1904
Oct. 6	96–382	1	94	1525	763a
Oct. 7	96–387	5	94	1546	1121–1
1981					
Aug. 6	97–31	2	95	151	1601
		3	95	151	1602
		4	95	151	1603
		5	95	151	1604
		6	95	151	1605
		8	95	152	1607
		9	95	152	1608
1982					
Oct. 15	97–322	201	96	1588	446 nt
		204	96	1589	446
		205	96	1589	446a
		206	96	1590	446b
		207	96	1590	446c
1984					
Mar. 20	98–237	1	98	67	1701 nt
		2	98	67	1701
		3	98	67	1702
		4	98	70	1703
		5	98	70	1704
		6	98	72	1705
		7	98	73	1706
		8	98	74	1707
		9	98	76	1708
		10	98	77	1709

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		20(e)	98	90	1719
Oct. 5	98–454	302	98	1734	808a
Oct. 30	98–563		98	2916	289c
1985					
Dec. 23	99–198	1141	99	1490	1241d
		1143	99	1496	1241p
1986					
Aug. 27	99–399	902	100	889	1801
		905	100	890	1802
		907	100	891	1803
		908	100	891	1804
		909	100	892	1805
		910	100	892	1806
		911	100	892	1807
		912	100	892	1808
		913	100	892	1809
1987					
Dec. 22	100–202	101(a) [title V (par. under heading ''Ocean Freight Differential'')].	101	1329, 1329–27	1241h nt
		101(a) [title V (4th proviso on p. 1329-28)]	101	1329, 1329–28	1295c–1
1988					
May 30	100–324	1	102	576	2001 nt
		2	102	576	2001
		3	102	576	2002
		4	102	576	2003
		5	102	576	2004
		6	102	577	2005
		7	102	577	2006
		8	102	577	2007
Aug. 23	100–418	10002	102	1570	1710a
1989					
Oct. 13	101–115	4	103	692	1295c nt
		8	103	694	1121–2
1990					
Nov. 28	101–624	1521	104	3665	1241q
		1522	104	3665	1241r
		1523	104	3666	1241s
		1524	104	3667	1241t
		1526	104	3668	1241u
		1527	104	3668	1241v
1993					
Nov. 30	103–160	1358	107	1816	1280a
1996					
Oct. 19	104–324	1117	110	3973	46 U.S.C. 12101 nt
		1120(f)	110	3978	883 nt
1998					
Oct. 14	105–258	401	112	1916	1273a
Oct. 21	105–277	203(b)–(e)	112	2681–619	46 U.S.C. 12102 nt
Nov. 13	105–383	502–504	112	3445	46 U.S.C. 12106 nt
2000					
Oct. 30	106–398	1 [§ 3506]	114	1654, 1654A–494	1118 nt
2002					
Nov. 25	107–295	403	116	2114	46 U.S.C. 12119 nt
		404	116	2114	316a
2003					
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The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from California (Mr. BERMAN) each will control 20 minutes.

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

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

Madam Speaker, I rise in support of H.R. 1442, which completes the codification of title 46, United States Code, relating to shipping as positive law. The ranking member of the Committee on the Judiciary, Mr. CONYERS, and I jointly introduced this legislation on March 17, 2005. The bill was prepared by the Office of the Law Revision Counsel as a part of the program required by title 2 United States Code section 285(b) to prepare and submit to the Committee on the Judiciary, one title at a time, a complete compilation, restatement and revision of the general

and permanent laws of the United States.

This bill, as well as any other bill submitted by the Office of Law Revision Counsel under this program, makes no substantive changes in existing law nor is it intended to do so. Thus, Members should understand that because of the nature of this bill, supporting it does not imply support of the underlying provisions that are being reorganized and cleaned up. This is a necessary bill. I urge Members to support it.

Madam Speaker, I reserve the balance of my time.

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

Madam Speaker, I rise in support of H.R. 1442, a bill to complete the codification of title 46 of the U.S. Code, the ''Shipping'' title. It will enhance understanding of and compliance with important shipping and maritime laws. This makes no substantive change in the law. It simply provides clarity and reorganization. I urge its passage.

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

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

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and pass the bill, H.R. 1442, as amended.

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

A motion to reconsider was laid on the table.

EXPRESSING SENSE OF HOUSE THAT NINTH CIRCUIT COURT OF APPEALS INFRINGED ON PARENTAL RIGHTS

Mr. SENSENBRENNER. Madam Speaker, I move to suspend the rules and agree to the resolution (H. Res. 547) expressing the sense of the House of Representatives that the United States Court of Appeals for the Ninth Circuit deplorably infringed on parental rights in Fields v. Palmdale School District.

The Clerk read as follows:

H. RES. 547

Whereas the Palmdale School District sent parents of elementary school students at Mesquite Elementary School in Palmdale, California a letter requesting consent to give a psychological assessment questionnaire to their first, third, and fifth grade students;

Whereas without the informed consent of their parents, the young students were instead administered a questionnaire that contained sexually explicit and developmentally inappropriate questions;

Whereas seven parents subsequently filed a complaint against the Palmdale School District in a Federal district court;

Whereas on November 2, 2005, a 3-judge panel of the Ninth Circuit Court of Appeals affirmed the decision of the United States District Court for the Central District of California in the case (Fields v. Palmdale School District) and held that parents ''have no constitutional right . . . to prevent a public school from providing its students with whatever information it wishes to provide, sexual or otherwise, when and as the school determines that it is appropriate to do so'';

Whereas the Ninth Circuit stated, ''once parents make the choice as to which school their children will attend, their fundamental right to control the education of their children is, at the least, substantially diminished'';

Whereas in Meyer v. Nebraska, 262 U.S. 390, 401 (1923), the Supreme Court recognized that the liberty guaranteed by the 14th amendment to the Constitution encompasses ''the power of parents to control the education of their [children]'';

Whereas the Supreme Court in Pierce v. Society of Sisters, 268 U.S. 510, 534–35 (1925), highlighted the Meyer doctrine that parents and guardians have the liberty ''to direct the upbringing and education of children under control'' and emphasized that ''[t]he child is not the mere creature of the state; those who nurture him and direct his destiny have the right, coupled with the high duty, to recognize and prepare him for additional obligations'';

Whereas in Wisconsin v. Yoder, 406 U.S. 205, 232–33 (1972), the Supreme Court acknowledged that ''[t]he history and culture of Western civilization reflect a strong tradition of parental concern for the nurture and upbringing of their children. This primary role of the parents in the upbringing of their children is now established beyond debate as an enduring American tradition. . . . The duty to prepare the child for 'additional obligations', referred to by the Court [in Pierce] must be read to include the inculcation of moral standards, religious beliefs, and elements of good citizenship'';

Whereas a plurality of the Supreme Court has stated, ''it cannot now be doubted that the Due Process Clause of the Fourteenth Amendment protects the fundamental right of parents to make decisions concerning the care, custody, and control of their children'' (Troxel v. Granville, 530 U.S. 57, 66 (2000) (plurality opinion));

Whereas the Ninth Circuit's decision in Fields v. Palmdale School District presupposes that ''parents make the choice as to which school their children will attend'' when, in fact, many parents do not have such a choice;

Whereas the decision in Fields establishes a dangerous precedent for limiting parental involvement in the public education of their children; and

Whereas the rights of parents ought to be strengthened whenever possible as they are the cornerstone of American society: Now, therefore, be it

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

(1) the fundamental right of parents to direct the education of their children is firmly grounded in the Nation's Constitution and traditions;

(2) the Ninth Circuit's ruling in Fields v. Palmdale School District undermines the fundamental right of parents to direct the upbringing of their children; and

(3) the United States Court of Appeals for the Ninth Circuit should agree to rehear the case en banc in order to reverse this constitutionally infirm ruling.

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

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

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

Madam Speaker, I rise in strong support of House Resolution 547, expressing the sense of the House of Representatives that the United States Court of Appeals for the Ninth Circuit grossly infringed on established parental rights in Fields v. Palmdale School District.

In a decision that startled even veteran observers of the Ninth Circuit, a three-judge Ninth Circuit panel held in Fields v. Palmdale School District that parents ''have no constitutional right to prevent a public school from providing its students with whatever information it wishes to provide, sexual or otherwise, when and as the school determines that it is appropriate to do so.''

This case involved a survey given to 7- to 10-year-old children that contains, among others, 10 specific questions about sex. The Palmdale School District sent parents of first, third and fifth grade students at the Mesquite Elementary School in Palmdale, California, a letter requesting consent to administer a psychological assessment questionnaire to their children. The letter failed to inform the parents that some of the questions expressly involved sexual topics.

Seven parents, including one set of parents that did not return the consent form for their child, were still given the questionnaire, filed suit in Federal court against the school district upon learning from their children of the sexual nature of some of the questions.

A three-judge panel of the Ninth Circuit ruled against the parents concluding that ''once parents make the choice as to which school their children will attend, their fundamental right to control the education of their children is, at the least, substantially diminished.''

This decision presupposes that the school attended by the children is always a matter of parental choice. As we all know, many parents do not have such a choice, and they should not be forced to forfeit their parental rights when their children enter the schoolhouse gate. Moreover, the flawed logic of this decision has a disproportionate impact on parents who, for financial and other reasons, cannot send their children to schools more responsive to parental rights. Parents should not be required to involuntarily relinquish their right to direct the upbringing and control of their children.

The Ninth Circuit decision compels this outcome by divesting parents of their right to object to their children being exposed to sexual or other information in a school setting. This holding is inconsistent with constitutional precedent and established parental rights.

The Supreme Court recognized in Meyer v. Nebraska that the liberty guaranteed by the 14th amendment encompasses ''the power of parents to

control the education of their children.'' The court reaffirmed this fundamental right in Pierce v. Society of Sisters and emphasized that ''the child is not the mere creature of the State; those who nurture him and direct his destiny have the right, coupled with the high duty, to recognize and prepare him for additional obligations.''

According to the court in Wisconsin v. Yoder, this duty ''must be read to include the inculcation of moral standards, religious beliefs and elements of good citizenship.''

Despite the fact that the due process clause of the 14th amendment protects the fundamental right of parents to make decisions concerning the care, custody and control of their children, the Ninth Circuit concluded ''that parents are possessed of no constitutional right to prevent the public schools from providing information on sex to their students in any forum or manner they select.''

This decision sets a dangerous precedent, threatening the parental rights that are firmly grounded in our Nation's Constitution and traditions. I urge my colleagues to affirm their support for parental rights by supporting passage of this resolution.

Madam Speaker, I reserve the balance of my time.

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

Madam Speaker, I am strongly opposed to H. Res. 547. I consider it simply a politically inspired continuation of court-bashing featuring a hypocritical change in thinking that all of a sudden wants to read into the Constitution rights that no court and no student of the Constitution has ever before found.

But I also believe that the conduct that was the subject of this case was offensive, foolish, inappropriate and perhaps even injurious and harmful to the students.

□ 1130

What is going on in the Palmdale Unified School District? What allows a group of educators to allow a survey that asks questions like this to people as young as in the first grade? But none of that speaks to the merits of this particular resolution. It was introduced only last week. The case only came down 2 weeks ago or so. Its merits have never been considered in the committee process. This resolution simply serves as an attack on ''the nature of the Ninth Circuit.'' It is consistent with the agenda of the majority. I am surprised they did not put the resolution into the reconciliation bill. It should not be supported by this House.

The resolution expresses the sense of the House that parents have a fundamental right to direct their children's education. No argument there. And the Ninth Circuit decision has done precisely that. The Ninth Circuit decision cites the Supreme Court decisions that the gentleman, the chairman of the committee, cited that have held it is a fundamental right protected by the due process clause that parents have the right to make decisions concerning the care, custody and control of their children. The Ninth Circuit decision refers to the limitations placed on that right imposed by the First and Sixth Circuits, the circuits which first posed the supposed threat to parental control.

It was, after all, the First Circuit that held that ''this freedom,'' that is the right, the freedom to control decisions concerning the care, custody and control of their children, ''this freedom does not encompass,'' does not encompass, the First Circuit, not Ninth Circuit, ''a fundamental right to dictate the curriculum at the public schools to which they have chosen to send their children.'' Furthermore, the First Circuit says, ''we cannot see that the Constitution imposes such a burden on State educational systems and, accordingly, find that rights of parents do not encompass a broadbased right to restrict the flow of information in the public schools.

And it was the Sixth Circuit's opinion that the Ninth Circuit adopted here which stated, ''while parents may have a fundamental right to decide whether they send their child to public school, they do not have the fundamental right generally to direct how a public school teaches their child.''

But there is no resolution criticizing the First and Sixth Circuit Court decisions which the author of the resolution should be directing his disapproval towards. The resolution instructs the Court to rehear this case en banc and reverse its decision. This skirts the already available processes for addressing a questionable decision, an en banc petition or an appeal to the Supreme Court. If those in this body want to ensure a broad right for parent-influenced education, opportunities exist for them to legislate this right.

The difference between a foolish, unwise and perhaps harmful decision by a local school district and arguing that that creates and violates some fundamental constitutional right is an incredible leap of faith. This is a school district in California. Why are the parents not at the School Board asking the principal of the school that allowed this graduate student to conduct this survey to be fired? Why are the parents not urging that, if the superintendent does not do that, the School Board fire the superintendent? Why are the parents not organizing the recall of the school board members if the school board members are allowing this kind of a thing to go on? Why are the parents not going to Sacramento and asking the State legislature to prohibit these kinds of surveys of first, third and fifth grade students which get into personal questions that are not appropriately asked in that point of view?

There are so many appropriate avenues open for parents to redress the damage here. And that is all this is. It is a court case after the fact seeking to create, out of whole cloth, a refinement of a constitutional right that no court has ever applied.

It is a small irony that the proponents of this resolution are requesting that the courts engage in a level of judicial activism in order to support their political views. The law should be ideologically neutral, and therefore, the sponsor should be pleased that the Court specifically refused to express a view on the wisdom of posing some of these questions asked or of condoning an inquiry into some of the particular areas surveyed by the school district. The Court did not affirm. It specifically refused to affirm the wisdom and judgment of the people who distributed and prepared and implemented this particular survey.

The ultimate paradox for the cosponsors, though, is the lack of consistency in bringing this resolution forward. When requesting that the right of privacy protects parents' decision making, they must rely on the same decisions which they abhor and claim to be the result of judicial activism, rights that are inferred in decisions such as Roe v. Wade and Lawrence v. Texas, the penumbra, the unstated, unenumerated rights in the Constitution that some courts have found. Any strict analysis of the text of the Constitution cannot lead you to the conclusion that a fundamental constitutional right was violated here for which these parents are entitled to constitutional redress.

Could the proponents of this resolution actually be requesting that the Court read into the Constitution a right not explicitly enumerated in it? Do the sponsors want the Ninth Circuit to legislate from the bench? That does not sound like strict constructionism to me. So I think the issue is a serious one. The Constitution is not the place to go for recourse to rectifying the decisions that were made. There are many, many other alternatives, even tort actions dealing with the harm that was caused to the students who were subject to the survey; but not creating a new refinement of the constitutional right that two circuit courts have already said does not exist and, instead, as part of the agenda for bashing the Ninth Circuit and seeking to use the reconciliation bill to split the Ninth Circuit, provide us with one more chance to engage in that kind of game playing.

Madam Speaker, I reserve the balance of my time.

Mr. SENSENBRENNER. Madam Speaker, I yield 5 minutes to the principal author of the resolution, the gentleman from Pennsylvania (Mr. MURPHY).

Mr. MURPHY. Madam Speaker, let me start off by saying that as a psychologist who primarily specializes in issues dealing with children and families, when I heard the conclusions on this case, what leapt out at me was how this decision by the Ninth Circuit

Court really went far beyond the actual issues in this case, and I had great concerns. Let me walk us through a couple of points here.

In 2002, when the first claim was filed in Fields v. Palmdale School District, it came from a parental consent letter that was sent to parents from the Palmdale School District asking parents to sign this informed consent letter. The informed consent letter did talk about there would be three, 20-minute self-report measures given to the children one day. They said it was confidential and did say that the questions may make my child feel uncomfortable, and if this occurs, the researcher in this case would help the parents locate a therapist for some psychological help if necessary.

What the parents were not told was that it would contain several questions having to do with sexuality, which were given to first, third and fifth graders. Questions such as touching my private parts too much, thinking about having sex, thinking about touching other people's private parts, thinking about sex when I do not want to, washing myself because I feel dirty inside, and the list goes on.

The School District subsequently has claimed that they did not know those questions were going to be given to the children. In fact, they state that they saw a different questionnaire and something was swapped on them.

Here is what comes out of this case; that indeed, what may have occurred is this was not an informed consent letter given to parents, and even for parents who did not sign, for whatever reason, this lack of informed consent letter, their children were still administered this questionnaire.

This is not how psychological research is to be conducted, Madam Speaker. The standard of ethics for psychologists and for research is a letter of informed consent given to parents must clearly inform parents what is happening. The School District involved should have been clearly told what was happening in this case, too. And then what occurred here is neither.

But what is amazing here where this case in the courts could have reaffirmed parents' rights to informed consent before their children were used in psychological research; instead, the Ninth Circuit Court pulled out an overreaching conclusion out of the stratosphere that declared parenting is unconstitutional. They declared parents have no right to protect their children's privacy when they said, ''we hold that there is no freestanding fundamental right of parents to control the upbringing of their children by introducing them to matters of and relating to sex in accordance with their personal and religious values and beliefs.'' They go on to say that we do not quarrel with parents' rights to inform and advise their children about the subject of sex as they see fit.

But that is not what this case was about. It was a lack of informed consent. And parents were protesting this. And from the standpoint of psychologists, the question is whether or not issues like that were really appropriate to give to first, third and fifth graders. Certainly, when I have done psychological evaluations for children that we have concerns that they have been sexually abused, the psychologist involved is very careful; the law enforcement people are very careful what questions they ask the child because they are concerned whether the questions themselves cause problems for the children. And when that happens, one has to back off and not ask those questions anymore.

In a case like this, first, third and fifth graders overall were asked those questions when there was not even suspicion of some problems. But when the Court continues to say there is no fundamental right of parents to be the exclusive provider of information regarding sexual matters for their children, either independent of their right to direct the upbringing and education of the children who are encompassed by it, I wonder where these conclusions come from. And I believe it is fully within the jurisdiction of Congress to raise questions and follow the procedures and ask the courts to review this again.

Certainly, as the distinguished gentleman from California was saying, I do not know why or if the parents asked for firing of the superintendent. I do not know what complaints they may have lodged with Sacramento or with school boards in these cases, and I cannot speak to those issues. What we are speaking to here is a case in which a court, I believe, far overreached the issues involved with the case and declared parenting unconstitutional.

I believe, and I hope Members will support this bill, because we are saying parents indeed do have a right to fully disclose informed consent when their children are asked to do anything. Certainly, parents may not be involved with every step of everything that is said at every level on every day on every moment of every part of a curriculum in school, and I do not think that is what the parents are asking in this case. But they are saying, when a psychological survey or questionnaire is administered to their children, they darn well ought to have the right to know what is in there, especially when the survey itself says it may cause trauma to children.

So I am asking my colleagues to support this resolution and ask the Ninth Circuit Court to review this case again.

Mr. BERMAN. Madam Speaker, I yield such time as he may consume to the gentleman from Massachusetts (Mr. FRANK).

Mr. FRANK of Massachusetts. Madam Speaker, here they go again. Once again, the Republican Party is demanding of the courts that they be more activist. Earlier this year, we passed a resolution denouncing the Supreme Court in the case of eminent domain for not overturning decisions of local and State elected officials in Connecticut. Today, we are asked to denounce the Ninth Circuit Court for not overturning the actions of a local School Board. And here is the nub of the Court's holding, quote, ''although we reached our conclusions with little difficulty and firmly endorse the school districts' authority to conduct a survey for the purposes involved here, we reiterate that we express no view on the wisdom of posing some of the particular questions asked or of conducting an inquiry into the particular areas surveyed by the school district.'' And here is what the majority is apparently upset about. That determination is properly left to the school authorities.

In other words, where is activism when you need it, Madam Speaker? Why do we not have a Supreme Court tell the people in Connecticut, elected officials, you may not do this economic development the way you want? We, the unelected Supreme Court, will overturn you. Here, without a specific textual phrase in the Constitution, even like taking of property, we say to the Ninth Circuit, how dare you say this is up to the school board?

The gentleman from Pennsylvania made some arguments that were very plausible to me about the lack of sense for some of these questions. He was critical. He said, you should not ask these of first, third and fifth graders. But it is not up to the courts to decide what is good or bad psychology. That is up to the school district.

And again, let us be very clear. This is the second time in a couple of months the majority has complained that the courts, the Federal courts, have not cancelled out the actions of local elected officials and State elected officials. Now, that is only a problem for this point.

□ 1145

What we ought to have is honesty in attacking the judiciary. Truth in demagoguery.

The point is that when you say you are opposed to the courts because they are activists and because lifetime-appointed judges are overturning elected officials, that ought to be what you mean. If you mean you do not like the particular outcome, say so. It is perfectly legitimate to be result-oriented, and lots of us are.

The problem here is the lack of intellectual honesty. Clearly, people are not opposed to judicial activism. In the case of eminent domain, in the case of this situation here, they are opposed to the lack of judicial activism.

Now, I also wonder how far that extends, because on Monday, the Supreme Court decided a far more important case, I believe, to the parents involved regarding their rights vis-a-vis their children. By a 6–2 vote, the Supreme Court said that the burden of proof is on the parents of a child with a disability. If the parents disagree

with what the school has proposed to educate a child with a disability, they, the individual parent, has the burden of proof in court in overturning what the school board has decided.

Now, I have to tell my colleagues this: I think if you are the parent of a disabled child, getting that child the proper educational structure is more important than whether or not she has to do a sex survey. You might dislike the sex survey, but I would think to most parents, getting the right education for your child is more important. But the Supreme Court said, no, the burden of proof is on you, the parent. You, the parent, have the burden of proof with regard to your child's education.

Where are the assertions of the absolute right of the parents? Why do the parents not have the kind of rights you are claiming? Was that making parenting unconstitutional? Did Justice Scalia and Justice Thomas who are in the majority make parenting unconstitutional when they said you, the parent, have the burden of proof if you want to improve the educational structure of your children?

In other words, what the majority says is when we do not like a decision, we will criticize the court. That is fine, that is free speech, as long as you do not get into PATRIOT Act situations. But why disguise what you are saying? If you really do not like the result, say you do not like the result. Why all these complaints about activism when what we have here is again a complaint about the absence of activism?

So I hope going forward, we will have honest debates about what the courts do and do not do, and we will stop pretending that we are upset about activism when what you are really upset about is judicial pacifism. You want the Ninth Circuit to overturn the Palmdale School Board. Well, why does a Member of Congress not do something about that with the school board of Palmdale? You are upset because the Supreme Court did not overturn the elected officials in Connecticut. Let us have some honesty in this regard.

Mr. BERMAN. Madam Speaker, if the gentleman will yield, the other irony is, here we bash the court for not creating a new constitutional right, never before proclaimed in the context of this resolution, in order to overturn a local school decision and, at the same time, we whip bills through here left and right stripping the courts of jurisdiction to decide the cases.

Mr. FRANK of Massachusetts. Madam Speaker, let me ask the gentleman, because I know he has studied this well. I have read the opinion. I have not read the pleading. I do not know what specific phrase in the Constitution they pointed to, but I wonder from an originalist standpoint, did John Adams and James Madison want the Supreme Court to have the right, did they say that there was this absolute parental right? I would ask the gentleman, is this one of those nasty things we find lurking in that penumbra, which is such an unpleasant word?

Mr. BERMAN. Madam Speaker, I say, where is the Federalist Society when we need them? All of a sudden, everything flips around.

Mr. FRANK of Massachusetts. Well, I cannot answer as to where the whole Federalist Society is, but I can tell the gentleman where at least one of the leaders of the Federalist Society who introduced my Governor the other day, I know where he was. He was busy making jokes about two Senators in the Ku Klux Klan, which he seemed to think, as did others, was riotously funny.

Mr. BERMAN. Madam Speaker, if the gentleman will yield, that right is very specifically protected in the Constitution.

Mr. FRANK of Massachusetts. Absolutely. Let us just be very clear. I, from what I have read, would not have voted to issue that survey. I think it was a mistake. But I hope the majority is not telling us that it is the role of the circuit courts of appeals to second-guess the psychological judgments of the school boards.

Again, you may disagree even with what the court said in terms of the final decision, but let us be intellectually honest. It is a lack of activism. In the eminent domain case here, it is a lack of activism. It is a complaint by the majority that the courts have upheld decisions by local officials that the majority does not like. They have a right to that view; they just do not have a right to disguise it.

I thank the gentleman for yielding.

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

Mr. SENSENBRENNER. Madam Speaker, I yield myself 30 seconds.

Madam Speaker, my two friends on the other side of the aisle are obfuscating the real issue that is involved. I do not think John Adams and James Madison ever thought of first, third, and fifth graders being asked the questions that were recited by the gentleman from Pennsylvania (Mr. MURPHY), the author of the resolution. The question here is whether this decision is right or wrong. It is wrong, and that is why the resolution ought to be passed.

Madam Speaker, I yield 1 minute to the gentleman from Pennsylvania (Mr. PITTS).

Mr. PITTS. Madam Speaker, I thank the gentleman from Pennsylvania (Mr. MURPHY) for introducing this important legislation.

In its decision, the Ninth Circuit said: ''We hold that parents have no due process or privacy right to override the determinations of public schools as to the information to which their children will be exposed while enrolled as students.''

Parents, not schools, certainly not the courts, hold the primary responsibility for educating their children, especially when it comes to more sensitive subject matters like sexual, moral, and religious instruction. But the Ninth Circuit, the same court that ruled the phrase ''under God'' in the Pledge is unconstitutional, would strip parents of this fundamental role in their children's lives.

Make no mistake: if this ruling stands, not only will parents lose the right to choose what lessons their children will learn; it will not be long before they will not even be allowed to know what is being taught in the classroom.

I rise in strong support of this resolution and urge its adoption.

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

Mr. GOHMERT. Madam Speaker, I have great respect for my friend across the aisle, the gentleman from California (Mr. BERMAN), as we have served on Judiciary together. But when the question was asked or put to us in terms of us wanting the courts to create a new right for parents, I would submit to my colleagues, never before was it necessary, because nobody had the audacity to try to say that parents would not have a right to a say in how their children were governed.

I was in an exchange program in the Soviet Union back in 1973 and visited a day care center, and I was appalled that the parents were not allowed any say whatsoever in how the children were raised, what they were taught. That was exclusively the right of the State. I thanked God that day that that was not the way it was in the United States.

Now, 32 years later, we find ourselves at a point that some think it is evolving for the State to take away the parents' right to have a say in how their children are taught and what they are taught and what goes on in the school. It is not a time that I can thank God that we evolved to this point.

I support the resolution. I think it is a great resolution; and coming from the gentleman that is proposing it, it is even more important and appropriate. I support the resolution.

Mr. BERMAN. Madam Speaker, I yield myself the remaining time.

Madam Speaker, a few points. I think the gentleman from Pennsylvania made compelling points about the stupidity and the danger of this kind of a survey. I have no argument whatsoever about the right of parents to have an important say in the education of their children.

The most fascinating thing about this argument is my friend from Texas (Mr. GOHMERT) and the chairman of the committee are making a wonderful case for why you need to evolve notions of constitutional protections rather than be stuck with what the Framers were thinking at that time, because this was not happening at that time and the Framers were not thinking of it at the time.

What I am challenging is this notion that the answer to this particular outrage is a constitutional case in the

Federal courts. I repeat again: Where was the principal? Where was the superintendent? Where was the school board?

There are all kinds of ways in which a citizenry can take those issues into their hands. They could pass a State law prohibiting these kinds of surveys getting into these kinds of questions from being asked of first, third, and fifth graders. In fact, given this Congress's proclivities, we could just preempt local education and, at a Federal level, prohibit any local school district from doing this. This would not be so inconsistent with what we are doing in a number of other areas.

There are many courses here. The only issue is here is a Ninth Circuit that carefully follows, affirms the fundamental right of parents, acknowledges the limitations on that right imposed by the First and Sixth Circuits, specifically refuses to affirm the wisdom of a conduct of the survey that is the subject of a litigation, and then says we cannot find that we can essentially articulate a constitutional right here that gives people that kind of constitutional relief. Pursue all your other avenues for this ridiculous conduct. Make the people accountable. But it does not have to come from the Bill of Rights and the 14th amendment to the Constitution.

We cannot solve all of society's problems and all of government's overstepping and improper conduct by virtue of constitutional law. I think the conservative position on this issue should be to oppose this kind of a resolution and oppose the logic that goes into thinking like this and tell people that there are many problems that have to be solved in ways other than simply trying to establish you had a constitutional right to be protected from this kind of wrong activity.

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

Mr. SENSENBRENNER. Madam Speaker, I yield the balance of the time to the author, the gentleman from Pennsylvania (Mr. MURPHY).

Mr. MURPHY. Madam Speaker, the gentleman from California made a good point, that there are some dangers involved here. He said that they could have passed a State law in California. Indeed, they could have and should have. The school board could have also acted upon this, as I assume they may well have done so. And, indeed, much of this we would like to uphold is up to the States to take care of matters of education. I agree with him on those points.

Unfortunately, the Ninth Circuit Court did not agree. The Ninth Circuit Court instead decided to overstep, I believe, what are the boundaries of what a Federal court should be doing, and step in.

I believe it is incongruous that government enforces children's attendance in public school, but then the Federal courts say that parents have no right to complain about what children are exposed to while there.

Let me refer back to the conclusion made by the judge in this case. He said, ''We hold that parents have no due process or privacy right to override the determination of the public schools as to the information to which their children will be exposed while enrolled as students.''

Where did that come from? We are talking about children being asked questions of a sexual nature that, as a superintendent of the school has said, the school was not shown this questionnaire, it was not disclosed to the parents. Indeed, if the judge of the Ninth Circuit Court did what the gentleman from California said he ought to do, to simply say, this is not a Federal matter, this should go back to the States, they should deal with this in Sacramento, in the Palmdale School District, and they should make sure that they reaffirm the rights of parents to fully disclose information when they are signing consent forms.

This resolution also is not meant to be critical of legitimate psychological pursuits and research. Psychologists have a code of ethics they are to adhere to when they are undergoing research. Indeed, everyone in the mental health and medical fields have to have their research go in front of a human subjects committee to have their concept letters approved. This is not an attempt to bash the mental health community. In fact, what I am trying to do is uphold the standards of the mental health community, which I believe have been usurped in this case.

□ 1200

These were not children referred for legitimate psychological testing because there was suspicion of behavioral problems. These were everyday kids given a questionnaire, and everyday parents who were not told what was in that questionnaire. Indeed, what I say, as this resolution passed by the House declares, the fundamental right of parents to direct the education of their children is firmly grounded in the Nation's Constitution and traditions.

The Ninth Circuit Court undermines such a right, and the court should rehear the case and reverse the decision. I believe the Court's decision overreached the issues in the case; they overreached their conclusions, and it needs to be overturned.

When it comes to what schools are asking very young children about sex or about any matters of privacy, protecting the 14th amendment, the Ninth Circuit Court decided not only do parents not have the right to say no, they do not even have a right to know what is being asked.

On behalf of every parent in America, Congress calls upon the courts to correct this deplorable injustice. That is why, in this resolution, we are asking the courts to uphold the rights of parents, to uphold the rights of privacy, what the parents have about their children and certainly to overturn the decision that says parenting is unconstitutional.

I ask my colleagues to support this resolution, and I ask parents to also consider the conclusion that, if it stands, what impact this Ninth Circuit Court decision could have with regard to parents' rights to ever speak up again and challenge anything else within the school district.

Mr. LEVIN. Mr. Speaker, I will vote against House Resolution 547 today, but I want to clearly state my reasons for doing so. In particular, I want the record to show that I strongly disagree with the highly misguided decision of the Palmdale School District in California to administer a questionnaire to young children that included totally inappropriate questions concerning sex. If there was a law that blocked elected school boards from making boneheaded decisions, the action of the Palmdale School District would fall squarely within its purview.

But that is not what the Chairman of the Judiciary Committee has brought before us today. Instead, the resolution condemns the 9th Circuit Court of Appeals for not finding a law or constitutional principle to override the decisions of democratically-elected school board members. My friends on the other side of the aisle often rail against ''activist judges'' and complain when, in their opinion, judges make law from the bench. As has been noted by others, it appears that in this case the Majority objects to the fact that the 9th Circuit judges were not activist enough.

There are many avenues for parents who disagree with any decision made by their local school board. In this particular case, the public outcry against the Palmdale School District questionnaire resulted in the survey being promptly discontinued. If parents wish further redress, they may also vote the school board out of office.

For these reasons, I will vote against this resolution today.

Ms. DEGETTE. Mr. Speaker, I rise in opposition to H. Res. 547.

Let me be very clear. In no way do I endorse the actions of the Palmdale School District at issue in Fields v. Palmdale School District.

The problem is that H. Res. 547 goes beyond passing judgment on the actions of the School District and directs the United States Court of Appeals for the Ninth Circuit how to do its job. Under the Constitution, I do not feel it is appropriate for Congress to infringe on the rights and duties of the federal judiciary, a fellow independent and co-equal branch of government.

Additionally, I am confident our courts are fully capable of adjudicating matters without congressional input. Simply because I may disagree with a particular ruling does not change my otherwise strong faith in the men and women serving on our nation's federal and state courts.

Ms. LINDA T. SÁNCHEZ of California. Mr. Speaker, I couldn't agree more with my colleagues and the parents whose children were subject to a flawed, distasteful survey in Palmdale, California. The survey was clearly improper. However, I disagree that we should condemn the decision of the 9th Circuit Court. We should hold the Palmdale school district responsible for the content and the manner in which the survey was conducted.

School districts should and must ensure that parents are fully informed about all survey topics. In addition, school districts must guarantee that parents consent to their children's participation in a survey.

I will be voting no on H. Res. 547 because I believe it misses the mark—the Palmdale school district should be condemned for conducting the survey as opposed to condemning the 9th Circuit for their interpretation of the Constitution.

Mr. HOLT. Mr. Speaker, while I agree with the position in this resolution that parents do have responsibility for their children's upbringing and a school district cannot supplant those rights, I must oppose this resolution.

I oppose this resolution because it declares that the court should rehear the case in order to reverse its decision. It should not be the role of the legislative branch to dictate to the court system how it should rule. The founding fathers created three coequal branches of government for good reason. It is for this constitutional principle that I must oppose H. Res. 547.

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

The SPEAKER pro tempore (Mr. GUTKNECHT). The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and agree to the resolution, H. Res. 547.

The question was taken.

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

Mr. SENSENBRENNER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

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

NATIVE AMERICAN TECHNICAL CORRECTIONS ACT OF 2005

Mr. RENZI. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3351) to make technical corrections to laws relating to Native Americans, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3351

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Native American Technical Corrections Act of 2005''.

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

TITLE I—TECHNICAL AMENDMENTS AND OTHER PROVISIONS RELATING TO NATIVE AMERICANS

SEC. 101. INDIAN FINANCING ACT AMENDMENTS.

(a) LOAN GUARANTIES AND INSURANCE.—Section 201 of the Indian Financing Act of 1974 (25 U.S.C. 1481) is amended—

(1) by striking ''the Secretary is authorized (a) to guarantee'' and inserting ''the Secretary may—

''(1) guarantee'';

(2) by striking ''Indians; and (b) in lieu of such guaranty, to insure'' and inserting ''Indians; or

''(2) to insure'';

(3) by striking ''SEC. 201. In order'' and inserting the following:

''SEC. 201. LOAN GUARANTIES AND INSURANCE.

''(a) IN GENERAL.—In order''; and

(4) by adding at the end the following:

''(b) ELIGIBLE BORROWERS.—The Secretary may guarantee or insure loans under subsection (a) to both for-profit and nonprofit borrowers.''.

(b) LOAN APPROVAL.—Section 204 of the Indian Financing Act of 1974 (25 U.S.C. 1484) is amended by striking ''SEC. 204.'' and inserting the following:

''SEC. 204. LOAN APPROVAL.''.

(c) SALE OR ASSIGNMENT OF LOANS AND UNDERLYING SECURITY.—Section 205 of the Indian Financing Act of 1974 (25 U.S.C. 1485) is amended—

(1) by striking ''SEC. 205.'' and all that follows through subsection (b) and inserting the following:

''SEC. 205. SALE OR ASSIGNMENT OF LOANS AND UNDERLYING SECURITY.

''(a) IN GENERAL.—All or any portion of a loan guaranteed or insured under this title, including the security given for the loan—

''(1) may be transferred by the lender by sale or assignment to any person; and

''(2) may be retransferred by the transferee.

''(b) TRANSFERS OF LOANS.—With respect to a transfer described in subsection (a)—

''(1) the transfer shall be consistent with such regulations as the Secretary shall promulgate under subsection (h); and

''(2) the transferee shall give notice of the transfer to the Secretary.'';

(2) by striking subsection (c);

(3) by redesignating subsections (d), (e), (f), (g), (h), and (i) as subsections (c), (d), (e), (f), (g), and (h), respectively;

(4) in paragraph (2) of subsection (c) (as redesignated by paragraph (3))—

(A) by striking ''VALIDITY.—'' and all that follows through ''subparagraph (B),'' and inserting ''VALIDITY.—Except as provided by regulations in effect on the date on which a loan is made,''; and

(B) by striking ''incontestable'' and all that follows and inserting ''incontestable.'';

(5) in subsection (e) (as redesignated by paragraph (3))—

(A) by striking ''The Secretary'' and inserting the following:

''(1) IN GENERAL.—The Secretary''; and

(B) by adding at the end the following:

''(2) COMPENSATION OF FISCAL TRANSFER AGENT.—A fiscal transfer agent designated under subsection (f) may be compensated through any of the fees assessed under this section and any interest earned on any funds or fees collected by the fiscal transfer agent while the funds or fees are in the control of the fiscal transfer agent and before the time at which the fiscal transfer agent is contractually required to transfer such funds to the Secretary or to transferees or other holders.''; and

(6) in subsection (f) (as redesignated by paragraph (3))—

(A) by striking ''subsection (i)'' and inserting ''subsection (h)''; and

(B) in paragraph (2)(B), by striking '', and issuance of acknowledgments,''.

(d) LOANS INELIGIBLE FOR GUARANTY OR INSURANCE.—Section 206 of the Indian Financing Act of 1974 (25 U.S.C. 1486) is amended by striking ''Internal Revenue Code of 1954, as amended,'' and inserting ''Internal Revenue Code of 1986 (except loans made by certified Community Development Finance Institutions)''.

(e) AGGREGATE LOANS OR SURETY BONDS LIMITATION.—Section 217(b) of the Indian Financing Act of 1974 (25 U.S.C. 1497(b)) is amended by striking ''$500,000,000'' and inserting ''$1,500,000,000''.

SEC. 102. GILA RIVER INDIAN COMMUNITY BINDING ARBITRATION.

(a) AMENDMENTS.—Subsection (f) of the first section of the Act of August 9, 1955 (25 U.S.C. 415(f)), is amended—

(1) in the first sentence, by striking ''Any lease'' and all that follows through ''affecting land'' and inserting ''Any contract, including a lease, affecting land''; and

(2) in the second sentence, by striking ''Such leases or contracts entered into pursuant to such Acts'' and inserting ''Such contracts''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect as if included in Public Law 107–159 (116 Stat. 122).

SEC. 103. ALASKA NATIVE CLAIMS SETTLEMENT ACT VOTING STANDARDS AMENDMENT.

(a) IN GENERAL.—Subsection (d)(3) of section 36 of the Alaska Native Claims Settlement Act (43 U.S.C. 1629b) (as amended by subsection (b)) is amended—

(1) by inserting after ''of this section'' the following: ''or an amendment to the articles of incorporation described in section 7(g)(1)(B)''; and

(2) by inserting ''or amendment'' after ''meeting relating to such resolution'' each place it appears.

(b) TECHNICAL CORRECTIONS.—

(1)(A) Section 337(a) of the Department of the Interior and Related Agencies Appropriations Act, 2003 (Division F of Public Law 108–7; 117 Stat. 278; February 20, 2003) is amended—

(i) in the matter preceding paragraph (1), by striking ''Section 1629b of title 43, United States Code,'' and inserting ''Section 36 of the Alaska Native Claims Settlement Act (43 U.S.C. 1629b)'';

(ii) in paragraph (2), by striking ''by creating the following new subsection:'' and inserting ''in subsection (d), by adding at the end the following:''; and

(iii) in paragraph (3), by striking ''by creating the following new subsection:'' and inserting ''by adding at the end the following:''.

(B) Section 36 of the Alaska Native Claims Settlement Act (43 U.S.C. 1629b) is amended—

(i) in subsection (d)(3), by striking ''(d)''; and

(ii) in subsection (f), by striking ''section 1629e of this title'' and inserting ''section 39''.

(2)(A) Section 337(b) of the Department of the Interior and Related Agencies Appropriations Act, 2003 (Division F of Public Law 108–7; 117 Stat. 278; February 20, 2003) is amended

by striking ''Section 1629e(a)(3) of title 43, United States Code,'' and inserting ''Section 39(a)(3) of the Alaska Native Claims Settlement Act (43 U.S.C. 1629e(a)(3))''.

(B) Section 39(a)(3)(B)(ii) of the Alaska Native Claims Settlement Act (43 U.S.C. 1629e(a)(3)(B)(ii)) is amended by striking ''(a)(4) of section 1629b of this title'' and inserting ''section 36(a)(4)''.

(3) The amendments made by this subsection take effect on February 20, 2003.

SEC. 104. INDIAN TRIBAL JUSTICE TECHNICAL AND LEGAL ASSISTANCE.

Sections 106 and 201(d) of the Indian Tribal Justice Technical and Legal Assistance Act of 2000 (25 U.S.C. 3666, 3681(d)) are amended by striking ''for fiscal years 2000 through 2004'' and inserting ''for fiscal years 2004 through 2010''.

SEC. 105. TRIBAL JUSTICE SYSTEMS.

Subsections (a), (b), (c), and (d) of section 201 of the Indian Tribal Justice Act (25 U.S.C. 3621) are amended by striking ''2007'' and inserting ''2010''.

SEC. 106. ANCSA AMENDMENT.

All land and interests in land in the State of Alaska conveyed by the Federal Government under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) to a Native Corporation and reconveyed by that Native Corporation, or a successor in interest, in exchange for any other land or interest in land in the State of Alaska and located within the same region (as defined in section 9(a) of the Alaska Native Claims Settlement Act (43 U.S.C. 1608(a)), to a Native Corporation under an exchange or other conveyance, shall be deemed, notwithstanding the conveyance or exchange, to have been conveyed pursuant to that Act.

SEC. 107. MISSISSIPPI BAND OF CHOCTAW TRANSPORTATION REIMBURSEMENT.

The Secretary of the Interior, acting through the Bureau of Indian Affairs, is authorized and directed to enter into a contract in order to accept funds from the State of Mississippi and deposit such funds in trust account number PL7489708 at the Office of Trust Funds Management for the benefit of the Mississippi Band of Choctaw Indians, as set forth in the agreement executed by the Mississippi Department of Transportation on June 7, 2005, and by the Mississippi Band of Choctaw Indians on June 2, 2005. Thereafter, the tribe may draw down these moneys from this trust account by resolution of the Tribal Council, pursuant to Federal law and regulations applicable to such accounts.

SEC. 108. INDIAN PUEBLO LAND ACT AMENDMENTS.

The Act of June 7, 1924 (43 Stat. 636, chapter 331), is amended by adding at the end the following:

''SEC. 20. CRIMINAL JURISDICTION.

''(a) IN GENERAL.—Except as otherwise provided by Congress, jurisdiction over offenses committed anywhere within the exterior boundaries of any grant from a prior sovereign, as confirmed by Congress or the Court of Private Land Claims to a Pueblo Indian tribe of New Mexico shall be provided in this section.

''(b) JURISDICTION OF THE PUEBLO.—The Pueblo has jurisdiction, as an act of the Pueblos inherent power as an Indian tribe, over any offense committed by a member of the Pueblo or an Indian, as defined in section 201 of the Act of April 11, 1968 (25 U.S.C. 1301), or by any other Indian-owned entity.

''(c) JURISDICTION OF THE UNITED STATES.—The United States has jurisdiction over any offense described in chapter 53 of title 18, United States Code, committed by or against an Indian as defined in section 201 of the Act of April 11, 1968 (25 U.S. C. 1301) or any Indian-owned entity, or that involves any Indian property or interest.

''(d) JURISDICTION OF THE STATE OF NEW MEXICO.—The State of New Mexico shall have jurisdiction over any offense committed by a person who is not a member of a Pueblo or an Indian tribe, as defined in section 201 of the Act of April 11, 1968 (25 U.S.C. 1301) which offense is not subject to the jurisdiction of the United States.''.

TITLE II—INDIAN LAND LEASING

SEC. 201. PRAIRIE ISLAND LAND CONVEYANCE.

(a) IN GENERAL.—The Secretary of the Army shall convey all right, title, and interest of the United States in and to the land described in subsection (b), including all improvements, cultural resources, and sites on the land, subject to the flowage and sloughing easement described in subsection (d) and to the conditions stated in subsection (f), to the Secretary of the Interior, to be—

(1) held in trust by the United States for the benefit of the Prairie Island Indian Community in Minnesota; and

(2) included in the Prairie Island Indian Community Reservation in Goodhue County, Minnesota.

(b) LAND DESCRIPTION.—The land to be conveyed under subsection (a) is the approximately 1290 acres of land associated with the Lock and Dam #3 on the Mississippi River in Goodhue County, Minnesota, located in tracts identified as GO–251, GO–252, GO–271, GO–277, GO–278, GO–284, GO–301 through GO–313, GO–314A, GO–314B, GO–329, GO–330A, GO–330B, GO–331A, GO–331B, GO–331C, GO–332, GO–333, GO–334, GO–335A, GO–335B, GO–336 through GO–338, GO–339A, GO–339B, GO–339C, GO–339D, GO–339E, GO–340A, GO–340B, GO–358, GO–359A, GO–359B, GO–359C, GO–359D, and GO–360, as depicted on the map entitled ''United States Army Corps of Engineers survey map of the Upper Mississippi River 9-Foot Project, Lock & Dam No. 3 (Red Wing), Land & Flowage Rights'' and dated December 1936.

(c) BOUNDARY SURVEY.—Not later than 5 years after the date of conveyance under subsection (a), the boundaries of the land conveyed shall be surveyed as provided in section 2115 of the Revised Statutes (25 U.S.C. 176).

(d) EASEMENT.—

(1) IN GENERAL.—The Corps of Engineers shall retain a flowage and sloughing easement for the purpose of navigation and purposes relating to the Lock and Dam No. 3 project over the portion of the land described in subsection (b) that lies below the elevation of 676.0.

(2) INCLUSIONS.—The easement retained under paragraph (1) includes—

(A) the perpetual right to overflow, flood, and submerge property as the District Engineer determines to be necessary in connection with the operation and maintenance of the Mississippi River Navigation Project; and

(B) the continuing right to clear and remove any brush, debris, or natural obstructions that, in the opinion of the District Engineer, may be detrimental to the project.

(e) OWNERSHIP OF STURGEON LAKE BED UNAFFECTED.—Nothing in this section diminishes or otherwise affects the title of the State of Minnesota to the bed of Sturgeon Lake located within the tracts of land described in subsection (b).

(f) CONDITIONS.—The conveyance under subsection (a) is subject to the conditions that the Prairie Island Indian Community shall not—

(1) use the conveyed land for human habitation;

(2) construct any structure on the land without the written approval of the District Engineer; or

(3) conduct gaming (within the meaning of section 4 of the Indian Gaming Regulatory Act (25 U.S.C. 2703)) on the land.

(g) NO EFFECT ON ELIGIBILITY FOR CERTAIN PROJECTS.—Notwithstanding the conveyance under subsection (a), the land shall continue to be eligible for environmental management planning and other recreational or natural resource development projects on the same basis as before the conveyance.

(h) EFFECT OF SECTION.—Nothing in this section diminishes or otherwise affects the rights granted to the United States pursuant to letters of July 23, 1937, and November 20, 1937, from the Secretary of the Interior to the Secretary of War and the letters of the Secretary of War in response to the Secretary of the Interior dated August 18, 1937, and November 27, 1937, under which the Secretary of the Interior granted certain rights to the Corps of Engineers to overflow the portions of Tracts A, B, and C that lie within the Mississippi River 9-Foot Channel Project boundary and as more particularly shown and depicted on the map entitled ''United States Army Corps of Engineers survey map of the Upper Mississippi River 9-Foot Project, Lock & Dam No. 3 (Red Wing), Land & Flowage Rights'' and dated December 1936.

SEC. 202. AUTHORIZATION OF 99-YEAR LEASES.

(a) IN GENERAL.—Subsection (a) of the first section of the Act of August 9, 1955 (25 U.S.C. 415(a)), is amended in the second sentence:

(1) by inserting ''the reservation of the Confederated Tribes of the Umatilla Indian Reservation,'' before ''the Burns Paiute Reservation,'';

(2) by inserting ''the'' before ''Yavapai-Prescott'';

(3) by inserting ''the Muckleshoot Indian Reservation and land held in trust for the Muckleshoot Indian Tribe,'' after ''the Cabazon Indian reservation,'';

(4) by inserting ''lands held in trust for the Fallon Paiute Shoshone Tribes,'' before ''lands held in trust for the Pueblo of Santa Clara'';

(5) by striking ''the lands comprising the Moses Allotment Numbered 10, Chelan County, Washington,'' and inserting the following: ''the lands comprising the Moses Allotment Numbered 8 and the Moses Allotment Numbered 10, Chelan County, Washington''; and

(6) by inserting ''land held in trust for the Yurok Tribe, land held in trust for the Hopland Band of Pomo Indians of the Hopland Rancheria,'' after ''Pueblo of Santa Clara,''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply only to any lease entered into or renewed after the date of the enactment of this Act.

SEC. 203. PASKENTA BAND OF NOMLAKI INDIANS 99-YEAR LEASE AUTHORITY.

Notwithstanding section 17 of the Act of June 18, 1936 (25 U.S.C. 477; commonly known as the Indian Reorganization Act), the Paskenta Band of Nomlaki Indians is granted 99-year lease authority over its reservation land.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Arizona (Mr. RENZI) and the gentleman from West Virginia (Mr. RAHALL) each will control 20 minutes.

The Chair recognizes the gentleman from Arizona (Mr. RENZI).

GENERAL LEAVE

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

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

There was no objection.

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

H.R. 3351 addresses a number of minor noncontroversial tribal issues in one legislative package. H.R. 3351 contains 11 proposed amendments to our current law to assist tribes with matters that are relatively small in nature but very important to Native Americans across our Nation.

Specifically, this legislation makes technical corrections to laws relating to Native Americans and Alaskan natives by reauthorizing certain Native American programs, clarifying statutes relating to particular tribes and approving a 99-year land lease for certain tribal lands.

H.R. 3351 makes these beneficial changes in areas relating to tribal sovereignty, culture and areas with potential to encourage economic development. Numerous tribes will be able to move forward on projects that will help to strengthen their tribal government and better illuminate their history and culture. Each year, Congress passes a bill like this relating to technical corrections, and, thankfully, we have been able to utilize the consultation of many tribal leaders in examining this legislation.

I hope we can now act in a bipartisan fashion. I look forward to the support of this Congress for H.R. 3351.

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

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

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

Mr. RAHALL. Mr. Speaker, I rise in support of this legislation and to pay particular honor to our colleague from Arizona (Mr. GRIJALVA). The gentleman from Arizona has worked tirelessly over the past several months to bring before us a bill that he introduced as H.R. 327 to assist the Gila River Indian Community in Arizona. I am pleased he was able to have this bill rolled into the one before us today.

Mr. GRIJALVA's position would authorize the Gila River Indian Community to enter into contracts with outside businesses and agree to binding arbitration if a problem arises from the contract work. This will remove a hurdle to economic development for the Gila River Community.

One serious problem, which runs throughout Indian country, is the hesitancy by non-Indian businesses to enter into large, long-term contracts with Indian tribes out of concern for the competency of tribal courts. Strengthening tribal courts is yet another issue the gentleman from Arizona has been working on for Indian tribes.

I congratulate Congressman GRIJALVA for his tenacity on getting this language moved through the House, and I urge all my colleagues to support H.R. 3351.

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

Mr. RENZI. Mr. Speaker, I yield 2 minutes to the gentleman from Minnesota (Mr. KLINE).

Mr. KLINE. Mr. Speaker, I rise today in support of the Native American Technical Corrections Act of 2005, and I am especially pleased by the inclusion of the Prairie Island Conveyance Act of 2005, which addresses a critical issue for my constituents.

I extend my appreciation to the gentleman from California (Mr. POMBO) and the gentleman from Alaska (Mr. YOUNG) for including my legislation in their bill and for its consideration today.

Upon being elected to Congress 3 years ago, I was approached by members of the Prairie Island Indian Community, located in Minnesota's Second Congressional District. The Prairie Island Indian Community has been working for years to transfer a section of land known as parcel D from the Army Corps of Engineers to be held in trust at the Department of Interior.

Parcel D, which contains 1,290 acres of the Prairie Island Community's homeland, was seized by the Department of War in 1934 with the promise it would one day be returned to them to welcome their ancestors home. This promise has not yet been fulfilled. Instead, the Department of War used the parcel D land to build a lock and dam on the Mississippi River, causing flooding across over 800 acres. These 800 acres, which remain underwater today, contain hundreds of burial mounds, 12 stone memorials, dozens of lodge circles, and 18 village sites of importance to the Prairie Island Community.

The leaders of the Prairie Island Indian Community have received the support of the nearby City of Red Wing and surrounding Goodhue County, as well as the U.S. Army Corps of Engineers and the Department of the Interior for their efforts to reclaim this ancestral land. I am pleased their efforts are finally close to being realized.

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

Mr. RENZI. Mr. Speaker, I know that Chairman YOUNG is in considerable support of this legislation and will be submitting a written statement for the RECORD.

Mr. YOUNG of Alaska. Mr. Speaker, I rise in support of H.R. 3351, the Native American Technical Corrections Act of 2005. This bill would allow shareholder consideration of making Settlement Common Stock under the Alaska Native Claims Settlement Act (ANCSA) available to Alaska Natives born after December 18, 1971.

The Alaska Native Claims Settlement Act, as originally enacted, limited Alaska Native Regional Corporations from enrolling Natives born after December 18, 1971, as shareholders in their respective corporations. Subsequent amendments to ANCSA have allowed Regional Corporations to include Natives born after December 18, 1971, often referred to "New Natives," "Afterborns" or "Shareholder Descendents", if existing shareholders of the Corporation adopt a resolution at an annual meeting. Thus far, very few Native Corporations have adopted resolutions to include Shareholder Descendents, in part because the standard for adopting a resolution is too high.

Existing law provides that a resolution is considered approved by the shareholders of a Native Corporation if it receives an affirmative vote from a "majority of the total voting power of the corporation." At any given annual meeting, however, the total voting power of the corporation is not exercised. Accordingly, eighty-five to ninety percent of the voting proxies at an annual meeting would be required to vote in favor of a Shareholder Descendent resolution. This is an extremely difficult threshold to meet.

Section 103 of H.R. 3351 would allow a Shareholder Descendents resolution to be approved by a majority of the shares present or represented by proxy at an annual meeting. If a change is not made to the existing voting standard for adoption of a Shareholder Descendents resolution, the promises of ANCSA are potentially left unfulfilled. This legislation would allow a Regional Corporation, provided the majority voted in favor of adopting a Shareholder Descendents vote, to enroll two generations of Shareholder Descendents to become shareholders in their respective corporation. I urge a "yes" vote on this important legislation affecting my Alaska Native "afterborns."

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

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Arizona (Mr. RENZI) that the House suspend the rules and pass the bill, H.R. 3351, as amended.

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

A motion to reconsider was laid on the table.

AUTHORIZING GOVERNMENT OF UKRAINE TO ESTABLISH MEMORIAL TO HONOR VICTIMS OF MANMADE FAMINE THAT OCCURRED IN UKRAINE IN 1932–1933

Mr. GOHMERT. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 562) to authorize the Government of Ukraine to establish a memorial on Federal land in the District of Columbia to honor the victims of the manmade famine that occurred in Ukraine in 1932–1933, as amended.

The Clerk read as follows:

H.R. 562

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

SECTION 1. AUTHORITY TO ESTABLISH MEMORIAL.

(a) IN GENERAL.—The Government of Ukraine is authorized to establish a memorial on Federal land in the District of Columbia to honor the victims of the Ukrainian famine-genocide of 1932–1933.

(b) COMPLIANCE WITH STANDARDS FOR COMMEMORATIVE WORKS.—The establishment of the memorial shall be in accordance with chapter 89 of title 40, United States Code (commonly known as the ''Commemorative Works Act''), except that sections 8902(a)(1),

8906(b)(1), 8908(b)(2), and 8909(b) shall not apply with respect to the memorial.

SEC. 2. LIMITATION ON PAYMENT OF EXPENSES.

The United States Government shall not pay any expense for the establishment of the memorial or its maintenance.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas (Mr. GOHMERT) and the gentleman from West Virginia (Mr. RAHALL) each will control 20 minutes.

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

GENERAL LEAVE

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

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

There was no objection.

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

Mr. Speaker, H.R. 562 introduced by Congressman SANDER LEVIN authorizes the Government of Ukraine to establish a memorial on Federal land in Washington, DC, to honor victims of the 1932–1933 Ukrainian famine. Known by historians as the Harvest of Sorrow, the Ukrainian famine of 1932–1933 was the result of a naturally caused low harvest and harsh Soviet policies, including forced collectivization and grain seizures in order to neutralize the Ukrainian population.

Over 7 million people died of starvation as Russians stopped Ukrainians from entering Russia to obtain food. Attempts by the United States to intercede were stalled by Stalin's regime.

Proponents of H.R. 562 hope that building a memorial in the District of Columbia will bring awareness to the event and honor its victims.

Finally, no Federal funds will be used for the establishment or maintenance of the memorial. I urge adoption of the bill.

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

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

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

Mr. RAHALL. Mr. Speaker, we are all too aware of the damage that can be inflicted during wartime by conventional weapons. However, the Ukrainian genocide is evidence of the shocking and deadly potential of an unconventional weapon such as hunger.

In an attempt to permanently cement the Ukrainian people under Soviet control, the grain supply to Ukraine was purposely manipulated by Joseph Stalin, beginning in 1932 and leading to widespread hunger and starvation. While precise figures are difficult to calculate, historians place the number of dead as a result of this policy between 8 and 10 million men, women and children. In rural Ukraine, it is thought that one in four people starved to death. These deaths have rightly been labeled one of the worst genocides in human history.

Yet outside of Ukraine, this horrific chapter in human history is not well known. Working with the Ukrainian Congress Committee of America, our colleague and valued Member, Congressman SANDY LEVIN, from Michigan hopes to change that beginning with H.R. 562.

This legislation amounts to formal acceptance by the United States Government of a memorial gift offered to this country by the people of Ukraine. The memorial is to be located here in our Nation's Capital and is intended to commemorate for Americans, as well as visitors from around the world, the incredible sacrifice made by the people of Ukraine in their long struggle for freedom.

In addition, the memorial gift honors the 1.5 million Americans of Ukrainian descent who treasure their heritage and cling to the memory of their ancestors' struggle for freedom, a struggle which was finally won with the collapse of the Soviet Union in 1991. However, true independence was achieved more recently in Ukraine as the world watched in awe as the Orange Revolution swept away a corrupt regime without a single drop of bloodshed.

Mr. Speaker, Congressman LEVIN is to be commended for his dedication and hard work in bringing this measure to the floor today. He has talked to me numerous times personally about it. I commend him for his tenacity and dedication. It is not only appropriate that we pass this legislation to accept this memorial gift; it is an honor.

Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Michigan (Mr. LEVIN).

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

Mr. LEVIN. I first of all would like to thank the gentleman from California (Mr. POMBO) and the gentleman from West Virginia (Mr. RAHALL), the chairman and ranking member of the committee, for their mutual interest and work on this and also to the chair of the subcommittee, Chairman PEARCE, and also to Ranking Member CHRISTENSEN. I also would like to thank cochairs of the Ukrainian American Caucus, Members KAPTUR, WELDON and BARTLETT, for their support and also to my friend and colleague from Michigan (Mr. KILDEE) who is a cosponsor and who is on the committee; and also to thank the leadership for moving this along.

Mr. Speaker, I rise in strong support of this legislation, H.R. 562, to authorize the government of Ukraine to donate a memorial in the District of Columbia honoring the victims of the manmade famine that killed millions of Ukrainians in 1932–33. I am proud to have introduced this legislation that this body is considering it today. This legislation is important for all of humanity. It is very important to the 1.5 million Ukrainian-Americans throughout our country, many of them my constituents. It has special meaning to the people of Ukraine, as the gentleman from West Virginia has mentioned, who have embarked on a courageous effort to build a free, democratic, open society, and indeed to all of us who value freedom.

During the famine genocide of 1932–33, between 7 and 10 million Ukrainians were deliberately and systematically starved to death.

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The memorial authorized by this bill will not only honor their memory, but serve as a tangible reminder to all of us that we must work together to prevent such tragedies in the future.

We are familiar with the terrible suffering caused by famine that is the result of natural forces. But this famine is all the more tragic because it resulted from criminal acts and deliberate decisions by political officials. Yet, it is also one of the least known of human tragedies.

Despite efforts by the then-Soviet Government at the time and afterwards to hide the planned and systematic nature of this famine genocide, it is clear that the Soviet Union used food as a weapon. By introducing unrealistically high quotas on grain and other agricultural products which were strictly enforced by Red Army troops, the Soviet Government deliberately starved 7 to 10 million Ukrainians. The harvest of 1932 was only 12 percent below 1926 to 1930 averages, but millions of Ukrainians died a slow agonizing death of hunger.

In his book, ''The Harvest of Sorrow,'' British historian Robert Conquest provided a vivid picture of the devastating effects of the famine genocide in Ukraine: ''A quarter of the rural population, men, women and children, lay dead or dying, the rest in various stages of debilitation with no strength to bury their families or neighbors.''

Materials now being found in KGB archives have shown the premeditated political nature of the famine. We in our beloved country must persist in standing with those living under oppressive and tyrannical regimes as they struggle for their freedom. Part of the struggle is to remember the brutal acts of these regimes and their victims.

Preventing the recurrence of crimes against humanity, such as the Ukrainian famine genocide, begins with remembering the tragedies of the past. That is why I believe it is so important for there to be this monument, remembering the millions of innocent victims.

I urge my colleagues to join together in honoring their memories and ensuring they are never forgotten by supporting this bill.

Ms. CORRINE BROWN of Florida. Mr. Speaker, I rise today in support of this legislation to authorize a memorial to the victims of Ukraine Famine.

The dreadful famine that engulfed Ukraine, the northern Caucasus, and the lower Volga River area in 1932–1933 was the result of Joseph Stalin's policy of forced collectivization.

The heaviest losses occurred in Ukraine, which had been the most productive agricultural area of the Soviet Union. Stalin was determined to crush all vestiges of Ukrainian nationalism.

Thus, the famine was accompanied by a devastating purge of the Ukrainian intelligentsia and the Ukrainian Communist party itself.

The famine broke the peasants' will to resist collectivization and left Ukraine politically, socially, and psychologically traumatized.

The death toll from the 1932–33 famine in Ukraine has been estimated between six million and seven million.

This memorial will authorize the Government of Ukraine to build a memorial on federal land so that no one will forget what the Ukraine people suffered at the hands of a dictator and the horrible consequences of forced collectivization.

Again, I urge passage of this legislation.

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

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

The SPEAKER pro tempore (Mr. GUTKNECHT). The question is on the motion offered by the gentleman from Texas (Mr. GOHMERT) that the House suspend the rules and pass the bill, H.R. 562, as amended.

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

A motion to reconsider was laid on the table.

PROVIDING FOR THE PRESERVATION OF THE HISTORIC CONFINEMENT SITES WHERE JAPANESE AMERICANS WERE DETAINED DURING WORLD WAR II

Mr. GOHMERT. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1492) to provide for the preservation of the historic confinement sites where Japanese Americans were detained during World War II, and for other purposes, as amended.

The Clerk read as follows:

H.R. 1492

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

SECTION 1. PRESERVATION OF HISTORIC CONFINEMENT SITES.

(a) PRESERVATION PROGRAM.—The Secretary shall create a program within the National Park Service to encourage, support, recognize, and work in partnership with citizens, Federal agencies, State, local, and tribal governments, other public entities, educational institutions, and private nonprofit organizations for the purpose of identifying, researching, evaluating, interpreting, protecting, restoring, repairing, and acquiring historic confinement sites in order that present and future generations may learn and gain inspiration from these sites and that these sites will demonstrate the Nation's commitment to equal justice under the law.

(b) GRANTS.—The Secretary, in consultation with the Japanese American National Heritage Coalition, shall make grants to State, local, and tribal governments, other public entities, educational institutions, and private nonprofit organizations to assist in carrying out subsection (a).

(c) PROPERTY ACQUISITION.—

(1) AUTHORITY.—Federal funds made available under this section may be used to acquire non-Federal property for the purposes of this section, in accordance with section 3, only if that property is within the areas described in paragraph (2).

(2) PROPERTY DESCRIPTIONS.—The property referred to in paragraph (2) is the following:

(A) Jerome, depicted in Figure 7.1 of the Site Document.

(B) Rohwer, depicted in Figure 11.2 of the Site Document.

(C) Topaz, depicted in Figure 12.2 of the Site Document.

(D) Honouliuli, located on the southern part of the Island of Oahu, Hawaii, and within the land area bounded by H1 to the south, Route 750 (Kunia Road) to the east, the Honouliuli Forest Reserve to the west, and Kunia town and Schofield Barracks to the north.

(3) NO EFFECT ON PRIVATE PROPERTY.—The authority granted in this subsection shall not constitute a Federal designation or have any effect on private property ownership.

(d) MATCHING FUND REQUIREMENT.—The Secretary shall require a 25 percent non-Federal match for funds provided under this section.

(e) SUNSET OF AUTHORITY.—This Act shall have no force or effect on and after the date that is 2 years after the disbursement to grantees under this section of the total amount of funds authorized to be appropriated under section 4.

SEC. 2. DEFINITIONS.

For purposes of this Act the following definitions apply:

(1) HISTORIC CONFINEMENT SITES.—(A) The term ''historic confinement sites'' means the 10 internment camp sites referred to as Gila River, Granada, Heart Mountain, Jerome, Manzanar, Minidoka, Poston, Rohwer, Topaz, and Tule Lake and depicted in Figures 4.1, 5.1, 6.1, 7.1, 8.4, 9.2, 10.6, 11.2, 12.2, and 13.2, respectively, of the Site Document; and

(B) other historically significant locations, as determined by the Secretary, where Japanese Americans were detained during World War II.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(3) SITE DOCUMENT.—The term ''Site Document'' means the document titled ''Confinement and Ethnicity: An Overview of World War II Japanese American Relocation Sites'', published by the Western Archeological and Conservation Center, National Park Service, in 1999.

SEC. 3. PRIVATE PROPERTY PROTECTION.

No Federal funds made available to carry out this Act may be used to acquire any real property or any interest in any real property without the written consent of the owner or owners of that property or interest in property.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary $38,000,000 to carry out this Act. Such sums shall remain available until expended.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas (Mr. GOHMERT) and the gentleman from West Virginia (Mr. RAHALL) each will control 20 minutes.

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

GENERAL LEAVE

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

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

There was no objection.

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

Mr. Speaker, H.R. 1492, introduced by the gentleman from California (Mr. THOMAS), would establish a grant program within the Department of the Interior to protect, preserve, and interpret historic confinement sites where Japanese Americans were detained during World War II.

While there are two units in the National Park System that recognize the internment period, Manzanar National Historic Site and Minidoka Internment National Monument, there are many who believe other internment sites should also be preserved short of becoming a unit of the National Park System.

This bill would further that purpose by providing Federal funds with a partial private match. I urge adoption of the bill.

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

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

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

Mr. RAHALL. Mr. Speaker, while the temptation to sweep this shameful chapter of American history under the rug is powerful, we must resist that urge.

The pending legislation will, we hope, prevent future discrimination against groups of Americans based on race, ethnicity, or religious belief by preserving and interpreting a dark chapter in American history when our actions fell far short of our ideals.

Mr. Speaker, it is sobering to realize that the internment of Japanese Americans did not take place in some far distant past history. Rather, the horror of internment camps are real for many Americans, among them a very good friend and colleague of ours and now the Secretary of Transportation, Mr. Norm Mineta.

After he and his family were forced from their home and interned, Secretary Mineta devoted his life to serving the country which had treated him so shamefully to ensure that such injustice will never be repeated.

Secretary Mineta overcame the labels placed on him as a child and went on to carry labels including soldier, city councilman, mayor, Congressman, Mr. Chairman, and now Mr. Secretary. Throughout this distinguished career, he was often the first Asian American to hold those titles.

Another great American victimized by internment was our friend and former colleague, the late Bob Matsui. Like Norm Mineta and many others, Bob Matsui overcame injustice and adversity suffered as a child to build a career of distinguished public service.

His widow and dear colleague of ours today will be heard from in just a moment. While he might have been forgiven for being bitter or angry, Bob Matsui was universally praised as one

of the most diplomatic and cordial Members of this body.

He took his experiences as a child and turned them into a passion for serving the young, the sick and the elderly, those most at risk for uncaring treatment by government.

Representative Matsui's life work has been taken up by his wife, Representative DORIS MATSUI. She, along with Representative MIKE HONDA, has worked tirelessly to bring this measure to the floor; and they are to be commended for their efforts.

This legislation is not only a tribute to those who suffered the injustice of internment but also to the triumphs of these distinguished former colleagues. We urge support for H.R. 1492 in their names and in the names of all of those who have faced or continue to face injustice.

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

Mr. GOHMERT. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. THOMAS).

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

Mr. THOMAS. Mr. Speaker, it is a pleasure to finally bring this bill to the floor because it puts a closing note on what was to a very great extent my upbringing in California with personal friends through the 40s and the 50s. In addition to that, I had the honor and pleasure of serving in the California Assembly with Floyd Mori.

As was mentioned by the gentleman from West Virginia (Mr. RAHALL), Norm Mineta and Bob Matsui, and Floyd were Nisei, American born, first generation. Their parents are known as Issei, those who came over from Japan. Their grandchildren are Sansei. And it does mark a period in our history where native-born American citizens were in essence rounded up.

I got to know it personally, but as I went through school and I went through constitutional law classes and looked at Korematsu v. United States, I realized that the majority's opinion in Korematsu was written by Justice Hugo Black, who is known probably as one of the premier First Amendment-freedom Justices on the Court; and it underscored the extent that this concept permeated American society.

I am very, very grateful to the gentleman from California (Mr. POMBO) and his committee that voted this bill out unanimously, notwithstanding the fact that we have created a separate fund which will help pay for, in a public-private match, to preserve what is rapidly slipping away since these internment camps were for obvious reasons in rural areas across mostly western United States. I am most familiar with Manzanar which is in Inyo County, and I have represented Inyo County for more than a decade in the Congress. And we were able to preserve that in a location fairly close to Southern California.

But in working with my friend and former colleague, Floyd Mori, in looking at where these locations are in Utah, Wyoming, other States, we realized that just the ongoing growth and partial urbanization of these areas would forever cover up these particular sites.

It is not so much that I think people are ashamed of them. I think they are principally ignorant of them. And whether it is desire to forget out of knowledge or ignorance, neither one is acceptable. So I am very pleased that Leadership has allowed us to move today a very modest approach, quite rightly unifying public and private where appropriate under what circumstances, working with those people who are in the area, and in some instances Indian tribes, to allow those who are still alive and have memories to pass them on to the young ones. And for those of us who take trips across the country to visit sites, there are several different reasons, but probably first and foremost is that great people, and I believe Americans are great people, can make mistakes. What you need to do is admit it and remember it and do not make it again. And for that reason it is very fulfilling that this bill is before us.

Mr. Speaker, I rise in support of H.R. 1492. I greatly appreciate the House's consideration of this important legislation as well as the assistance Chairman POMBO, Representatives DORIS MATSUI, MIKE HONDA, and DEVIN NUNES have provided to develop it and bring it to the floor today.

Very simply, this legislation is a modest effort to provide the structure and resources necessary for citizens, schools, communities, and others to undertake projects in order to preserve and interpret an aspect of American history that many, quite frankly, would much prefer to ignore or never know. Nations, as do people, have the opportunity to recognize their mistakes and use the lessons learned from those mistakes to improve themselves. However, to do so, the mistake must not only be recognized, the lesson must be learned and remembered.

The United States of America has recognized the terrible mistake it made between 1942 and 1945, when pursuant to Executive Order 9066, over 120,000 Japanese Americans were forcibly removed from their homes and detained in government assembly and then relocation centers. Moreover, this mistake taught the United States that racial prejudice and wartime hysteria do not justify the denial of human dignity and the fundamental freedoms afforded by the U.S. Constitution. Thus, the legislation before the House today is designed to help ensure the United States and, more importantly, its citizens, never forget the lesson learned from this mistake.

Those who do not know the facts of this aspect of American history are undoubtedly quite surprised to learn that the U.S. Government, while rightly fighting to preserve freedom throughout the world, on March 2, 1942, wrongly declared over 100 areas in the States of Arizona, California, Oregon, and Washington as "prohibited areas" to those of Japanese ancestry. While thousands of people voluntarily moved out of these prohibited areas, thousands more who wanted to voluntarily leave the prohibited areas could not, either because their assets had been frozen at the beginning of the war or because other States were unwilling to accept them as residents.

On March 24, 1942, the U.S. Army began to evacuate residents of the prohibited areas; the evacuees included newborns, children, even those who had been adopted by non-Japanese parents, and the elderly. Sadly, those being evacuated were given just 6 days notice and, as they could only take those items the family could carry, were forced to dispose of nearly all of their possessions, often for ridiculously small sums. In addition, and of particular importance in California, people were not given the opportunity to harvest their crops; in fact, the only act of "sabotage" by a Japanese-American occurred when a farmer plowed his strawberry crop under when his request for the opportunity to harvest it was denied.

As they waited to be transported to one of 10 "relocation centers," the evacuees were temporarily housed in 17 assembly centers in Arizona, California, Oregon, and Washington, 12 of which were in California. One of those 12 was located at the Tulare County Fairgrounds in Tulare, CA, which I formerly represented. The assembly centers were surrounded by barbed wire fences, which were patrolled by military police, and consisted of hastily constructed military barracks, with separate communal bathrooms and dining halls. However, thousands of people, including 8,500 at Santa Anita alone, lived in horse stables at the Santa Anita and Tanforan assembly centers in California.

By the end of October, the evacuees were moved by train into one of the following 10 relocation centers or internment sites: Jerome and Rohwer in Arkansas; Colorado River—Poston—and Gila River in Arizona; Tule Lake and Manzanar in California; Granada in Colorado; Minidoka in Idaho; Heart Mountain in Wyoming; and Central Utah—Topaz. Like the assembly centers, the relocation centers were surrounded by barbed wire fences but also had guard towers. The centers were designed to be self-contained and self-sustaining communities, and like the assembly centers, they primarily featured barracks-type housing. In addition, the relocation centers were dusty, muddy, and often subject to extreme temperatures. Finally, the use of the Japanese language was restricted.

In December 1944, the U.S. Government announced the relocation centers would be closed within a year. While nine closed before the end of 1945, Tule Lake was not closed until May 1946 because it continued to hold those who had renounced their U.S. citizenship. Unfortunately but not surprisingly, the Government provided only minimal assistance to those who it had wrongfully detained as they left the centers to rebuild their lives.

As I have stated, the U.S. Government has admitted its mistake in this instance. It has sought to make some degree of recompense to those evacuated by paying reparations and issuing a formal apology; a memorial has been constructed in Washington, DC, within sight of the Capitol. In addition, six of the relocation centers are listed on the National Register, Manzanar and the cemetery at Rowher are National Historic Landmarks, and Minidoka is a National Monument. As a result of legislation—P.L. 102–248— I cosponsored and

worked with my former colleague Representative Mel Levine to enact, Manzanar, which I formerly represented, has been established as a National Historic Site. With regard to the assembly centers, seven, including the one in Tulare, do not have some form of marker or plaque to remind future generations of our past wrong.

While the legislation before the House today certainly is designed to authorize the funding necessary to facilitate projects that involve bricks and mortar—for example, the construction of a museum at Granada or the stabilization of a hospital chimney at Heart Mountain—its intent is not to completely reconstruct or restore the infrastructure at every relocation site or assembly center for the sake of show and tell. Rather, the legislation is designed to be as flexible as possible in recognition of the wide differences in the current conditions at the pertinent sites of historic significance, as well as to allow for grantees to conduct a wide variety of projects in many different forms to ensure the lesson taught by the sites is preserved forever. For instance, a project could be as simple as a citizens' group buying and placing a plaque on a stable; another could involve an effort by students to collect, preserve, and interpret the memories of surviving evacuees, a generation we are rapidly losing.

This flexibility is necessary and recognizes that the only common thread that binds the sites related to the confinement of Japanese-Americans is Executive Order 9066. As with each of the 50 States, which are bound together by the U.S. Constitution, each of the sites has its own unique history and characteristics. Thus, the preservation projects needed that would be undertaken with monies authorized under H.R. 1492 necessarily must be unique to the individual sites.

The legislation provides the U.S. Secretary of the Interior with the flexibility to approve projects related to sites other than the 10 relocation and 17 assembly centers. An example of such a site is the Crystal City World War II Alien Family Internment Camp in Texas, which was run by the U.S. Immigration and Naturalization Service, and which housed Japanese immigrants and nationals sent to the United States from Latin America.

It is important to note that, upon request, I have included limitations in this legislation. Specifically, the legislation contains a 25 percent non-Federal match requirement, a cap on the amount of monies authorized, and a sunset. The legislation also limits the use of these Federal funds to acquire private property to just four locations—Jerome, Rohwer, Topaz, and Honouliuli—and further requires the written consent of the pertinent private property owners.

Finally, it is fitting that we are considering this legislation as we return from observing Veterans Day as the segregated Japanese-American 100th Infantry Battalion and 442nd Regimental Combat Team, which had a total of 25,000 men during the war, together became the most decorated combat unit for its size in U.S. history. In fact, the men who served in this unit were awarded 8 presidential unit citations, 9,486 Purple Hearts, and 18,143 individual decorations, including 52 Distinguished Service Crosses, the second-highest award for valor. Moreover, the only Japanese-American World War II veteran awarded the Medal of Honor during the war, PFC Sadao Munemori, earned his citation on April 5, 1945, when he dove on a hand grenade to save the lives of two of his comrades during the Po Valley Campaign in Italy. Poignantly, at the time of his death, Munemori's mother and brother were interned at Manzanar.

Accordingly, I now ask that you join with me to pass this important legislation, not just to honor Private First Class Munemori, not just to honor those interned, but to ensure that the United States does not forget and repeat the grievous mistake it made.

Mr. RAHALL. Mr. Speaker, I yield such time as she may consume to our dear and, in every sense of the word, distinguished colleague from California (Ms. MATSUI).

(Ms. MATSUI asked and was given permission to revise and extend her remarks.)

Ms. MATSUI. Mr. Speaker, I thank the gentleman from West Virginia for yielding me this time.

Mr. Speaker, history plays a significant role in this country. Not only does it influence and inform our decisions today, but it clearly shows the successes and failures of this Nation to ensure every citizen is protected under the Constitution.

Sixty years ago, Executive Order 9066 permitted the Federal Government to uproot 120,000 American citizens of Japanese ancestry from their homes and their communities, forcibly interning them in one of several camps across the western United States. This included my husband, Bob, who was at that time just an infant, and his family. They were held a short time at Tule Lake in California before being sent to Caldwell, Idaho. After being expelled from their community, my parents met at the internment camp in Poston, Arizona, where I was born at the end of World War II.

It was one of the greatest suspensions of liberty in our Nation's history, an avoidable consequence of racial prejudice and wartime hysteria.

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These camps are the physical, tangible, representation of our government's failure to protect the constitutional right of every American. However, they are also a symbol of this Nation's ability to recognize and acknowledge our mistakes.

For both of these reasons, it is essential that the internment camps and sites be preserved and maintained. In protecting them, we are reaffirming our belief in the Constitution and the rights and protections it guarantees for each and every American.

The bill before us embraces this idea. H.R. 1492 allows for camp committees; private citizens; and State, local and tribal governments to partner with the Federal Government to preserve the historical sites from this period. By preserving the history behind these physical landmarks, new generations of Americans will learn the lessons of this tragic period, and significantly, the lesson will not fade from our national memory.

I would like to extend my sincere appreciation to Congressman BILL THOMAS for his passionate leadership in working with this bill and in bringing it to the floor. I would also like to thank Congressman HONDA, Chairman POMBO and Ranking Member RAHALL for their bipartisan dedication to this issue. I would also like to acknowledge Mike Holland with Congressman THOMAS' personal staff.

Finally, I would like to thank my good friend Gerald Yamada, who originally brought this to my husband's attention last year, for his tireless effort behind the scenes on behalf of the Japanese-American community.

Through this legislation, we refresh the pact established in our Constitution between citizen and government which ensures our government is a protector of our rights and liberties.

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

Mr. RAHALL. Mr. Speaker, I yield 3 minutes to the gentlewoman from Guam (Ms. BORDALLO), a very distinguished member of our Resources Committee whose help was tremendous on this legislation.

Ms. BORDALLO. Mr. Speaker, I thank the gentleman very much for the time.

I rise today in strong support of H.R. 1492, the Preservation of World War II Internment Sites Act. Introduced by our colleagues from California, Mr. THOMAS, and I thank him for his perseverance, Mr. HONDA and Ms. MATSUI, this legislation would go far in preserving the memory and the history, however troubling and painful they may be, of our government's decision to intern Japanese-Americans during the Second World War.

I thank Chairman POMBO and Ranking Member RAHALL for their very hard work in reporting this bill from the Resources Committee.

Both U.S. history and the American conscience now view Executive Order 9066, which directed the Japanese Americans be interned, as totally wrong.

President Jimmy Carter signed into law legislation that led to the 1982 ''Report of the U.S. Commission on Wartime Relocation and Internment of Civilians.'' That report concluded that ''Executive Order 9066 was not justified by military necessity.'' Further, the report concluded that the underlying rationale for Executive Order 9066 was shaped by ''race prejudice, war hysteria, and a failure of political leadership.''

When signing the Civil Liberties Act of 1988 into law, President Ronald Reagan said: ''Here we admit a wrong. Here we affirm our commitment as a Nation to equal justice under the law.'' The Civil Liberties Act provided a long overdue apology for the imprisonment of Japanese-Americans during World War II.

Mr. Speaker, H.R. 1492 directs the Secretary of the Interior to create a program within the National Park Service to support and work in partnership with citizens, governmental

and tribal organizations, educational institutions, and private nonprofit organizations for the purpose of identifying, protecting, and acquiring historic confinement sites where Japanese-Americans were detained during World War II in order to gain inspiration from these sites and to demonstrate the Nation's commitment to equal justice.

The initiatives that will be funded by this bill, and the history that these initiatives will preserve, are important to our country. The Second World War was a great battle for freedom. However, 120,000 Japanese Americans were forced from their homes and ordered to live in seclusion.

Answers to the questions: Why did this happen, where did this happen, and to whom did it happen, and what was it like for those who experienced it, this should remain available for future generations of Americans to study, to interpret, to reflect upon and to learn from.

Passage of H.R. 1492 will go far in achieving these goals. It deserves our support, Mr. Speaker, and I commend the gentleman from California (Mr. THOMAS) who has long worked to preserve this story and those sites of historical significance.

I also again thank the gentleman from California (Mr. HONDA) and the gentlewoman from California (Ms. MATSUI) for their leadership, and I urge support for H.R. 1492.

Mr. RAHALL. Mr. Speaker, I yield 3 minutes to the gentleman from Hawaii (Mr. CASE).

Mr. CASE. Mr. Speaker, I rise in strong support of H.R. 1492, which I am truly honored, especially representing Hawaii, the State with the highest number of Americans of Japanese ancestry, to cosponsor.

I, like others, express my deepest appreciation on behalf not only of our AJAs, but all Americans, to the gentleman from California (Mr. THOMAS), the gentleman from California (Mr. HONDA), the gentlewoman from California (Ms. MATSUI), the gentleman from California (Mr. POMBO) and the gentleman from West Virginia (Mr. RAHALL), for bringing this vital measure before the people's House.

The internment of Japanese-Americans during World War II is a tragic and shameful chapter in our history, replete with misunderstanding by too many and courage by too few. Although AJAs on the U.S. mainland, particularly the west coast, bore the brunt of this national mistake, Japanese-Americans throughout our country were affected.

After Pearl Harbor, about 10,000 people in Hawaii were investigated, and almost 1,500, mostly AJAs, were detained on all of Hawaii's main islands. The principal camps were at Sand Island and Honouliuli on Oahu. I attach to these remarks a compelling article from the June 2, 2004, Honolulu Star-Bulletin reporting the remembrances of some of Hawaii's surviving detainees.

Mr. Speaker, it is right and appropriate that we provide for permanent memorials of this difficult time, when good people did bad things out of fear and ignorance. I especially appreciate that among these memorials will be Honouliuli, so that the people of Hawaii and elsewhere may put a place and a reality to the words of Harry Urata, of Hawaii, who said: ''They made a mistake. Everybody makes mistakes. But don't repeat that.''

Mahalo.

[From the Honolulu Star-Bulletin, June 2, 2004]

THE WWII INTERNMENTS—''A SAD TIME . . . A CHALLENGING TIME''

(By Rosemarie Bernardo)

In March 1943, FBI agents arrived at the Honolulu Planning Mill in Kakaako where Shozo Takahashi worked as a woodworker. Authorities issued Takahashi a warrant for his arrest, but allowed him to go home to pick up some of his belongings. His brother and wife dropped him off at the FBI office, where he was questioned.

Takahashi was then taken to the immigration station, where he was photographed and fingerprinted. All the while, he wondered what he had done to be treated like a criminal.

But it would take the federal government 45 years to tell Takahashi why it detained him at the Honouliuli internment camp.

An exhibit will open Saturday at the Japanese Cultural Center of Hawaii, 2454 S. Beretania St., telling the story of Takahashi and other Japanese Americans who were detained at internment camps in Hawaii during Word War II.

Takahashi and other former internees are expected to attend the opening from 1 to 3 p.m.

''Dark Clouds Over Paradise: The Hawaii Internees Story'' will be displayed in the center's community gallery Tuesdays through Saturdays from 10 a.m. to 4 p.m. until July 31. Admission is free.

Many people are not familiar with the history of Japanese Americans who were held in internment camps in Hawaii, said Keiko Bonk, president and executive director of the Japanese Cultural Center.

The detained Japanese ''had to ask themselves these serious questions of who they were and where they belong and how these things could be happening to them,'' Bonk said.

''It was quite a sad time, as well as a challenging time for the Japanese community,'' she said.

The Japanese have to speak and educate people about the injustices, Bonk added.

About 10,000 people in Hawaii were investigated shortly after the Pearl Harbor attack. Buddhist priests, ministers, Japanese school principals and community leaders were detained on the night of Dec. 7, 1941. Within two years, the FBI picked up a number of kibei—Japanese Americans who moved to Japan during their youth to obtain an education and later returned to the United States. An estimated 1,250 Japanese Americans were detained in Hawaii during the war.

Japanese Americans, along with some Germans and Italians, were held at internment camps on Maui, Kauai and the Big Island before they were transported to a Sand Island camp in May 1942. Officials later decided that detainees should be held inland to avoid the possibility of an attack.

Detainees were taken to Honouliuli in Leeward Oahu on March 1, 1943. Takahashi said they were treated well.

''We all cooperate, no trouble,'' said Takahashi, whose wife, Yuriko, assisted as an interpreter.

He noted that detainees had the opportunity to do various jobs in the camp to earn coupons at 10 cents an hour. Takahashi said he and another man counted spoons before and after meals after they had heard that a detainee at Sand Island had sharpened a spoon into the shape of a knife in an attempt to commit suicide.

''If we miss some, gotta go all over,'' Takahashi said.

Takahashi said he took English classes, played his violin and attended Christian services on Sundays, when he prayed for the war to end.

At Honouliuli, Takahashi met Harry Urata, and the two became friends.

Yuriko Takahashi, who remained in Kaimuki, sent Takahashi a fingerprint of their first daughter, who was born in October 1943. In his excitement, Takahashi showed it to Urata. It was only then when Urata learned that Takahashi's wife was his former coworker.

A year later, Takahashi went on a conditional release from Honouliuli. He was required to report to authorities once a month until he was let go in February 1945.

Takahashi, a kibei who was educated, underwent ROTC training and taught in Japan for 24 years before he returned to Hawaii, wrote to the government in 1988 and requested a copy of his internment records.

A report cited in Takahashi's 1992 autobiography ''An Autobiography of a Kibei-Nisei'' stated he had dual citizenship and had ''never attempted to be expatriated.'' It further stated that he lived in Japan for more than 20 years, where he attended school, received military training and taught students for four years. It also mentioned that he was a Japanese-language teacher in Honolulu for three years.

Takahashi said the authorities thought he was pro-Japanese.

Both Takahashi and Urata, who were born in Hawaii, had taught at the Waialae Japanese Language School at different times before the war started.

After the internment, Takahashi worked as a carpenter with his brother-in-law. He later returned to teaching at Japanese schools in Honolulu, had two more children and built a house for his family in Kaimuki, where he and his wife still live.

Takahashi, now 89, continues to take English classes once a week.

In March 1943, Urata was called to the principal's office at Mid-Pacific Institute, where two FBI officers were waiting.

The officers questioned Urata for two days before he was taken to the immigration station, where he was held for two weeks in a shack surrounded by a barbed-wire fence.

He joined other Japanese Americans, many of them issei (first-generation Japanese), at Honouliuli. Urata read books in English and Japanese, played his guitar and sang songs to occupy his time. He also played baseball, practiced kendo and cut kiawe bushes outside the camp, which was also surrounded by a barbed-wire fence.

''You get to go out from the wire, fresh air,'' Urata said. While he was being held in Honouliuli, Urata said he often wondered why he was detained because he was an American citizen.

''Everytime I used to think like that inside the camp. I thought it was a mistake,'' Urata said.

Urata speculated he was held at the camp because he was a kibei who left for Japan when he was 6 and returned to Hawaii 13 years later.

Urata said he was among 69 men who were sent to the Tule Lake internment camp from

Honouliuli in November 1944 after he described himself as being ''hardheaded.''

After he was released from Tule Lake, he taught Japanese at the University of Minnesota for a couple of months before returning to Honolulu in December 1945, the year the war ended.

Urata opened a music studio in Palama, where he taught piano, guitar and voice lessons to generations of students. His studio moved to a few other locations before it settled in its current location in downtown Honolulu. He later married and continues to give voice lessons.

More than four decades later, Takahashi, Urata and thousands of former surviving internees each received a $20,000 reparation check and a letter of apology from the U.S. government for its injustice toward Japanese Americans during the war.

Urata, 85, said he is not bitter about his experience.

''They made mistakes,'' Urata said. ''Everybody makes mistakes. But don't repeat that.''

Mr. RAHALL. Mr. Speaker, I yield 4 minutes to the gentleman from American Samoa (Mr. FALEOMAVAEGA), a very important member of our Resources Committee.

Mr. GOHMERT. Mr. Speaker, I yield 2 minutes to the gentleman from American Samoa (Mr. FALEOMAVAEGA).

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

Mr. FALEOMAVAEGA. Mr. Speaker, I rise today in full support of H.R. 1492, a bill to provide for the preservation of historic internment facilities where our fellow Americans who happened to be of Japanese ancestry were detained during World War II.

I also want to especially commend my colleague, the gentleman from California (Mr. THOMAS), for his leadership and commitment for authoring this important legislation, in recognizing the need for some kind of a program to identify and provide a historic recognition of these so-called relocation camps or internment camps, I call them concentration camps, where well over 100,000 men, women and children, all Americans who happened to be of Japanese ancestry, all within the borders of our own country, were forced to move into these camps that were, in actuality, more like prison camps. Their homes and properties were confiscated without any compensation and certainly without any due process of law.

Despite all of this, and I want to share this with my colleagues if they do not know this, tens of thousands of Japanese-Americans requested to join our military to fight for our country during World War II. It was at the recommendation of George Marshall to President Roosevelt that we should establish a military force composed of these Japanese-Americans. That was the result of our establishing the 100th Battalion and 442nd Infantry groups who fought for our country in Europe against the Nazi Germans.

History documents the bravery of these Japanese Americans I submit, Mr. Speaker. The military records of the 100th Battalion and 442nd Infantry are without equal. These units received over 18,000 individual declarations, many awarded posthumously, for courage in the field of battle; 9,480 Purple Hearts; 560 Silver Stars; 52 Distinguished Service Crosses; and only one Medal of Honor. I submit, Mr. Speaker, something was wrong here, one Medal of Honor. The 442nd combat group emerged as the most decorated combat unit of its size ever in the history of the United States Army.

Because of the tremendous sacrifices made by Japanese-American soldiers and African-Americans during World War II, President Truman was so moved by this that he issued an Executive Order to desegregate our Armed Forces.

I am proud to say that the Honorable DANIEL K. INOUYE, the senior Senator from the State of Hawaii, and the late highly respected Senator Spark Matsunaga of Hawaii were among those who distinguished themselves in battle as soldiers of the 100th Battalion and 442nd Infantry.

It was while fighting in Europe that Senator INOUYE lost his arm while engaged in battle. After congressional mandate to review the military records of our Japanese-American veterans, I was privileged to attend the White House ceremony officiated by then-President Clinton that provided an additional 19 Congressional Medals of Honor to these Japanese Americans. I submit, Mr. Speaker, how beautiful it is to see justice, including for Senator INOUYE who was also awarded with the Congressional Medal of Honor.

When the patriotic survivors of the 100th Battalion and 442nd Infantry returned to the United States, many were reunited with their parents and brothers and sisters in these relocation camps. I do not even know if I could have done what they did. Despite all the hatred and the bigotry, the racism that was heaped upon these Americans, when they came back, they could not even get a haircut in San Francisco simply because they were Japanese-Americans. Full with their decorations and a uniform, they could not even get a haircut in San Francisco simply because they were Japanese.

I believe these sites must be preserved because they remind us to be vigilant, never to forget what happens if we allow our judgments to be clouded by bigotry and racism. Preserving these sites is how great America can truly be for our mistakes rather than sweeping them under the rug, and we learn from our mistakes in order to move to closer equality for all Americans.

Mr. Speaker, I wish I did not have to call myself a Pacific American or Japanese-American or African-American. I have not heard anybody refer to themselves as European American or French-Americans. I do not know why we are forced into this kind of a situation. I would just like to say we are all Americans. I hate these labels. I wish we could have done a better job.

I thank my dear friend for allowing me the time. I want to especially commend the gentleman from California (Mr. HONDA), my colleague and Chairman of our Asia Pacific Congressional Caucus, and also the gentlewoman from California (Ms. MATSUI), Mr. John Tateishi, the National Director of the Japanese-American League and my good friend, Floyd Mori, the Washington representative for JACL.

I want to share this point with my colleagues and the public about what happened.

I remember a former colleague and Member of this House for many years, my good friend, Secretary Norm Mineta, an 11-year-old in these camps. They had these machine gun nests posted all over the camps, and he was telling me this story. We asked, well, why do you have these machine guns around the camp? He said, they are to protect you from invaders coming in from outside. He said, if that is true, how come the machine guns are pointed all inside the camp?

Mr. Speaker, I think this bill is well-deserved of consideration and approval by our colleagues here, and again, I want to commend the gentleman from California (Mr. THOMAS), my good friend, for his leadership in getting this bill in, and I sincerely hope that the Members of this institution will approve this legislation.

Again, I thank my good friend for allowing me this additional minute to say these things.

□ 1245

Mr. RAHALL. Mr. Speaker, I yield the balance of my time to the gentleman from California (Mr. HONDA), whose determination and dedication helped bring this bill to the floor today.

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

Mr. HONDA. Mr. Speaker, I thank the gentleman from West Virginia (Mr. RAHALL) for yielding me this time and also special thanks to Chairman THOMAS for his impassioned advocacy of this bill. We owe him a lot.

Mr. Speaker, I rise in strong support of H.R. 1492, a measure to provide for the preservation of the historic confinement sites where Japanese Americans were detained during World War II. I thank Chairman THOMAS for his steadfast leadership in introducing and working so effectively in moving this bill forward. I am also pleased to be on this measure as an original cosponsor with the gentlewoman from California (Ms. MATSUI).

This bill creates a grant program to provide funding for local communities to implement plans to repair, restore, and preserve historic confinement sites so that current and future generations can learn the lessons of the internment period.

The bill uses the phrase ''confinement sites'' so that funds may be used not only for the 10 internment camps

but for associated sites as well. As stated in the bill, by preserving these sites, we will be showing to all Americans and to the world that we are a Nation that can deal honestly with past wrongs and further show that we can learn from our own mistakes. Ultimately, through this preservation program, we will demonstrate the Nation's commitment to equal justice under the law.

When I was a member of the California State Assembly, I had the privilege of passing legislation to create the California Civil Liberties Public Education Program. The measure created an education program to provide competitive grants for educational activities and the development of educational materials to ensure that the events surrounding the exclusion, forced removal, and incarceration of civilians and permanent resident aliens of Japanese ancestry would be remembered.

The Public Education Program has also shed light on how Executive Order 9066, the order paving the way for the internment, impacted others such as the Italian and German Americans as well as people of Japanese ancestry living in Latin America. I know that H.R. 1492 in a similar fashion will add to the depth of knowledge we have regarding the internment period. Only by understanding the causes leading to the internment can we as a Nation put ourselves in a better position to avoid making similar mistakes.

While my State bill in California helped to preserve the stories of the internment period, the legislation that Mr. THOMAS has authored will help to preserve the physical, tangible reminders of this period and will have a deep impact on our ability to make the stories real for future generations.

The internment sites, Manzanar, Topaz, Minidoka, Heart Mountain, Tule Lake, Gila River, Poston, Amache, Rohwer, Jerome, and related confinement sites stand as an important and powerful lesson for this Nation.

I commend the groups making up the Japanese American National Heritage Coalition and the work of Gerald Yamada and Floyd Mori in bringing this issue to Congress. And, again, I truly want to thank Chairman THOMAS for his efforts in making this bill a reality today and thank all of my colleagues who have joined as cosponsors of this measure.

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

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

Mr. GOHMERT. Mr. Speaker, in conclusion of the debate on this bill, I appreciate my colleagues across the aisle and the wonderful heartfelt comments that have been made. It is deeply moving to hear some of the personal testimonies, and when the gentleman from Samoa spoke saying he wished he were not referred to as a Pacific American, I was reminded of the events immediately after 9/11. Such a horrible evil thing when evil people filled with hate wanting to destroy innocent Americans came and crashed into our buildings, leaving so many devastated and destroyed and killed.

But I recall the day after 9/11, and like that flower that grows after a terrible event, so many all over America held hands and sang songs. I remember the day after that event there were no hyphenated Americans in the United States anywhere. We were all Americans. And that was one of the few things that we came away from. What a wonderful thing. Race did not matter. Background, socioeconomic conditions did not matter. We were Americans, and we were proud to be Americans.

The other comment that has been made that should be highlighted is that it is important to learn from our mistakes, and that is one of the great things about America. It is one of the very few nations in this world that will stand up and say, you know what, we made a mistake and we are going to fix it. We are going to notice it.

Some say Satchel Paige made the quote that often is used: ''Don't look back. They may be gaining on you.'' But I read that he also had a quote later in life: ''It's okay to look back. Just don't stare.'' This bill will allow us to look back, see that we made a mistake, and make sure that it is corrected.

With regard to our troops that come home from Iraq and Afghanistan who are doing the service of this country, it is important also that we learn from our mistakes, and without regard to race, creed, sex, gender, socioeconomic conditions, we welcome them home; we thank them for their bravery.

In the meantime, this is a good bill. We urge the passage of this bill.

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

The SPEAKER pro tempore (Mr. GUTKNECHT). The question is on the motion offered by the gentleman from Texas (Mr. GOHMERT) that the House suspend the rules and pass the bill, H.R. 1492, as amended.

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

A motion to reconsider was laid on the table.

EXPRESSING SENSE OF CONGRESS THAT RUSSIAN FEDERATION MUST PROTECT INTELLECTUAL PROPERTY RIGHTS

Mr. SHAW. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 230) expressing the sense of the Congress that the Russian Federation must protect intellectual property rights.

The Clerk read as follows:

H. CON. RES. 230

Whereas the protection of intellectual property is critical to the Nation's economic competitiveness in the 21st century;

Whereas Russia remains on the Special 301 Priority Watch List compiled by the United States Trade Representative (USTR), and the Congress is gravely concerned about the failure of the Russian Federation to live up to international standards in the protection of intellectual property rights, a core American asset;

Whereas the Congress wants to ensure that the Russian Federation redoubles its efforts to adopt and enforce aggressive laws, policies, and practices in the fight against piracy and counterfeiting;

Whereas the Congress is particularly concerned that the Russian Federation is, in the words of Senate Concurrent Resolution 28, a place where ''piracy that is open and notorious is permitted to operate without meaningful hindrance from the government'';

Whereas, according to USTR, enforcement of intellectual property rights in Russia ''remains weak and caused substantial losses for the U.S. copyright, trademark, and patent industries in the last year. Piracy in all copyright sectors continues unabated, and the U.S. copyright industry estimated losses of $1.7 billion in 2004.'';

Whereas the Russian Federation must understand that failure to adequately protect and enforce intellectual property rights will have political and economic ramifications for its relationship with the United States;

Whereas accession to the World Trade Organization (WTO) represents an agreement to conform one's practices to the rule of law, and to international standards in the WTO Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS);

Whereas notwithstanding some recent legislative improvements, Russia's regime to protect intellectual property rights does not conform with TRIPS standards;

Whereas the United States can ill afford deterioration of the world trading system by permitting the entry of a country into the WTO that has not demonstrated its willingness and ability to conform its practices to the requirements of the TRIPS; and

Whereas the leaders of the G–8, including President Putin of the Russian Federation, recently pledged to reduce intellectual property piracy through more effective enforcement: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that—

(1) the Russian Federation should provide adequate and effective protection of intellectual property rights, or it risks losing its eligibility to participate in the Generalized System of Preferences (GSP) program; and

(2) as part of its effort to accede to the World Trade Organization, the Russian Federation must ensure that intellectual property is securely protected in law and in practice, by demonstrating that the country is willing and able to meet its international obligations in this respect.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida (Mr. SHAW) and the gentleman from Maryland (Mr. CARDIN) each will control 20 minutes.

The Chair recognizes the gentleman from Florida (Mr. SHAW).

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

Today I rise in strong support for H. Con. Res. 230. I commend the gentleman from California (Mr. ISSA) for sponsoring this resolution and focusing congressional attention on this issue.

Russia's copyright piracy problem ranks with China as the two most serious in the world, and it appears to be

getting worse. Russia has become one of the world's largest producers and distributors of illegal compact discs and DVDs. Russia has the capacity to produce more than 20 million compact discs a month, providing ample supply of pirated material for export all over the world. Not only is the Russian Government failing to crack down on piracy, but officials even admit that several illegal plants are on Russian Government-owned classified sites where regular law enforcement is prohibited from visiting.

Intellectual property rights protection is critical to the United States economic competitiveness. According to the United States trade representative, Russia's failure to enforce IPR has ''caused substantial losses for the United States copyright, trademark, and patent industries in the last year,'' estimated by the U.S. copyright industry to amount to $1.7 billion in losses in 2004 alone.

Russia must understand that failure to adequately protect and enforce intellectual property rights will have political and economic ramifications. Specifically, Russia risks losing its eligibility to participate in the Generalized System of Preferences program, under which the United States provides unilateral duty-free treatment to imports from developing countries to encourage economic growth. In addition, it must ensure that intellectual property is securely protected in law and in practice as part of its effort to accede to the World Trade Organization.

I urge Russia to take immediate and effective steps to properly inspect all optical media production facilities and to shut down illegal plants and Internet sites, strengthen border enforcement, combat piracy and counterfeiting, and address deficiencies in its IPR laws.

I urge my colleagues to vote ''yes'' on H. Con. Res. 230 to tell Russia that it must be a responsible and dependable player in the international marketplace.

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

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

Mr. Speaker, I am pleased that we are considering this resolution today. I am deeply concerned by Russia's failure to effectively confront piracy of DVDs, music, and software. Last year, U.S. companies lost $1.7 billion as a result of Russia's failure to crack down on piracy.

This is not a new problem. Each year since 1997, the administration has cited Russia in its annual Special 301 Report for failing to adequately protect and enforce intellectual property rights; and, unfortunately the problem is getting worse rather than better.

In 2004, Russia's illegal optical disc production capacity continued to increase so much so that Russia is now supplying other countries with pirated products. Pirated discs produced in Russia have been found in more than 27 countries. The largest commercial Web site of pirated music is also based in Russia, and the Russian prosecutors have refused to initiate a criminal investigation to shut it down.

Mr. Speaker, piracy of intellectual property in Russia means lost jobs and opportunities here at home for American workers and businesses, and it must be stopped. I believe that Congress must send a strong message to Russia that the United States will not stand by while Russia robs U.S. workers and businesses of their intellectual property.

The resolution we are considering today would put Russia on notice that it risks losing its preferential trade benefits under the GSP program if it fails to improve its protection of intellectual property rights. The resolution also would put Russia on notice that Congress takes its intellectual property rights violations seriously and will consider whether Russia is making meaningful progress on this issue when we consider whether to grant Russia Permanent Normal Trade Relations status.

I urge my colleagues to join us in supporting this important legislation.

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

Mr. SHAW. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. ISSA), the author of this resolution.

Mr. ISSA. Mr. Speaker, I want to commend the chairman, the full committee chairman, and my cosponsor of this bill, Congresswoman WATSON.

We traveled to Russia earlier this year. We saw firsthand that it is not just about piracy; it is about a complete absence of a willingness to enforce that. On the main streets of Moscow, in fact, within sight of Red Square, one can every day see advertisements for movies, DVDs of movies that have not yet been released, impossible to exist, literally not existing in the United States; and yet they exist in Russia, already translated into Russian and, yes, as the chairman said earlier, into many other languages and exported around the world.

□ 1300

The Russians admit that they have more than four times as many optical disk producers as they could possibly justify. And although we often talk about DVDs and music, we also need to recognize that Microsoft and other major software producers are being robbed of countless billions in this process.

Many talk of the WTO accession and whether or not it is appropriate for Russia to be granted that, and I certainly agree it needs to be withheld until there is a showing of a willingness and a proven track record of enforcing these laws.

But I want to make one other closing remark here. We pay, we the world pay world-class prices for oil no matter where we buy it in the world, and today that is $60 a barrel. Russia is one of the largest exporters of oil to Western Europe; and yet in a time when they are receiving $60 a barrel on what costs them less than $2 a barrel to get out of the ground, they will tell you they cannot afford the intellectual property produced by Neil Diamond, Steven Spielberg or from Bill Gates' company. This is disingenuous.

Mr. Speaker, if they want to be part of a World Trading Organization, they have to recognize that value is not determined by what you are willing to pay; value is determined by what you are willing to pay for the legitimate goods in an arm's length relationship. We pay world-class prices for oil. They should pay world-class prices for intellectual property and not literally steal it from the inventors here in America and in Europe.

Mr. CARDIN. Mr. Speaker, I yield 5 minutes to the gentlewoman from California (Ms. WATSON), the co-author of the resolution.

Ms. WATSON. Mr. Speaker, I rise in strong support of the resolution that I coauthored with the gentleman from California (Mr. ISSA). It expresses the sense of Congress that the Russian Federation must do more to protect intellectual property or risk losing its participation in the generalized system of preferences and be prevented from joining the World Trade Organization.

I want to thank my colleague, the gentleman from California (Mr. ISSA), for his hard work in crafting this most-needed resolution and for being such a strong voice on the global protection of intellectual property assets. The resolution came about, as he described, after a trip that we took with other members of the International Relations Committee to Russia in May of this year.

During the trip, we learned firsthand the extent of the IP piracy problem in Russia which has reached epidemic levels, second only to China in the world. Indeed, the U.S. copyright industry lost over $1.7 billion last year due to Russian piracy and over $6 billion in the last 5 years, and the situation is getting worse.

When we visited in May, the number of optical disk plants was 36. Now it is 42 with a production capacity that far exceeds Russia's demand for CDs and DVDs. Even by recent Russian government accounts, 16 of these plants are the Russian State (owned) Restricted Access Regime Enterprises where regular law enforcement officials are prohibited from visiting. Such information is truly disturbing.

I represent Hollywood, California, the center of the U.S. copyright and creative industry. My constituents inform me that because of corruption, inefficiency and ineptitude in Russia's justice system, U.S. industry complaints have been routinely dismissed. The few sentences that have been handed down are wholly inadequate and non-deterrent.

I fear that, unless Russia substantially improves IPR law and enforcement practices, Russian participation in the world trade system should be restricted.

This is the reason why I introduced this along with Mr. ISSA to condition Russia's accession to the World Trade Organization on the Russian government's demonstrated commitment in meeting its international obligations and protecting intellectual property rights.

We understand that to curb the proliferation of IPR violations in Russia, it is not enough to focus on how many laws are passed by the Duma and how many raids on optical disk plants are being conducted each year. We have to generate a sense of urgency and motivate the political will of the Russian government.

Simply put, a healthy and vibrant global trade market should not tolerate the ongoing systemic piracy of intellectual assets, and the Russian political establishment must understand that. I am pleased to note that over 100 Members of Congress have cosponsored this resolution. It will send a clear and convincing message that the United States Congress is looking at the issue closely and that real reform must happen now. Once again, I want to thank the congressman for his leadership on this issue. I urge my colleagues to support this critical resolution.

Mr. SHAW. Mr. Speaker, I yield 4 minutes to the gentleman from Virginia (Mr. GOODLATTE), the chairman of the Committee on Agriculture.

Mr. GOODLATTE. Mr. Speaker, I rise in strong support of House Concurrent Resolution 230, expressing the sense of the Congress that the Russian Federation must protect intellectual property rights.

As co-chairman of the Congressional International Anti-piracy Caucus, I am very concerned about the appalling levels of copyright piracy in Russia. Russia's copyright piracy problem is among the most serious in the world, and it is getting worse. In Russia, 80 percent of all motion pictures and 87 percent of business software are pirated. I have personally witnessed pirated American copyrighted works, movies, music and software, sold openly on the streets in Moscow, even in view of the Kremlin.

Considering that the core copyright industries account for 6 percent of the U.S. gross domestic product and the total copyright industries account for approximately 12 percent of U.S. GDP, it is clear that America's businesses are facing a serious problem in Russia. In fact, the FBI estimates that U.S. businesses lose between $200 and $250 billion a year worldwide to counterfeit goods.

We must make sure that each nation recognizes that piracy is a global problem. The growth of piracy among organized crime rings is illustrative of its global scope.

The combination of enormous profits and practically nonexistent punishments by many foreign governments makes copyright piracy an attractive cash cow for organized crime syndicates. Often specializing in optical disks and business software piracy, these crime rings are capable of coordinating multi-million dollar efforts across multiple national borders. Russia has become one of the largest producers and distributors of illegal media material, and the increasing number of optical disk plants in Russia has a production capacity that far exceeds Russian demand for copyrighted works.

Another disturbing trend is the growing willingness of foreign governments to condone the use of, and even use, pirated materials. At its best, government sets the standards for the protection of rights. At its worst, government encourages and even participates in the breach of those rights.

By recent Russian government accounts, 16 optical disk plants are on Russian State (owned) Restricted Access Regime Enterprises where regular law enforcement is prohibited from visiting. In addition, corruption in Russia's justice system results in the routine dismissal of piracy complaints or inadequate and non-deterrent sentences.

We all must realize that copyright piracy and counterfeiting are serious problems that do not merely affect private companies' bottom lines in the short term. They also discourage investment and innovation in the long term which will eventually lead to fewer consumer choices, a repercussion that affects entire societies and economies. Government must work together to reward creators and punish thieves.

In addition, counterfeit goods can pose serious risk of bodily harm and even death. The U.S. Chamber of Commerce estimates that trade in counterfeit goods makes up between 6 and 9 percent of all world trade. With products as essential as airplane parts and car brakes being faked, we must focus attention on this growing problem for the sake of our citizens' safety.

In passing House Concurrent Resolution 230 today, we send a clear signal to the Russian Federation we will not stand idly by while our copyrights are infringed. The Russian Federation must make fighting copyright piracy a priority for the country and law enforcement authorities. And, if Russia's accession to the World Trade Organization is to be approved by Congress, Russia must make meaningful progress against piracy now.

I urge my colleagues to join me in voting for this important resolution. I commend the gentleman and gentlewoman from California on this issue.

Mr. SHAW. Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. GOHMERT).

Mr. GOHMERT. Mr. Speaker, I want to thank my colleagues from California for pushing this forward.

The abuses of intellectual property are not only harmful economically, but they can be harmful to our physical well-being and safety, and not just here but also in the Russian Federation.

When Russian companies steal products that are patented, copyrighted or trademarked, but they do not adhere to the proper safety standard such as electrical wiring, car parts and hair driers, consumers can be physically harmed. So there are really two prongs why we must urge Russia to shape up their intellectual property enforcement.

First, because of the harm to our creators and artists; and, second, to the threats to safety since oftentimes the goods that infringe are substandard.

Copyright piracy abroad hurts our economy here and the high-tech industry, since it is such a strong driving force behind our economy, piracy stifles its growth and productivity. Copyright holders should be protected to ensure that we continue to innovate and advance technology both at home and abroad.

Local industries have been crippled when high-quality pirated versions of their products are sold abroad. This can also result in lost tax revenues and lost jobs here at home. The Russian Federation must also work to protect and enforce intellectual property rights for its own good as well.

For example, if the intellectual property rights that encourage innovation and invention are not protected, incentives will be lost, the innovations and inventions will cease; therefore, the Russian Federation as well as the rest of the world will lose out on these life-enhancing innovations.

Nonenforcement of intellectual property rights because of either neglect or greed will figuratively as well as literally kill the goose that is laying the life-enhancing golden eggs.

Mr. CARDIN. Mr. Speaker, I urge my colleagues to support this very important resolution, and I yield back the balance of my time.

Mr. SHAW. Mr. Speaker, I want to compliment Ms. WATSON and Mr. ISSA for bringing this most important resolution to the floor in a very fine, but too often rare, bipartisan effort. I urge all Members to vote for it.

In the last 25 years, our relationship with Russia has warmed up considerably and we are enjoying good relations with the Russian Federation. However, to extend this into full trade, we need to be able to respect each other's intellectual property rights. Therefore, I ask for a ''yes'' vote on this resolution, and I hope the Russian Federation is listening to the United States Congress.

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

The SPEAKER pro tempore (Mr. CULBERSON). The question is on the motion offered by the gentleman from Florida (Mr. SHAW) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 230.

The question was taken.

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

Mr. SHAW. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

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

GENERAL LEAVE

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

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

There was no objection.

□ 1315

RECOGNIZING THE 60TH ANNIVERSARY OF THE DISAPPEARANCE OF THE 5 NAVAL AVENGER TORPEDO BOMBERS OF FLIGHT 19

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 500) recognizing the 60th anniversary of the disappearance of the 5 naval Avenger torpedo bombers of Flight 19 and the naval Mariner rescue aircraft sent to search for Flight 19, as amended.

The Clerk read as follows:

H. RES. 500

Whereas on December 5, 1945, the 5 Avenger torpedo bombers of Flight 19, originating at the Naval Air Station of Fort Lauderdale, Florida, and its crew of 14 Navy airmen, disappeared;

Whereas the Mariner rescue aircraft sent to search for Flight 19, originating at the Naval Air Station of Banana River, Florida, and its crew of 13 Navy airmen, also disappeared on that date;

Whereas December 5, 2005, marks the 60th anniversary of the disappearance of Flight 19;

Whereas the loss of Flight 19 occurred during peacetime;

Whereas the disappearance of Flight 19 sparked one of the largest air and sea rescue searches in history covering over 200,000 square miles;

Whereas all investigations of the disappearance of Flight 19 have failed to recover any aircraft, debris, or remains;

Whereas there remain unanswered questions concerning the disappearance of Flight 19; and

Whereas there are continuing efforts with the latest technology to determine the location of the lost aircraft and crews: Now, therefore be it

Resolved, That the House of Representatives—

(1) recognizes the 60th anniversary of the disappearance of the 5 naval Avenger torpedo bombers of Flight 19 and the naval Mariner rescue aircraft sent to search for Flight 19;

(2) honors the memory of the 27 Navy airmen lost in these disappearances;

(3) recognizes the historical significance of Flight 19;

(4) acknowledges continuing efforts to determine what caused these disappearances; and

(5) commends the Naval Historical Center for preserving the history of Flight 19.

The SPEAKER pro tempore (Mr. CULBERSON). Pursuant to the rule, the gentlewoman from Virginia (Mrs. JO ANN DAVIS) and the gentleman from North Carolina (Mr. BUTTERFIELD) each will control 20 minutes.

The Chair recognizes the gentlewoman from Virginia (Mrs. JO ANN DAVIS).

GENERAL LEAVE

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the resolution under consideration.

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

There was no objection.

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of H. Res. 500, recognizing the 60th anniversary of the loss of 27 men with Flight 19 and the naval Mariner rescue aircraft.

On December 5, 1945, the United States Navy tragically lost 27 of its bravest men to circumstances that are still surrounded in mystery. On that day, Flight 19, comprised of five Avenger torpedo bombers with a total crew of 14 flew out of Fort Lauderdale's Naval Air Station for a routine exercise and never returned.

After having lost contact with Flight 19, the Navy deployed a rescue mission of 13 men, all of whom never returned.

Theories abound about what happened that day with the disappearance of 27 men and their planes, sparking one of the largest air and sea searches in history. Hundreds of ships and aircraft scoured over 200,000 square miles of the Atlantic Ocean and the Gulf of Mexico. The wreckage was never found. Questions have gone unexplained.

Most try to explain away the events by offering the theory that Flight 19 disappeared in the Bermuda Triangle.

After intense investigation, we do know that Flight 19 lifted into the air from the Naval Air Station at Fort Lauderdale, Florida at 2:10 in the afternoon during peacetime. It was a routine practice mission under the command of Lieutenant Charles Taylor. After having completed their objective, the flight plan called for them to fly an additional 67 miles east then turn north for 73 miles and finally back to the Naval Air Station Fort Lauderdale, making their distance a total of 120 miles.

While attempting the return flight, a radio transmission from Taylor signaled that his compasses were not working, but indicated he believed himself to be somewhere over the Florida Keys. Flight 19 thereafter lost contact with the tower and was never heard from again.

The Mariner took off approximately at 7:30 p.m. in search of Flight 19 and was never seen nor heard from after takeoff. Based upon a report from a merchant ship off Fort Lauderdale which sighted a burst of flame, it is believed that this aircraft exploded at sea and sank. However, no trace of the plane or its crew was ever found.

Mr. Speaker, on one tragic day, 27 families experienced excruciating losses of their loved ones, and this Nation lost 27 of its bravest and most dedicated Americans. While the events of that day may go unexplained, the memories of those men will not go unhonored. These 27 men have the thanks of a grateful Nation.

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

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

Mr. Speaker, I rise in support of House Resolution 500, introduced by the gentleman from Florida (Mr. SHAW). This resolution recognizes the 60th anniversary of the disappearance of the five naval Avenger torpedo bombers of Flight 19 and the naval Mariner rescue aircraft sent to search for Flight 19, and it honors the memory of those 27 Navy airmen lost in the disappearance.

As the gentlewoman from Virginia (Mrs. JO ANN DAVIS) said a moment ago, on December 5, 1945, at approximately 2:10 p.m. a squadron of TBM Avenger torpedo bombers departed from Naval Air Station Fort Lauderdale in Florida on the first leg of a routine exercise. The five-plane formation turned east and headed out over the Atlantic Ocean and subsequently disappeared off the coast of Florida. A 13-man crew of a PBM Mariner was sent out to search for the men of Flight 19, and they too never returned from the area commonly known as the Bermuda Triangle.

The disappearance of the five Avengers and the Mariner resulted in one of the largest air and sea searches in history. Hundreds of ships and aircraft combed 200,000 square miles of the Atlantic Ocean and the Gulf of Mexico, while search parties on land looked for evidence on the off chance that the aircraft may have gone down undetected. Nothing was ever found. No wreckage, no evidence was left of the fate of these six airplanes.

Flight 19, Mr. Speaker, became the Lost Patrol and has been associated with myths of mysterious disappearances of ships and airplanes with the legendary Bermuda Triangle. According to the official board of inquiry, the mission was an overwater navigation training hop composed of an instructor, four naval aviators undergoing advanced training, and nine enlisted aircrew, except for one, who were all undergoing advanced combat aircrew training.

The flight, Mr. Speaker, was entitled Navigation Problem Number 1, which departed Naval Air Station Fort Lauderdale on a triangular route with a brief stop for some glide bombing practice on the first leg out. The weather for the area was described as favorable. The planes were thoroughly preflighted. All survival gear was intact.

Fuel tanks were full. Instruments were checked, but none of the aircraft had a clock.

While Flight 19 remains one of America's most enduring, unsolved mysteries, some facts are known. Flight 19's departure from Naval Air Station Fort Lauderdale was led by one of the students. At some point the instructor, Fox Tare, 28, took the lead after the flight turned north on the second leg, thinking that his students were on the wrong heading. While the instructor was familiar with the Florida Keys, with both compasses out and with evidently no concept of time, he could have mistaken the cays of the Northern Bahamas for the Keys and the water beyond for the Gulf of Mexico.

Toward that end, the favorable weather of low ceiling and daytime 10-mile visibility were replaced by rain squalls and by turbulence and darkness of winter night. Terrific winds were encountered, and the calm sea now ran rough. Although no one can officially say what truly happened to Flight 19, former TBM pilots have expressed the opinion that an Avenger attempting to ditch at night in a heavy sea would almost certainly not survive the crash.

Recently, Mr. Speaker, there has been a renewed focus on solving this continuing mystery. Hopefully, this new investigation into the events on December 5, 1945, will result in concrete evidence as to the fate of Flight 19 and the PBM Mariner and will bring closure to the families who lost their loved ones on that fateful day.

Mr. Speaker, I again want to commend my colleague on this resolution.

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

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I yield as much time as he may consume to the gentleman from Florida (Mr. SHAW), the author of this resolution and a distinguished member of the Ways and Means Committee.

Mr. SHAW. Mr. Speaker, the Bermuda Triangle Flight 19 is one of the great mysteries of south Florida. There are those that will stand and look out to sea and say there is something strange out there, because it was on December 5, 1945, when 27 families experienced excruciating losses of their loved ones and this Nation lost 27 of its bravest and most dedicated Americans. While the events that tragic day may go unexplained, and they are still unexplained to this date, the memory of those men will not go unrecognized.

I am proud to sponsor H. Res. 500, which recognizes the 60th anniversary of the disappearance of the five naval Avenger torpedo bombers of Flight 19 and the naval Mariner rescue aircraft sent to search for Flight 19. These 27 men have the thanks of a grateful Nation.

At this time I would like to pause for a moment and read the names of the men who disappeared with Flight 19 and the naval Mariner rescue crew: Flight 19 crew headed by Charles Taylor, Forrest J. Gerber, Edward Joseph Powers, Walter Reed, George Francis Devlin, Herman Thelander, Burt Baluk, Robert Peter Gruebel, Robert Gallivan, Howell Thompson, George Paonessa, William Lightfoot, George Stivers, Joseph Bossi.

This is the Mariner crew: Walter Jeffrey, Harrie Cone, Charles Arcenaux, Roger Allen, Lloyd Eliason, Alfred Zywicki, James Osterheld, John Menendez, Philip Neeman, James Jordan, Robert Cameron, Wiley Cargill, Donald Peterson. Their memories are lodged in the hearts of their loved ones who might survive them today.

I too would join with the ranking member on this particular bill to say that I do hope this mystery will finally be solved, because in south Florida this is still one of the great mysteries, what went on on December 5, 1945, and the Bermuda Triangle that caused so many to perish and so many aircraft.

Mr. Speaker, may God bless the families of these American heroes.

Mr. SPRATT. Mr. Speaker, I rise today in support of H. Res. 500, a resolution to commemorate the 60th anniversary of the disappearance of the Navy's Flight 19 in the Bermuda Triangle on December 5, 1945. Every schoolkid in America knows the Bermuda Triangle as a place of ghost stories and mystery—a place where whole ships and airplanes literally disappear without a trace. Rumors abound about the cause of these disappearances, ranging from mechanical failures to irregular magnetic field activity to extraterrestrial abduction. No mystery from the ''Devil's Triangle'' has more captured the attention or imagination of America than the ill-fated journey of Navy Flight 19.

At 2:10 p.m. on December 5, 1945, Flight 19, a squadron of five Navy Avenger TBM Torpedo Bombers, took off from Fort Lauderdale for a training run that took them into the heart of the Bermuda Triangle. The weather was cooperative and the water was calm, which was deemed lucky for a squadron where only one of the 14 airmen, Lt. Charles Taylor, had combat flight experience. Nonetheless, midway through the mission, Lt. Taylor became disoriented, claiming his compasses had stopped working, a curious phenomenon in an area known for erratic magnetic activity. Thinking himself over the Florida Keys, Lt. Taylor pointed his squadron Northeast in an attempt to return them to land. Unfortunately, the squadron was over the Bahamas to the east of Florida instead of over the Keys, so their continued northeasterly journey actually took them further out to sea. At 7:04 p.m., the last radio contact was made by Taylor, when he reportedly uttered ''everything is wrong . . . strange . . . the ocean doesn't look as it should'' and ''They look like they're from outer space—don't come after me.'' After this communication, Flight 19 was never heard from again.

This kicked off a massive search spanning 250,000 square miles of ocean. As part of this search, two additional aircraft known as Martin Mariners, were deployed by the Navy to patrol and look for wreckage. With no indication of difficulty, one of these Martin Mariners failed to meet at a scheduled rendezvous point, and was never heard from again. No sign of the Mariner or the Flight 19 Avengers has ever been found. Roger Allen from Sumter, South Carolina, in my district, was one crew member on the missing Mariner whose fate has yet to be discovered.

H. Res. 500 takes the laudable step of commemorating the 60th anniversary of the disappearance of Flight 19 and the naval Mariner rescue aircraft and honoring the memory of the 27 Navy airmen lost on these flights. It also acknowledges the continuing efforts to determine what caused these disappearances so we can provide answers and closure to the families of the airmen who were lost. I commend the fascinating and haunting tale of Flight 19 to anyone interested in the mystery of the Bermuda Triangle, and I join Congressman SHAW in urging my colleagues to support H. Res. 500.

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

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Virginia (Mrs. JO ANN DAVIS) that the House suspend the rules and agree to the resolution, H. Res. 500, as amended.

The question was taken.

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

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

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

AUTHORIZING THE SECRETARY OF THE NAVY TO ENTER INTO A CONTRACT FOR THE NUCLEAR REFUELING AND COMPLEX OVERHAUL OF THE USS ''CARL VINSON''

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4326) to authorize the Secretary of the Navy to enter into a contract for the nuclear refueling and complex overhaul of the USS *Carl Vinson* (CVN–70).

The Clerk read as follows:

H.R. 4326

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

SECTION 1. REFUELING AND COMPLEX OVERHAUL OF THE U.S.S. CARL VINSON.

(a) CONTRACT AUTHORIZED.—Notwithstanding section 1502 of title 31, United States Code, the Secretary of the Navy may, subject to subsection (c), enter into a contract for the nuclear refueling and complex overhaul of the U.S.S. Carl Vinson (CVN–70).

(b) FISCAL YEAR 2006 LIMITATION.—Funds available to the Secretary of the Navy for fiscal year 2006 may be used for the commencement of work on the contract authorized by subsection (a) during fiscal year 2006, but only for obligations in an amount not to exceed $89,000,000. Additional amounts may

be obligated for such work for fiscal year 2006 only to the extent to which authority is expressly provided by law, and funds are appropriated by law, for such obligations after the date of the enactment of this Act.

(c) CONDITION ON SUBSEQUENT CONTRACT PAYMENTS.—A contract entered into under subsection (a) shall provide that any obligation of the United States to make a payment under the contract—

(1) for fiscal year 2006 for an amount that would result in the total of the amounts so paid being in excess of the amount specified in subsection (b) is subject to the availability of appropriations for that purpose made in an Act making appropriations for the Department of Defense for that fiscal year; and

(2) for a fiscal year after fiscal year 2006 is subject to the availability of appropriations for that purpose for that fiscal year.

(d) WAIVER OF PROHIBITION OF NEW STARTS UNDER CONTINUING RESOLUTION AUTHORITY.—The contract authorized by this section may be entered into without regard to section 102(a) of Public Law 109–77 (119 Stat. 2038).

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Virginia (Mrs. JO ANN DAVIS) and the gentleman from North Carolina (Mr. BUTTERFIELD) each will control 20 minutes.

The Chair recognizes the gentlewoman from Virginia (Mrs. JO ANN DAVIS).

GENERAL LEAVE

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the resolution under consideration.

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

There was no objection.

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 4326, which would authorize the Secretary of the Navy to commence the nuclear refueling and complex overhaul of USS *Carl Vinson* (CVN–70). It will also place a cap on expenditures while we continue to work through the conferences on the defense authorization and the defense appropriations bills. By taking this action now, we allow the work to begin as originally contemplated by the Navy. The USS *Vinson* is currently in the Newport News shipyard; and with this legislation, the overhaul can begin in earnest without needless delay and without layoffs of the highly trained and highly capable shipyard workers.

□ 1330

The Refueling and Complex Overhaul, or RCOH, of a *Nimitz*-class aircraft carrier is the one-time mid-life maintenance availability for this class of ship. Consisting of a vigorous 40-month work package, the RCOH provides the necessary refueling and ship maintenance to enable the aircraft carrier to sail for another 25 years. I think it is important to note that the entire work package of over 26 million man-hours in the RCOH is roughly one-half of the work required to build an aircraft carrier from scratch.

Over this maintenance period of 3½ years, there are countless improvements, modernizations, and renovations to be made in preparation for the second half of this magnificent warship's life, and the RCOH work represents over 35 percent of the entire maintenance requirement for the 50-year life of the *Nimitz* class.

While the nuclear refueling is the centerpiece of the work package, these ships contain over a billion parts; and the fact is, Mr. Speaker, that these parts need maintenance and updating. The *Carl Vinson*, for example, has sailed millions of miles in the 23 years since her commissioning in 1982, and this maintenance period is absolutely essential to her future service.

The USS *Carl Vinson* has served our country remarkably well. The ship has participated in operations around the world, most notably in the days after September 11, 2001, when the ship launched the first carrier-based air strikes into Afghanistan as part of Operation Enduring Freedom. In the following months, aircraft launched from the USS *Carl Vinson* flew over 4,200 missions to eliminate terrorist strongholds and training camps used by al Qaeda. I cannot think of a better way to support our Navy and our military than to pass this legislation that will enable the Navy and the thousands of shipyard workers at Northrop Grumman Newport News to complete this vital refueling and maintenance period.

In closing, I want to thank Chairman DUNCAN HUNTER of the House Armed Services Committee and his staff; Congressman SCOTT; as well as House leadership; and especially Congressman ERIC CANTOR for their hard work on this legislation.

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

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

Mr. Speaker, I thank my colleagues for considering this resolution today, and let me commend my chairman (Mr. HUNTER) and my ranking member (Mr. SKELTON) for their quick and decisive work on this issue.

Mr. Speaker, aircraft carriers are the backbone of our naval forces. We have seen their profound impact and flexibility in Operation Iraqi Freedom and Operation Enduring Freedom and during tsunami relief efforts in Indonesia, and in other locations.

The bulk of our carrier force is comprised of nuclear carriers which must be refueled and refitted every 25 years. This process takes approximately 2 years, and carriers are refitted back to back.

With that said, Mr. Speaker, the minority has reviewed this bill, and I rise today in strong support of H.R. 4326. This bill is necessary because this Congress, the House and Senate both, have as of yet been unable to finish either the defense appropriations bill or the defense authorization bill. I regret to inform the House, Mr. Speaker, that today, a full 47 days after the start of the current fiscal year, we have left the Department of Defense without a budget and without an authorization from Congress. This occurs even as the men and women of our military are deployed at numerous locations around the world fighting a war.

I mention these facts, Mr. Speaker, because the bill we consider today is intended to correct just one of the thousands of problems created by our inability to complete our work. The United States Navy has long planned to begin the process of refueling the USS *Carl Vinson* this week. The *Vinson* is a *Nimitz*-class nuclear-powered aircraft carrier which has served this Nation with great distinction since she was commissioned back in 1982. She is named for a fine Member of this body, a Democrat, I might say, from the State of Georgia, who chaired the House Armed Services Committee.

Possibly the *Vinson*'s finest hour came on October 7 of 2001 when she launched the first U.S. air attacks in support of Operation Enduring Freedom. Over the next 72 days, the *Vinson* launched over 4,000 combat sorties in support of U.S. and Northern Alliance forces in Afghanistan. It goes without saying, Mr. Speaker, that these air strikes led directly, directly to a very successful outcome.

Today, however, the Navy finds itself in a peculiar bind. It cannot proceed to refuel this ship, which will allow it to operate for another 25 years in defense of this country, without an authorization from Congress. What does this mean? Mr. Speaker, it means that up to 1,700 workers at the Newport News shipyard in Virginia could be laid off as early as next week. To give these workers pink slips would be an utter travesty, Mr. Speaker; and for this reason, I urge my colleagues to vote in favor of this bill.

It must be said, however, that the passage of this bill is an entirely inadequate substitute for passage of the fiscal year 2006 defense authorization and defense appropriations bills. As I mentioned, there are literally thousands of military programs affected in ways, both large and small, by the fact that Congress has not completed its work. While I am pleased that we can save many good jobs in Virginia today by passing this bill, I cannot be satisfied. At a time of war, we owe it to all of the members of our military and we owe it to the Department of Defense to see the defense authorization and appropriations bills completed.

Mr. Speaker, as I travel to visit our troops next week, I would like to visit our warfighters with the satisfaction of knowing that we have passed the 2006 defense budget.

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

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I am pleased to yield such time as she may consume to another

distinguished member of the Armed Services Committee and my colleague from Virginia (Mrs. DRAKE).

Mrs. DRAKE. Mr. Speaker, I too rise in strong support of H.R. 4326. After 13 historic deployments, the nuclear carrier USS *Carl Vinson* is ready to undertake a large and complex refueling process at Newport News, Virginia. The Refueling and Complex Overhaul will provide the necessary work for the 2,000 workers standing by at Newport News who are simply waiting on Congress to do its job and authorize this work to begin.

Funds are authorized in both versions of the fiscal year 2006 defense authorization bill and appropriated in both versions of the fiscal year 2006 defense appropriations bill. However, delays with both bills have created a serious situation. If the Navy is not granted this authority to enter into this contract, the result will be the laying off of hundreds of shipyard workers in Hampton Roads.

The ship is currently being prepped for refueling, using fiscal year 2005 dollars. However, the funding for such preparation runs out this Friday. Without this legislation, the workers, materials, and resources that have already been assigned to complete such work will have to be reallocated, thus costing the American taxpayer millions.

The passage of this bill will allow the Navy to contract and fund this maintenance for 30 to 45 days until the defense authorization and appropriations conference reports can be acted upon.

Mr. Speaker, I would also like to thank Chairman DUNCAN HUNTER, the staff of the Armed Services Committee, Congresswoman DAVIS, as well as House leadership and Congressman ERIC CANTOR, for their hard work on this legislation.

Mr. BUTTERFIELD. Mr. Speaker, I yield such time as he may consume to my friend and colleague from Virginia (Mr. SCOTT).

Mr. SCOTT of Virginia. Mr. Speaker, I thank the gentleman from North Carolina for yielding me this time.

Mr. Speaker, the USS *Carl Vinson* was scheduled to commence Refueling and Complex Overhaul at Northrop Grumman Newport News last week on November 10.

The authorization and funding for this project was included in the President's fiscal year 2006 budget request and was included in each Chamber's version of the fiscal year 2006 defense authorization and appropriations bills. There is no controversy about these provisions, but the defense bills, as we have heard, have not passed, they are still being negotiated, and there may be some time before final action is taken. Since neither the defense authorization or appropriations conference reports have passed, the lack of authorization language and funding has prevented the Navy from moving forward with this contract, and no work can begin until some legislation actually passes. Some of the workers may be temporarily placed on other jobs, but most will either be idle or laid off, possibly replaced by less experienced workers. Vendor schedules will also be adversely affected.

Mr. Speaker, this delay will obviously increase the costs of the overhaul program. It will complicate other ship construction and repair schedules at Northrop Grumman Newport News facilities. H.R. 4326 will allow the work to proceed without further delay. It will save money and enhance national security by speeding up the return of the *Vinson* to the carrier fleet.

Mr. Speaker, I want to thank the gentlewoman from Virginia (Mrs. JO ANN DAVIS), for her hard work on this bill; my other colleagues, Mrs. DRAKE and the gentleman from North Carolina. We all have shipyard workers in our districts. I want to also thank the leadership of the Armed Services Committee and the leadership of the House for expediting the passage of this bill.

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

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. BOOZMAN). The question is on the motion offered by the gentlewoman from Virginia (Mrs. JO ANN DAVIS) that the House suspend the rules and pass the bill, H.R. 4326.

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

A motion to reconsider was laid on the table.

EXPRESSING THE SENSE OF THE CONGRESS REGARDING OVERSIGHT OF THE INTERNET CORPORATION FOR ASSIGNED NAMES AND NUMBERS

Mr. UPTON. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 268) expressing the sense of the Congress regarding oversight of the Internet Corporation for Assigned Names and Numbers.

The Clerk read as follows:

H. CON. RES. 268

Whereas the origins of the Internet can be found in United States Government funding of research to develop packet-switching technology and communications networks, starting with the ''ARPANET'' network established by the Department of Defense's Advanced Research Projects Agency in the 1960s and carried forward by the National Science Foundation's ''NSFNET'';

Whereas in subsequent years the Internet evolved from a United States Government research initiative to a global tool for information exchange as in the 1990s it was commercialized by private sector investment, technical management and coordination;

Whereas since its inception the authoritative root zone server—the file server system that contains the master list of all top level domain names made available for routers serving the Internet—has been physically located in the United States;

Whereas today the Internet is a global communications network of inestimable value;

Whereas the continued success and dynamism of the Internet is dependent upon continued private sector leadership and the ability for all users to participate in its continued evolution;

Whereas in allowing people all around the world freely to exchange information, communicate with one another, and facilitate economic growth and democracy, the Internet has enormous potential to enrich and transform human society;

Whereas existing structures have worked effectively to make the Internet the highly robust medium that it is today;

Whereas the security and stability of the Internet's underlying infrastructure, the domain name and addressing system, must be maintained;

Whereas the United States has been committed to the principles of freedom of expression and the free flow of information, as expressed in Article 19 of the Universal Declaration of Human Rights, and reaffirmed in the Geneva Declaration of Principles adopted at the first phase of the World Summit on the Information Society;

Whereas the U.S. Principles on the Internet's Domain Name and Addressing System, issued on June 30, 2005, represent an appropriate framework for the coordination of the system at the present time;

Whereas the Internet Corporation for Assigned Names and Numbers popularly known as ICANN, is the proper organization to coordinate the technical day-to-day operation of the Internet's domain name and addressing system;

Whereas all stakeholders from around the world, including governments, are encouraged to advise ICANN in its decision-making;

Whereas ICANN makes significant efforts to ensure that the views of governments and all Internet stakeholders are reflected in its activities;

Whereas governments have legitimate concerns with respect to the management of their country code top level domains;

Whereas the United States Government is committed to working successfully with the international community to address those concerns, bearing in mind the need for stability and security of the Internet's domain name and addressing system;

Whereas the topic of Internet governance, as currently being discussed in the United Nations World Summit on the Information Society is a broad and complex topic;

Whereas it is appropriate for governments and other stakeholders to discuss Internet governance, given that the Internet will likely be an increasingly important part of the world economy and society in the 21st Century;

Whereas Internet governance discussions in the World Summit should focus on the real threats to the Internet's growth and stability, and not recommend changes to the current regime of domain name and addressing system management and coordination on political grounds unrelated to any technical need; and

Whereas market-based policies and private sector leadership have allowed this medium the flexibility to innovate and evolve: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of Congress that—

(1) it is incumbent upon the United States and other responsible governments to send clear signals to the marketplace that the current structure of oversight and management of the Internet's domain name and addressing service works, and will continue to deliver tangible benefits to Internet users worldwide in the future; and

(2) therefore the authoritative root zone server should remain physically located in

the United States and the Secretary of Commerce should maintain oversight of ICANN so that ICANN can continue to manage the day-to-day operation of the Internet's domain name and addressing system well, remain responsive to all Internet stakeholders worldwide, and otherwise fulfill its core technical mission.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Michigan (Mr. UPTON) and the gentleman from Virginia (Mr. BOUCHER) each will control 20 minutes.

The Chair recognizes the gentleman from Michigan (Mr. UPTON).

GENERAL LEAVE

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

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

There was no objection.

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

Mr. Speaker, I rise in strong support of H. Con. Res. 268. As a cosponsor of this resolution, I want to thank Mr. DOOLITTLE, Mr. BOUCHER, and Mr. GOODLATTE for their bipartisan leadership in introducing it. I also want to thank my chairman, Chairman BARTON, and the House leadership for their willingness to expedite the consideration of this resolution on the floor this afternoon.

Today's Internet has resulted in a flow of information and commerce to the farthest reaches of the globe that was not imaginable even a little more than a decade ago. The Internet has evolved into the greatest global communication the world has ever seen, precisely because we have kept it free from the heavy hand of government control.

Currently, a private, nongovernmental, nonprofit organization called the Internet Corporation for Assigned Names and Numbers, or ICANN, regulates and manages the Domain Name System under which IP addresses and registration of top-level domains like ''dot-org,'' ''dot-com,'' and ''dot-gov'' are assigned. ICANN operates under a contract through the Department of Commerce, U.S. Department of Commerce, and this relationship stems from the U.S. Government's original development and funding of what has become the Internet. While not everyone may agree with every decision that ICANN has made over the years, including myself, it is a model for Internet governance that has served the global Internet community quite well.

However, some countries have wanted to radically alter the way in which the Internet is governed. Rather than maintaining the current nongovernmental system and working to improve that successful model, these countries sought to scuttle ICANN and put the U.N. in charge. Putting the U.N.'s international governmental bureaucracy in charge of the Internet would have a disastrous consequence for the functioning and operation of the global free flow of information and commerce.

□ 1345

This resolution expresses the sense of Congress that it is incumbent upon the U.S. and other responsible governments to send clear signals to the marketplace that the current structure of oversight and management of the Internet's domain name and addressing service works and will continue to deliver tangible benefits to Internet users worldwide.

In the future, as well, the authoritative root server should remain physically in the U.S., and the Secretary of Commerce should maintain oversight of ICANN so that ICANN can continue to manage the day-to-day operation of the Internet's domain name and addressing system well and remain responsive to all Internet stakeholders worldwide and otherwise fulfill its core technical mission.

Mr. Speaker, last night I was very pleased to learn that our government's superb team at the World Summit on the Information Society in Tunisia successfully negotiated an agreement which was a complete vindication of the principles embodied in this very resolution before us today and is our government's position.

My understanding is that the agreement was unanimous among the more than 100 countries participating in the process, which means that the global consensus is now consistent with these principles as well. I want to especially commend our Secretary of Commerce, Carlos Gutierrez, originally from Michigan, I might add; Assistant Secretary for Communications and Information, Michael Gallagher; Fiona Alexander, the Office of International Affairs; and many others at the Commerce Department and the NTIA.

I also want to commend our Secretary of State, Condoleezza Rice; State Department Ambassador David Gross; Richard Beaird; Sally Shipman; and many other wonderful, dedicated, hard-working staff members at the Department of State.

Mr. Speaker, to paraphrase from what Winston Churchill once said about democracy, it has been said that ICANN is the worst form of Internet governance, except all the others that have been proposed.

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

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

Mr. BOUCHER. Mr. Speaker, I yield myself 4 minutes.

Mr. Speaker, it is my pleasure to partner today with the gentleman from California (Mr. DOOLITTLE) and the gentleman from Virginia (Mr. GOODLATTE) with whom I have the privilege of co-chairing the Congressional Internet Caucus in authoring this resolution, which will express our view that the Internet remain open, available for all to use, global and seamless.

It expresses the sense of the Congress that the United States has been a good steward in its management of the root server and the system for Internet domain name assignment.

We carry out this mission by entrusting day-to-day decision making and management to a private nongovernmental, not-for-profit corporation known as ICANN. The Internet address list is kept up to date, new domain names are assigned as they are needed in a fair and an equitable and predictable manner.

No one has demonstrated any problem with the way this system operates. No one has asserted that a needed domain name has been withheld and not assigned. There are no examples of ICANN, or the U.S. Department of Commerce, which has oversight responsibility, having acted in any way inappropriately.

As a result of efficient and even-handed American management, the Internet has become a global pathway of instant communications, which has spurred economic growth, improved the quality of people's lives and strengthened democratic institutions here in this Nation and across the world. Citizens of many nations in the lesser-developed world rightly say that they aspire to better access to computers in their homes or in community centers where computers would be available to all.

They rightly ask that Internet service providers bring the Internet and all that it offers to their localities. They rightly urge that basic dialup services be upgraded to broadband where only the most basic form of Internet access is available today.

None of these legitimate aspirations are related in any way to the manner in which ICANN assigns domain names and updates the global Internet address system. A change in these critical management functions would do nothing to expand Internet availability deeper into the developing world.

Unfortunately, the U.N. Summit on the Information Society, which began in Geneva, as a forum for discussing ways to bring Internet access to developing nations, over time morphed into a forum focusing on Internet governance and specifically focusing on management of the well-functioning domain assignment system and the Internet address management work of ICANN.

Fortunately, in Tunisia yesterday, a sensible outcome was achieved. Any change in Internet management was put aside in favor of the creation of an international forum where other kinds of Internet-related concerns can be discussed, perhaps including ways to bring the Internet to more of the world's population, and to address Internet problems that are common to all Internet users, including viruses, spam and security-related matters.

This outcome is a victory for Internet functionality. It is a validation of the careful role the United States has

played and will continue to play in management of the global address system. It is a reflection of the skill exhibited by our ambassador, David Gross, who led the American team at the summit in negotiating with many who have deep-seated disagreements over aspects of American foreign policy.

I want to congratulate Ambassador Gross for what he has achieved. I congratulate ICANN and the U.S. Department of Commerce on a job well done, which enabled the outcome in Tunisia.

I thank the gentleman from California (Mr. DOOLITTLE) and the gentleman from Virginia (Mr. GOODLATTE) for their leadership on this measure which describes the role that our Nation plays in Internet address management and urges that role be maintained.

I urge adoption of the resolution.

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

Mr. UPTON. Mr. Speaker, I yield 3 minutes to the gentleman from Utah (Mr. CANNON), cosponsor of the bill.

Mr. CANNON. Mr. Speaker, I would like to thank the gentleman from Michigan (Mr. UPTON) for his leadership on this issue.

I rise today in support of H. Con. Res. 268, which seeks to remind the world of the obvious: The Internet has revolutionized the way business is done here and throughout the world. It has created new industries, revitalized struggling industries and has helped to open new markets for American goods. It allows a small business in Utah to compete on a global scale by marketing, selling and delivering products anywhere in the world. It has done so with minimal government intrusion.

From my home State of Utah, international trade is our fastest-growing sector, and one of the greatest facilitators of this is the Internet. Nearly three in four of Utah households own a computer, a higher percentage than in any other State, and 63 percent are online. That is about the fifth highest rate of Internet usage in the country.

The Internet has become the greatest ally of our small entrepreneurs. Companies like 1–800–Contacts and Overstock.Com make their home in Utah and are able to sell anywhere in the country and in the world. This empowerment is not just felt in Utah. After $1 trillion of private investment in the Internet, it is no longer just a toy; it is the backbone of the American economy. Today, nearly half a billion dollars in commerce happens every day on the Internet. It is critical infrastructure, and we must do everything in our power to ensure its stability and security.

This resolution has become even more important as the United Nations is considering proposals to radically change the way the Internet is managed. A group of nations, including China, North Korea and Iran, are pushing for a U.N. Security Council-like organization to govern the Internet. This new bureaucratic nightmare would replace the private-public partnership that so successfully manages the Internet infrastructure today through a nonprofit corporation called Internet Corporation for Assigned Names and Number, ICANN.

I am pleased that, last night, delegates at the U.S. summit ignored those calls to turn ICANN over to less-developed nations and ensured for the present, at least, that the United States will control the global Internet. This is just the first battle. The battle and security of our electronic economy can never be left to a tie-breaking vote by Kim Jong-Il.

I urge my colleagues to vote for H. Con. Res. 268. The resolution of the gentleman from California (Mr. DOOLITTLE) sends a strong message to the rest of the world about the importance of free and unfettered Internet to our Nation's businesses and to the proliferation of freedom and to self-determination around the world.

Mr. Speaker, I submit for the RECORD a letter I wrote in October to Secretary of State Condoleezza Rice urging her to resist this internationalization of the Internet.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, October 20, 2005.

Hon. CONDOLEEZZA RICE,
Secretary of State, U.S. Department of State, Washington, DC.

DEAR MADAM SECRETARY: The final report of the United Nations Working Group on Internet Government reveals perfectly why its recommendations should be and will be rejected. The report demonstrates beyond contradiction that the Working Group and the United Nations itself is dangerously disconnected from reality.

You are certainly aware, Madam Secretary, of the on-going investigations of mismanagement by the United Nations and rampant corruption in the Oil for Food program. You are further aware of the fecklessness of United Nations operations in the last few years. The organization's chaos and budgetary uncertainties revealed by audit after audit are a matter of public record.

In contrast, the Internet has flourished in an incredibly short time into a powerful engine for human growth. Its potential contributions to economic growth in less developed countries dwarfs anything the United Nations could conceivably provide, and even the direct foreign aid that the United States and other advanced countries can marshal. In fact, the Internet's proliferation is the direct result of the hands-off management applied by the United States. There is no other country on the face of the earth whose government would have had the restraint to permit the freedom of thought and action that has produced the present benefits and future promise of the Internet.

Under the circumstances, it is nothing short of preposterous to suggest that any aspect of management of this amazing engine of knowledge and development be turned over to bureaucrats under the sway and direction of some of the most brutal and controlling tyrants in the world whose antipathy to the free flow of information is pathological.

That a United Nations entity could make such a proposal and expect it to be taken seriously is all the evidence one needs that the United Nations is not fit to undertake the task.

I have no doubt that my appraisal of the situation coincides with yours, and I urge you to express our feelings as strongly as possible. In any event, you may count on my opposition to any implementation of the Working Group's report.

Sincerely,

CHRIS CANNON.

Mr. BOUCHER. Mr. Speaker, I am pleased to yield 3 minutes to the gentleman from Virginia (Mr. GOODLATTE), the distinguished chairman of the House Agriculture Committee, who is co-chairman of the Congressional Internet Caucus and one of the co-authors of this resolution.

Mr. GOODLATTE. Mr. Speaker, I thank the gentleman from Virginia (Mr. BOUCHER) for yielding me time and for his leadership on this issue. I rise in strong support of this bipartisan resolution, which I introduced with the gentleman from California (Mr. DOOLITTLE) and the gentleman from Virginia (Mr. BOUCHER) to express the sense of Congress supporting the current method of administering the Internet.

The Internet's domain name system is administered by the Internet Corporation for Assigned Names and Numbers, or ICANN, a private nonprofit organization based in the United States that works closely with the U.S. Department of Commerce. This privately-operated approach fosters market principles and is the most efficient way to administer the Internet's domain name system and root servers.

However, the United Nations, with the support of countries including China, Iran and Cuba, released a report earlier this year, which included proposals to take control of administration of the Internet from the United States-based ICANN and give it to a bureaucratic U.N. body. The European Union had also signaled that it would support having an international body oversee the Internet.

The more governments and bureaucracies involved in running the Internet's day-to-day operations, the more likely that red tape and overly burdensome regulations will result. However, last night at the World Summit on the Information Society in Tunis, Tunisia, the United States struck a deal with the international community which ensures that, for now, the administration of the Internet's core technical functions remains within the private hands of ICANN with continued oversight by the United States Department of Commerce. This appears to be a big victory for the Internet, for free market principles and for the free flow of information around the world.

While I am optimistic about the agreement that was reached yesterday in Tunis, there is little doubt that some countries will continue to push for more control of the Internet, so the United States must continue to be vigilant. The United States is uniquely positioned to protect the fundamental

principles of free press and free speech upon which the Internet has thrived.

The U.S. Constitution guarantees these basic rights, and to cede control of the Internet with countries, with at best questionable records regarding these rights, would jeopardize the continued success of the Internet and lead to significant restrictions on access to the Internet's wealth of information.

House Concurrent Resolution 268 will send a strong message that the United States is committed to the principles that have made the Internet thrive.

Mr. Speaker, I thank the gentleman from Michigan (Mr. UPTON) for his management of this legislation as chairman of an important Energy and Commerce subcommittee. I urge my colleagues to support this important resolution.

Mr. UPTON. Mr. Speaker, I yield 3 minutes to the gentleman (Mr. HAYES), a co-sponsor of the bill.

Mr. HAYES. Mr. Speaker, I thank the gentleman from Michigan (Mr. UPTON) for his time and for dealing with this issue.

Today I rise in strong support of House Concurrent Resolution 268 regarding oversight of the Internet Corporation for Assigned Names and Numbers. With over 1 billion users and counting worldwide, the Internet has quickly become a critical place for individuals, business communities and governments to share and distribute information.

Ranging from middle school students researching a paper, to small business owners like Steve Earwood, running the Rockingham Dragway, and using it to promote his business to Ukrainian bloggers that helped start the Orange Revolution which swept Victor Yushenko into office, the Internet has literally changed the world.

The Internet was developed in large part by U.S. government research funding to develop new communications networks, starting with a network created by the Department of Defense. Today the Internet is run by private sector interests within the United States under the supervision of a nonprofit entity formed by the U.S. Department of Commerce.

Mr. Speaker, there was an initiative to put full control of the Internet into the hands of the United Nations. That is a bad idea.

The freedom of the Internet that exists today will be transferred to the discretion of countries like China, Syria, Cuba and Iran. Beyond the concerns with freedom, there are concerns about the U.N. using its control of the Internet as a means to impose new international taxes.

Yesterday, a favorable agreement was reached at the United Nations world summit on the information society. However, there remains an effort by some to create a global regulator of the Internet.

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Mr. Speaker, I support this resolution because we must maintain the integrity of the Internet as this U.S.-developed product has changed the world with its freedom of message and freedom of commerce. To put it in NASCAR terms, if you are the fastest car on the track and leading the race, don't touch it.

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

Mr. UPTON. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. DOOLITTLE), the author of the bill, the original sponsor.

Mr. DOOLITTLE. Mr. Speaker, I appreciate the gentleman from Michigan (Mr. UPTON) yielding me time and I appreciate the co-sponsors of this bill who have spoken for it so forcefully.

I first became aware a few months ago that there was going to be an attempt to wrest control of the Internet away from the United States, and I felt very strongly that that would be to the disadvantage of all the users of the Internet.

The United States, beginning back in the 60s, funded the research that led to what is now the Internet as we know it. And it is really one of the remarkable accomplishments, in my opinion, of humanity. It is something that has affected the lives of almost everyone. It is something that has promoted the free exchange of ideas around the world, the free exchange of goods and commerce around the world. It is something very precious to all of us that has really changed the way that we live.

We have an excellent record as the steward of the Internet. There is no one who has offered any evidence of any abuse whatsoever, and it is very disturbing to me some of the nations that are calling for taking this out of our hands are nations who have a poor record of human rights, who desire to regulate significantly what the content of speech can be. It is very troubling to me, for example, that one of the big proponents of getting this into the hands of the U.N. would be China, China which has a terrible record on freedom of speech and the Internet which is imprisoning people for making inquiries that are forbidden on the Internet.

For example, I indeed have an interesting list of forbidden words they have. This is based on research done by U.S. researchers examining China's record. Here are the words that trigger problems for you if you are in China putting into the computer: democracy, Christian, Falun Gong, human rights, multi-party, oppose corruption, underground church, overthrow, Taiwan independence, Tiananmen, and traitor.

Mr. Speaker, it would be a tragedy to let control of the Internet go to the United Nations. We have seen what they have done with the Oil-for-Food program, for example, and the billions of dollars of scandal involved there. There are people who want to tax the Internet. There are people who want to get control of it for their own purposes. The United States should remain the steward, not let the United Nations get its hands on it.

I am encouraged by what happened in Tunis last evening. It is not a guarantee. The United States Congress should vote for this resolution and speak with one voice that we intend to maintain the Internet as it has been governed heretofore, and I ask for support for this resolution.

Mr. BOUCHER. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, the outcome in Tunis is a victory for an open, globally, seamless Internet. It is a strong validation of the thoughtful way in which ICANN with oversight from our U.S. Department of Commerce has managed the Internet address system.

In Tunis yesterday, a decision was made to create an international forum that could be a discussion focus for issues relating to the Internet that are common to all Internet users, including matters such as spam, viruses and other security-related concerns. It seems to me that the United States now should seize the opportunity of this new international forum, the first meeting of which will take place in Greece during the middle part of 2006, in order to enlist assistance from other countries and achieve a number of very admirable goals. The first of these is to encourage investment that will extend the Internet into places where an Internet presence is not presently found, and in particular into the developing world.

Secondly, these problems that are coming to all Internet usage can be addressed in a way where we can enlist global participation in helping to find answers. I look forward to working with Ambassador Gross, others within the administration, and my colleagues in the Congress as we undertake that work.

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

Mr. UPTON. Mr. Speaker, in closing, I would urge all of my colleagues on both sides of the aisle to support this legislation. Again, it is bipartisan. It is the right thing to do. I would like to think that we will have a very strong vote for it.

Ms. ZOE LOFGREN of California. Mr. Speaker, I rise today to speak in support of this concurrent resolution, which expresses the sense of Congress that management of IP numbering and addressing should remain in the hands of the Internet Corporation for Assigned Names and Numbers, under the oversight of the United States Department of Commerce. This is an important resolution on one of the most pressing issues facing the Internet today.

The Internet has become a truly global medium in no small part due to the ''hands-off'' policies the United States has long followed in the Internet space. By one estimate, there are more than 160 million broadband Internet users worldwide. There are an estimated 1 billion Internet users worldwide, of which the United States, the birthplace of the Internet, constitutes less than one-fourth. More than a third of Internet users live in Asia, and nearly

one third live in Europe. It has been our ''hands-off'' leadership in the United States that has enabled the Internet to grow so dramatically across the world.

The internationalization of the Internet is further evidenced by the widespread availability of IP address allocations, the vast majority of which are outside the United States. For IPv4 addresses, 33% went to the Asia Pacific Region, 32% to North America, 31% to Europe, 3% to South America and 1% to Africa. For IPv6, 56% of addresses went to Europe, 23% to the Asia Pacific Region, 17% to North America, 3% to Latin American and 1% to Africa. These figures clearly show that the current mechanisms for oversight of Internet addressing and numbering have led to an explosion of Internet usage not just in the United States but worldwide.

Far from governing the Internet, the United States has followed what can best be described as a policy of benign neglect. The Department of Commerce plays no role in the internal governance or day-to-day operations of ICANN. Rather, the relationship between the Department of Commerce and ICANN is governed by contract, not regulation. The Department of Commerce provides oversight simply to ensure that ICANN fulfills its responsibilities under that agreement. The true policy-making body here is ICANN, not the Department of Commerce. Moreover, ICANN's role under that agreement is best described as creating an open forum for technical coordination, to ensure the continued stability and openness of the Internet.

What's needed now is not the abandonment of the ICANN's existing management of IP addressing. Rather, what's needed is a continuation of the policies that have made IP address and domain name management stable, secure, efficient and open. At present, participation in ICANN is open to all who share ICANN's mission of technical coordination. ICANN holds public meetings throughout the year, and across the world. ICANN's staff represents seven different countries and its Board represents twelve nationalities. ICANN is already an international body managing IP addressing and numbering—a private-sector, non-profit, non-governmental international body that's been directly responsible for fostering an open, stable, and worldwide Internet.

For all of these reasons, I took great pleasure in reading today that negotiators from more than 100 nations agreed yesterday to leave ICANN, under the oversight of the Department of Commerce, in charge of managing the IP address and domain name systems. This multilateral agreement represents a resounding validation of the role ICANN continues to play, and a resounding validation of the resolution we are considering here today.

I strongly urge my colleagues to support this important resolution, and join me in voting in favor of it.

Mrs. BLACKBURN. Mr. Speaker, I rise today in support of H. Con. Res. 268, regarding oversight of the Internet Corporation for Assigned Names and Numbers. As we have been discussing here today, the foundational structure of the Internet is under attack. But this attack is not from cyber terrorists, or high school kids run amok. Rather this attack comes from people who would like to impose the heavy hand of government on a system that is the most powerful example of freedom we may have ever seen.

How powerful? Here are a few statistics: More than 1 billion users worldwide; more than half a trillion annual commercial transactions; more than a trillion dollars in private investment; the largest source of news reporting in the world; and the largest communications backbone in the world.

But this amazingly powerful engine of commerce and freedom is being attacked as not inclusive enough for the rest of the world.

These critics want to replace today's simple system with three new quasi-governmental bodies to oversee the Internet and related public policy issues. Ultimately, these bodies would rule on freedom of speech, privacy, e-commerce, spam, cyber-security, and cybercrime. They would take the positions of China, Iran and Syria into account when establishing standards for free speech. They would listen to Cuba on questions of eCommerce. They would listen to Congo on questions of cybercrime.

There are those who have characterized this debate as being the U.S. vs. the world. But in fact, this debate is about freedom from government vs. government intervention.

I think the U.S. has shown great restraint in supporting an ICANN whose functions are limited to just the most technical management functions.

I urge my colleagues to join with me in sending a message to the world that the Internet needs no U.N. ''Governance''. Freedom on the Internet needs a light touch, not a heavy hand. Support H. Con. Res. 268 and support internet freedom from big government.

Ms. BORDALLO. Mr. Speaker, today I rise in support of H. Con. Res. 268, which expresses the sense of the Congress regarding support for the current oversight structure for the Internet Corporation for Assigned Names and Numbers (ICANN).

The Internet is the technological wonder of this generation. Established as means for a very select few researchers and scientists to share information, the Internet has developed into a powerful research, business, and recreational tool that shapes the world in which we live.

As lawmakers, we must ensure that we do nothing that will inhibit further development and innovation of this marvelous system that we call the World Wide Web. I fear that efforts to change the way the Internet is governed may do just that. The current structure has been in place for nearly 8 years. That structure includes the important work done by ICANN. Since 1998 the number of Internet users has grown tremendously in size both within the United States and throughout the world.

This legislation affirms ICANN's stewardship during this time of unprecedented technological innovation and change in the way we communicate with friends, conduct business, and learn about the world in which we live. For these reasons and others, I voice my strong support for ICANN and this resolution.

An element of particular interest to my district, Guam, relates to our inclusion in the Asia-Pacific Network Information Centre (APNIC) Regional Internet Registry. Except for Guam, the Commonwealth of the Northern Mariana Islands, and American Samoa, all other U.S. jurisdictions are included in the American Registry for Internet Numbers (ARIN). This distinction in Regional Internet Registry membership has presented several technical challenges for Internet users in Guam. For instance, Internet users in Guam who wish to access and download files from a website registered under ARIN are sometimes restricted from doing so. Some websites have controls built around the Regional Internet Registries to guard against intellectual property rights infractions. In the case of Internet users in Guam, access is restricted to some ARIN registered websites. These restrictions have disrupted Internet commerce and limited participation of U.S. citizens in Guam in Internet-based government services.

The Internet provides Guam with a vital link to the continental United States. The Internet factors heavily in communication between family members living on Guam and in the continental United States. The Internet is also essential for firms on Guam wishing to conduct business with firms located in the continental United States. Furthermore, with the aid of the Internet, Guam's citizens can have better and greater access to the Federal Government. I have written to ICANN regarding the Regional Internet Registry issue and the challenges that APNIC membership has presented for Internet users in Guam. With the attention and oversight of the Department of Commerce, I hope this and other issues affecting protocols for Guam-based servers and Internet users can be resolved in a manner favorable to my constituents. The continuance of Department of Commerce oversight of ICANN management of the Internet presents us the best opportunity to resolve these issues in a manner favorable to Guam. Therefore, I support passage of H. Con. Res. 268.

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

The SPEAKER pro tempore (Mr. BOOZMAN). The question is on the motion offered by the gentleman from Michigan (Mr. UPTON) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 268.

The question was taken.

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

Mr. DOOLITTLE. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

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

NATIONAL FLOOD INSURANCE PROGRAM FURTHER ENHANCED BORROWING AUTHORITY ACT OF 2005

Mr. NEY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4133) to temporarily increase the borrowing authority of the Federal Emergency Management Agency for carrying out the national flood insurance program.

The Clerk read as follows:

H.R. 4133

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''National Flood Insurance Program Further Enhanced Borrowing Authority Act of 2005''.

SEC. 2. INCREASE IN BORROWING AUTHORITY.

The first sentence of subsection (a) of section 1309 of the National Flood Insurance Act of 1968 (42 U.S.C. 4016(a)), as amended by the National Flood Insurance Program Enhanced Borrowing Authority Act of 2005 (Public Law 109–65; 119 Stat. 1998), is amended by striking ''$3,500,000,000'' and inserting ''$8,500,000,000''.

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

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

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

Mr. Speaker, I would like to offer my support today to Congressman FITZPATRICK's efforts to increase the borrowing authority for the National Flood Insurance Program through H.R. 4133, the additional borrowing authority for the National Flood Insurance Program.

Last month in the immediate aftermath of Hurricane Katrina, I introduced H.R. 3669, the National Flood Insurance Program Enhanced Borrowing Authority Act of 2005. That piece of legislation increased FEMA's borrowing authority for flood insurance by $2 billion, which went a long way in helping the Department's flood insurance response at that time.

The Fitzpatrick bill would provide an additional $5 billion in borrowing authority to help ensure that the NFIP has sufficient funding on a cash basis in the short term. This bill would allow FEMA to continue payment of the initial claims resulting from Hurricanes Katrina, Rita and Wilma, while the administration further evaluates the extent of the damage and the most potential means to cover all potential claims.

Last month, the Housing Subcommittee received testimony from the director of National Flood Insurance Program, who estimated that Katrina and Rita flood insurance claims could exceed $22 billion. These claims from those whose homes or businesses have been damaged or destroyed by Hurricane Katrina, Rita, and now Wilma, are not a new obligation. I would like to stress that it is not a new obligation. They are the result of a legal promise that we, the United States Government, have made to these homeowners and business owners when Congress passed the National Flood Insurance Act of 1968 and subsequent revisions.

Homeowners and business owners agreed to pay premiums, communities agreed to adopt building codes to mitigate flood dangers, and the Federal Government agreed to provide insurance coverage to policyholders after a disaster.

Every single one of these claims represents someone who has taken the responsible course of action by purchasing flood insurance and paying premiums to the United States Government. We not only have a legal obligation, Mr. Speaker, to honor our commitments but we have a moral obligation to provide the coverage we have promised to provide to these citizens who have been through so much in their lives.

The Subcommittee on Housing and Community Opportunity already held four hearings this year on this important program, including an August field hearing in rural Ohio.

As the damage assessments and insurance claims begin to come in from the gulf coast region, we will continue our oversight of course of the NFIP. The National Flood Insurance Program is a valuable tool in addressing the losses incurred throughout this country due to floods. It ensures that businesses and families have access to affordable flood insurance that would not be available on the open market.

It is a pleasure to be here today with my friend from Georgia (Mr. SCOTT). I would like to commend the Members who have supported this bill and give due diligence and a real thank you to the gentleman from Pennsylvania (Mr. FITZPATRICK), who has stepped up to the plate to carry this bill and do the right thing to help people that are in very severe trauma right now in their lives.

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

Mr. SCOTT of Georgia. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it is indeed a pleasure to be here and to be here with my good friend from Ohio (Mr. NEY) on this very, very important and timely subject.

Mr. Speaker, I rise in support of this bill, H.R. 4133, which is the National Flood Insurance Program Further Enhanced Borrowing Authority Act of 2005, which would temporarily increase the borrowing authority of the Federal Emergency Management Agency for carrying out the National Flood Insurance Program.

This bill increases the borrowing authority by $5 billion to $8.5 billion. While this is a dramatic and unprecedented increase, it still will not be enough. Estimates are that the flood insurance program will need upwards of $30 billion to pay the claims from the unprecedented hurricane season led by Hurricane Katrina, and paying the claims is the contractual obligation of the Federal Government to those people who paid for and maintained policies under this important government program.

It goes without saying that the flood insurance program needs to be reformed so that it can meet the needs that arise from unprecedented disasters. Additionally, additional funding should come with an assurance that we are not going to put people right back in harm's way. We need to prevent this same situation from occurring in the future.

Today, this morning, the Financial Services Committee is debating a bill that will be a good start at that reform. I was present this morning and participated in that debate where many of my colleagues on the committee spoke passionately and set forth ideas and plans to respond to the Katrina tragedy and to help homeowners get back on their feet.

It is clear that my colleagues care, and I am pleased to reported that reform legislation that will benefit people living in harm's way is on its way to this floor.

Mr. Speaker, it is so fitting because there is just one week before Thanksgiving and; as we go home this weekend and next weekend, it will be comforting to know that while we are in the comfort of celebrating Thanksgiving, that we are also putting forward this measure today which gives a measure of thankfulness and giving.

Mr. Speaker, this is a necessary bill which fulfills our obligation to people who have legitimate and legal claims under the flood insurance program and who need that money now to begin rebuilding their shattered lives.

I urge swift passage.

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

Mr. NEY. Mr. Speaker, I yield 5 minutes to the gentleman from Pennsylvania (Mr. FITZPATRICK), the sponsor of the bill.

Mr. FITZPATRICK of Pennsylvania. Mr. Speaker, I thank the chairman for his leadership and the leadership of the gentleman from Georgia (Mr. SCOTT) with regard to the National Flood Insurance Program and the willingness of assistance to flood victims throughout the United States.

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Mr. Speaker, no one could have anticipated the sheer amount of devastation that was brought upon this Nation in the wake of Hurricanes Rita and Katrina. Cities, towns, entire communities along the gulf coast were practically wiped out and off the map due to high flooding, pounding wind and constant driving rain.

Although Congress took immediate action to pass a supplemental relief package to assist the impacted communities along the gulf, one important program in particular remains in need of our attention and of our support, the National Flood Insurance Program.

I am pleased to bring to the floor today H.R. 4133, the National Flood Insurance Program Further Enhanced Borrowing Act of 2005. This important piece of legislation will empower residents of the gulf coast by increasing the National Flood Insurance Program's ability to borrow funds from the U.S. Treasury to cover claims resulting from these recent and devastating hurricanes.

Congress authorized the National Flood Insurance Program in 1968 following a series of historic hurricanes in the mid-1950s and 1960s. At that time, Mr. Speaker, affordable flood insurance was not generally available from the private insurance industry. The concept that gave birth to this program

was the idea that the Federal Government would make flood insurance available to the people if their local governments agreed to adopt and enforce measures to make future construction safer from flooding.

The National Flood Insurance Program provides insurance at actuarial, risk-based rates, including consideration for catastrophic losses. Currently, more than 20,000 communities in all 50 States and U.S. territories voluntarily participate in the National Flood Insurance Program, and the program insures in excess of $800 billion in assets, which breaks down to more than 4.7 million policies for homes, for businesses and other non-residential properties.

Since 1986, the National Flood Insurance Program has been financially self-supporting for the average historic loss year, but during periods of high losses, the NFIP has borrowed from the United States Treasury. Each time the NFIP has had to borrow from the Treasury, the loans have been repaid with interest from policyholder premiums and related fees, and at no cost to this Nation's taxpayers.

However, the impact of Katrina and Rita will place a historic strain on the National Flood Insurance Program. Simply put, the National Flood Insurance Program was not designed to handle a series of events such as those we have experienced throughout the current hurricane season.

For example, Mr. Speaker, and this statistic is staggering, since the program's inception, the National Flood Insurance Program has paid out a total of $15 billion in claims to cover more than 1.3 million reported losses. For this hurricane season, FEMA estimates that more than 225,000 Katrina and Rita NFIP claims are likely to be filed, exceeding $22 billion, a number far surpassing the total amount of claims paid throughout the entire history of the National Flood Insurance Program.

Although the President signed into law H.R. 3669, which increased the borrowing authority by $2 billion, current flood insurance claims projection for Hurricanes Katrina and Rita indicate additional borrowing authority will be necessary. My legislation will temporarily increase FEMA's borrowing authority for flood insurance by $5 billion.

Mr. Speaker, FEMA is quickly running out of money. We need to act now to enable this stopgap measure to cover claims from the gulf coast. We should not think of this as a new obligation. It is not. Instead, it is a necessary step to keep a legal promise that Congress made to homeowners and business owners when Congress passed the National Flood Insurance Act of 1968. We have a moral obligation to honor our commitments and to provide the coverage we have promised to provide and help flood victims who need to rebuild their homes and their lives.

I ask my colleagues for their support and seek passage of this important legislation.

Mr. SCOTT of Georgia. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Oregon (Mr. BLUMENAUER).

Mr. BLUMENAUER. Mr. Speaker, I appreciate my colleague from Georgia's courtesy in permitting me to speak on this bill, and I rise in support of it. It is a very important initial step that we need to make.

I take modest exception with my friend, the primary sponsor of this legislation, because I do think the range of disasters actually were, in fact, foreseeable and foreseen. I have been talking about this precise situation on the floor of the House for several years. It is one of the reasons why I worked in the previous Congress to deal with the reform of the Flood Insurance Act that was signed by President Bush last summer.

As I mentioned the last time we had an extension on the floor to extend the borrowing authority, this is absolutely critical. We must do it, we should do it, but it is only part of an overall solution.

I deeply appreciate the leadership that has been displayed by Chairman OXLEY, Ranking Member FRANK and Mr. NEY and Ms. WATERS in the hearing that was held today in Financial Services, looking at the long-term consequences of the flood insurance program and where it needs to go.

The simple fact is that what we saw in the gulf region from East Texas to the Florida Panhandle is not something that is unforeseen or something that is not going to occur again. In fact, science tells us that we are seeing coastal erosion. We have seen increases in storm events. Over 70 percent of the American population lives in areas where they are in harm's way to one or more natural disasters, of which flooding is the most frequent and the most damaging. We need to not just extend the borrowing authority. We need to look at the fundamentals of the program as Financial Services did today.

It is time to stop the fiction that somehow a levee protects people and they should not have flood insurance. People behind the levee in the 100-year flood plain absolutely should be mandated to have flood insurance, since we are at the point where the ''flood of the century'' is happening two times a decade. We need to change that definition, and in fact, the proposal to study or even extend flood insurance requirements for people in the 500-year flood plain is probably in order.

We need to be looking consistently at the big picture. We cannot afford to throw more and more taxpayer dollars at people who are going to repeatedly be in harm's way. Our hearts go out to the victims of Katrina and Rita, and I absolutely approve this legislation and extending the borrowing authority and not burying it in the flood insurance rates. That is not fair to everybody else.

However, we do need to make fundamental changes in that program, build on the reforms of last session. We need to make sure that people in repetitive flood loss situations are either moved out of harm's way or they flood proof their property. FEMA must get on the stick in implementing the reforms that we passed last session, and we need to expand the scope of the program itself.

This will make sure that people change their behaviors. It will put more money into the program by people who should be investing in it, and we will be able to have a more coordinated approach to make sure that we are not only fiscally responsible but we are helping people stay out of harm's way in the first place.

Last but by no means least, Mr. Speaker, our attention needs to go beyond the flood insurance program. We have people who are in danger for wind storms, mud slides, wildfires, forest fires. I have already mentioned coastal erosion. This is all part of a big picture, to sort out the limits of where the Federal Government provides relief as a last resort for an unforeseen natural disaster and where the private sector steps in to extend the principle of insurance.

Along the way, we make some changes so that State and local governments are responsible for what happens in their communities. I must say, as I began working on issues related to Katrina recovery, I was stunned to find that there were three Louisiana parishes and seven Mississippi counties that do not even have building codes. I am not talking about comprehensive plans and zoning. I am talking about building codes. It is time that we coordinate what we do on the Federal Government to provide resources, carrots and sticks, to make sure that we have a balanced partnership to save people's lives, limit damage and, of course, be responsible with the taxpayers' money.

Mr. NEY. Mr. Speaker, I yield 5 minutes to the gentlewoman from Pennsylvania (Ms. HART).

(Ms. HART asked and was given permission to revise and extend her remarks.)

Ms. HART. Mr. Speaker, I especially thank Chairman NEY, the gentleman from Pennsylvania (Mr. FITZPATRICK), and the gentleman from Georgia (Mr. SCOTT) for moving this legislation today and Chairman OXLEY as well of the Financial Services Committee.

There has been a significant amount of attention paid to the National Flood Insurance Program, especially in recent years, as we have seen an increased number of hurricanes and events causing serious flooding across the Nation.

I rise in support of the gentleman from Pennsylvania's legislation. He clearly has identified an issue that is part of the problem with getting relief for people who actually have purchased and paid premiums over a number of years for flood insurance, that we need to have enough there to help them recover.

I also want to highlight a need that we have regarding review of the flood insurance program, to make improvements to that program, and I want to thank Chairman NEY for also holding hearings on that issue and allowing many of our constituents to participate. I want to compliment his Housing Subcommittee for examining this program at a hearing, especially on the 14th of April and a series of follow-ups.

Fourteen months ago, there was a significant flooding event that affected most of my district with quite severe flooding. Many homes and businesses suffered extensive damage. My staff and I worked hard to assist constituents with as many of their NFIP claims as we could. Unfortunately, still this many months later, many of my constituents have not had their claims settled. Their property is still uninhabitable, and they are still living with families or friends or in hotels.

This is not an isolated incident. It is not just Western Pennsylvania. It includes many of our colleagues who have testified and have brought their constituents to the hearing I mentioned from Virginia, Maryland, Florida and other States.

The problems fall into three main categories: One, improper coverage. They were ill-informed and purchased policies that were not appropriate. Two, they just had inaccurate information about the adjustments and low estimates, therefore, not recovering enough money. Three, they had difficulty contesting or challenging estimates that were incorrect.

I hope that additional assistance will be provided that is offered in the gentleman's bill to make sure claims can be settled and we can continue helping people, but I also hope that the committee will continue to address many of the problems that my constituents and many other victims around the country have faced, continue the review and revamping of this program, on which so many people depend and often at a very tragic time so that it will help them recover, not hinder them.

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

Mr. NEY. Mr. Speaker, let me again thank the gentleman from Georgia (Mr. SCOTT) and the staff of the minority and the majority for their fine work on this and, of course, gentleman from Pennsylvania (Mr. FITZPATRICK) who has shown great interest in these issues, again helping people in his area and across the United States.

Mr. BOUSTANY. Mr. Speaker, I rise today as a proud cosponsor of H.R. 4133, the National Flood Insurance Program Further Enhanced Borrowing Authority Act of 2005. This bill recognizes the need for increased borrowing authority under the National Flood Insurance Plan.

Last year, the 2004 hurricane season resulted in over 75,000 claims totaling close to $2 billion dollars paid out in NFIP coverage. Today, FEMA estimates that more than 225,000 Katrina and Rita-related NFIP claims are likely to be filed, exceeding $22 billion, and far surpassing claims paid in the entire history of this program.

Many of my constituents in Southwest Louisiana have been devastated by the loss of home and property since Hurricane Rita struck. They are anxious to rebuild, but local communities need Federal resources so they can begin to recover and rebuild their infrastructure and neighborhoods.

Now, FEMA is quickly running out of money. This legislation would allow for a temporary increase in FEMA's borrowing authority from $3.5 billion to $8.5 billion, through 2008.

These claims are not a new obligation, but rather the result of a legal promise our government made to these homeowners and business owners when Congress passed the National Flood Insurance Act of 1968.

Mr. Speaker, the flood victims in Southwest Louisiana, and throughout the Gulf region, need to rebuild their homes and their lives. Congress not only has a legal obligation, but a moral obligation to assist them in this effort. I urge my colleagues to join me in support of this bill.

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

The SPEAKER pro tempore (Mr. BOOZMAN). The question is on the motion offered by the gentleman from Ohio (Mr. NEY) that the House suspend the rules and pass the bill, H.R. 4133.

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

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. NEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 4133.

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

There was no objection.

□ 1430

PROVIDING FOR CONSIDERATION OF H.R. 1065, UNITED STATES BOXING COMMISSION ACT

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 553 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 553

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 1065) to establish the United States Boxing Commission to protect the general welfare of boxers and to ensure fairness in the sport of professional boxing. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived. General debate shall be confined to the bill and shall not exceed one hour, with 40 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Energy and Commerce and 20 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary. After general debate the bill shall be considered for amendment under the five-minute rule. In lieu of the amendments recommended by the Committees on Energy and Commerce and the Judiciary now printed in the bill, it shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute printed in part A of the report of the Committee on Rules accompanying this resolution. That amendment in the nature of a substitute shall be considered as read. All points of order against that amendment in the nature of a substitute are waived. Notwithstanding clause 11 of rule XVIII, no amendment to that amendment in the nature of a substitute shall be in order except those printed in part B of the report of the Committee on Rules. Each amendment may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. All points of order against such amendments are waived. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the amendment in the nature of a substitute made in order as original text. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore (Mr. BOOZMAN). The gentleman from Florida (Mr. LINCOLN DIAZ-BALART) is recognized for 1 hour.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Florida (Mr. HASTINGS), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

(Mr. LINCOLN DIAZ-BALART of Florida asked and was given permission to revise and extend his remarks.)

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, House Resolution 553 is a fair rule. It provides for consideration of H.R. 1065, the United States Boxing Commission Act. The rule allows for consideration of the amendments, all the amendments that were submitted to the Rules Committee. We are making in order all the amendments that were submitted to the Rules Committee.

It also provides 1 hour of general debate, with 40 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Energy and Commerce and 20

minutes equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary. The rule also provides one motion to recommit, with or without instructions.

The underlying bill, Mr. Speaker, would establish a Federal boxing regulatory agency, the United States Boxing Commission. The commission would have the responsibility to protect the general interests of boxers, ensure uniformity, fairness, and integrity in professional boxing, and oversee all the professional boxing matches in the United States.

The boxing commission, in consultation with the Association of Boxing Commissions, will formulate uniform minimum standards for professional boxing. The commission would also ensure that Federal and State laws applicable to professional boxing are enforced and will assist State boxing commissions in meeting the minimum standards prescribed by the bill.

The bill requires that every boxer, promoter, or sanctioning organization connected with a boxing match must obtain a license from the boxing commission. The license could be suspended or revoked for violations of the standards adopted by the commission. This bill does not preempt any existing State boxing standards. As I stated before, Mr. Speaker, what it does is it establishes a national boxing commission really to oversee this sport, which is a sport of long tradition; but it is obviously one that is peculiar in terms of its degree of violence.

Mr. Speaker, when I was a child, I remember I was living in Spain. We had a friend, my family had a friend, who was in exile from Cuba. He was living in Madrid at the time. He had been welterweight champion of the world. He was a fine, gentle man. Really just an extraordinary human being. His name was Kid Tunero. He was very famous not only in Cuba but throughout the boxing world.

And I remember, and obviously this bill is not directly related to this that I am going to bring up now, but he impacted me in a number of ways. I remember his gentleness. It was impacting that a man who had made such a reputation as a champion boxer was perhaps one of the most gentle men that I have ever met. And he had two sons, and they were both artists. I do not know where they are today. At that time they were living in Paris.

And he told me, I would do anything in the world, anything in the world, so that my sons are not boxers because of what you go through when you are a boxer. Not only the actual physical torture, the physical pain, but having to deal with really much of an unfortunate set of circumstances. By the way, another aside, he was such a great boxer, Kid Tunero, in Madrid I remember, when I was a child, he was training a young man who became the flyweight champion of the world, and I met him. That was the only time I have ever been to a boxing fight, but I remember he got us really good seats. Imagine he was training Legra, and Legra got to be the flyweight champion of the world.

Mr. Speaker, I will tell the Members I remember I was 9 years old and to this day I can tell the Members I was up ringside being shocked, and I can remember the shock that I felt at the violence, the violence of that sport, the physical pain that those two boxers were feeling. I have never gone back to a match. I respect it. There are millions, millions of fans.

What we want to do with this legislation is set minimum standards for the protection of those people who make a living out of that tough sport. So even though Kid Tunero is no longer around, no longer with us, I think of him today and the lessons that I learned from him, how to be an ultimate gentleman. What a great man he was.

Anyway, that is what we are doing with the underlying legislation, Mr. Speaker. The will of the House will be manifested today, and people can either establish or not establish the boxing commission, but we are bringing forth that legislation with this rule.

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

Mr. HASTINGS of Florida. Mr. Speaker, I thank the gentleman from Florida (Mr. LINCOLN DIAZ-BALART), my good friend, for yielding me the customary 30 minutes; and I yield myself such time as I may consume.

(Mr. HASTINGS of Florida asked and was given permission to revise and extend his remarks.)

Mr. HASTINGS of Florida. Mr. Speaker, I rise with great disappointment that the House is being asked again to consider legislation under a restrictive rule. My good friend from Florida said that the will of the House will be expressed here today. I query him as to how that will occur under a restrictive rule.

Under this rule, only a limited number of amendments will be offered by a select few. There are many who will argue that this legislation, when considered, is noncontroversial. If that is the case, then why not make this an open rule?

Or perhaps the question ought to be, Why are we considering this bill at a time when the House should be considering legislation that increases veterans benefits, invests in affordable housing, and ensures that our country's neediest have access to affordable health care under Medicare and Medicaid? The truth of the matter is, Mr. Speaker, none of these issues are being debated on this floor today because my colleagues in the majority are too busy cutting backroom deals that will cut Federal funding in each of these critically important areas as well as other areas of import. I just spoke with a group of foreign service officers who were pointing out to me some of the cuts that will take place in places where they are scheduled to go.

The majority knows that they are wrong on all of these issues, and that is why they do not want to debate us on them. So, Mr. Speaker, we find ourselves at this moment on the floor of the House debating a bill that I would think my friends on the other side of the aisle would say reeks of hypocrisy and overarching Federal Government interference. Are not Republicans the ones who claim that they are the party of States' rights? Are not Republicans the ones who claim that States are more effective in regulating what happens within their own State? Are not Republicans the ones who claim that another Federal commission trumping State commissions already in existence is nothing more than unnecessary bureaucracy? Are not Republicans federalists?

But Republicans are not saying these things. Instead, some are trying to divert attention away from the things on a much larger scale that actually matter.

Mr. Speaker, I am not trying to say that a problem does not exist in the sport of boxing. My friend mentioned one Kid. Mention to him another, Kid Gavilan, who died in our area and of my good friend, Representative DIAZ-BALART, a shoeshine man after fighting some of the better fights in two divisions with some of the better fighters in the world at some point. So there are a lot of things to be said from people receiving too many blows upside their heads. In the last decade, amateur and professional boxing has grown into a multibillion dollar business. Promoters, cable companies, and the sporting industry as a whole reap big ticket sales from the sweat and toil of young athletes.

Yet those who actually step into the ring often find an entirely different opponent outside the ring, as Kid Gavilan did. Many boxers find those who claim to be in their corner have made dirty deals and shortcuts that undermine a boxer's earnings and in some cases their health. Contracts are often broken or exploited. Injuries and adequate medical care are sometimes overlooked. These are important issues that should be dealt with, but not by this body and not in this manner.

□ 1445

The solution would seem to be a crackdown on State commissions that woefully fail to enforce their own rules and regulations. Better yet, maybe we need a national sports commission to regulate all sports that Congress all of a sudden wants to regulate.

First it was baseball; and we really did clean up baseball and steroids. That is gone. We do not have that as an issue any more. And now it is boxing. What next? The National Hockey League or the National Football League?

All of these sports in some ways are violent, and we hear stories every year about athletes being injured, paralyzed and even killed. What about the Ultimate Fighting Championships, where

they put people in cages and then knock each other's brains out? Or World Wrestling Entertainment business where a lot of people wind up after careers in that field with broken bodies because they missed the trick at a given point? Or even our own United States Olympic Committee? If we are doing this about corruption, I can think of few sports committees in history as corrupt as the Olympic Committees. However, that is not what we are doing today.

In the grand scheme of things, we have more important issues to deal with: a failing war in Iraq, skyrocketing prescription drug prices, our own citizens displaced by a recent torrent of natural disasters in my good friend from Florida's district and my district alone, and continuing unethical behavior from executive and legislative branches of our government, including national security leaks.

All of these issues and so many more need to be higher priorities in our work today, but this body is silent on all of them. On behalf of the American people, I say, speak up. The silence is deafening. It is time that my friends in the majority stop wasting our time with bills that neglect those in need and divert attention from the failures of this body over the last decade. I urge my colleagues to reject this rule and the underlying legislation that does little, if anything, to promote the general welfare of our great Nation.

One of the arguments that was made is if we do not regulate this from a national level, what is going to happen is boxing will go on venue shopping. I pointed out yesterday that Ali fought the Thriller in Manila and in addition to that fought the Rumble in the Jungle, so if we regulate it from the Federal level, what is going to stop them from going abroad to rope-a-dope?

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

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, I am pleased that my friend has advocated for the importance of States' rights. I think that is something that is to be commended. We certainly do believe in the American system of federalism. We do believe as well in regular order, and this bill came up. There were hearings before Chairman BARTON. Mr. STEARNS was telling us in the Rules Committee about how impacted he was at the hearing when he listened to Mrs. Ali because Muhammad Ali could not speak, but he was insisting on supporting, through Mrs. Ali, urging the committee to support and pass out this legislation because of corruption that exists in the boxing world and the need to regulate the sport and eliminate that corruption.

We believe in regular order in addition to federalism, and this bill had hearings. It came up through regular order, and we believe in letting the House express its will. Every single amendment, every single amendment that was brought to the Rules Committee for consideration was made in order for debate. I am going to vote for the bill, and obviously the Members can make up their minds whether they support it or not. I urge all Members to support this rule. The rule is fair and made in order every amendment submitted to the Rules Committee.

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

The previous question was ordered.

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

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

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, this 15-minute vote on adoption of H. Res. 553 will be followed by 5-minute votes on the motion to suspend the rules and pass H.R. 1790; the motion to suspend the rules and agree to H. Res. 547.

The vote was taken by electronic device, and there were—yeas 366, nays 56, not voting 11, as follows:

[Roll No. 589]

YEAS—366

Abercrombie
Aderholt
Akin
Alexander
Allen
Baca
Bachus
Baird
Baker
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Becerra
Berkley
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boucher
Boustany
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Cardin
Cardoza
Carnahan
Carter
Case
Castle
Chabot
Chandler
Chocola
Clyburn
Coble
Cole (OK)
Conaway
Costa
Cramer
Crenshaw
Crowley
Cubin
Cuellar
Culberson
Cummings
Davis (AL)
Davis (CA)
Davis (KY)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
DeLauro
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doolittle
Doyle
Drake
Dreier
Duncan
Edwards
Ehlers
Emanuel
Emerson
Engel
English (PA)
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Filner
Fitzpatrick (PA)
Flake
Foley
Forbes
Ford
Fortenberry
Fossella
Foxx
Frank (MA)
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Green, Al
Green, Gene
Grijalva
Gutknecht
Hall
Harman
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Higgins
Hinojosa
Hobson
Hoekstra
Holden
Holt
Hooley
Hostettler
Hoyer
Hulshof
Hyde
Inglis (SC)
Inslee
Israel
Issa
Istook
Jackson (IL)
Jindal
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kildee
Kilpatrick (MI)
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Langevin
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lucas
Lungren, Daniel E.
Lynch
Mack
Maloney
Manzullo
Marchant
Markey
Marshall
Matheson
Matsui
McCarthy
McCaul (TX)
McCollum (MN)
McCotter
McCrery
McGovern
McHenry
McHugh
McIntyre
McKeon
McMorris
Meehan
Meeks (NY)
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Napolitano
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Ortiz
Osborne
Otter
Owens
Oxley
Pascrell
Paul
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Pomeroy
Porter
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Regula
Rehberg
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schakowsky
Schiff
Schmidt
Schwartz (PA)
Schwarz (MI)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Sodrel
Solis
Souder
Spratt
Stearns
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thornberry
Tiahrt
Tiberi
Turner
Udall (CO)
Upton
Van Hollen
Visclosky
Walden (OR)
Walsh
Wamp
Wasserman Schultz
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wynn
Young (AK)
Young (FL)

NAYS—56

Ackerman
Andrews
Baldwin
Berman
Berry
Brown, Corrine
Brown-Waite, Ginny
Capuano
Carson
Clay
Cleaver
Conyers
Cooper
Costello
Davis (IL)
Davis (TN)
Delahunt
Gutierrez
Hastings (FL)
Hinchey
Honda
Jackson-Lee (TX)
Jefferson
Kennedy (RI)
Kucinich
Lee
Lewis (GA)
McDermott
McKinney
Meek (FL)
Melancon
Menendez
Nadler
Neal (MA)
Obey
Olver
Pallone
Pastor
Payne
Rangel
Rothman
Sabo
Scott (GA)
Scott (VA)
Serrano
Slaughter
Thompson (MS)
Tierney
Towns
Udall (NM)
Velázquez
Waters
Watson
Watt
Woolsey
Wu

NOT VOTING—11

Boswell
Cunningham
Davis (FL)
Ferguson
Hunter
Jenkins
Lantos
McNulty
Reichert
Stark
Taylor (MS)

□ 1519

Messrs. NADLER, UDALL of New Mexico, DAVIS of Tennessee, GUTIERREZ, CLEAVER, PALLONE, ROTHMAN, HONDA, and Ms. JACKSON-LEE of Texas changed their vote from ''yea'' to ''nay.''

Mr. ROSS, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. JACKSON of Illinois, and Mr. KNOLLENBERG changed their vote from ''nay'' to ''yea.''

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

CHILD MEDICATION SAFETY ACT OF 2005

The SPEAKER pro tempore (Mr. BOOZMAN). The unfinished business is the question of suspending the rules and passing the bill, H.R. 1790, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota (Mr. KLINE) that the House suspend the rules and pass the bill, H.R. 1790, as amended, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 407, nays 12, answered ''present'' 1, not voting 13, as follows:

[Roll No. 590]

YEAS—407

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baker
Baldwin
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Becerra
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boucher
Boustany
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Carter
Case
Castle
Chabot
Chandler
Chocola
Clay
Cleaver
Clyburn
Coble
Cole (OK)
Conaway
Conyers
Cooper
Costa
Costello
Cramer
Crenshaw
Crowley
Cubin
Cuellar
Culberson
Cummings
Davis (AL)
Davis (IL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Doggett
Doolittle
Doyle
Drake
Dreier
Duncan
Edwards
Ehlers
Emanuel
Emerson
Engel
English (PA)
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Filner
Fitzpatrick (PA)
Flake
Foley
Forbes
Ford
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Gerlach
Gibbons
Gilchrest
Gillmor
Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Green, Al
Green, Gene
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Higgins
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Holt
Honda
Hooley
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inglis (SC)
Inslee
Israel
Issa
Istook
Jackson-Lee (TX)
Jefferson
Jindal
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kucinich
Kuhl (NY)
LaHood
Langevin
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lucas
Lungren, Daniel E.
Lynch
Mack
Maloney
Manzullo
Marchant
Markey
Marshall
Matheson
Matsui
McCarthy
McCaul (TX)
McCollum (MN)
McCotter
McCrery
McGovern
McHenry
McHugh
McIntyre
McKeon
McKinney
McMorris
Meehan
Meek (FL)
Meeks (NY)
Melancon
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Ortiz
Osborne
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Pomeroy
Porter
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schakowsky
Schiff
Schmidt
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Sodrel
Solis
Souder
Spratt
Stearns
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walden (OR)
Walsh
Wamp
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NAYS—12

Baird
Berkley
Davis (CA)
Dingell
Frank (MA)
Garrett (NJ)
Jackson (IL)
Jones (OH)
McDermott
Miller, George
Olver
Scott (VA)

ANSWERED ''PRESENT''—1

Gingrey

NOT VOTING—13

Bishop (UT)
Boswell
Cunningham
Davis (FL)
Ferguson
Harris
Jenkins
Lantos
McNulty
Reichert
Simmons
Stark
Taylor (MS)

□ 1528

Mr. DEFAZIO changed his vote from ''nay'' to ''yea.''

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

The result of the vote was announced as above recorded.

The title of the bill was amended so as to read: ''A bill to protect children and their parents from being coerced into administering a controlled substance in order to attend school, and for other purposes.''.

A motion to reconsider was laid on the table.

EXPRESSING SENSE OF HOUSE THAT NINTH CIRCUIT COURT OF APPEALS INFRINGED ON PARENTAL RIGHTS

The SPEAKER pro tempore. The pending business is the question of suspending the rules and agreeing to the resolution, H. Res. 547.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and agree to the resolution, H. Res. 547, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 320, nays 91, answered ''present'' 12, not voting 10, as follows:

[Roll No. 591]

YEAS—320

Aderholt
Akin
Alexander
Baca
Bachus
Baker
Baldwin
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Berkley
Berry
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boustany
Boyd
Bradley (NH)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Cardin
Cardoza
Carnahan
Carter
Castle
Chabot
Chandler
Chocola
Clyburn
Coble
Cole (OK)
Conaway
Cooper
Costa
Costello
Cramer
Crenshaw
Crowley
Cubin
Cuellar
Culberson
Cummings
Davis (AL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeLauro
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.

Dicks
Doolittle
Drake
Dreier
Duncan
Edwards
Ehlers
Emanuel
Emerson
English (PA)
Etheridge
Evans
Everett
Fattah
Feeney
Filner
Fitzpatrick (PA)
Flake
Foley
Forbes
Ford
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Green, Gene
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Higgins
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Hostettler
Hulshof
Hunter
Hyde
Inglis (SC)
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jindal
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Kaptur
Keller
Kelly
Kennedy (MN)
Kildee
Kilpatrick (MI)
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kucinich
Kuhl (NY)
LaHood
Larson (CT)
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lucas
Lungren, Daniel E.
Lynch
Mack
Manzullo
Marchant
Marshall
Matheson
McCarthy
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McIntyre
McKeon
McMorris
Meek (FL)
Melancon
Menendez
Mica
Michaud
Miller (FL)
Miller (MI)
Miller, Gary
Mollohan
Moore (KS)
Moran (KS)
Murphy
Musgrave
Myrick
Neal (MA)
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Obey
Ortiz
Osborne
Otter
Oxley
Pascrell
Paul
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Pomeroy
Porter
Price (GA)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Regula
Rehberg
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Royce
Ruppersberger
Ryan (OH)
Ryan (WI)
Ryun (KS)
Salazar
Sanders
Saxton
Schiff
Schmidt
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (NJ)
Smith (TX)
Smith (WA)
Sodrel
Souder
Spratt
Stearns
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Taylor (NC)
Terry
Thomas
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Towns
Turner
Udall (CO)
Upton
Visclosky
Walden (OR)
Walsh
Wamp
Weiner
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wu
Wynn
Young (AK)
Young (FL)

NAYS—91

Abercrombie
Ackerman
Andrews
Baird
Becerra
Berman
Blumenauer
Boucher
Brady (PA)
Capps
Carson
Case
Clay
Cleaver
Conyers
Davis (CA)
Davis (IL)
DeGette
Delahunt
Dingell
Doggett
Doyle
Farr
Frank (MA)
Gonzalez
Grijalva
Gutierrez
Harman
Hastings (FL)
Hinchey
Holt
Honda
Hoyer
Inslee
Israel
Johnson, E. B.
Jones (OH)
Kanjorski
Kennedy (RI)
Langevin
Larsen (WA)
Lee
Levin
Lewis (GA)
Lowey
Maloney
Markey
Matsui
McDermott
McGovern
McKinney
Meehan
Meeks (NY)
Millender-McDonald
Miller (NC)
Miller, George
Moore (WI)
Moran (VA)
Murtha
Nadler
Napolitano
Oberstar
Olver
Owens
Pallone
Pastor
Payne
Price (NC)
Rangel
Roybal-Allard
Rush
Sánchez, Linda T.
Sanchez, Loretta
Schakowsky
Scott (VA)
Serrano
Sherman
Slaughter
Solis
Tauscher
Thompson (CA)
Tierney
Udall (NM)
Van Hollen
Velázquez
Wasserman Schultz
Waters
Watson
Waxman
Wexler
Woolsey

ANSWERED ''PRESENT''—12

Allen
Biggert
Capuano
Engel
Eshoo
Green, Al
Lofgren, Zoe
McCollum (MN)
Pelosi
Sabo
Snyder
Watt

NOT VOTING—10

Boswell
Cunningham
Davis (FL)
Ferguson
Jenkins
Lantos
McNulty
Reichert
Stark
Taylor (MS)

□ 1538

Mr. ABERCROMBIE and Mr. PALLONE changed their vote from ''yea'' to ''nay.''

Ms. BEAN and Mr. JEFFERSON changed their vote from ''nay'' to ''yea.''

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

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. FERGUSON. Mr. Speaker, if I were present earlier today, I would have voted in favor of H.R. 1790, the Child Medication Safety Act of 2005, H. Res. 547, Expressing the Sense of the House of Representatives that the United States Court of Appeals for the Ninth Circuit Deplorably Infringed on Parental Rights in Fields v. Palmdale School District and for the Adoption of the Rule for H.R. 1065, the United States Boxing Commission Act.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

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

Any record vote on the postponed question will be taken at a later time.

CONDEMNING TERRORIST ATTACKS IN JORDAN

Ms. ROS-LEHTINEN. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 546) condemning in the strongest terms the terrorist attacks that occurred on November 9, 2005, in Amman, Jordan, as amended.

The Clerk read as follows:

H. RES. 546

Whereas on November 9, 2005, a series of terrorist bombs exploded at the Radisson, Hyatt, and Days Inn hotels in Amman, Jordan, resulting in the deaths of scores of civilians and the injuries of hundreds of others;

Whereas the people and Government of the Hashemite Kingdom of Jordan have been targeted in several terrorist attacks over the past few years;

Whereas Jordan has arrested suspected terrorists with possible ties to Osama bin Laden's Al Qaeda organization, including suspected killers of a United States diplomat, Lawrence Foley, who headed the United States Agency for International Development (USAID) mission in Jordan but was shot on October 28, 2002, while leaving for work, marking the first lethal attack on a United States official in Jordan in more than 30 years;

Whereas Jordan is a stalwart ally of the United States in the global war on terrorism; and

Whereas on November 10, 2005, President George W. Bush expressed his heartfelt sympathies for the people of Jordan and his condolences to the families of the victims during his visit to the Embassy of Jordan: Now, therefore, be it

Resolved, That the House of Representatives—

(1) condemns in the strongest terms the terrorist attacks that occurred on November 9, 2005, in Amman, Jordan;

(2) joins with President George W. Bush in expressing its condolences to the families and friends of those individuals who were killed in the attacks and in expressing its sympathies to those individuals who have been injured;

(3) expresses solidarity and support of the people and Government of the United States with the people and Government of the Hashemite Kingdom of Jordan as they recover from these cowardly and inhuman attacks; and

(4) expresses its readiness to support and assist the Jordanian authorities in their efforts to bring to justice those individuals responsible for the recent attacks in Jordan and to pursue, disrupt, undermine, and dismantle the networks which plan and carry out such attacks.

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

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

GENERAL LEAVE

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

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

There was no objection.

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

Last Wednesday the world once again looked in horror at the destruction caused by Islamic extremist homicide bombers, this time in Jordan. We were compelled to act and first express our deepest condolences to the victims of this radical movement that has perverted the Koran to fit their extreme twisted ideology of hatred.

Perhaps, most importantly, we were compelled to offer every possible form

of cooperation in investigating these al Qaeda attacks and in assisting in efforts to bring the perpetrators to justice, led by al-Zarqawi. Jordan is our strategic ally in an international war on terror. Jordan has demonstrated its commitment to secure its borders to prevent foreign fighters from entering Iraq to attack our U.S. forces and our Coalition forces as well as innocent Iraqis. It has cooperated in providing critical information that may have helped prevent countless deaths at the hands of these Islamic extremists.

Just as critical has been Jordan's leadership in addressing the conditions that breed instability and are manipulated by the likes of al Qaeda and other Islamic extremists to recruit and advance their notorious agenda. Jordan has been a leader in reforming politically and economically for the benefit of its people serving as an example for other Arab Nations.

King Abdullah's efforts to facilitate and serve as a positive force between Israel and the Palestinians towards peace are noteworthy. Mr. Speaker, the attacks in Amman last week remove the facade that these dastardly acts by Islamic extremists are about anything other than death, destruction and hunger for power, control and continued oppression.

These attacks clearly demonstrate the callous and cowardly nature of the Islamic extremist enemy that we are facing, an enemy that is willing to bomb a wedding reception, kill innocent people of all backgrounds and injure over 100 others in order to advance their radical al Qaeda agenda.

Freedom threatens them. Al Qaeda mastermind al-Zarqawi, who is believed to be behind the bombings in Jordan last week, acknowledged in a February 17, 2004 letter to al Qaeda operatives, he says our enemy is growing stronger day after day. By God, this is suffocation. We will be on the roads again.

One of Osama bin Laden's closest associates wrote in a book published in September 2003 that a far more dangerous threat is secularist democracy. He cautions against democracy's seduction as it drives Muslims to refuse to take part in jihad.

I would like to commend the government and the people of Jordan for their courage and their commitment to true democratic reforms. Congress thanks the Jordanian people for their support in the cooperation and the aftermath of our 9/11 attacks, and we stand by Jordan as it tries to give face to this Islamic extremist movement that seeks to pervert Islam and to give Muslims worldwide a bad name.

We render our support in your efforts to bring to justice those Islamic extremist operatives, and we will continue to work together to pursue, to disrupt, to undermine and to dismantle the al Qaeda and other Islamic radical networks that have made possible the attacks like the ones in Amman on November 9.

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

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

Mr. SCHIFF. Mr. Speaker, I rise in strong support of House Resolution 546 and yield myself such time as I may consume.

I first want to thank the gentlewoman from Florida (Ms. ROS-LEHTINEN), the chairwoman for the Subcommittee on Middle East and Central Asia, for offering this important and timely resolution.

□ 1545

I would also like to acknowledge my friend and ranking member of the Middle East Subcommittee, the gentleman from New York (Mr. ACKERMAN), for his role in the crafting of the measure.

Mr. Speaker, 1 week ago today, hateful and heartless fanatics committed a vile crime against the people of Jordan. The terrorists' immediate victims were the unsuspecting guests of three hotels, in one particularly sickening case, a wedding party at the height of its celebration where both bride and groom were of the Islamic faith.

This brutal attack killed scores of civilians, injured hundreds of others, and forever scarred the hearts of the victims' loved ones. Through these heinous acts against their own brothers and sisters, the terrorists demonstrate once again that they are not merely enemies of Western Civilization but of all civilization.

But the broader target of this assault was the public of a country that has been a stalwart ally of the United States in the global war on terrorism. This is not the first time that the people of Jordan have been victimized in a terrorist attack, but it is by far the most extensive offense against innocent civilians in Jordan by ruthless fanatics since the war on terrorism began.

To their great credit, the Jordanian people are not retreating in defeat, but are declaring their defiance. They are not making excuses for these vile enemies of all mankind, but are demanding accountability. They are not cowering in their homes, but taking to the streets in protest.

Mr. Speaker, the resolution before us condemns last week's reprehensible events in Amman and expresses our solidarity with the people of Jordan. It also declares our country's readiness to support Jordanian authorities in their efforts to bring the perpetrators to justice and to eradicate the networks that plot and carry out such attacks.

As our country knows all too well after September 11, and as all others who have sustained years of wanton terrorist carnage in the name of religious fundamentalism know all too well, there can be but one response to such inhumanity: unified resolve to bring it swiftly and irreversibly to an end.

This vicious crime must also serve as a cautionary tale to those in the Arab world who are content to stand by and watch as Iraqi security forces and American troops battle to defeat the vicious insurgency and the foreign jihadis who are indiscriminate in their slaughter.

We may be the primary targets of Zarqawi today, but he and his ilk are determined to destroy modernity and retard social and political progress throughout the Muslim world in the name of a perverted interpretation of Islam. As the carnage in Amman made clear, the war on terror is a shared endeavor in which the Arab people must play a central role in the victory over terror.

Mr. Speaker, this resolution expresses our profound outrage at this vicious attack and our profound sympathy and solidarity with our Jordanian friends at this time of their sorrow. I urge all of my colleagues to support the resolution.

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

Ms. ROS-LEHTINEN. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida (Mr. FOLEY).

Mr. FOLEY. Mr. Speaker, let me thank the gentlewoman from Florida (Ms. ROS-LEHTINEN) for yielding me time and commend her for bringing forward this resolution, this resolution of both sorrow and outrage.

King Abdullah said it best when he expressed his country's collective outrage by declaring the world must join in the war on terror. The world must join in the war on terror.

I know at times countries are loath to engage on issues that they feel are not theirs, but we are now starting to see a global and collective problem that must be dealt with. We have seen recently in France horrific rioting in their streets, not necessarily tied to al Qaeda, but it is by a radical Muslim group that is feeling oppressed and put upon.

When I went to the Vatican for Pope John Paul's funeral, I spoke to the head of the Vatican state, the president who is a Cardinal. He suggested too one of Italy's greatest growing menaces is a gathering of radical Muslim extremists who are taking root in Italy, and he fears for the country and for the stability in the region.

Other groups like Hezbollah, al Qaeda, Islamic jihad are excited when incidents like an Amman, Jordan occur because they feel that they have us on the run.

We recognize that there are so many people of Muslim faith in the world, Arabs and others, who truly believe in peace and tranquility and the best that life has to offer for their children; but there are those who distort the Koran, as the gentlewoman has clearly suggested. They distort the meaning of the higher purposes and they use that to twist the logic and convince unsuspecting young people that in order to attain an ultimate joy in heaven that they too should commit acts of violence, of suicide.

This is a sad commentary on those innocent people who choose a desperate path of destruction based on the tutelage of someone who simply does not care. Interestingly enough, many of those who are training the suicide bombers stand aside and watch as other innocents kill themselves convinced they are doing something right. How sad that they have twisted the minds of individuals to the degree that they would not only kill themselves but kill other human beings, and they sit there and watch and celebrate after the fact.

We are joined together as the United States of America in this battle not because it is one of our choosing, but it is one we accept based on our ability to help guide and govern the world to a safer, better place for all people.

The Middle East and other places have been rocked by turmoil over decades, but now this greater and growing menace of al Qaeda threatens friends, allies and, yes, even enemies. Even people that may not agree with us on certain geo-political issues may find themselves sacrificed at the hand of this evil group of people.

So I join with King Abdullah in his declaration; and I urge Members of Congress, I know there are political and partisan battles going on, I know there is disagreement on the war in Iraq, I know there is a tendency to sit here and criticize constantly our Commander in Chief, but there is one thing for certain, if we are going to divide, we will not conquer. If we are going to criticize publicly and openly, then we will not give our troops in the field the strength to fight the battle ahead.

However and whatever reasons we came to Iraq, we now know that it is not just about Iraq. The World Trade Center bombings in 1993 and 2001 were not about our presence in Iraq, because we were not there then. Al Qaeda knows no boundaries. They know no group that they will not willingly sacrifice for their higher mission. And when they detonate a bomb in a wedding ceremony among fellow Arabs, among fellow Muslims in order to prove a point that they simply can, indicates how sad and despicable this group is.

So I thank the gentleman from California (Mr. SCHIFF) and the gentlewoman from Florida (Ms. ROS-LEHTINEN) and members of the committee who found it appropriate not only to signal our displeasure but to record in the annals of the CONGRESSIONAL RECORD, because I know in my heart if we stand together we will, in fact, beat this scourge around the world and save humanity.

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

Mr. Speaker, we now enjoy a tragic kinship with the people of Jordan, just as we enjoy with the people of London, the people of Madrid; and we all remember what it was like on September 11. Perhaps one of the only positive repercussions at the time was the outpouring of support that we enjoyed from around the world as countries around the globe expressed their solidarity with the United States in confronting this new and terrible force.

We now join the people of Jordan in their time of sorrow, in their time of need. We express our solidarity with our Jordanian friends. Our hearts break with their losses and our resolve is united with theirs to combat this terrible evil confronting the world. I want to just, in closing, once again thank our wonderful chairwoman of the subcommittee.

Mr. HOYER. Mr. Speaker, I join my colleagues on both sides of the aisle in supporting this Resolution, which condemns in the strongest possible terms the barbaric terrorist attacks in Jordan last Wednesday.

These attacks at three Amman hotels—including an attack on a wedding party—killed 58 innocent men, women and children, and are yet another demonstration of the uncivilized, unrepentant evil that possesses the Al Qaeda terrorist organization, which claimed responsibility. And this was, sadly, not the first time Jordan has suffered at the hands of terrorists because it maintains close relations with the West.

Mr. Speaker, I also want to commend King Abdullah for his forthright public comments after these attacks. As reported in the Washington Post today, the King stated: "What the attack did was show to everybody what we've been saying—that this is an issue of ideology and the Muslim world can no longer be complacent. People can't sit in the middle."

The fact is, the savage bombings last week in Amman were perpetrated by Muslims, who directed their hatred at Muslims.

The fact is, the entire civilized world—be they Christian, Muslim or Jew—must recognize our common interest in uniting and defeating this mortal threat to our way of life, to the democratic form of government, to basic human decency and to the rule of law.

None of us, as the King said, can be complacent.

Mr. Speaker, the people and the Government of the Hashemite Kingdom of Jordan have been a stalwart ally in the war on terror.

And, I believe it is important today that this Congress condemn these cowardly attacks; express its condolences to the families and friends of those killed, and its sympathies to those injured; express its solidarity and support of the people and Government of Jordan; and express its readiness to assist Jordanian authorities in bringing those responsible for these outrageous attacks to justice.

I urge my colleagues to support this Resolution.

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

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

The SPEAKER pro tempore (Mr. BASS). The question is on the motion offered by the gentlewoman from Florida (Ms. ROS-LEHTINEN) that the House suspend the rules and agree to the resolution, H. Res. 546, as amended.

The question was taken.

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

Ms. ROS-LEHTINEN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

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

UNITED STATES BOXING COMMISSION ACT

The SPEAKER pro tempore. Pursuant to House Resolution 553 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 1065.

□ 1556

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 1065) to establish the United States Boxing Commission to protect the general welfare of boxers and to ensure fairness in the sport of professional boxing, with Mr. SIMPSON in the chair.

The Clerk read the title of the bill.

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

General debate shall not exceed 1 hour, with 40 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Energy and Commerce, and 20 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary.

The gentleman from Florida (Mr. STEARNS) and the gentlewoman from Illinois (Ms. SCHAKOWSKY) each will control 20 minutes, and the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from Michigan (Mr. CONYERS) each will control 10 minutes.

The Chair recognizes the gentleman from Florida.

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

Mr. Chairman, I rise today to express my strong support for H.R. 1065, the United States Boxing Commission Act.

This bill will establish for the first time the United States Boxing Commission within the Department of Commerce. The USBC will be charged with overseeing licensing and registration of boxers and boxing personnel nationally to improve the current inconsistent and lack of regulation of the sport at the State and also at the local levels.

The sport of boxing with its rich and glorious history is slowly being corroded by corruption and abuse in and outside the ring.

I am no fan of bigger and more intrusive government, but in this case the power and sweep of a Federal regulator can establish a uniform minimum standard for boxing on a national level and will hopefully salvage this great sport and reestablish it as a main

event, not some shady, corrupt business enterprise.

In terms of fiscal impact, there has been a lot of misinformation about this bill, its budgetary impact. But let me be perfectly clear: this bill requires the United States Boxing Commission to be funded through receipts from licensed and registration fees, not from taxpayers' money. The USBC will also sunset in 12 years. Here we have a bill that will sunset. The USBC will not be a drain on government resources. Rather, it will function and operate from revenues derived from its oversight function of licensing and registration.

□ 1600

Later, I intend to offer an amendment to clarify this intent during our consideration. This is an important point to be made and needs to be made crystal clear.

In addition, as I mentioned, professional boxing is suffering today. Boxers are in danger of losing life and limb every day, and likewise, every day, we hear more and more stories about needless injuries and even deaths. We had two boxers die in Nevada just recently.

Boxing obviously is a great American sport, with a rich and glorious tradition, but it is in real danger of becoming marginalized into nothing more than a dangerous and corrupt sideshow. This would be a tragedy.

We have celebrated our Olympic heroes and cheered them when they later fought professionally. I believe that adding a backstop of Federal oversight over the various pockets of inconsistent regulation at the State level will help clean up boxing and honor its positive impact on the lives of young men and women who, despite sometimes difficult financial or social circumstances, achieve greatness through discipline, hard work and simply sheer determination.

One of those obscure fighters that rose to become one of America's most important symbols of athletic and human excellence obviously was Muhammad Ali. He testified at one of our hearings. Unfortunately, he could not testify, so his wife read the speech for him, and this is what he said: ''For all of its difficulties, boxing is still a wonderful sport. It still attracts men and women from all walks of life to reach glory in the ring. For many, it's their first experience with hard work, determination and discipline. For still others, it remains the only way up and out from a life filled with bad choices, failure and worse.''

He went on to say: ''Reform measures are unlikely to succeed unless a U.S. Boxing Commission is created with the authority to oversee a sport that still attracts a disproportionate number of unsavory elements that prey upon the hopes and dreams of young athletes.''

My bill, cosponsored with the gentlewoman from Illinois (Ms. SCHAKOWSKY), my colleague and the ranking member of my subcommittee, and the gentleman from Illinois (Mr. RUSH), my friend and colleague, will push reform and put the weight of uniform national oversight mechanism behind those reforms to ensure that the United States Boxing Commission is successful and those hopes and those dreams are protected.

Specifically, the manager's amendment I am offering will do the following:

First and foremost, it makes it clear that the United States Boxing Commission will be funded largely through revenues generated by licenses and registrations so that it is essentially self-funding. Specifically, section 5 of the bill has been amended to clarify that fees authorized and collected shall be available to fund the operation of the commission and the administration of the Act. Section 14 of the bill was amended to clarify that offsetting collections are available to the commission subject to appropriations.

The next thing, it empowers the United States Boxing Commission to promulgate uniform standards for professional boxing and oversee all professional boxing in the United States.

It ensures that Federal and State laws applicable to boxing are enforced and requires and issues licenses for all professional boxers and, importantly, boxing personnel.

It allows the United States Boxing Commission to suspend or revoke a license if it finds the holder has violated provisions of this Act.

It requires a study and report on health and safety aspects related to boxing, as well as on the definition of a promoter.

It requires the United States Boxing Commission to provide an annual report to Congress on its activities.

I think Mr. Bruce Spizler, chair of the Legal Committee of the Association of Boxing Commissioners and a former member of the National Association of Attorneys General Task Force on Boxing, in his testimony to our subcommittee, summed up the current situation best when he said: ''The regulation of the sport of professional boxing has been left to those individual States and, more recently, tribal organizations, which, legislatively, have provided for its own boxing commission to regulate the sport in its own particular jurisdiction. Thus, considering that the authority of each regulatory component is restricted by its territorial borders, the effective regulation of the sport of professional boxing in the United States is only as strong as its weakest link; leaving 'venue shopping' as an effective tool for those seeking a lighter regulatory 'punch.' The glaring absence of regulatory uniformity, together with the difficulty, and varying degrees, of effective enforcement, has lent itself to a perpetuation of the inequities, lack of integrity and, in some instances, non-adherence to health and safety measures for which the inherently dangerous sport of professional boxing, unfortunately,'' by its reputation ''has become known.''

I cannot think of a more powerful argument in favor of a Federal commission, that is sunset, designed to oversee the sport of boxing and ensure uniform minimum standards, especially for those States that do not have programs or have inferior ones. States with mature programs, in my opinion, should be supportive because they are already leading and serving as benchmarks.

In addition to the support of the Association of Boxing Commissioners, this bill has been endorsed by the American College of Sports Medicine and the American Association of Professional Ringside Physicians.

In closing, this is an important opportunity to save a sport that has brought so much pride and glory to the United States. Boxing is suffering from problems that stretch far beyond the boundaries of State regulation. It is a sport worth saving that will need the power of our Federal Government oversight to clean up its act and ensure the safety of all its athletes. All the great champions that have paved the way for the sport should be able to count on us to provide a minimum amount of oversight in this situation.

I urge my colleagues to consider this bill, H.R. 1065, the United States Boxing Commission.

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

Ms. SCHAKOWSKY. Mr. Chairman, I yield myself as much time as I may consume.

I rise in strong support of H.R. 1065, the U.S. Boxing Commission Act, which would establish a national regulatory body for the sport that has been riddled with corruption, scandals and lax enforcement of regulations, putting the lives of contenders on the line.

I want to thank the chairman of the subcommittee Chairman STEARNS with, whom I worked closely on this legislation in a bipartisan way, to produce a product that I hope that our colleagues on both sides of the aisle will readily support.

I want to thank in addition to the bipartisan staff who worked on this legislation, I would like to thank our legislative counsel, Brady Young, for his advice, expertise and the patience that is often required when working with our bipartisan team.

I know that there are some in this body who have just wondered why we are addressing this particular issue of boxing when they argue there are more important issues facing our country. I would respectfully point out that it certainly is not the least important issue that we find time to deal with in this body, and that, in fact, it does deal with the health and the safety of literally thousands of people in our country. So I am happy to be supporting this bill right now.

With the passage of the Professional Boxing Safety Act of 1996 and the Muhammad Ali Act in 2000, minimum Federal standards were set to protect the physical and economic well-being of boxers, and State boxing commissions

were charged with meeting those standards. Some States have strong boxing commissions such as New York, Pennsylvania and Nevada that not only require the Federal standards but set additional regulations beyond the minimum requirements.

I want to point out that nothing in this legislation would prevent those that have stronger regulations from using those. Let me read directly from the legislation on minimum standards: Nothing in this Act prohibits any boxing commission from enforcing local standards and requirements that exceed the minimum standards or requirements promulgated by the commission under this Act.

What we found, however, was that there are too many other States that are ignoring the rules, and boxers are the ones who are paying the price.

Many argue that federally mandated health and safety standards are not being adhered to because no corresponding national regulatory body exists. Let me quote from the letter I received from the College of Sports Medicine, who heavily supports this legislation, when they say that, professional boxing is the only major sport which does not have a governing body to establish and enforce rules and practices. It is the only major sport that does not have that.

When the greatest and prettiest of all times, Muhammad Ali, tells you, ''Boxing reform measures are unlikely to succeed unless a U.S. Boxing Commission is created with authority to oversee a sport that still attracts a disproportionate number of unsavory elements that prey upon the hopes and dreams of young athletes,'' when Muhammad Ali tells you that, as he did to us in our hearing, one listens, and that is what Chairman STEARNS and I did with the drafting of H.R. 1065.

Boxing is an enormous enterprise. The sport generates over $500 million in revenues each year. However, because so many parties have a financial stake in each boxing match and because competing interests often run counter to the boxers' well-being and because not every manager is as upright as Clint Eastwood in ''Million Dollar Baby,'' many contenders end up destitute.

In this sense, boxers are like many other kinds of talent or workers. Their gifts and their hard work are others' fortunes, and they are treated as disposable assets.

Boxing is also unlike many other sports in that there are very serious physical repercussions. If health and safety standards are not being met, boxers could die, and they do.

Over the past 50 years, more than 130 fighters have died due to boxing-related injuries in the United States. In 2005, we lost the first woman to boxing, Becky Zerlentes. Dr. Zerlentes, a professor of geography, got her Ph.D. at my alma mater, the University of Illinois at Urbana-Champaign.

I believe that it is our responsibility to ensure that boxers are not being put in the ring without being protected, both physically and economically. We know it is a dangerous sport by its nature, but it is our responsibility to ensure that laws that are already on the books are enforced. That is why I joined Chairman STEARNS in drafting H.R. 1065 to establish the United States Boxing Commission. This bill will help to ensure that standards are uniform and enforced and that boxers are protected.

The formation of a national regulatory body is supported by the Association of Boxing Commissioners, the organization of State boxing commissioners. They love their sport, and they want to make sure that the laws that govern it are being enforced, keeping the sport safe and respectable. Our bill also enjoys the support of those who say that boxers' health must come first, the American College of Sports Medicine and the American Association of Professional Ringside Physicians.

Finally, it would be a tribute to the greatest of all times, to Muhammad Ali, who lent his name to the law that is meant to protect boxers from those who see them as just a commodity and is not being enforced as it should be.

We need to pass this bill to do a service to the boxers, to the young athletes who see their dreams and their hopes come to life when they are in the center of that ring and the bell signals the first round.

I urge my colleagues to join in this bipartisan leadership of this legislation and support H.R. 1065.

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

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

Mr. Chairman, I rise in opposition to H.R. 1065, the United States Boxing Commission Act. This is a big government bill that creates a new Federal agency that provides for more regulation and is not self-financing as has been intimated.

The top of page 13 of the Energy and Commerce Committee's report uses a CBO estimate that says: ''Assuming appropriation of the necessary amounts, CBO estimates that implementing H.R. 1065 would cost $5 million in 2006 and $26 million over the 2006–2010 period.''

□ 1615

That means that we are adding $26 million to the deficit to regulate one sport. That is not right. The Judiciary Committee received the sequential referral of this bill to consider several provisions within the legislation. The Judiciary Committee has long been involved in issues relating to professional sports, including oversight of the U.S. Olympic Committee, Major League Baseball, and the NCAA.

Many are concerned and have raised serious questions about the commercial and legal aspects within the sport of professional boxing. As a result, some have urged the creation of a Federal boxing commission to regulate this sport. The legislation would accomplish that goal.

Although the creation of the U.S. Boxing Commission itself does not fall within the jurisdiction of the Judiciary Committee, significant provisions relating to title 18 of the U.S. Code, which is the criminal code, and the authority of the Attorney General and the commission's executive director are within the committee's purview.

During the markup of this bill, the Judiciary Committee adopted a technical change to ensure that the use of administrative subpoenas comports with existing title 18 provisions. Additionally, as amended by the committee, the legislation will now allow a designee of the Attorney General to represent the commission in judicial proceedings rather than requiring the Attorney General himself to do so. Finally, the Judiciary Committee amendment removed the authority of the commission's executive director to make unilateral determinations regarding violations of this act or to bring action in Federal court. This means that such determinations will be required to be made by the full commission before action can be taken.

Although these Judiciary Committee amendments improved the legislation, the committee reported the bill with no recommendation, no recommendation, as a result of the concerns of many Members on both sides of the aisle regarding the underlying merits of the legislation. I share these concerns and do not support the goal of the legislation.

Notwithstanding the fact that there are well-founded concerns surrounding the support of boxing, I believe that the creation of a boxing commission is unnecessary and urge my colleagues to oppose this legislation.

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

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

Mr. Chairman, I rise just in reply to my colleague who is chairman of the Judiciary Committee who made some points in terms of jurisdiction and also made some points that the bill has minimum impact upon the budget.

I have here a copy of the amendment which is part of the manager's amendment that we have next in place, which takes care of the concerns he has by striking a portion of the bill and in place putting it that the bill is self-sufficient and the money that is appropriated comes from the licensure fees. So I would urge the gentleman to vote for the manager's amendment, which will be coming up shortly. That will take care of his main concern, which appears to be that he is concerned it was $5 million the first year and the GAO audit indicated more money thereafter. But with this manager's amendment, the GAO audit is nullified and we have a self-sufficient bill.

Another point I would like to make is the basic thrust of the bill is a 12-year supervision with three appointees

on the commission from the President of the United States with 3-year duration of tenure. At that point they can be reappointed, or they can continue at the President's request. We have in place something here that is very rare on the House floor, and that is something that is sunsetted. So when people talk about a new Federal bureaucracy, let me be perfectly clear. This is a very, very light, temporary government oversight committee to bring accountability and to bring justice to a great American sport. Everybody in the business who testified wants this type of temporary structure. So I think in a larger sense we have to say to ourselves now is the time to do this and, in so doing, in this way we will do the least amount of harm by making it temporary and at the same time asking them to pick up the ball and run with this as a voluntary organization much like other professional sports do.

So I am glad to rise to point out to my colleague that it is going to be amended so that it is budget neutral; and, two, to point out to him that this is not a new Federal bureaucracy, but instead an oversight board to help guide this sport to its ultimate success.

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

Ms. SCHAKOWSKY. Mr. Chairman, I yield myself such time as I may consume.

I am aware of some concerns raised by the Governor's office in New Jersey about this legislation, where they are concerned about what they say is the erosion of State authority. So I want to be very clear about this and once again read from the bill and read an additional section from it:

''Section 9, Noninterference with Boxing Commissions. Paragraph a, Noninterference: Nothing in this act prohibits any boxing commission from exercising any of its powers, duties, or functions with respect to the regulation or supervision of professional boxing or professional boxing matches to the extent not inconsistent with the provisions of this act.'' By that we mean anything that has more enforcement powers. We are just setting a floor and the States can exercise all their powers, duties, or functions in addition to that.

And ''b, Minimum Standards: Nothing in this act prohibits any boxing commission from enforcing local standards or requirements that exceed the minimum standards or requirements promulgated by the commission under this act.''

A State like New Jersey that contends that they are doing a good job, we say go ahead and do it. We welcome that. We acknowledge that, and we hope that they will continue to do it. But the fact of the matter is that the vast majority of States, despite the passage of the acts of 1996 and the Muhammad Ali Act in 2000, are not doing that; and that is why most people associated with this sport including State commissioners, including State commissioners have weighed in in support of this legislation and look forward to the Federal Government seeing that boxing alone is not without some kind of national standards, and that is why this commission is so important.

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

Mr. SENSENBRENNER. Mr. Chairman, I yield such time as he may consume to the gentleman from Nebraska (Mr. TERRY).

Mr. TERRY. Mr. Chairman, I thank the gentleman from Wisconsin for yielding me this time.

I rise in opposition to this bill, and I first want to say that the gentleman from Florida is my chairman. I am a part of his subcommittee and really respect and appreciate his efforts on this bill. We have just drawn different conclusions.

I think the fundamental question that we have to ask about this bill is whether or not boxing, professional boxing, and that is what we are here to talk about is professional boxing, is worth creating another bureaucracy within the Department of Commerce. No matter how we cloak this, it is creating a new entity of rules and regulation, enforcement within the Department of Commerce to oversee a professional sport, although I will say ''professional sport'' with quotations around it.

Where we have professional sports, all of the professional sports have their own regulatory body where they themselves have gotten together and formed, like the Mayflower Compact, their own regulatory or government overseeing body with their own rules and regulations within that body. To my knowledge, boxing is the only sport that has come before Congress asking us to save the sport from itself.

We held several hearings on this within our committee and subcommittee. We had several big-name people from the sport, Muhammad Ali, commissioners from around the State, promoters. All testified to the corruptness of professional boxing, and I asked the witnesses before us at one of our panels, I said, if professional boxing wants to eliminate any semblance of legitimacy, make themselves in essence the wrestling of that sport, why should we care? They came back and said, Well, because we have to. We cannot, in essence, get our own act together; and it is for the health of the boxers. That is why if it is for the health of the boxers, I suggested that we should just ban professional boxing. I offered an amendment and withdrew it.

But the issue to me is if the boxing profession wants to make itself irrelevant as a legitimate professional sport, let us give them that opportunity to do so. Let us not create a new Federal bureaucracy to save themselves from themselves.

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

I would point out, as the gentleman from Nebraska did say he offered an amendment to abolish all of boxing, I think in his statement he also made an argument in favor of our bill. When he posed the question why should we care, think about that. Why should we care? That was his question that he asked in the hearing, and it simply came back to him that we should care about these fighters, these young fighters who are starting out, many from very difficult economic situations. We should care. And I think as Members of Congress, I hope they will keep that question in mind when they support the bill and realize that the gentleman from Nebraska really had an amendment to abolish boxing, which is almost in direct counterpoint to the question he posed, Why should we care?

Mr. Chairman, I yield such time as he may consume to the gentleman from Nebraska (Mr. OSBORNE), the former head coach of the Nebraska Cornhuskers.

Mr. OSBORNE. Mr. Chairman, I thank Chairman STEARNS for yielding me this time.

Mr. Chairman, I speak in support of H.R. 1065, the United States Boxing Commission Act.

When we think about boxing, we often think about Jack Dempsey and Gene Tunney, Joe Louis, Max Schmaeling, Muhammad Ali, Sonny Liston. These are all high-profile fights, a lot of press coverage, pretty well attended by trainers and doctors, a lot of money involved. But what we do not see is the low profile, the seamy side of boxing, the mismatches, the dishonesty, the lack of medical attention, sometimes the brain damage, the low pay, the high number of people who leave the sport with absolutely no financial resources and many times in pretty poor shape physically. So sometimes this part of boxing has been called the ''red light district'' of professional sports. And I would have to say from my knowledge of it, somewhat limited, I would agree that that is an apt title.

Professional boxing, as has been mentioned, is the only major U.S. sport that does not have a centralized association or league to establish and enforce uniform rules and practices. In football we have the National Football League; basketball, the National Basketball Association; Major League Baseball; National Collegiate Athletic Association; U.S. Olympic Committee.

So people say, why did boxing not do this? Why would this not be something that would be natural? And the reason is there is a lot more organization in those other sports. NCAA is composed of member institutions. The Olympic Committee has a variety of supporting organizations. Boxing is almost something that one would have to say has total anarchy, and it is spread all over the place. Some of these club fights, obviously, are very low-budget items; and it is almost impossible to get any kind of organization involved.

I have spent most of my life working with young athletes, and some of these

athletes came from backgrounds similar to that of most prizefighters. There is a lot of poverty. There is sometimes very little family support, sometimes poor schools, sometimes gang influence. But with somebody to care and supervise and nurture, many will come out of that environment and do reasonably well. But they need a little bit of guidance. They need a little bit of help. But I would say the exploitation is more often the norm than a good outcome.

So years of corruption and abuse in boxing would indicate that no effective regulation would come from within the sport. We have asked the question, why do they not just take care of it themselves? But how long are we going to wait?

□ 1630

We have had years and years and years of this sport, going back to the 1700s, and we have seen no regulatory body emerge. How many people have to die? How many people have to have their brains scrambled? And how many matches do we have to have with no medical attention before we do something about it? We would not do something like this with animals. We are very much against cockfighting and other kinds of contests, and we regulate, and we make some of those illegal as well.

So H.R. 1065 provides a uniform Federal standard to regulate business practices and safety issues within the boxing world. This is something whose time has come. It establishes the United States Boxing Commission which oversees all boxing matches in the U.S.

This is a good bill. It is a needed bill. I would really like to see the States do this. But States, again, in many cases, have abdicated their responsibility. They are all over the place. What goes in one State does not go in another. Again, the medical supervision is the main thing that I am interested in, and the injury factor and the fact that we are not having adequate supervision.

I urge support of this bill. I realize it does add some government responsibility. Generally, as a Republican, I do not like to see those things, but when health and safety is involved, I think we need to intervene.

Ms. SCHAKOWSKY. Mr. Chairman, I yield myself such time as I may consume.

I would like to say a special thank you to the gentleman from Illinois (Mr. RUSH) for the work he has done on the bill and for his strong support of the legislation.

I would also like to read a statement on behalf of the gentleman from Michigan (Mr. CONYERS) who is the ranking Democrat on the Committee on the Judiciary.

He says, ''I rise in strong support of H.R. 1065, the United States Boxing Commission Act, which establishes a Federal commission with oversight responsibilities for professional boxing in the United States. This much-needed commission will establish uniform minimum standards which States must follow. It will also be empowered to issue additional regulations to improve the integrity and safety of the sport.

''Further, the commission will establish a Federal licensing requirement for participation in United States matches for certain boxing personnel, including boxers, managers, promoters, match makers, referees, judges and sanctioning.

''In July 2003, the GAO issued a report on professional boxing and listed elements identified by industry experts as essential to improving the health, safety and economic interests of boxers: medical examinations, monitoring of training injuries, assessments of medical risks, health and life insurance, the presence of appropriate medical personnel and equipment, and enforcement of suspensions for injuries.

''Additionally, the GAO found that industry experts believe additional changes are required in boxing and listed the following needed changes: one, require pension plans for boxers; two, require full disclosure of purses and payments; three, require minimum uniform contractual terms between boxers and promoters; and, four, prohibit conflicts of interest.

''While the Federal law has created requirements for States to follow, these laws are largely being ignored. H.R. 1065 will aid in correcting this injustice.

''Boxers often have little or nothing to show from their match proceeds, despite others earning vast wealth off the boxers' talents. We owe it to our athletes to create laws that protect their interests and to make sure those laws are enforced. I urge my colleagues to support H.R. 1065 and to support professional boxers.''

Mr. CONYERS was unable to come down to the floor himself and wanted to make sure that this strong support of the legislation was placed in the RECORD.

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

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

Mr. STEARNS. Mr. Chairman, I yield such time as he may consume to the gentleman from Hawaii (Mr. ABERCROMBIE).

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

Mr. ABERCROMBIE. Mr. Chairman, this legislation may seem a bit esoteric to some not only in Congress here but in the public at large. But this issue, and I want to commend you and the ranking member for bringing it to our attention, this legislation could not be more crucial in terms of what our national responsibilities are.

Boxing and some of the so-called sports that are now associated with physical contact, things called the extreme sports, are interstate in nature, almost by definition. And because they are interstate, without regulation or oversight by the Congress, that means that many of the people associated with, in particular in this instance, the boxers, are in a sense victimized by our failure to take this up as a national question.

The stories may be instructive that are associated with boxing and boxing history. They may be even redemptive in terms of our contemplation of them: People struggling up from the bottom of the economic and social scale, sometimes tragic in nature in terms of those that have succeeded, and then are undone by success. For example, it is well known that the great heavyweight challenger Joe Louis Barrow was considered not only a great champion and a great personality, but was associated in many people's minds symbolically with being able to rise above race to be a symbol for brotherhood, someone who sacrificed financially for the United States by joining the Army during the war. And his reward was to be persecuted by the Internal Revenue Service for not paying taxes on purses and funds that he earned during that period of time. As a result, it had tragic dimensions for him in later life.

These kinds of stories can be replicated over and over again throughout the history of boxing. So what we have right now is the opportunity, Mr. Chairman, for us to put together a commission that will deal with some of the fundamental issues within the purview of the Congress in terms of interstate regulation.

This has to do with health care and the capacity to see to it that anybody engaged in boxing has access to and provision for health care and for pensions for that time when they have to retire. There is no reason why a percentage of every purse cannot be put into some kind of fund that will guarantee a pension and access to a pension for those engaged in boxing.

We have had great champions in Hawaii. Everyone has a story in this regard, Stan Harrington and Bobo Olson, some of the folks that I had an opportunity to know, and some of our champions right now, and potential champions in Hawaii and elsewhere across the country. I ask that everyone give us a chance to move this legislation along so we can complete the opportunity that is before us.

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

Mr. Chairman, I want to thank the gentleman from Hawaii (Mr. ABERCROMBIE), who is himself a champion weight lifter, for weighing in on this legislation. I appreciate it very much.

There are literally millions of people who enjoy the sport of boxing, who watch it and follow it and who want to see that there is some integrity in that sport. A lot has been said about the contenders themselves, about the boxers. I would echo what my chairman, Mr. STEARNS, has said in response to

the question, why should we care? We should care about these young boxers who are trying to follow their dreams and to help create a sport that does guarantee them some level of standards of health and safety and opportunity. And we should also care because it is a $500 million industry in this country that has been plagued with lots of scandals and irregularities.

So we are not talking about creating a major bureaucracy to oversee this, we are looking at a self-funding body that would now add professional boxing to every other sport that has some national standards and national rules and regulations. I think it is fairly modest in its construction, and I would certainly urge all Members on both sides of the aisle to join us, and thank Members on both sides who came down and supported this regulation.

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

Mr. PICKERING. Mr. Chairman, some might not know this, but my State of Mississippi has a great history of boxing. Archie Moore, from Benoit, Mississippi, participated in professional boxing for over 27 years, holding the title of light heavyweight champion, and facing the likes of Rocky Marciano and Cassius Clay, during his career. While he went on to train Foreman and Ali, he will probably be best remembered as holding the record for the most knockouts in a career at 141. What I think is more important and that he may not be remembered as much for was his integrity in such a scandalous and corrupt sport during the years he boxed from 1936 to 1963. While we would have hoped boxing would have progressed and reformed over the years, it has not. The sport is still riddled with many problems, not the least is the exploited nature of its athletes. Muhammed Ali once said this: ''I say get an education. Become an electrician, a mechanic, a doctor, a lawyer—anything but a fighter. In this trade, it's the managers that make the money and last the longest.'' This seemingly benign statement illustrates one small problem among the multitude of problems the sport of boxing faces.

Today, many fans are saddened and upset by the lack of integrity they see in professional boxing that has significantly weakened the sport—the most deplorable problem of which is the treatment of the sport's athletes. Without a doubt, professional boxers are the most exploited athletes in our Nation. While Congress has made efforts to protect professional boxers before, through the Professional Boxing Safety Act of 1996 and the Muhammad Ali Boxing Reform Act of 2000, these are not enough. The real problem today is the ineffective and inconsistent oversight of professional boxing, which has led to continuing scandals, controversies, unethical practices, and unnecessary injuries and deaths in the sport. That is why we are here today.

Mr. Chairman, through the leadership of members of Congress like Senator JOHN MCCAIN, Representative CLIFF STEARNS and Representative PETER KING, Congress is addressing and hopefully rectifying this harrowing situation. In order to better protect boxers and the integrity of professional boxing, we must establish a Federal regulatory entity to oversee professional boxing and set basic uniform standards for certain aspects of the sport. Consider this—professional boxing remains the only major sport in the United States that does not have a strong, centralized association, league, or other regulatory body to establish and enforce uniform rules and practices. And because a powerful few benefit greatly from the current system of patchwork compliance and enforcement of Federal boxing law, a national self-regulating organization—although preferable to Federal government oversight—is not a realistic option.

Mr. Chairman, I was an original co-sponsor to Representative KING's bill, ''The Professional Boxing Amendments Act of 2005,'' which would also establish a United States Boxing Commission that perform substantially similar functions. I am very pleased that this idea is finally being considered on the House floor. The troubles that plague the sport of professional boxing undermine its credibility in the eyes of the public and—more importantly—compromise the health and safety of boxers. The creation of a Federal boxing commission would effectively curb these problems. The Senate has passed Senator MCCAIN's boxing bill, S. 148, the Professional Boxing Amendments Act of 2005, and I think it will be a travesty if the House does not do the same. Therefore, Mr. Chairman, I rise in great support of this legislation today and urge my colleagues to swiftly and expeditiously approve this legislation.

HOUSE OF REPRESENTATIVES, COMMITTEE ON EDUCATION AND THE WORKFORCE,
Washington, DC, September 28, 2005.

Hon. JOE BARTON,
Chairman, Committee on Energy and Commerce, Rayburn House Office Building, Washington, DC.

DEAR CHAIRMAN BARTON: I am writing to confirm our mutual understanding with respect to consideration of H.R. 1065, the United States Boxing Commission Act, which was referred to the Committee on Energy and Commerce and in addition the Committee on Education and the Workforce. The Committee on Energy and Commerce reported this bill on July 28, 2005.

As you know, provisions within H.R. 1065, directing a United States Boxing Commission to establish health and safety standards and a licensing registry for boxing personnel, fall within the jurisdiction of the Committee on Education and the Workforce. In addition, section 11 of the bill requires the Commission to study and report to Congress on health and safety standards in the boxing industry; this provision likewise falls within the jurisdiction of the Committee on Education and the Workforce.

I do not intend to delay consideration of H.R. 1065, nor will I object to the scheduling of this bill for consideration in the House of Representatives. However, I do so only with the understanding that this procedural route should not be construed to prejudice the Committee on Education and the Workforce's jurisdictional interest and prerogatives on these provisions or any other similar legislation, and will not be considered as precedent for consideration of matters of jurisdiction to my committee in the future. Further, this understanding is based on the agreement reached between our staffs to provide that the study commissioned in section 11 of the bill is transmitted to the Committee on Education and the Workforce, as well as your committee. Finally, we would expect you to support our request for appointment of conferees on these provisions should a conference arise with the Senate.

I would ask that you include a copy of our exchange of letters in the Congressional Record on this bill. Thank you for your consideration and cooperation in this matter.

Sincerely,

JOHN A. BOEHNER,
Chairman.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON ENERGY AND COMMERCE,
Washington, DC, October 5, 2005.

Hon. JOHN BOEHNER,
Chairman, Committee on Education and the Workforce, Rayburn House Office Building, Washington, DC.

DEAR CHAIRMAN BOEHNER: Thank you for your letter in regards to H.R. 1065, the United States Boxing Commission Act, which the Committee on Energy and Commerce ordered reported on June 29, 2005.

As the Committee on Education and the Workforce was named as an additional Committee of jurisdiction upon the bill's introduction, I acknowledge and appreciate your willingness to not exercise your full referral on the bill. In doing so, I agree that your decision to forgo further action on the bill will not prejudice the Committee on Education and the Workforce with respect to its jurisdictional prerogatives on this legislation or similar legislation. Specifically, I agree that the study commissioned in section 11 of the bill should also be transmitted to the Committee on Education and the Workforce. Further, I recognize your right to request conferees on those provisions within the Committee on Education and the Workforce's jurisdiction should they be the subject of a House-Senate conference on this or similar legislation.

I'm pleased that we can continue to move this bill forward, and I look forward to working with you in that process. Per your request, I will include your letter and this response during consideration of H.R. 1065 on the House floor.

Sincerely,

JOE BARTON,
Chairman.

The CHAIRMAN. All time for general debate has expired.

In lieu of the amendments recommended by the Committees on Energy and Commerce and the Judiciary printed in the bill, it shall be in order to consider as an original bill for the purpose of amendment under the 5-minute rule an amendment in the nature of a substitute printed in part A of House Report 109–295. That amendment in the nature of a substitute shall be considered read.

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

H.R. 1065

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

Strike all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''United States Boxing Commission Act''.

SEC. 2. DEFINITIONS.

As used in this Act, the following definitions apply:

(1) COMMISSION.—The term ''Commission'' means the United States Boxing Commission established under section 3.

(2) BOXER.—The term ''boxer'' means an individual who fights in a professional boxing match.

(3) BOXING COMMISSION.—The term ''boxing commission'' means an entity authorized under State or tribal law to regulate professional boxing matches.

(4) INDIAN LANDS.—The term ''Indian lands'' has the meanings given that terms by

paragraphs (4) of section 4 of the Indian Gaming Regulatory Act (25 U.S.C. 2703).

(5) JUDGE.—The term ''judge'' means an official who scores a boxing match to determine the winner.

(6) MANAGER.—The term ''manager'' means a person other than a promoter who, under contract, agreement, or other arrangement with a boxer, undertakes to control or administer, directly or indirectly, a boxing-related matter on behalf of that boxer, including a person who is a booking agent for a boxer.

(7) MATCHMAKER.—The term ''matchmaker'' means a person that proposes, selects, and arranges for boxers to participate in a professional boxing match. Such term does not include a hotel, casino, resort, or other commercial establishment hosting or sponsoring a professional boxing match, or a provider of cable, satellite, or network television programming, unless—

(A) the hotel, casino, resort, or other commercial establishment, or provider of cable, satellite, or network television programming is primarily responsible for proposing, selecting, and arranging for boxers to participate in the professional boxing match; and

(B) there is no other person primarily responsible for proposing, selecting, and arranging for boxers to participate in the match.

(8) REFEREE.—The term ''referee'' means the official inside the boxing ring who supervises the boxing match.

(9) PROFESSIONAL BOXING MATCH.—The term ''professional boxing match'' means a boxing contest held in the United States between individuals for financial compensation. Such term does not include a boxing contest that is regulated by a duly recognized amateur sports organization, as approved by the Commission.

(10) PROMOTER.—The term ''promoter''—

(A) means the person primarily responsible for organizing, promoting, and producing a professional boxing match; but

(B) does not include a hotel, casino, resort, or other commercial establishment hosting or sponsoring a professional boxing match, or a provider of cable, satellite, or network television programming, unless—

(i) the hotel, casino, resort, or other commercial establishment, or provider of cable, satellite, or network television programming is primarily responsible for organizing, promoting, and producing the match; and

(ii) there is no other person primarily responsible for organizing, promoting, and producing the match.

(11) STATE.—The term ''State'' means each of the 50 States, Puerto Rico, the District of Columbia, and any territory or possession of the United States, including the Virgin Islands.

(12) SANCTIONING ORGANIZATION.—The term ''sanctioning organization'' means an organization, other than a boxing commission, that sanctions professional boxing matches, ranks professional boxers, or charges a sanctioning fee for professional boxing matches in the United States—

(A) between boxers who are residents of different States; or

(B) that are advertised, otherwise promoted, or broadcast (including closed circuit television) in interstate commerce.

(13) SUSPENSION.—The term ''suspension'' includes within its meaning the temporary revocation of a boxing license.

(14) TRIBAL ORGANIZATION.—The term ''tribal organization'' has the same meaning as in section 4(l) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(l)).

SEC. 3. ESTABLISHMENT OF UNITED STATES BOXING COMMISSION.

(a) IN GENERAL.—The United States Boxing Commission is established as a commission within the Department of Commerce.

(b) MEMBERS.—

(1) IN GENERAL.—The Commission shall consist of 3 members appointed by the President, by and with the advice and consent of the Senate.

(2) QUALIFICATIONS.—No member of the Commission may, while serving as a member of the Commission—

(A) be engaged as a professional boxer, boxing promoter, agent, fight manager, matchmaker, referee, judge, or in any other capacity in the conduct of the business of professional boxing;

(B) have any pecuniary interest in the earnings of any boxer or the proceeds or outcome of any boxing match; or

(C) serve as a member of a boxing commission.

(3) BIPARTISAN MEMBERSHIP.—Not more than 2 members of the Commission may be members of the same political party.

(4) GEOGRAPHIC BALANCE.—Not more than 2 members of the Commission may be residents of the same geographic region of the United States when appointed to the Commission. For purposes of the preceding sentence, the area of the United States east of the Mississippi River is a geographic region, and the area of the United States west of the Mississippi River is a geographic region.

(5) TERMS.—

(A) IN GENERAL.—The term of a member of the Commission shall be 3 years. No member of the Commission shall serve more than 2 terms.

(B) MIDTERM VACANCIES.—A member of the Commission appointed to fill a vacancy in the Commission occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed for the remainder of that unexpired term.

(C) CONTINUATION PENDING REPLACEMENT.—A member of the Commission may serve after the expiration of that member's term until a successor has taken office.

(6) REMOVAL.—A member of the Commission may be removed by the President only for cause.

(c) EXECUTIVE DIRECTOR.—

(1) IN GENERAL.—The Commission shall employ an Executive Director to perform the administrative functions of the Commission under this Act, and such other functions and duties of the Commission as the Commission shall specify.

(2) DISCHARGE OF FUNCTIONS.—Subject to the authority, direction, and control of the Commission the Executive Director shall carry out the functions and duties of the Commission under this Act.

(d) GENERAL COUNSEL.—The Commission shall employ a General Counsel to provide legal counsel and advice to the Executive Director and the Commission in the performance of its functions under this Act, and to carry out such other functions and duties as the Commission shall specify.

(e) STAFF.—The Commission shall employ such additional staff as the Commission considers appropriate to assist the Executive Director and the General Counsel in carrying out the functions and duties of the Commission under this Act.

(f) MEETINGS.—The Commission shall hold its first meeting no later than 30 days after all members shall have been appointed, and shall meet thereafter not less frequently than once every 60 days.

(g) COMPENSATION.—

(1) MEMBERS OF COMMISSION.—

(A) IN GENERAL.—Each member of the Commission shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Commission.

(B) TRAVEL EXPENSES.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(2) EXECUTIVE DIRECTOR AND STAFF.—The Commission shall fix the compensation of the Executive Director, the General Counsel, and other personnel of the Commission. The rate of pay for the Executive Director, the General Counsel, and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of title 5, United States Code.

SEC. 4. FUNCTIONS.

(a) GENERAL FUNCTIONS.—The general functions of the Commission are—

(1) to protect the general interests of boxers consistent with the provisions of this Act;

(2) to ensure uniformity, fairness, and integrity in professional boxing; and

(3) except as otherwise determined by the Commission, oversee all professional boxing matches in the United States.

(b) INITIAL RULEMAKING.—Not later than 180 days after the date on which the Commission shall hold its first meeting, the Commission shall, by rule promulgate uniform standards for professional boxing in consultation with the Association of Boxing Commissions.

(c) ADDITIONAL FUNCTIONS.—In addition to its general functions under subsection (a), the Commission shall—

(1) work with the boxing commissions of the several States and tribal organizations to improve the status and standards of professional boxing in the United States;

(2) ensure, in cooperation with the Attorney General, or a designee of the Attorney General, (who shall represent the Commission in any judicial proceeding under this Act), the chief law enforcement officer of the several States, and other appropriate officers and agencies of Federal, State, and local government, that Federal and State laws applicable to professional boxing matches in the United States are vigorously, effectively, and fairly enforced;

(3) review State boxing commission regulations for professional boxing and provide assistance to such authorities in meeting minimum standards prescribed by the Commission under this Act;

(4) if the Commission determines appropriate, publish a newspaper, magazine, or other publication and establish and maintain an Internet website consistent with the provisions of this Act; and

(5) promulgate rules, regulations, and guidance, and take any other action necessary and proper to accomplish the purposes of, and consistent with, the provisions of this Act.

(d) PROHIBITIONS.—The Commission may not—

(1) promote boxing events or rank professional boxers; or

(2) provide technical assistance to, or authorize the use of the name of the Commission by, boxing commissions that do not comply with requirements of the Commission.

SEC. 5. LICENSING AND REGISTRATION OF BOXING PERSONNEL.

(a) LICENSING.—

(1) REQUIREMENT FOR LICENSE.—Beginning 1 year after the date of enactment of this Act, no person may compete in a professional boxing match or serve as a boxing manager, boxing promoter, matchmaker, judge, referee, or sanctioning organization for a professional boxing match except as provided in a license granted to that person under this subsection.

(2) APPLICATION AND TERM.—

(A) IN GENERAL.—The Commission shall—

(i) establish application procedures, forms, and fees for licenses granted under this section;

(ii) establish and publish appropriate standards for such licenses;

(iii) issue a license to any person who, as determined by the Commission, meets the standards established by the Commission under this Act; and

(iv) begin issuing such licenses not later than 270 days after the date on which Commission holds its first meeting.

(B) DURATION.—A license issued under this section shall be for a renewable—

(i) 4-year term for a boxer; and

(ii) 2-year term for any other person.

(C) PROCEDURE.—The Commission may issue a license under this paragraph through boxing commissions or in a manner determined by the Commission.

(b) LICENSING FEES.—

(1) AUTHORITY.—The Commission may prescribe and charge reasonable fees for the licensing of persons under this Act. The Commission may set, charge, and adjust varying fees on the basis of classifications of persons, functions, and events determined appropriate by the Commission.

(2) LIMITATIONS.—In setting and charging fees under paragraph (1), the Commission shall ensure that, to the maximum extent practicable—

(A) club boxing is not adversely effected;

(B) sanctioning organizations and promoters pay comparatively the largest portion of the fees; and

(C) boxers pay as small a portion of the fees as is possible.

SEC. 6. NATIONAL REGISTRY OF BOXING PERSONNEL.

The Commission shall establish and maintain (or authorize a third party to establish and maintain) a unified national computerized registry for the collection, storage, and retrieval of such information as the Commission shall prescribe by rule related to the performance of its duties.

SEC. 7. CONSULTATION REQUIREMENTS.

The Commission shall consult with the Association of Boxing Commissions—

(1) before prescribing any regulation or establishing any standard under the provisions of this Act; and

(2) not less than once each year regarding matters relating to professional boxing.

SEC. 8. MISCONDUCT.

(a) SUSPENSION AND REVOCATION OF LICENSE OR REGISTRATION.—

(1) AUTHORITY.—The Commission may, after notice and opportunity for a hearing, suspend or revoke any license issued under this Act if the Commission—

(A) finds that the license holder has violated any provision of this Act or a standard prescribed under this Act;

(B) reasonably believes that a standard prescribed by the Commission under this Act is not being met, or that bribery, collusion, intentional losing, racketeering, extortion, or the use of unlawful threats, coercion, or intimidation have occurred in connection with a license; or

(C) finds that the suspension or revocation is in the public interest.

(2) PERIOD OF SUSPENSION.—A suspension of a license under this section shall be effective for a period determined appropriate by the Commission.

(3) PERIOD OF REVOCATION.—In the case of a revocation of the license of a boxer, the revocation shall be for a period of not less than 1 year.

(b) INVESTIGATIONS AND INJUNCTIONS.—

(1) AUTHORITY.—The Commission may—

(A) conduct any investigation that it considers necessary to determine whether any person has violated, or is about to violate, any provision of this Act or any regulation prescribed under this Act;

(B) require or permit any person to file with it a statement in writing, under oath or otherwise as the Commission shall determine, as to all the facts and circumstances concerning the matter to be investigated;

(C) in its discretion, publish information concerning any violations; and

(D) investigate any facts, conditions, practices, or matters to aid in the enforcement of the provisions of this Act, in the prescribing of regulations under this Act, or in securing information to serve as a basis for recommending legislation concerning the matters to which this Act relates.

(2) POWERS.—

(A) IN GENERAL.—For the purpose of any investigation under paragraph (1) or any other proceeding under this Act—

(i) any officer designated by the Commission may administer oaths and affirmations, subpoena or otherwise compel the attendance of witnesses, take evidence, and require the production of any books, papers, correspondence, memoranda, or other records the Commission considers relevant or material to the inquiry; and

(ii) the provisions of sections 6002 and 6004 of title 18, United States Code, shall apply.

(B) WITNESSES AND EVIDENCE.—The attendance of witnesses and the production of any documents under subparagraph (A) may be required from any place in the United States, including Indian land, at any designated place of hearing.

(3) ENFORCEMENT OF SUBPOENAS.—

(A) CIVIL ACTION.—In case of contumacy by, or refusal to obey a subpoena issued to, any person, the Commission may file an action in any district court of the United States within the jurisdiction of which an investigation or proceeding is carried out, or where that person resides or carries on business, to enforce the attendance and testimony of witnesses and the production of books, papers, correspondence, memorandums, and other records. The court may issue an order requiring the person to appear before the Commission to produce records, if so ordered, or to give testimony concerning the matter under investigation or in question.

(B) FAILURE TO OBEY.—Any failure to obey an order issued by a court under subparagraph (A) may be punished as contempt of that court.

(C) PROCESS.—All process in any contempt case under subparagraph (A) may be served in the judicial district in which the person is an inhabitant or in which the person may be found.

(D) ADMINISTRATIVE SUBPOENAS.—The requirements of section 3486 of title 18, United States Code, shall apply to the administration and enforcement of subpoenas under this Act.

(4) EVIDENCE OF CRIMINAL MISCONDUCT.—No person may be excused from attending and testifying or from producing books, papers, contracts, agreements, and other records and documents before the Commission, in obedience to the subpoena of the Commission, or in any cause or proceeding instituted by the Commission, on the ground that the testimony or evidence, documentary or otherwise, required of that person may tend to incriminate the person or subject the person to a penalty or forfeiture.

(5) INJUNCTIVE RELIEF.—If the Commission determines that any person is engaged or about to engage in any act or practice that constitutes a violation of any provision of this Act, or of any regulation prescribed under this Act, the Commission may bring an action in the appropriate district court of the United States, the United States District Court for the District of Columbia, or the United States courts of any territory or other place subject to the jurisdiction of the United States, to enjoin the act or practice, and upon a proper showing, the court shall grant without bond a permanent or temporary injunction or restraining order.

(6) MANDAMUS.—Upon application of the Commission, the district courts of the United States, the United States District Court for the District of Columbia, and the United States courts of any territory or other place subject to the jurisdiction of the United States, shall have jurisdiction to issue writs of mandamus commanding any person to comply with the provisions of this Act or any order of the Commission.

(c) INTERVENTION IN CIVIL ACTIONS.—

(1) IN GENERAL.—The Commission, on behalf of the public interest, may intervene of right as provided under rule 24(a) of the Federal Rules of Civil Procedure in any civil action relating to professional boxing filed in a district court of the United States.

(2) AMICUS FILING.—The Commission may file a brief in any action filed in a court of the United States on behalf of the public interest in any case relating to professional boxing.

(d) HEARINGS BY COMMISSION.—Hearings conducted by the Commission under this Act shall be public and may be held before any officer of the Commission. The Commission shall keep appropriate records of the hearings.

SEC. 9. NONINTERFERENCE WITH BOXING COMMISSIONS.

(a) NONINTERFERENCE.—Nothing in this Act prohibits any boxing commission from exercising any of its powers, duties, or functions with respect to the regulation or supervision of professional boxing or professional boxing matches to the extent not inconsistent with the provisions of this Act.

(b) MINIMUM STANDARDS.—Nothing in this Act prohibits any boxing commission from enforcing local standards or requirements that exceed the minimum standards or requirements promulgated by the Commission under this Act.

SEC. 10. ASSISTANCE FROM OTHER AGENCIES.

Any employee of any executive department, agency, bureau, board, commission, office, independent establishment, or instrumentality may be detailed to the Commission, upon the request of the Commission, on a reimbursable or nonreimbursable basis, with the consent of the appropriate authority having jurisdiction over the employee. While so detailed, an employee shall continue to receive the compensation provided pursuant to law for the employee's regular position of employment and shall retain, without interruption, the rights and privileges of that employment.

SEC. 11. STUDIES.

(a) HEALTH AND SAFETY STUDY.—

(1) STUDY.—The Commission shall conduct a study on the health and safety aspects of boxing, including an examination of—

(A) the risks or serious injury and the nature of potential injuries, including risks particular to boxers of each sex;

(B) the long term effect of boxing on the health of boxers;

(C) the availability of health insurance for boxers;

(D) the extent to which differences in equipment effect the risks of potential injury; and

(E) the effectiveness of safety standards and regulations.

(2) REPORT.—Not later than 1 year after the date of enactment of this Act, the Commission shall submit a report on the study required by this section to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives, including recommendations to improve the health and safety aspects of boxing.

(b) STUDY ON THE DEFINITION OF PROMOTER.—

(1) STUDY.—The United States Boxing Commission shall conduct a study on how the term ''promoter'' should be defined for purposes of the United States Boxing Commission Act.

(2) HEARINGS.—As part of that study, the Commission shall hold hearings and solicit testimony at those hearings from boxers, managers, promoters, premium, cable, and satellite program service providers, hotels, casinos, resorts, and other commercial establishments that host or sponsor professional boxing matches, and other interested parties with respect to the definition of that term as it is used in the United States Boxing Commission Act.

(3) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Commission shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives a report on the study conducted under subsection (a). The report shall—

(A) set forth a proposed definition of the term ''promoter'' for purposes of the United States Boxing Commission Act; and

(B) describe the findings, conclusions, and rationale of the Commission for the proposed definition, together with any recommendations of the Commission, based on the study.

SEC. 12. REPORTS.

(a) ANNUAL REPORT.—Not later than 2 years after the date of enactment of this Act, and each year thereafter, the Commission shall submit a report on its activities to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives. The annual report shall include—

(1) a detailed discussion of the activities of the Commission for the year covered by the report;

(2) an overview of the licensing and enforcement activities of the State and tribal organization boxing commissions; and

(3) recommendations regarding additional persons or entities within the sport of boxing over whom to extend the licensing requirement established by this Act.

(b) PUBLIC REPORT.—The Commission shall annually issue and publicize a report of the Commission on the progress made at Federal and State levels and on Indian lands in the reform of professional boxing, which shall include comments on issues of continuing concern to the Commission.

SEC. 13. SUNSET PROVISION.

This Act shall cease to have effect 12 years after the date of enactment of this Act.

SEC. 14. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated for the Commission for each fiscal year such sums as may be necessary for the Commission to perform its functions for that fiscal year.

(b) RECEIPTS CREDITED AS OFFSETTING COLLECTIONS.—Notwithstanding section 3302 of title 31, United States Code, any fee collected under this Act—

(1) shall be credited as offsetting collections to the account that finances the activities and services for which the fee is imposed;

(2) shall be available for expenditure only to pay the costs of activities and services for which the fee is imposed; and

(3) shall remain available until expended.

The CHAIRMAN. No amendment to that amendment shall be in order except those printed in part B of the report. Each amendment may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered read, debatable for the time specified in the report, equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question.

AMENDMENT NO. 1 OFFERED BY MR. STEARNS

Mr. STEARNS. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Part B amendment No. 1 printed in House Report 109–295 offered by Mr. STEARNS:

In the heading of subsection (b) of section 5, strike ''LICENSING''.

In section 5(b)(1), strike ''reasonable fees for the licensing of persons under this Act'' and insert '', for the licensing of persons under this Act, reasonable fees sufficient for the operation of the Commission and the administration of this Act''.

In section 14(b), strike ''under this Act—'' and insert ''under this Act shall, subject to appropriations—''.

In section 14(b), strike paragraphs (1) and (2) and insert the following:

(1) be credited as offsetting collections against any amounts appropriated pursuant to subsection (a); and

In section 14(b), strike ''(3) shall remain'' and insert ''(2) remain''.

The CHAIRMAN. Pursuant to House Resolution 553, the gentleman from Florida (Mr. STEARNS) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Florida.

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

I am offering today a manager's amendment that will perfect the underlying bill to ensure that H.R. 1065 is a fiscally sound piece of legislation that uses a self-funding mechanism for the United States Boxing Commission established under the act.

Let me be crystal clear to my colleagues, taxpayers are not being forced to pay for the USBC. Boxers, boxing personnel and the sanctioning organization, such as the World Boxing Association, WBA, the International Boxing Federation, IBF, and so on, will provide the funds, through payment of license and other fees, which will be collected by the USBC.

Specifically, my amendment will do the following: Section 5 of the bill will be amended to clarify that fees authorized and collected shall be available to fund the operation of the United States Boxing Commission and administration of this act.

Section 14 of the bill will be amended to clarify that offsetting collections are available to the USBC subject to appropriation. This is a very good amendment. It is bipartisan. The bill itself will save lives, protect vulnerable athletes and help get the sport of boxing back in fighting shape.

First and foremost, it will end the corruption and abuse that has plagued the sport for so long so America will regain its pride in boxing and all of its wonderful champions. Moreover, it will be done in a fiscally responsible way. I urge my colleagues to support this perfecting amendment and support H.R. 1065.

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

Ms. SCHAKOWSKY. Mr. Chairman, I ask unanimous consent to claim the time in opposition, although I do not oppose the amendment.

The CHAIRMAN. Is there objection to the request of the gentlewoman from Illinois?

There was no objection.

Ms. SCHAKOWSKY. Mr. Chairman, I yield myself such time as I may consume.

I just want to make a few remarks in support of the Stearns amendment. The Stearns amendment would ensure that establishment of the boxing commission would not be a burden to the taxpayers. It would require that the fees collected from the licenses go to offset the cost of running the commission. The amendment is fiscally responsible, and it is consistent with PAYGO principles that helped us achieve budget surpluses in the 1990s.

This amendment was crafted in consultation with the Committee on Appropriations and achieves the stated objective. While I believe that boxing needs to have serious oversight, I also believe it should be paid for by those who profit and promote the ringside event. It is the least they can do for the sport they love, and I urge my colleagues to support this amendment.

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

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

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida (Mr. STEARNS).

The amendment was agreed to.

AMENDMENT NO. 2 OFFERED BY MS. SCHAKOWSKY

Ms. SCHAKOWSKY. Mr. Chairman, as the designee of Mr. FILNER of California, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Part B amendment No. 2 printed in House Report 109–295 offered by Ms. SCHAKOWSKY:

In section 4(c)(4), strike ''; and'' and insert a semicolon.

In section 4(c)(5), strike the period at the end and insert a semicolon.

At the end of section 4(c), insert the following:

(6) require a copy of any contract for a boxing match to be filed with the Commission or

with a state boxing authority at a time and in a manner determined appropriate by the Commission;

(7) establish minimum standards for the availability of medical services at professional boxing matches;

(8) encourage a life, accident, and health insurance fund for professional boxers and other members of the professional boxing community; and

(9) conduct discussions and enter into agreements with foreign boxing entities on methods of applying minimum health and safety standards to foreign boxing events and foreign boxers, trainers, cut men, referees, judges, ringside physicians, and other professional boxing personnel.

In section 12(a)(2), strike ''; and'' and insert a semicolon.

In section 12(a)(3), strike the period and insert ''; and''.

In section 12(a), insert after paragraph (3) the following:

(4) recommendations regarding the feasibility of establishing a pension system for professional boxing participants.

The CHAIRMAN. Pursuant to House Resolution 553, the gentlewoman from Illinois (Ms. SCHAKOWSKY) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from Illinois.

□ 1645

Ms. SCHAKOWSKY. Mr. Chairman, this amendment enhances safeguards to protect professional boxers. We all know that boxing is a tough sport with even tougher consequences and it is essential that we protect boxers as much as possible.

Unfortunately, there are varying standards among the States on what type of medical services need to be available during boxing matches. Because appropriate medical care is critical in determining whether the fighter injured in the match will recover, suffer permanent damage or will die, depending on the extent of the injury, this amendment would call on the boxing commission to establish minimum standards and what type of medical services must be available at professional boxing matches.

Additionally, many boxers only have insurance coverage the night of the fight. It is not surprising that many insurance companies do not offer boxers health and life insurance policies at affordable rates for the rest of the time. And not every boxer is a prize fighter taking home a big purse. This amendment would simply encourage the Boxing Commission to establish an insurance fund to cover members of the professional boxing community.

We have all heard of the destitute boxer struggling to get by. This amendment would call on the Boxing Commission to come forward on recommendations regarding the feasibility of the pension system for professional boxing participants. Remember, again, this is asking them to come forward simply with a recommendation regarding the feasibility of a pension system.

Finally, like most other sports, boxing is an international business. As such, I believe it is important for the Boxing Commission to enter into agreements with other foreign boxing entities to set minimum health standards for boxers who fight overseas.

All of these measures are important to improve the sport and to provide additional safeguards to boxing, and I urge support of this amendment.

Mr. STEARNS. Mr. Chairman, will the gentlewoman yield?

Ms. SCHAKOWSKY. I yield to the gentleman from Florida.

Mr. STEARNS. Mr. Chairman, I rise in support of my colleague's amendment, and I think I would accept it. Both our staffs have looked at this. We think it is a good improvement on the bill, and so I commend the gentlewoman for her extra work here on the amendment and the gentleman from California (Mr. FILNER) who has also been involved with it.

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

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from Illinois (Ms. SCHAKOWSKY).

The amendment was agreed to.

AMENDMENT NO. 4 OFFERED BY MS. SCHAKOWSKY

Ms. SCHAKOWSKY. Mr. Chairman, as the designee of Mr. FILNER of California, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Part B amendment No. 4 printed in House Report 109–295 offered by Ms. SCHAKOWSKY:

After section 5, insert the following (and redesignate succeeding sections accordingly):

SEC. 6. ARCHIE MOORE CRITERIA FOR RATING BOXERS.

(a) PUBLICATION BY COMMISSION.—Not later than 1 year after the date of enactment of this Act, the Commission shall develop and publish guidelines establishing consistent and objective criteria for the rating of professional boxers.

(b) ADOPTION BY SANCTIONING ORGANIZATIONS.—Beginning 90 days after the promulgation of the guidelines under subsection (a), no sanctioning organization may be issued a license under this Act unless such organization shall adopt and carry out policies and procedures for the rating of professional boxers that are consistent with such guidelines.

The CHAIRMAN. Pursuant to House Resolution 553, the gentlewoman from Illinois (Ms. SCHAKOWSKY) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from Illinois.

Ms. SCHAKOWSKY. Mr. Chairman, the gentleman from California (Mr. FILNER) named this the Archie Moore Criteria for Rating Boxers. So the reason that he called this amendment the Archie Moore criteria for rating boxers is because Archie Moore, also known as the Old Mongoose, held the light middleweight title for 10 years. By the time of his retirement, after 197 fights, Archie had compiled a truly unassailable sports record of 145 knockouts. All of this is even more remarkable when one considers that he spent a large part of his career, approximately 16 years, traveling to an unending string of boxing honky tonks open to fighters who could not break into the big leagues.

Archie did not get a title shot until he turned 39, a time when most boxers retire. There were many barriers preventing great boxers like Archie from rising through the ranks. One primarily being a broken rating system for boxers.

It is the job of the sanctioning organizations to rate boxers and to designate a champion. Sanctioning organizations make their money by sanctioning champion fights. The higher a fighter is rated, the more likely it will be for him to get high paying fights, especially championship fights.

However, often rankings are not based on objective talent or win-loss records; rather, boxers who belong to certain promoters may be highly ranked regardless of skill and ability. A fighter could be the best in his weight class, but if he is not associated with the right people he may not be ranked and thus lose his chance to further his career.

Previously, Congress passed legislation under the Mohammed Ali act to require all sanctioning organizations to develop credible and consistent ratings criteria. However, there are still problems with the system.

For example, one of the sanctioning organizations had a dead man ranked in the top 10 of a super middle weight division for 4 months. During the 4 months in which the dead man was actually ranked, he moved up in the ratings, going from Number 7 to Number 5.

This is just one incident on a long list of problems associated with the ratings system conducted by boxing sanctioning organizations. Obviously, something is wrong, and something ought to be done.

My amendment will require the Boxing Commission to establish guidelines for rating boxers. These guidelines must be followed by organizations that sanction boxing events. My amendment does not strip boxing sanctioning organizations from ranking boxers; however, it does require them to adhere to a set criteria established by the Boxing Commission.

Boxing will never be the sport it once was until the rating system is made more legitimate and respectable, which is why I am asking you to support my amendment.

Mr. Chairman, I yield to the gentleman from Florida.

Mr. STEARNS. Mr. Chairman, I thank the gentlewoman from Florida for yielding. I do not rise in opposition. I think this amendment is good. We accept it. I would point out, during the hearing, we had a boxer who died of natural causes and as a result of that he rose in the ranking because of the lack of standards that are set. And so I think, in this case, her amendment would be worthwhile, so that this sort

of anomaly does not occur again in which a boxer dies naturally and he rises in rank in the standing in the overall professional standing. So I rise in support of the amendment.

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

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from Illinois (Ms. SCHAKOWSKY).

The amendment was agreed to.

AMENDMENT NO. 5 OFFERED BY MR. SODREL

Mr. SODREL. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Part B amendment No. 5 printed in House Report 109–295 offered by Mr. SODREL:

Strike section 14.

The CHAIRMAN. Pursuant to House Resolution 553, the gentleman from Indiana (Mr. SODREL) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Indiana.

MODIFICATION TO AMENDMENT NO. 5 OFFERED BY MR. SODREL

Mr. SODREL. Mr. Chairman, I ask unanimous consent that the amendment be modified by the modification at the desk.

The CHAIRMAN. Is there objection to the request of the gentleman from Indiana?

There was no objection.

The CHAIRMAN. The Clerk will report the modification.

The Clerk read as follows:

Modification offered by Mr. SODREL:

In lieu of the matter proposed:

In section 14, strike ''**AUTHORIZATION OF APPROPRIATIONS**'' and insert ''**RECEIPTS CREDITED AS OFFSETTING COLLECTIONS**''.

In section 14, strike subsection (a).

In section 14, strike ''(b) RECEIPTS CREDITED AS OFFSETTING COLLECTIONS.—''.

In section 14, strike ''pursuant to subsection (a)'' and insert ''to fund this Act''.

The CHAIRMAN. The gentleman from Indiana is recognized for 5 minutes in support of his amendment, as modified.

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

Mr. Chairman, the sport of boxing is an amusement. It is a luxury often costing participants hundreds of dollars to attend a single prize fight.

In a time when we are searching for ways to fund necessities, we should not expose the taxpayer to a left hook and the possibility of paying millions of dollars to clean up corruption of a highly profitable business that estimates are brings in a billion dollars a year.

I commend the gentleman from Florida for working with me to ensure that taxpayers keep their guard up to prevent them from sharing the burden of paying for this commission.

I am still uncomfortable with the prospect of the Federal Government serving directly as the referee for licensing and regulating commercial sports.

Other professional sports, baseball, football, hockey, basketball all have their own governing body to thwart the problems now faced by the professional boxing industry.

However, if it must be done, then we must ensure that the costs fall on those that have generated the need for regulation and who benefit the most from boxing industry's revenues.

I believe my amendment will ensure this commission will be funded exclusively by licensing fees on the boxing industry participants and not from appropriations of general funds.

I ask my colleagues to support this amendment to hold the boxing industry accountable to pay for its own regulation.

Mr. Chairman, I yield 2 minutes to the gentleman from Florida (Mr. STEARNS).

Mr. STEARNS. Mr. Chairman, the gentleman's amendment, I think, improves the bill quite a bit, addresses the fee language to ensure that the fees collected pursuant to the act are credited, as the gentleman mentioned, as offsetting collections only for the purpose of funding the commission. It is important to ensure that any fee collected is used expressly for the purpose intended, namely, the funding of this commission.

User fees are common throughout most industries and are often used to fund activities that, other than the purpose of the fee that is collected. We know that. We see that oftentimes in Congress. But this amendment will ensure that this does not happen. So I think it is very good. And I compliment the gentleman for it. It is a good policy. The insurance commission is the only entity that receives the industry fees that it is collecting from. It has bipartisan support, and I appreciate the gentleman working with me and my staff, and I commend my colleagues to vote and support it.

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

The CHAIRMAN. The question is on the amendment, as modified, offered by the gentleman from Indiana (Mr. SODREL).

The amendment, as modified, was agreed to.

The CHAIRMAN. The question is on the amendment in the nature of a substitute, as amended.

The amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. PUTNAM) having assumed the chair, Mr. SIMPSON, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 1065) to establish the United States Boxing Commission to protect the general welfare of boxers and to ensure fairness in the sport of professional boxing, pursuant to House Resolution 553, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

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

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

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

The Sergeant at Arms will notify absent Members.

Pursuant to clause 8 of rule XX, this 15-minute vote on passage of H.R. 1065 will be followed by 5-minute votes on motions to suspend the rules and agree to H. Con. Res. 230 and H. Con. Res. 268.

The vote was taken by electronic device, and there were—yeas 190, nays 233, not voting 10, as follows:

[Roll No. 592]

YEAS—190

Abercrombie	Diaz-Balart, L.	Kennedy (RI)
Ackerman	Dicks	Kildee
Allen	Dingell	Kilpatrick (MI)
Baca	Doggett	Kind
Baird	Doyle	King (NY)
Baldwin	Ehlers	Kirk
Barrow	Emanuel	Kucinich
Barton (TX)	Engel	Langevin
Bass	Eshoo	Larson (CT)
Becerra	Evans	Lee
Berkley	Farr	Levin
Berman	Fattah	Lewis (GA)
Bishop (GA)	Filner	Lipinski
Bishop (NY)	Fitzpatrick (PA)	Lofgren, Zoe
Blunt	Fortenberry	Lowey
Boren	Gerlach	Lungren, Daniel E.
Boucher	Gibbons	Lynch
Boyd	Gilchrest	Maloney
Brady (PA)	Gillmor	Markey
Brown (OH)	Gonzalez	Matheson
Brown, Corrine	Green, Gene	Matsui
Burgess	Grijalva	McCarthy
Butterfield	Gutierrez	McCollum (MN)
Buyer	Gutknecht	McGovern
Capps	Hall	McIntyre
Cardin	Harman	McKinney
Carnahan	Herseth	McNulty
Castle	Higgins	Meehan
Chandler	Hinchey	Meeks (NY)
Clay	Hinojosa	Michaud
Clyburn	Holden	Millender-McDonald
Conyers	Honda	Miller (NC)
Cramer	Hooley	Miller, George
Crowley	Hoyer	Moore (KS)
Cubin	Hyde	Moore (WI)
Cummings	Inslee	Moran (KS)
Davis (AL)	Israel	Moran (VA)
Davis (CA)	Issa	Napolitano
Davis (IL)	Jackson (IL)	Neal (MA)
Davis, Tom	Jackson-Lee (TX)	Oberstar
DeGette	Jefferson	Obey
Delahunt	Johnson (CT)	
DeLauro		

Olver
Ortiz
Osborne
Owens
Pascrell
Pelosi
Pickering
Pitts
Pomeroy
Porter
Price (NC)
Pryce (OH)
Rangel
Reyes
Rogers (KY)
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Scott (VA)
Serrano
Shays
Sherman
Shimkus
Simmons
Skelton
Slaughter
Smith (NJ)
Smith (WA)
Solis
Spratt
Stearns
Strickland
Stupak
Tauscher
Thomas
Thompson (CA)
Thompson (MS)
Towns
Udall (CO)
Upton
Van Hollen
Velázquez
Visclosky
Walden (OR)
Waters
Watson
Waxman
Weiner
Weldon (FL)
Wexler
Whitfield
Woolsey
Wynn
Young (FL)

NAYS—233

Aderholt
Akin
Alexander
Andrews
Bachus
Baker
Barrett (SC)
Bartlett (MD)
Bean
Beauprez
Berry
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blumenauer
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boustany
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burton (IN)
Calvert
Camp
Cannon
Cantor
Capito
Capuano
Cardoza
Carson
Carter
Case
Chabot
Chocola
Cleaver
Coble
Cole (OK)
Conaway
Cooper
Costa
Costello
Crenshaw
Cuellar
Culberson
Davis (KY)
Davis (TN)
Davis, Jo Ann
Deal (GA)
DeFazio
DeLay
Dent
Diaz-Balart, M.
Doolittle
Drake
Dreier
Duncan
Emerson
English (PA)
Etheridge
Everett
Feeney
Ferguson
Flake
Foley
Forbes
Ford
Fossella
Foxx
Frank (MA)
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gingrey
Gohmert
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Green, Al
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Holt
Hostettler
Hulshof
Hunter
Inglis (SC)
Istook
Jindal
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
King (IA)
Kingston
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Larsen (WA)
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas
Mack
Manzullo
Marchant
Marshall
McCaul (TX)
McCotter
McCrery
McDermott
McHenry
McHugh
McKeon
McMorris
Meek (FL)
Melancon
Menendez
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Mollohan
Murphy
Murtha
Musgrave
Myrick
Nadler
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Otter
Oxley
Pallone
Pastor
Paul
Payne
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Platts
Poe
Pombo
Price (GA)
Putnam
Radanovich
Rahall
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (MI)
Rohrabacher
Ross
Rothman
Royce
Ryan (WI)
Ryun (KS)
Salazar
Saxton
Schmidt
Sensenbrenner
Sessions
Shadegg
Shaw
Sherwood
Shuster
Simpson
Smith (TX)
Snyder
Sodrel
Souder
Sullivan
Sweeney
Tancredo
Tanner
Taylor (NC)
Terry
Thornberry
Tiahrt
Tiberi
Tierney
Turner
Udall (NM)
Walsh
Wamp
Wasserman Schultz
Watt
Weldon (PA)
Weller
Westmoreland
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wu
Young (AK)

NOT VOTING—10

Boswell
Cunningham
Davis (FL)
Edwards
Jenkins
Lantos
Reichert
Ros-Lehtinen
Stark
Taylor (MS)

□ 1727

Mr. FORD, Ms. HART, Mr. BONNER, Mr. RADANOVICH, Mrs. BONO, Messrs. DAVIS of Tennessee, GINGREY, KELLER, McCAUL of Texas, AL GREEN of Texas, CLEAVER, ROGERS of Alabama, SULLIVAN, POMBO, Ms. EDDIE BERNICE JOHNSON of Texas, Messrs. MURTHA, UDALL of New Mexico, GORDON, ADERHOLT, ROSS and Ms. KAPTUR changed their vote from ''yea'' to ''nay.''

Messrs. DAVIS of Illinois, GUTIERREZ, OLVER, HALL, BERMAN, BACA, KENNEDY of Rhode Island, GONZALEZ, LEVIN, GEORGE MILLER of California and KUCINICH changed their vote from ''nay'' to ''yea.''

So the bill was not passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

FURTHER MESSAGE FROM THE SENATE

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

S. 1234. An act to increase, effective as of December 1, 2005, the rates of compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for the survivors of certain disabled veterans.

The message also announced that the Senate has agreed to a concurrent resolution of the following title in which the concurrence of the House is requested:

S. Con. Res. 62. Concurrent resolution directing the Joint Committee on the Library to procure a statue of Rosa Parks for placement in the Capitol.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2862) ''An Act making appropriations for Science, the Departments of State Justice, and Commerce, and related agencies for the fiscal year ending September 30, 2006, and for other purposes.''.

EXPRESSING SENSE OF CONGRESS THAT RUSSIAN FEDERATION MUST PROTECT INTELLECTUAL PROPERTY RIGHTS

The SPEAKER pro tempore. The pending business is the question of suspending the rules and agreeing to the concurrent resolution, H. Con. Res. 230.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida (Mr. SHAW) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 230, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 421, nays 2, not voting 10, as follows:

[Roll No. 593]

YEAS—421

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Becerra
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boucher
Boustany
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Carter
Case
Castle
Chabot
Chandler
Chocola
Clay
Cleaver
Clyburn
Coble
Cole (OK)
Conaway
Conyers
Cooper
Costa
Costello
Cramer
Crenshaw
Crowley
Cubin
Cuellar
Cummings
Davis (AL)
Davis (CA)
Davis (IL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doolittle
Doyle
Drake
Dreier
Duncan
Ehlers
Emanuel
Emerson
Engel
English (PA)
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Fitzpatrick (PA)
Flake
Foley
Forbes
Ford
Fortenberry
Fossella
Foxx
Frank (MA)
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Green, Al
Green, Gene
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Higgins
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Holt
Honda
Hooley
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inglis (SC)
Inslee
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jindal
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kucinich
Kuhl (NY)
LaHood
Langevin
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lucas
Lungren, Daniel E.
Lynch
Mack
Maloney

Manzullo
Marchant
Markey
Marshall
Matheson
Matsui
McCarthy
McCaul (TX)
McCollum (MN)
McCotter
McCrery
McDermott
McGovern
McHenry
McHugh
McIntyre
McKeon
McKinney
McMorris
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Pomeroy
Porter
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schakowsky
Schiff
Schmidt
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Sodrel
Solis
Souder
Spratt
Stearns
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walden (OR)
Walsh
Wamp
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NAYS—2

Jones (NC)
Paul

NOT VOTING—10

Boswell
Culberson
Cunningham
Davis (FL)
Edwards
Jenkins
Lantos
Reichert
Stark
Taylor (MS)

□ 1735

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

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

EXPRESSING THE SENSE OF THE CONGRESS REGARDING OVERSIGHT OF THE INTERNET CORPORATION FOR ASSIGNED NAMES AND NUMBERS

The SPEAKER pro tempore (Mr. SIMPSON). The pending business is the question of suspending the rules and agreeing to the concurrent resolution, H. Con. Res. 268.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan (Mr. UPTON) that the House suspend the rules and agree to the concurrent resolution, H.R. 268, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 423, nays 0, not voting 10, as follows:

[Roll No. 594]

YEAS—423

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Becerra
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boucher
Boustany
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Carter
Case
Castle
Chabot
Chandler
Chocola
Clay
Cleaver
Clyburn
Coble
Cole (OK)
Conaway
Conyers
Cooper
Costa
Costello
Cramer
Crenshaw
Crowley
Cubin
Cuellar
Culberson
Cummings
Davis (AL)
Davis (CA)
Davis (IL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doolittle
Doyle
Drake
Dreier
Duncan
Edwards
Ehlers
Emanuel
Emerson
Engel
English (PA)
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Fitzpatrick (PA)
Flake
Foley
Forbes
Ford
Fortenberry
Fossella
Foxx
Frank (MA)
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Green, Al
Green, Gene
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Higgins
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Holt
Honda
Hooley
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inglis (SC)
Inslee
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jindal
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kucinich
Kuhl (NY)
LaHood
Langevin
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lucas
Lungren, Daniel E.
Lynch
Mack
Maloney
Manzullo
Marchant
Markey
Marshall
Matheson
Matsui
McCarthy
McCaul (TX)
McCollum (MN)
McCotter
McCrery
McDermott
McGovern
McHenry
McHugh
McIntyre
McKeon
McKinney
McMorris
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Pomeroy
Porter
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schakowsky
Schiff
Schmidt
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Sodrel
Solis
Souder
Spratt
Stearns
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walden (OR)
Walsh
Wamp
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—10

Boswell
Cunningham
Davis (FL)
Jenkins
Kolbe
Lantos
Reichert
Shaw
Stark
Taylor (MS)

□ 1743

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

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

VETERANS' COMPENSATION COST-OF-LIVING ADJUSTMENT ACT OF 2005

Mr. BUYER. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1234) to increase, effective as of December 1, 2005, the rates of compensation for veterans with service-connected disabilities and the rates of dependency and

indemnity compensation for the survivors of certain disabled veterans, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

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

□ 1745

Ms. BERKLEY. Mr. Speaker, reserving the right to object, I do not plan to object, I yield to the gentleman from Indiana for an explanation of the bill.

Mr. BUYER. Mr. Speaker, I thank the gentlewoman from Nevada for yielding.

Mr. Speaker, S. 1234 is the Veterans' Cost-of-Living Adjustment Act of 2005. It is one of the more important pieces of legislation that the Veterans Committee brings to the floor each year. Similar language was included in H.R. 1220, which passed the House on July 13, 2005, by voice vote.

Briefly, S. 1234 would authorize a 4.1 percent cost-of-living increase effective December 1, 2005, for veterans with service-connected disabilities and their survivors. The Committee on Veterans' Affairs concurs with the language in S. 1234, and I ask my colleagues to support the bill.

Mr. Speaker, I would also like to thank Ranking Member EVANS for his work and cooperation on this legislation. I would also commend the gentleman from Florida (Mr. MILLER) and the gentlewoman from Nevada (Ms. BERKLEY), the chairman and ranking member of the Subcommittee on Disability Assistance and Memorial Affairs, for their work to ensure that disabled veterans and their survivors receive a cost-of-living increase, as well as the subcommittee staff on both sides of the aisle: Paige McManus, Chris McNamee, and Mary Ellen McCarthy. I also want to thank my colleagues in the Senate.

Mr. Speaker, I hope that all Members will support this bill.

GENERAL LEAVE

Mr. BUYER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on S. 1234.

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

There was no objection.

Ms. BERKLEY. Mr. Speaker, further reserving the right to object, I would like to thank Chairman BUYER, Ranking Member EVANS and Subcommittee Chairman MILLER, as well as Senator CRAIG and Senator AKAKA for moving forward on this bill.

As a result of their cooperation, the men and women currently receiving benefits from the Department of Veterans Affairs will receive a well-deserved increase in benefits as of January 1, 2006.

We must not allow the compensation received by veterans, disabled in service to our Nation, to erode in value as the cost of living rises. S. 1234, the Veterans' Compensation Cost-of-Living Adjustment Act of 2005, will help our service-disabled veterans and their survivors maintain the purchasing power of their benefits in 2006 by providing a 4.1 percent increase in benefits.

Single veterans rated at 100 percent disabled will see their benefits rise from $2,299 a month to $2,393 a month. Veterans who are married or have other dependents will see their benefits increased proportionately. This bill will help VA beneficiaries maintain the value of their benefits.

No amount of money can adequately compensate our veterans for the deterioration of their health or families for the loss of a loved one. It is important that the benefits, which our Nation provides to partially compensate for such losses, do not lose their value over time.

In 2004, over 28,000 veterans in Nevada received disability compensation or pension payments from the VA, and thousands of Nevada families and survivors receive VA cash benefits. The action we are taking here today will help the Nevada veterans and families who depend on these VA benefits.

I am very disappointed that the bill does not contain a provision approved by the House earlier this year to include the transitional DIC benefit in the COLA. As a result, the value of the $250 transitional benefit paid to surviving spouses with minor children for their first 2 years of eligibility will unfortunately erode in value in 2006.

Unfortunately, our widows and orphans are going to have to survive on a stagnant benefit. Our Gold Star Wives, the spouses of veterans who have perished in our current conflict, and their children certainly deserve better than this.

I understand the urgency of passing this COLA so that veterans and their dependents will receive a timely increase in VA benefits. I hope that before this Congress recesses for the year, the increase in DIC benefits and other provisions passed by the House and Senate can be enacted into law. Those who have served this Nation deserve no less.

S. 1234 will receive my full support, and it deserves the support of all Members of this House.

Mr. EVANS. Mr. Speaker, will the gentlewoman yield?

Ms. BERKLEY. I yield to the gentleman from Illinois.

Mr. EVANS. Mr. Speaker, I also want to thank Chairman BUYER, chairman of the full committee; the gentleman from Florida (Mr. MILLER), the Benefits Subcommittee chairman; and the gentlewoman from Nevada (Ms. BERKLEY), the ranking member; as well as Senator CRAIG and Ranking Member AKAKA for their work on this bill.

S. 1234, the Veterans' Compensation Cost-of-Living Adjustment Act of 2005, will help our service-disabled veterans and their survivors to maintain the value of their compensation benefits despite any increase in the cost of living. Our Nation's veterans and survivors have earned these benefits. We must not allow them to erode by the simple passage of time.

This is a bill which deserves the full support of all Members of the House, and I urge my colleagues to support it.

Ms. BERKLEY. Mr. Speaker, further reserving the right to object, I yield to the gentleman from Indiana (Mr. BUYER), the chairman of the full committee.

Mr. BUYER. Mr. Speaker, I would just like to take a moment and thank the gentleman from Illinois (Mr. EVANS) and thank him for working with me and his staff.

I also failed to mention the gentleman from Iowa (Mr. NUSSLE), the chairman of the Budget Committee, and the gentleman from South Carolina (Mr. SPRATT), who worked cooperatively together to make sure that the budget had a place holder so we could have this. This came in a little higher than what we anticipated, and I want to thank the chairman of the Budget Committee. He has got a tough job in laying out the budget and sending the numbers to everyone, and he did yeoman's work. I am really proud of Chairman NUSSLE and Mr. SPRATT.

I would also like to thank the gentleman from New York (Mr. WALSH), the chairman of the appropriations subcommittee and also the gentleman from Texas (Mr. EDWARDS).

Ms. BERKLEY. Mr. Speaker, further reserving the right to object, I yield to the gentlewoman from South Dakota (Ms. HERSETH), ranking member of the Economic Opportunity Subcommittee.

Ms. HERSETH. Mr. Speaker, I want to thank the gentlewoman from Nevada for yielding.

I rise today in support of S. 1234, the Veterans' Compensation Cost-of-Living Adjustment Act, which authorizes the annual cost-of-living adjustment for disabled veterans and their survivors.

I, too, would like to commend Chairman BUYER and Ranking Member EVANS, as well as their staff, for their hard work and support of this important legislation.

Mr. Speaker, I support this bill which will improve the quality of life for our disabled veterans and their families. It is very important that we provide for the basic needs of our veterans, particularly our disabled veterans.

Our Nation's disabled veterans rely on this annual cost-of-living increase and rightly expect us to provide it to them. I am proud to support this legislation, confident it will benefit the more than 3,000 veterans of my home State of South Dakota who received disability compensation last year, as well as disabled veterans throughout the country.

As wounded young service men and women return home from the battlefields in Iraq and Afghanistan, it is imperative that we work to provide this newest generation of veterans and

their families with the financial support they have earned and deserve. Providing adequate disability benefits is an issue that will impact these brave men and women for the rest of their lives as they struggle to cope with the scars of their sacrifice and should be considered an ongoing cost of war.

Again, I am proud to support the Veterans' Compensation Cost-of-Living Adjustment Act and urge my colleagues to do the same.

Ms. CORRINE BROWN of Florida. Mr. Speaker, I rise to support this bill.

It is imperative that we get a cost of living adjustment to those who have put their lives on the line to protect the freedom of this country. The 4.1 percent cost of living increase is very important to our veterans.

I am pleased that Congress is passing a clean bill. There are no riders that would dilute the effectiveness of our commitment to our Nation's veterans.

However, it is important to continue this bipartisanship into the heavier lifting that will occur in the next days and weeks.

It is imperative we keep the reconciliation bill free from cuts in veterans healthcare. It is imperative we do not subject veterans healthcare to an across the board cut. It is imperative we fully fund veterans healthcare next February, when the President submits his Fiscal Year 2007 budget.

We do not need another emergency supplemental appropriations bill to cover shortfalls in operations and maintenance.

Let us do right by our veterans and not pay for tax cuts for the wealthy and recovery efforts from Katrina with cuts in veterans healthcare.

Mr. MILLER of Florida. Mr. Speaker, I rise today in support of S. 1234, the Veterans' Compensation Cost-of-Living Adjustment Act of 2005.

This bill would provide a 4.1 percent cost-of-living adjustment to disabled veterans, surviving spouses, and other VA beneficiaries in receipt of monetary VA benefits. This is the same COLA increase provided to Social Security recipients and will apply to benefits beginning on December 1 of this year. Congress has provided these increases every fiscal year since 1976.

More than 2.6 million veterans are receiving service-connected disability compensation. These benefits are paid monthly, and range from $108 for a 10-percent disability to $2,299 for a 100-percent disability. Additional monetary benefits are available for our most severely disabled veterans, as well as those with dependents.

Spouses of veterans who died on active duty or as the result of a service-connected disability likewise are entitled to monetary compensation. Additional amounts are paid to survivors who are housebound or in need of aid and attendance, or have minor children. Currently more than 336,000 surviving spouses and children are receiving survivors' benefits.

I want to thank the subcommittee's ranking member, Ms. BERKLEY, as well as all the members of the Subcommittee on Disability Assistance and Memorial Affairs, for their work this year.

I also commend Chairman BUYER and Ranking Member EVANS for their leadership in bringing the bill to the floor today, as well as committee staff on both sides of the aisle for their hard work.

Mr. Speaker, I urge my colleagues to support S. 1234.

Ms. BERKLEY. Mr. Speaker, I withdraw my reservation of objection.

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

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1234

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 ''Veterans' Compensation Cost-of-Living Adjustment Act of 2005''.

SEC. 2. INCREASE IN RATES OF DISABILITY COMPENSATION AND DEPENDENCY AND INDEMNITY COMPENSATION.

(a) VETERANS' DISABILITY COMPENSATION.—Section 1114 of title 38, United States Code, is amended—

(1) in subsection (a), by striking ''$106'' and inserting ''$112'';

(2) in subsection (b), by striking ''$205'' and inserting ''$218'';

(3) in subsection (c), by striking ''$316'' and inserting ''$337'';

(4) in subsection (d), by striking ''$454'' and inserting ''$485'';

(5) in subsection (e), by striking ''$646'' and inserting ''$690'';

(6) in subsection (f), by striking ''$817'' and inserting ''$873'';

(7) in subsection (g), by striking ''$1,029'' and inserting ''$1,099'';

(8) in subsection (h), by striking ''$1,195'' and inserting ''$1,277'';

(9) in subsection (i), by striking ''$1,344'' and inserting ''$1,436'';

(10) in subsection (j), by striking ''$2,239'' and inserting ''$2,393'';

(11) in subsection (k)—

(A) by striking ''$82'' both places it appears and inserting ''$87''; and

(B) by striking ''$2,785'' and ''$3,907'' and inserting ''$2,977'' and ''$4,176'', respectively;

(12) in subsection (l), by striking ''$2,785'' and inserting ''$2,977'';

(13) in subsection (m), by striking ''$3,073'' and inserting ''$3,284'';

(14) in subsection (n), by striking ''$3,496'' and inserting ''$3,737'';

(15) in subsections (o) and (p), by striking ''$3,907'' each place it appears and inserting ''$4,176'';

(16) in subsection (r), by striking ''$1,677'' and ''$2,497'' and inserting ''$1,792'' and ''$2,669'', respectively; and

(17) in subsection (s), by striking ''$2,506'' and inserting ''$2,678''.

(b) ADDITIONAL COMPENSATION FOR DEPENDENTS.—Section 1115(1) of such title is amended—

(1) in subparagraph (A), by striking ''$127'' and inserting ''$135'';

(2) in subparagraph (B), by striking ''$219'' and ''$65'' and inserting ''$233'' and ''$68'', respectively;

(3) in subparagraph (C), by striking ''$86'' and ''$65'' and inserting ''$91'' and ''$68'', respectively;

(4) in subparagraph (D), by striking ''$103'' and inserting ''$109'';

(5) in subparagraph (E), by striking ''$241'' and inserting ''$257''; and

(6) in subparagraph (F), by striking ''$202'' and inserting ''$215''.

(c) CLOTHING ALLOWANCE FOR CERTAIN DISABLED VETERANS.—Section 1162 of such title is amended by striking ''$600'' and inserting ''$641''.

(d) DEPENDENCY AND INDEMNITY COMPENSATION FOR SURVIVING SPOUSES.—

(1) NEW LAW DIC.—Section 1311(a) of such title is amended—

(A) in paragraph (1), by striking ''$967'' and inserting ''$1,033''; and

(B) in paragraph (2), by striking ''$208'' and inserting ''$221''.

(2) OLD LAW DIC.—The table in paragraph (3) of such section is amended to read as follows:

''Pay grade	Monthly rate	Pay grade	Monthly rate
E–1	$1,033	W–4	$1,236
E–2	1,033	O–1	1,092
E–3	1,033	O–2	1,128
E–4	1,033	O–3	1,207
E–5	1,033	O–4	1,277
E–6	1,033	O–5	1,406
E–7	1,069	O–6	1,585
E–8	1,128	O–7	1,712
E–9	1,177 [1]	O–8	1,879
W–1	1,092	O–9	2,010
W–2	1,135	O–10	2,204 [2]
W–3	1,169		

[1] If the veteran served as sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard, at the applicable time designated by section 1302 of this title, the surviving spouse's rate shall be $1,271.

[2] If the veteran served as Chairman or Vice-Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, Commandant of the Marine Corps, or Commandant of the Coast Guard, at the applicable time designated by section 1302 of this title, the surviving spouse's rate shall be $2,365.''.

(3) ADDITIONAL DIC FOR CHILDREN OR DISABILITY.—Section 1311 of such title is amended—

(A) in subsection (b), by striking ''$241'' and inserting ''$257'';

(B) in subsection (c), by striking ''$241'' and inserting ''$257''; and

(C) in subsection (d), by striking ''$115'' and inserting ''$122''.

(e) DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN.—

(1) DIC WHEN NO SURVIVING SPOUSE.—Section 1313(a) of such title is amended—

(A) in paragraph (1), by striking ''$410'' and inserting ''$438'';

(B) in paragraph (2), by striking ''$590'' and inserting ''$629'';

(C) in paragraph (3), by striking ''$767'' and inserting ''$819''; and

(D) in paragraph (4), by striking ''$767'' and ''$148'' and inserting ''$819'' and ''$157'', respectively.

(2) SUPPLEMENTAL DIC FOR CERTAIN CHILDREN.—Section 1314 of such title is amended—

(A) in subsection (a), by striking ''$241'' and inserting ''$257'';

(B) in subsection (b), by striking ''$410'' and inserting ''$438''; and

(C) in subsection (c), by striking ''$205'' and inserting ''$218''.

(f) EFFECTIVE DATE.—The amendments made by this section shall take effect on December 1, 2005.

(g) SPECIAL RULE.—The Secretary may adjust administratively, consistent with the increases made under subsection (a), the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85–857 (72 Stat. 1263) who are not in receipt of compensation payable pursuant to chapter 11 of title 38, United States Code.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

MUSKINGUM WATERSHED

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

Mr. REGULA. Mr. Speaker, I rise today to discuss an issue of great importance to me and my constituents. In particular, I speak of a provision in the Energy and Water Development Appropriations Act of 2006 regarding the Muskingum Watershed in Ohio.

The Muskingum Watershed encompasses 18 counties in Ohio and includes all of the area which drains into the Muskingum River and its tributaries where it joins with the Ohio River. Below the watershed lies an aquifer of great importance to the constituents of my district and those of surrounding areas.

The threat that landfills pose to the aquifer and the watershed are too great to ignore. Remember, we are fortunate in the United States to be well-endowed with water, and we are indebted to our forebearers for creating the infrastructure to deliver potable water to our communities, farmers and industries.

As a representative, it is my responsibility to respond to the concerns of my constituents to protect and preserve the integrity of their water supply. During my time as chairman of the Interior Appropriations Subcommittee, I have dealt with many issues relating to clean water and its significance. I have seen how a lack of planning, oversight and development has harmed the Everglades, and now we are tasked with spending millions of taxpayer dollars to reverse the problem.

Additionally, per my request, the United States Geological Survey published a report in 2003 titled ''Plan for National Assessment of Water Availability and Use.'' The report highlights the availability of water in the U.S. and how this availability relates to need, source and geographic location.

I would like to cite a statement made in a report by the Council of State Governments that sums up the need to protect our water: ''Water, which used to be considered a ubiquitous resource, is now scarce in some parts of the country and not just in the West as one might assume. The water wars have spread to the Midwest, East and South as well.'' I find this statement quite telling and see it as a wake up call to all those who take water for granted. Much has changed over the years; cities have grown, irrigation technology has advanced and ground water has become a much larger fraction of the nation's water supply. All these factors contribute to the need to protect the Muskingum watershed and the aquifer below it.

Having heard from many constituents concerning the potential dangers posed by the stress of additional landfills in the Muskingum Watershed, I have made this provision one of my top priorities in Congress. I feel that the criteria set forth by the provision are fair, nondiscriminatory and of utmost importance in preserving the aquifer for generations to come.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 2669

Ms. WASSERMAN SCHULTZ. Mr. Speaker, I ask unanimous consent to have my name removed as a cosponsor of H.R. 2669.

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

There was no objection.

HONORING CINCINNATI'S MARIEMONT HIGH SCHOOL FOR BEING DESIGNATED A BLUE RIBBON SCHOOL

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

Mrs. SCHMIDT. Mr. Speaker, I rise today to congratulate Mariemont High School which is located in the Second District of Ohio that I represent. Mariemont was recently named a blue ribbon school by the U.S. Department of Education.

This is the department's highest honor, and it is a very selective program. In fact, of the thousands of schools across America, only 296 receive the blue ribbon certification, and only 16 of those schools are in Ohio. This is a tremendous honor for our part of the State.

The blue ribbon program is designed to provide national recognition to public and private schools that have done an outstanding job of educating our children. The screening process evaluates a number of criteria, including strong leadership and vision; an innovative and challenging curriculum; a commitment to parental involvement; and a track record of achieving success with student from all backgrounds.

Mariemont's receiving of this award reflects the hard work and dedication of its teachers and school administrators; the academic success of its students; and the active involvement of parents.

Congratulations, Mariemont High.

GENERAL LEAVE

Mr. PAUL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 1065.

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

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will recognize Members for Special Order speeches without prejudice to the possible resumption of legislative business.

SPECIAL ORDERS

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

THE EROSION OF PRIVACY

Mr. PAUL. Mr. Speaker, I ask unanimous consent that I claim my 5 minutes at this time.

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

There was no objection.

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

Mr. PAUL. Mr. Speaker, the privacy issue has been around for a long time. The brutal abuse of privacy and property of early Americans played a big role in our revolt against the king.

□ 1800

The first, fourth, and fifth amendments represented attempts to protect private property and privacy from an overzealous Federal Government. Today those attempts appear to have failed.

There have been serious legal debates in recent decades about whether privacy is protected by the Constitution. Some argue that since the word does not appear in the text of that document, it is not protected. Others argue that privacy protection grants the Federal Government power to dictate to all States limits or leniency in enforcing certain laws. But the essence of liberty is privacy.

In recent years, especially since 9/11, Congress has been totally negligent in its duty to protect U.S. citizens from Federal Government encroachment on the rights of privacy. Even prior to 9/11, the Echelon worldwide surveillance system was well entrenched, monitoring all telephones, faxes, and e-mails.

From the 1970s forward, national security letters were used sparingly in circumventing the legal process and search warrant requirements. Since 9/11 and the subsequent passage of the PATRIOT Act, however, the use of these instruments has skyrocketed from 300 annually to over 30,000. There is essentially no oversight nor understanding by the U.S. Congress of the significance of this pervasive government surveillance. It is all shrugged off as necessary to make us safe from terrorism. Sacrificing personal liberty and privacy, the majority feels, is no big deal.

We soon will vote on the conference report reauthorizing the PATRIOT Act. Though one would argue there has been a large grass-roots effort to discredit the PATRIOT Act, Congress has ignored this message. Amazingly, over 391 communities and seven States have passed resolutions highly critical of the PATRIOT Act.

The debate in Congress, if that is what one wants to call it, boils down to whether the most egregious parts of the act will be sunsetted after 4 years or 7 years. The conference report will adjust the numbers, and Members will vote willingly for the ''compromise'' and feel good about their effort to protect individual privacy.

But if we are honest with ourselves, we would admit that the fourth amendment is essentially a dead letter. There has been no effort to curb the abuse of national security letters nor to comprehend the significance of Echelon. Hard-fought liberties are rapidly slipping away from us.

Congress is not much better when it comes to protecting against the erosion of the centuries-old habeas corpus doctrine. By declaring anyone an enemy combatant, a totally arbitrary designation by the President, the government can deny an individual his right to petition a judge or even speak with an attorney. Though there has been a good debate on the insanity of our policy of torturing prisoners, holding foreigners and Americans without charges seems acceptable to many. Did it never occur to those who condemn torture that unlimited detention of individuals without a writ of habeas corpus is itself torture, especially for those who are totally innocent? Add this to the controversial worldwide network of secret CIA prisons now known of for 2 years and we should be asking ourselves what have we become as a people. Recent evidence that we are using white phosphorus chemical weapons in Iraq does nothing to improve our image.

Our prestige in the world is slipping. The war is going badly. Our financial system is grossly overburdened, and we spend hundreds of hours behind the scenes crafting a mere $5 billion spending cut while pretending no one knows we can spend tens of billions in off-budget supplemental bills, sometimes even under unanimous consent.

It is time we consider the real purpose of government in a society that professes to be free: protection of liberty, peaceful commerce, and keeping itself out of our lives, our economy, our pocketbooks, and certainly out of the affairs of foreign nations.

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

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

IRAQ

Mr. MCDERMOTT. Mr. Speaker, I ask unanimous consent to take my Special Order at this time.

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

There was no objection.

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

Mr. MCDERMOTT. Mr. Speaker, when it comes to Iraq, the President and his administration continue to act like cowboys in a western movie. When will they learn? And until they do, there will be no solution in Iraq.

The President stampeded the American people into a flawed, futile, and fatal war; and this administration keeps applying B-movie mentality to real-life suffering. We have taken sides in a war-torn nation, inadvertently backing the Kurds and Shiites to the detriment of the Sunnis.

This is not some clan fight on a movie set that will get solved with a new sheriff riding into town proclaiming peace and progress. But that is what the administration's current strategy seems to be. Despite demands by Iraqi Sunni leaders that American forces stop new military operations, the fighting continues unabated. And like Vietnam, the latest administration tactic is to announce body counts, as if that will promote confidence among the American people. That same tactic was used during Vietnam. It did not work then, and it will not work in Iraq. If anything, this latest tactic will only deepen American resentment to this war because the American people know they are only being told part of the story.

The Rumsfeld command is happy to announce the number of insurgents killed or captured, but they do not talk much about the innocent Iraqi civilians killed or wounded. They are not announcing those numbers every day. Why not? If they killed or captured 80 insurgents, how many civilians were injured or wounded in the process? Why do they not tell us the whole story?

Iraq is an urban guerilla warfare, and our brave soldiers should not be fighting a house-to-house war that puts them in maximum danger all the time. There is no front line in Iraq because every road is the front, every house is the front, and every footstep is along the front line. There is no safe haven for our soldiers. Danger is everywhere no matter where they sleep, no matter what they eat, no matter how much they try to forget this war for even a moment.

And the administration calls this progress. The American people see it as a paralysis of leadership. The President stampeded the Congress into a do-or-die scenario, and now our soldiers keep dying in the wrong place at the wrong time and for the wrong reason.

When was the last time the President even mentioned Osama bin Laden, the terrorist who is supposed to have started this whole thing, this war on terror?

The White House has built an underground bunker to keep out reality. The truth cannot penetrate those walls of denial, fortified with Presidential speeches to carefully selected audiences. Now the President is beginning to say that he is not responsible for the war in Iraq. The record is clear, Mr. Speaker: this war was started by this President and his war cabinet. They got what they wanted. They got more than they can handle. And every new pronouncement from the White House bunker widens the gulf between administration rhetoric and Iraq reality.

Reality may be missing in action at the White House, but reality is front and center with the American people. Another Presidential speech with yet another spin on why the President wants this war will not do anything to stabilize Iraq, promote peace, or create democracy.

We are just learning about the latest catastrophe. Now Americans soldiers have to launch operations to uncover hundreds of Sunnis abused, tortured, and malnourished in a prison run by the people we put in power.

Imposing our will is a prescription for civil war and ethnic scandals in Iraq. Imposing a Western blueprint on a Middle Eastern culture will undermine any attempt at real peace. Iraq needs the benefit of a Middle Eastern solution, a cultural process that has worked for thousands of years. Many in the Middle East know this. Many have tried to tell us. But we will not listen. Their will, not ours, will define democracy in Iraq. If we are serious about an election in Iraq, we have to stop the provocations.

America is at a crossroads: stability or continued occupation of Iraq. The Rumsfeld command now admits American soldiers could be there for a decade or more. That is occupation, and nobody outside the administration favors it. Ten more years of house-to-

house guerilla fighting is a failed mission and a guarantee of more U.S. lives lost. 2,056 flags draped over 2,056 coffins; 2,056 honor guards and 2,056 grieving families paying respects of a grateful Nation. And we are still counting.

Mr. President, you have to change the course.

There's a difference in a President leading the nation through a time of crisis and this President misleading the nation into precipitating a crisis. We have a crisis. We need a leader. We need a plan to return U.S. soldiers to U.S. soil, not a decade from now, but right now.

Announce a pull-out date and pull back the troops to their camps.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair would remind Members to address their remarks to the Chair.

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

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

HONORING LCPL DANIEL FREEMAN SWAIM

Ms. FOXX. Mr. Speaker, I ask unanimous consent to take my Special Order at this time.

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

There was no objection.

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

Ms. FOXX. Mr. Speaker, I rise with a very heavy heart today to express the condolences of a grateful Nation and to honor the life of Lance Corporal Daniel Freeman Swaim, who passed away on November 10, 2005, while serving in Iraq.

A native of Yadkinville, North Carolina, Lance Corporal Swaim spent his childhood dreaming about becoming a Marine. In fact, his one unfaltering goal in life was to serve his country. Lance Corporal Swaim achieved his dream when he joined the U.S. Marine Corps last summer after graduating with high honors from Forbush High School.

Lance Corporal Swaim was a loving and caring son. He leaves behind his parents, Michael and Rebecca Swaim, and many friends throughout the community. May God bless them and comfort them during this very difficult time.

We owe this brave soldier and his family a tremendous debt of gratitude for his selfless service and sacrifice. Our Nation could not maintain its freedom and security without heroes like Lance Corporal Swaim who make the ultimate sacrifice. Americans, as well as Iraqis, owe their liberty to Mr. Swaim and his comrades who came before him.

Mr. Speaker, please join me in honoring Lance Corporal Daniel Swaim. May God bless him.

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

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

HONORING THE SERVICE OF THE 278TH ARMORED CAVALRY REGIMENT

Mr. DAVIS of Tennessee. Mr. Speaker, I ask unanimous consent to take my Special Order at this time.

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

There was no objection.

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

Mr. DAVIS of Tennessee. Mr. Speaker, I rise today to recognize and honor the brave men and women who serve our country as part of the 278th Armored Cavalry Regiment as they return home to a State and Nation grateful for their service.

The 278th Armored Cavalry Regiment is one of two armored cavalry regiments still in existence. The 278th is known as the Tennessee Cavalry and is headquartered in Knoxville, Tennessee. The other ACR is part of the regular Army.

The 278th was formed and reorganized on June 21, 1977, from units and elements of the 278th Infantry Brigade. Additionally, units of the 2nd and 3rd Battalions of the 117th Infantry Regiment and several other units of various types from the Tennessee Army National Guard were added to round out this regiment. The regiment's motto, ''I Volunteer, Sir,'' is taken from a time in Tennessee's history that exemplifies the attitude of the men and women who serve in America's Armed Forces. In 1846, a call went out for 2,800 volunteers from the State of Tennessee to take part in the War with Mexico; 38,000 Tennesseeans answered the call, earning the Tennessee Militia the everlasting nickname of ''Volunteers.'' It is from this heritage that the 278th Armored Cavalry Regiment's motto, ''I Volunteer, Sir,'' originated.

This Regimental Shoulder Patch was derived using the green color traditionally associated with cavalry and armor. The three white stars are adapted from the Tennessee State flag. The blue divisions allude to the Tennessee, the Houlston, and the French Broad rivers, environs of the regiment.

In June of 2004, the regiment was alerted and mobilized in support of Operation Iraqi Freedom III, the third phase of the deployment of U.S. forces to Iraq. In November of 2004, they deployed from Camp Shelby, Mississippi. This regiment took on a slightly different look for this mobilization. It became referred to as the 278th Regimental Combat Team, from which this organization derives a portion of its history. Soldiers of the 278th were primarily assigned in the Diy' Ala province northeast of Baghdad near the Iranian border. The regiment replaced the 30th Heavy Separate Brigade of the North Carolina Army National Guard.

The sheer size and scope of their mission continues to impress me. Over 3,000 soldiers from the Tennessee National Guard are assigned to this division.

□ 1815

And their mobilization for the war in Iraq was the largest in Tennessee history since World War II. As it was in World War II, their aim was to restore basic freedoms to a people who had been stifled under the oppressive regime of a tyrant dictator, a dictator who would torture and kill his own people because they were different than him, or because they had the audacity to express themselves in one form or another.

While in Iraq, the 278th, like all of our men and women serving in the Middle East, played a major role in what we all hope to be watershed moments in a democratic Iraq's history. The 278th provided security for the Iraqi people as they participated in their first election which took place this past January. For this election, the troops distributed, picked up, and delivered ballots. They again provided their support, this time to the Iraqi army, during the vote on the new Iraqi constitution in October 2005. They also helped restore the basic infrastructure necessary to get the Iraqi economy on its feet and give the Iraqi people a little foundation upon which they can make the country their own.

They helped open schools, dig wells, improve roads and establish basic services, like of electricity, water and sewers. They also helped establish numerous hospitals. Thanks to the renovation and construction of work done by the 278th, more than 50 schools were ready for classes, nearly 70 water and sewer projects were completed, as were 25 electricity and power projects, 8 health clinics were established, and 32 road projects were finished.

Of course, the most harrowing part of their mission was the daily fighting with insurgents that they encountered in northeastern Iraq. While working to suppress insurgency, the 278th conducted 13,000 combat patrols, oversaw the destruction of 340 weapon caches of bomb-making materials and 275 stockpiles of unexploded ordinances.

Additionally, despite constantly being under attack, the men and

women of the 278th were able to train members of the Iraqi police and the Iraqi army, over 10,000 policemen, soldiers and border enforcement personnel. This training is essential to our mission in Iraq. In order for the Iraqi people to truly feel empowered in their new country, they must complete the circle of modern democratic nations.

One half of the circle is being completed by the participation of the Iraqi citizens in both the electoral process and their developing free economy. The other half of the circle, and perhaps the most vital piece, is an established Iraqi security force run by and composed of Iraqi citizens that has the ability to protect its own people without relying on the American military. When the day comes that the Iraqi people and soldiers can provide protection for the average citizen to go about their daily lives with the knowledge they are safe, that will be the day when all Iraqis can point to their country, a country able to stand on it own, and they can tell the world we are free.

Mr. Speaker, I would like to say that all of my thoughts and prayers, along with those of constituents, continue to go to all of our military personnel serving in Iraq, including the 900 Tennessee Guardsmen, who are still ''in country.'' Thank you for their great work. We look forward to their return. God continue to be with the men and women of the 278th and the United States Armed Forces. Keep them safe and strong. Return them home to America.

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

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

A SOLDIER'S SACRIFICE

Mr. FORTENBERRY. Mr. Speaker, I ask unanimous consent to take my Special Order at this time.

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

There was no objection.

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

Mr. FORTENBERRY. Mr. Speaker, Army Specialist Darren Howe died on November 3 from injuries he sustained in Iraq. The Bradley armored personnel carrier he was driving struck a roadside bomb outside of Baghdad.

The explosion caused the personnel carrier to catch fire. Specialist Howe, who was already severely burned, regained control of the vehicle and drove it to safety. He then moved to the rear and helped pull 13 fellow soldiers to safety.

Darren was from Beatrice, Nebraska, a town of 12,000 resting peacefully in the heart of the Great Plains. In an extraordinary tribute, the town mourned together in profound respect for the man who fought so bravely and honorably on its behalf.

Lining both sides of Nebraska Highway 77 and Beatrice's downtown district, were hundreds of people holding hands over hearts and American flags. School children from the town's Catholic and Lutheran schools stood respectfully with handmade posters. Shopkeepers, clerks, business owners, the elderly, people with disabilities, seniors from the high school, lined Main Street to pay tribute to the man who graduated less than 3 years ago.

Outside the Pamida, the Sack Lumber, and the local hardware store, signs and billboards read ''Specialist Darren Howe: A True Hero.'' What a fitting tribute to a true leader.

Darren and his family received his medals, including a Bronze Star and Purple Heart. A rifle salute marked the lowering of his casket into the ground. The only sounds thereafter were the sobs of loved ones forced to say a final goodbye. Even his warrior father gave a last sorrowful salute to his martyred son.

Darren had followed the footsteps of his father into the military. Darren was also a steadfast husband and father, providing for his wife, Nakia, and their two children, Shaye-Maleigh and Gary-Dean.

Howe was solid, steady, focused, determined. Nakia wears a medallion around her neck from the Third Infantry Division with the inscription ''Standing on a Rock.''

Darren served his country and fellow soldiers without regard for his own well-being. His heroic sacrifice came as no surprise to those who knew and loved him. Darren Howe was a young man who did things the right way and lived in accordance to a code of respect, honor and responsibility. And as Jodi, his mother, told me, he was also a very devoted son.

Such a man as this deeply impacted the town of Beatrice, Nebraska. Such a man as this saved the lives of his fellow soldiers and such a man gave himself in service to his country. Specialist Darren Howe is a hero, and our country is grateful for his service and ultimate sacrifice.

GULF OPPORTUNITY ZONE PUBLIC FINANCE RELIEF ACT OF 2005

Mr. MCCRERY. Mr. Speaker, I ask unanimous consent that the Committee on Ways and Means be discharged from further consideration of the bill (H.R. 4337) to amend the Internal Revenue Code of 1986 to provide for Gulf tax credit bonds and advance refundings of certain tax-exempt bonds, and to provide a Federal guarantee of certain State bonds, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

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

Mr. JEFFERSON. Mr. Speaker, reserving the right to object, and I do not intend to object, I want to thank the gentleman from Louisiana (Mr. MCCRERY) for his efforts in this regard to this bill. I want to thank the gentleman from California (Chairman THOMAS) and the ranking member, the gentleman from New York (Mr. RANGEL), and all of the members of the Committee on Ways and Means and others who have taken up the cause of helping our dear friends and my constituents back in Louisiana, our constituents back in Louisiana.

The gravamen of the problem that this bill addresses is that our local governments, are State governments, are severely handicapped to serve their citizens because of a lack of finance to service our people. Our city has lost its tax base completely, and so has the school board and other cities in our region. Our State is facing a big budget hole because of the decimation of our cities on a fiscal basis.

This bill gives us a chance to address those issues through self-help approaches, through the refinancing of bonds, through the extending of taxable bonds, and through the extension of bonds to service debt. I think it is an important part of the recovery of our State of Louisiana. I am very grateful to this House and to my colleagues on the Committee on Ways and Means, Mr. MCCRERY, for his leadership on this issue and for our partnership in this endeavor.

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

Mr. JEFFERSON. I yield to the gentleman from Louisiana.

Mr. MCCRERY. Mr. Speaker, I would like to thank the gentleman from Louisiana (Mr. JEFFERSON) for the hard work that he has put into this effort to allow the State and our municipalities the ability to help themselves. That is what this bill will do.

Mr. JEFFERSON has worked tirelessly with me to try to clear the way for passage of this bill this evening. His efforts are to be commended. I thank him very much.

Mr. JEFFERSON. Mr. Speaker, I withdraw my reservation of objection.

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

There was no objection.

The Clerk read the bill, as follows:

H.R. 4337

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 ''Gulf Opportunity Zone Public Finance Relief Act of 2005''.

SEC. 2. GULF TAX CREDIT BONDS.

(a) IN GENERAL.—Subpart H of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new section:

''SEC. 54A. CREDIT TO HOLDERS OF GULF TAX CREDIT BONDS.

''(a) ALLOWANCE OF CREDIT.—If a taxpayer holds a Gulf tax credit bond on one or more

credit allowance dates of the bond occurring during any taxable year, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of the credits determined under subsection (b) with respect to such dates.

''(b) AMOUNT OF CREDIT.—

''(1) IN GENERAL.—The amount of the credit determined under this subsection with respect to any credit allowance date for a Gulf tax credit bond is 25 percent of the annual credit determined with respect to such bond.

''(2) ANNUAL CREDIT.—The annual credit determined with respect to any Gulf tax credit bond is the product of—

''(A) the credit rate determined by the Secretary under paragraph (3) for the day on which such bond was sold, multiplied by

''(B) the outstanding face amount of the bond.

''(3) DETERMINATION.—For purposes of paragraph (2), with respect to any Gulf tax credit bond, the Secretary shall determine daily or cause to be determined daily a credit rate which shall apply to the first day on which there is a binding, written contract for the sale or exchange of the bond. The credit rate for any day is the credit rate which the Secretary or the Secretary's designee estimates will permit the issuance of Gulf tax credit bonds with a specified maturity or redemption date without discount and without interest cost to the issuer.

''(4) CREDIT ALLOWANCE DATE.—For purposes of this section, the term 'credit allowance date' means March 15, June 15, September 15, and December 15. Such term also includes the last day on which the bond is outstanding.

''(5) SPECIAL RULE FOR ISSUANCE AND REDEMPTION.—In the case of a bond which is issued during the 3-month period ending on a credit allowance date, the amount of the credit determined under this subsection with respect to such credit allowance date shall be a ratable portion of the credit otherwise determined based on the portion of the 3-month period during which the bond is outstanding. A similar rule shall apply when the bond is redeemed or matures.

''(c) LIMITATION BASED ON AMOUNT OF TAX.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess of—

''(1) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

''(2) the sum of the credits allowable under this part (other than subpart C and this section).

''(d) GULF TAX CREDIT BOND.—For purposes of this section—

''(1) IN GENERAL.—The term 'Gulf tax credit bond' means any bond issued as part of an issue if—

''(A) the bond is issued by the State of Alabama, Louisiana, or Mississippi,

''(B) 95 percent or more of the proceeds of such issue are to be used to—

''(i) pay principal, interest, or premiums on qualified bonds issued by such State or any political subdivision of such State, or

''(ii) make a loan to any political subdivision of such State to pay principal, interest, or premiums on qualified bonds issued by such political subdivision,

''(C) the Governor of such State designates such bond for purposes of this section,

''(D) the bond is a general obligation of such State and is in registered form (within the meaning of section 149(a)),

''(E) the maturity of such bond does not exceed 2 years, and

''(F) the bond is issued after December 31, 2005, and before January 1, 2007.

''(2) STATE MATCHING REQUIREMENT.—A bond shall not be treated as a Gulf tax credit bond unless—

''(A) the issuer of such bond pledges as of the date of the issuance of the issue an amount equal to the face amount of such bond to be used for payments described in clause (i) of paragraph (l)(B), or loans described in clause (ii) of such paragraph, as the case may be, with respect to the issue of which such bond is a part, and

''(B) any such payment or loan is made in equal amounts from the proceeds of such issue and from the amount pledged under subparagraph (A).

The requirement of subparagraph (B) shall be treated as met with respect to any such payment or loan made during the 1-year period beginning on the date of the issuance (or any successor 1-year period) if such requirement is met when applied with respect to the aggregate amount of such payments and loans made during such period.

''(3) AGGREGATE LIMIT ON BOND DESIGNATIONS.—The maximum aggregate face amount of bonds which may be designated under this section by the Governor of a State shall not exceed—

''(A) $200,000,000 in the case of the State of Louisiana,

''(B) $100,000,000 in the case of the State of Mississippi, and

''(C) $50,000,000 in the case of the State of Alabama.

''(4) SPECIAL RULES RELATING TO ARBITRAGE.—A bond which is part of an issue shall not be treated as a Gulf tax credit bond unless, with respect to the issue of which the bond is a part, the issuer satisfies the arbitrage requirements of section 148 with respect to proceeds of the issue and any loans made with such proceeds.

''(e) QUALIFIED BOND.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified bond' means any obligation of a State or political subdivision thereof which was outstanding on August 28, 2005.

''(2) EXCEPTION FOR PRIVATE ACTIVITY BONDS.—Such term shall not include any private activity bond.

''(3) EXCEPTION FOR ADVANCE REFUNDINGS.—Such term shall not include any bond—

''(A) which is designated as an advance refunding bond under section 149(d)(7), or

''(B) with respect to which there is any outstanding bond to refund such bond.

''(f) CREDIT INCLUDED IN GROSS INCOME.—Gross income includes the amount of the credit allowed to the taxpayer under this section (determined without regard to subsection (c)) and the amount so included shall be treated as interest income.

''(g) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) BOND.—The term 'bond' includes any obligation.

''(2) PARTNERSHIP; S CORPORATION; AND OTHER PASS-THRU ENTITIES.—

'' (A) IN GENERAL.—Under regulations prescribed by the Secretary, in the case of a partnership, trust, S corporation, or other pass-thru entity, rules similar to the rules of section 41 (g) shall apply with respect to the credit allowable under subsection (a).

''(B) NO BASIS ADJUSTMENT.—In the case of a bond held by a partnership or an S corporation, rules similar to the rules under section 1397E(i) shall apply.

''(3) BONDS HELD BY REGULATED INVESTMENT COMPANIES.—If any Gulf tax credit bond is held by a regulated investment company, the credit determined under subsection (a) shall be allowed to shareholders of such company under procedures prescribed by the Secretary.

''(4) REPORTING.—Issuers of Gulf tax credit bonds shall submit reports similar to the reports required under section 149(e).''.

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 54(c) of such Code is amended by inserting '', section 54A,'' after ''subpart C''.

(2) Subparagraph (A) of section 6049(d)(8) of such Code is amended—

(A) by inserting ''or 54A(f)'' after ''section 54(g)'', and

(B) by inserting ''or 54A(b)(4), as the case may be'' after ''section 54(b)(4)''.

(3) The table of sections for subpart H of part IV of subchapter A of chapter 1 of such Code is amended by adding at the end the following new item:

''Sec. 54A. Credit to holders of Gulf tax credit bonds.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after December 31, 2005.

SEC. 3. ADVANCE REFUNDINGS OF CERTAIN TAX-EXEMPT BONDS.

(a) IN GENERAL.—Subsection (d) of section 149 of the Internal Revenue Code of 1986 (relating to advance refundings) is amended by redesignating paragraph (7) as paragraph (8) and by inserting after paragraph (6) the following new paragraph:

''(7) ADVANCE REFUNDINGS OF CERTAIN GULF COAST BONDS.—

''(A) IN GENERAL.—With respect to a bond described in subparagraph (C) which is not a qualified 501(c)(3) bond, one additional advance refunding after the date of the enactment of this paragraph and before January 1, 2011, shall be allowed under the applicable rules of this subsection if—

''(i) the Governor of the State designates the advance refunding bond for purposes of this paragraph, and

''(ii) the requirements of subparagraph (E) are met.

''(B) CERTAIN PRIVATE ACTIVITY BONDS.—With respect to a bond described in subparagraph (C) which is an exempt facility bond described in paragraph (1) or (2) of section 142(a), one advance refunding after the date of the enactment of this paragraph and before January 1, 2011, shall be allowed under the applicable rules of this subsection (notwithstanding paragraph (2)) if the requirements of clauses (i) and (ii) of subparagraph (A) are met.

''(C) BONDS DESCRIBED.—A bond is described in this subparagraph if such bond was outstanding on August 28, 2005, and is issued by the State of Alabama, Louisiana, or Mississippi, or a political subdivision thereof.

''(D) AGGREGATE LIMIT.—The maximum aggregate face amount of bonds which may be designated under this paragraph by the Governor of a State shall not exceed—

''(i) $4,500,000,000 in the case of the State of Louisiana,

''(ii) $2,250,000,000 in the case of the State of Mississippi, and

''(iii) $1,125,000,000 in the case of the State of Alabama.

''(E) ADDITIONAL REQUIREMENTS.—The requirements of this subparagraph are met with respect to any advance refunding of a bond described in subparagraph (C) if—

''(i) no advance refundings of such bond would be allowed under this title on or after August 28, 2005,

''(ii) the advance refunding bond is the only other outstanding bond with respect to the refunded bond, and

''(iii) the requirements of section 148 are met with respect to all bonds issued under this paragraph.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to advance refundings after the date of the enactment of this Act.

SEC. 4. FEDERAL GUARANTEE OF CERTAIN STATE BONDS.

(a) STATE BONDS DESCRIBED.—This section shall apply to a bond issued as part of an issue if—

(1) the issue of which such bond is part is an issue of the State of Alabama, Louisiana, or Mississippi,

(2) the bond is a general obligation of the issuing State and is in registered form,

(3) the proceeds of the bond are distributed to one or more political subdivisions of the issuing State,

(4) the maturity of such bond does not exceed 5 years,

(5) the bond is issued after the date of the enactment of this Act and before January 1, 2008, and

(6) the bond is designated by the Secretary of the Treasury for purposes of this section.

(b) APPLICATION.—

(1) IN GENERAL.—The Secretary of the Treasury may only designate a bond for purposes of this section pursuant to an application submitted to the Secretary by the State which demonstrates the need for such designation on the basis of the criteria specified in paragraph (2).

(2) CRITERIA.—For purposes of paragraph (1), the criteria specified in this paragraph are—

(A) the loss of revenue base of one or more political subdivisions of the State by reason of Hurricane Katrina,

(B) the need for resources to fund infrastructure within, or operating expenses of, any such political subdivision,

(C) the lack of access of such political subdivision to capital, and

(D) any other criteria as may be determined by the Secretary.

(3) GUIDANCE FOR SUBMISSION AND CONSIDERATION OF APPLICATIONS.—The Secretary of the Treasury shall prescribe regulations or other guidance which provide for the time and manner for the submission and consideration of applications under this subsection.

(c) FEDERAL GUARANTEE.—A bond described in subsection (a) is guaranteed by the United States in an amount equal to 50 percent of the outstanding principal with respect to such bond.

(d) AGGREGATE LIMIT ON BOND DESIGNATIONS.—The maximum aggregate face amount of bonds which may be exceed issued under this section shall not exceed $3,000,000,000.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

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

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

AMERICAN MILITARY PRESENCE FUELING IRAQI INSURGENCY

Ms. WOOLSEY. Mr. Speaker, I ask unanimous consent to take my Special Order at this time.

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

There was no objection.

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

Ms. WOOLSEY. Mr. Speaker, if there was any doubt that the Bush administration has it Iraq's policy totally wrong, the actions taken yesterday in both Houses of Congress shattered that notion. In the Senate, 79 Senators voted in favor of an amendment designating the year 2006 as a period of significant transition to full Iraqi sovereignty. The amendment also requires the President to provide Congress with a quarterly report detailing United States policies and military operations in Iraq.

And in the House, the Out of Iraq Caucus, led by Ms. WATERS, introduced a discharge petition to force the House to openly debate the Homeward Bound legislation. Homeward Bound is the bill introduced by the gentleman from Hawaii (Mr. ABERCROMBIE). It is H.J. Res. 55, and it calls for bringing our troops home no later than October 1, 2006. The petition must be signed by 218 Members of Congress and then will force a debate on the floor.

This debate would include 17 hours of open debate, allowing every Member of Congress a chance to offer an amendment or talk about the war in Iraq from their very own perspective. Regardless of where my colleagues stand on the war and regardless of their political affiliation, I urge them to sign onto this discharge petition because we are long overdue for a conversation here on the floor about Iraq. It is a conversation that we need to have because it has been a long time.

Anyone watching at home may remember the last time Congress debated this matter. It was May 25 when I introduced an amendment to the defense authorization bill, an amendment asking the President to put together his plans for bringing our troops home and to provide those plans to the appropriate committees in the House of Representatives.

Mr. Speaker, 128 Members of this House voted for that amendment, and if the vote were held today, I am sure we would have many more than 128 votes. Of those 128 votes, 5 were Republican, 122 were Democrat, and one was our Independent from Vermont.

Unfortunately, we cannot have that vote again because the Republican leaders in Congress will not allow it. They will not bring important Iraq legislation like the bipartisan Homeward Bound legislation up for debate on the House floor. Think about it, the last time we debated this vitally important issue was nearly 6 months ago, and that was the first time and only time we have talked about it since the beginning of the war.

Since Congress will not have this debate, we have had to resort to taking matters into our own hands. That is why we are working to bring Homeward Bound to the House floor, and that is why 61 of my colleagues joined me in sending a letter to the President last week urging him to make four key policy changes in his position on Iraq.

First, we asked him to engage in greater multilateral cooperation with our allies. We simply cannot keep 160,000 American soldiers in Iraq and hope for the situation to just change for the better because it is our very military presence that is fueling Iraq's growing insurgency.

□ 1830

Instead, the President should actually eat a little crow, admit his mistakes and ask our allies, the same ones we offended in the buildup of the war, to establish a multinational interim security force for Iraq, possibly run by the United Nations or NATO. The U.N.'s Department of Peacekeeping Operations would be particularly well suited to managing this task, as a matter of fact.

Second, the U.S. must pursue diplomatic and nonmilitary initiatives. If we seriously want democracy to take hold in the Middle East, then we need to get serious about changing our role from that of Iraq's military occupier to its reconstruction partner.

Instead of sending troops and military equipment to Iraq, let us send teachers, scientists, urban planners, and constitutional experts as a larger diplomatic offensive, one that will allow us to regain our lost national credibility while, at the same time, creating Iraqi jobs and bolstering Iraq's economy.

Third, let us prepare for a robust, postconflict reconciliation process. There is no shortage of national healing that needs to occur in Iraq after nearly 3 years of death and 3 years of destruction. That is why we should encourage an international peace commission to oversee Iraq's postconflict reconciliation. This group would coordinate peace talks between the various factions in Iraq, providing all Iraqis with a sense of ownership and hope over their country's future.

Finally, and most important of all, we must bring our troops home. The human cost of this war has been absolutely staggering. To save lives, end the war and prevent our Treasury from spiraling even further into debt, we need to end this war.

ENERGY INDEPENDENCE IS THE GOAL

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

Mr. KINGSTON. Mr. Speaker, I come from agriculture country in southeast Georgia, and it is always remarkable to me that 2 percent of our population feeds not just 100 percent of the American population but a great deal of people all around the world. In fact, one thing that is even more interesting is that our ag production outpaces our ag consumption. We have more food than we can eat because our farm supply is so strong. Very vital of course to have food, but it is also vital in our society to have energy and fuel for our cars. Yet the world demand and the world supply are almost even. And the gentleman knows from the gulf coast what

havoc Katrina played not only on the 90,000 square miles of the gulf coast, but when it comes to energy and gasoline supply, indeed all of America. In fact there was a world disruption because of that.

In the United States, we consume over 20 million barrels of crude oil a day, nearly 25 percent of the consumption for the entire globe; and yet the United States only has about 3 percent of the world's oil reserves. Worse than that, we import from countries about 60 percent, and these countries are not always our friends. A lot of it comes from the Middle East: Saudi Arabia, Iraq, Iran, Kuwait. We have got some from South America, Venezuela. We all remember last week what Hugo Chavez of Venezuela did to the President when he was down there to give him a warm welcome.

Because energy is a national security risk, I have introduced today, along with the gentleman from New York (Mr. ENGEL) and a number of Republicans and a number of Democrats, the Fuel Choice American Security Act of 2005. And what this bill does is it seeks to get us off Middle East oil by the year 2015. We will not be free from importing oil from around the world; but when it comes to the Middle East, we will be able to say, We can buy from you, but we do not have to buy from you.

Our bill does a number of things. Number one, it sets a goal. It says that by the year 2015 we will have reduced our oil consumption 2.5 million barrels a day. That is a 10 percent reduction and that would get us free from the Middle East.

It also requires that the General Accounting Office scores energy-related bills that we consider on the floor of Congress, and it gives Members of Congress a clear idea does this bill make you more dependent on foreign oil or less dependent; and does it move you closer to that goal of energy or fuel independence by 2015, or does it move it further away.

Secondly, what this bill does is it provides incentives to automobile manufacturers and to consumers to buy more and produce more energy-efficient automobiles. We double the tax credit for the purchasing of hybrids. We encourage automobile manufacturers to use light materials in the manufacturing of their cars. We put money, or incentives into municipalities to move towards the plug-in flexible fuel fleets when it comes to automobile taxicabs and so forth.

We give incentives to gasoline companies so that they will switch pumps so that when a consumer pulls in, they can have their choice of fuels for their automobiles. We also say that when you purchase tires you ought to know how many miles per gallon those tires should help you get. People do not even realize it, but if you inflate your tires right, you get more miles per gallon. And our consumers do not know that.

The third thing our bill does is it increases energy choice by investing more money into biomass, and that could be any kind of biomass there is. It also takes the import tax off of ethanol from other countries. In Brazil today, 40 percent of the cars run on ethanol. In America, only 3 percent do. Brazil actually has surplus ethanol. We have a goal, we call it E 10 by 10. The gentleman from Minnesota (Mr. GUTKNECHT) is one of the champions of it. It says 10 percent of the gasoline will have ethanol in it by the year 2010. We are in agreement with that.

But the domestic production of ethanol through the corn supply alone will not get us there. We need to have corn, we need to have sugar, we need to have pine needles. We need to have whatever can get us that ethanol supply. But in the mean time, why are we taxing a source of energy from a country like Brazil? What we need to do is take that export tax off there, and that is what our bill does.

And finally, we ask the Federal Government to audit their agencies to figure out what can you do to save gasoline. One example, I will close with this, Mr. Speaker. Think about Saturday mail delivery. We pay 100 percent of the fuel cost to deliver 30 percent of the mail that we do on Monday through Friday. In this day of e-mail, do we really need Saturday mail delivery anymore?

Those are just some of the things the bill does, Mr. Speaker. It does move us towards energy independence by the year 2015, which is what we need. And I thank the gentleman from Texas (Mr. POE) for letting me get in front of him.

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

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

WHO IS IN CHARGE, MEXICO CITY OR WASHINGTON, D.C.?

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

Mr. POE. Mr. Speaker, when it comes to U.S. immigration policy, who is really in charge? Is it Mexico City or Washington, D.C.?

On almost a daily basis, Mexican officials seem to interfere with the immigration matters and U.S. laws. Mexican officials on both sides of the border are righteously indignant about American policies pertaining to the security of our border. Many American officials are oblivious to the problem as well. There is a continuous moaning and groaning rhetoric complaining we should not prevent illegals from entering the sovereign United States.

I want to make it clear again that I fully support immigration, legal immigration. It is not fair to America, nor is it fair to those who are trying to enter our country lawfully that every year thousands of people enter our country illegally. We must stop sending the wrong message to the world that we will wink at illegal immigration. It appears to me that the leaders of Mexico give lip service to our immigration and border security laws. Mexico must stop encouraging illegal entry to the United States and the disrespect for the dignity and sovereignty of this country. So I ask, When it comes to U.S. immigration policy, who is in charge? Is it Mexico City or is it Washington, D.C.?

Let me give you some examples. I will start with our open borders. You know, our government does not acknowledge the term open borders or porous borders, but that is exactly what we have. I have recently visited the United States-Mexico border and witnessed firsthand the lax security in place there. It takes very little effort for illegals to cross or hire someone to cross them into the United States and enter this country illegally.

Some estimate that 5,000 people a day cross illegally into our country. Some of them even do it with the help of the Mexican Government. The Foreign Ministry of Mexico distributes a pamphlet called ''Guide to Crossing the Border.'' I have shown this on the floor before. It is produced in English and Spanish, and it is essentially a book of sneaking into the United States. The Mexican consulates encourage this illegal conduct as well. Their purpose is not to help their citizens break American law, but that is what occurs. Passing out these guides is a disgrace to our laws and encourages illegal behavior. This lone act of a document showing people illegally how to come into the United States is a disrespect for America's borders and encourages the daily invasion of illegals into the United States.

So once again I will ask the question, When it comes to United States immigration policy, who is in charge? Mexico City or Washington, D.C.?

Consulates also hand out matricula consular cards which illegals use for identification purposes. This card resembles a driver's license and has become widely accepted as a form of identification to get services at U.S. banks, car dealerships, and American insurance companies. Even in some States they are allowing individuals to purchase or get a driver's license based on this document. The consulate issues these cards to people who are illegally in the United States. This is an absurd policy because these people are in our country illegally, yet we are helping them set up a residence in our country.

The Mexican Government has heavily lobbied the Federal Government of the United States to use these cards as identification cards, but so far the Federal Government does not do so. So Mexican consulates are going to local communities and local governments and trying to get them to accept this document. And some do, unfortunately.

This is just one more example of blatant disrespect for American law, yet we do nothing about it. We give illegals and the Mexican Government another pass. When it comes to the United States immigration policy, who is in charge? Is it Mexico City or Washington, D.C.? The answer is becoming more and more blurred.

Let me give you another serious example. In Los Angeles during the past year, the Mexican Government has provided over 100,000 Mexican text books to 1,500 schools. In fact, according to a recent Houston Chronicle editorial written by Heather McDonald, the sixth-grade Mexican history book celebrates the Mexican troops who fought against Americans during the Mexican-American War. The book refers to the enemy flag as the flag of the United States and says that the war's consequences were disastrous for Mexico.

So is this what we are going to teach American school children? Has political correctness gone so far that we now refer to Old Glory as the enemy flag? And why do we allow the Mexican Government to inundate our kids with Mexican text books anyway? This is very disturbing. The Mexican Government should spend more time enforcing their own rule of law and fighting corruption in Mexico and less time undermining our rule of law. Mexico has many advantages and natural resources. Perhaps they should take advantage of these to improve their own country so residents will quit leaving. They need to address their problems at home instead of sending them north to us.

Mr. Speaker, the lawlessness of the border will promote more lawlessness. We welcome people who want to make a better life for themselves and come to America for the American Dream, but they must do so legally. Our government cannot afford to continue to ignore the invasion from the south of our borders. The Mexican-American War started because Mexicans did not recognize the Texas-Mexico border at the time. They ignored the treaty that their dictator, Santa Anna signed, and they invaded the United States in 1846.

Sound familiar? It seems to me that a second attempt at invasion and colonization has already begun. Is Mexico trying to retake the Southwest? It is said that Caesar fiddled while Rome burned. I ask, Is Washington fiddling while the border burns with the lawlessness of an illegal invasion? Who is in charge of the U.S. immigration policy? Washington, D.C. or Mexico City? Only history will reveal the answers to that.

That is just the way it is.

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

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

BABY BOOMER GENERATION

Mr. BURGESS. Mr. Speaker, I ask unanimous consent to go out of order and address the House for 5 minutes.

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

There was no objection.

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

Mr. BURGESS. Mr. Speaker, this morning at a breakfast, Chairman Alan Greenspan was talking to a group of us, and he made mention of the fact that one of his concerns about those of us who were members of the baby boomer generation, despite the fact that we may have lavish pensions or Medicare, Social Security awaiting us upon retirement, that we may suffer because there are not enough of those in the generation coming after us to provide the things that we may want; and of course one of those things we may want will be physicians to take care of us in our old age on Medicare and Social Security.

Well, there is an event happening at the end of this year that I think is particularly pernicious to the upcoming crop of young medical students and physicians, and that is a planned 4.4 percent negative update, that is, a pay cut for doctors who provide care for Medicare patients. As a Member of Congress, and as a physician, I can strongly empathize with the medical community, particularly the younger medical community as they face an impending 26 percent cut in reimbursement over the next 6 years, law already in place, cuts already programmed to happen unless this Congress takes action.

Medicare payments are already lower than the cost of delivering the care. Medicare payments do not pay the freight for overhead in a doctor's office. According to a survey conducted by the American Medical Association, a tremendous number of physicians, 38 percent, responded that they would be forced to reduce the number of Medicare patients that they accept, based on the 4.4 percent reduction that they face just for this coming year.

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This data is reflective of the first installment of a series of cuts. This is of great concern to me, as access to health care is crucial for the Medicare population. We have seen the roll-out yesterday of the availability to the part D Medicare prescription drug benefit; and many of us, myself included, have argued on the floor of this House that the Medicare prescription drug benefit is crucial to providing 21st-century medicine to our seniors. But if we have no doctors present to write the prescriptions, then all of the prescription drug benefit in the world will be of no benefit to tomorrow's seniors.

It is not just that we have doctors dropping out. We have doctors restricting the types of services that they might offer to Medicare patients, and we have doctors restricting where they might go into practice.

Well, in addition, based on these reduced reimbursement rates, doctors will be less able to invest in things that we are asking them to do, things like information technology and necessary and up-to-date medical equipment. All of these combined factors will negatively impact the quality of care that our seniors receive. Simply put, we are driving doctors out of the Medicare system, and we can no longer afford to do that.

Now, one of the proposed solutions deals with what is called Pay For Performance; and true, we should explore the concept of Pay For Performance by addressing whether this system is an improvement over the current one. It is important to establish the true quality indicators, and this is best done in conjunction with the specialty societies themselves, with the doctors themselves who will be delivering the care.

What are the goals of Pay For Performance? Well, the number one goal is better clinical outcomes. In partnership with that, we want improved patient satisfaction, and that goes hand in hand with improved physician satisfaction.

The fact is, Mr. Speaker, that doctors will support a concept like Pay For Performance if they believe in what it is trying to accomplish; but if it is just simply empty rhetoric, doctors will be among the first to recognize that and will abandon any attempts by Congress to drive a concept like Pay For Performance.

Ultimately, if Pay For Performance is structured appropriately and the cost of delivering care comes down, well, that is good. We save some dollars in the Medicare part B system, but that money cannot be used to offset other debt. It has to be put back into the system and reward those doctors who have improved quality and lowered costs.

Well, Mr. Speaker, fortunately, in my committee, in the Committee on Energy and Commerce, we are going to hold a hearing on physician reimbursement tomorrow, and it is timely. I am grateful to the chairmen, both the full committee chairman (Mr. BARTON) and the subcommittee chairman (Mr. DEAL of Georgia), for having this hearing. We are going to have good panels of witnesses present to receive our questions, and I think it is timely that my committee be involved in that discussion because, after all, that is the jurisdiction where this particular argument resides.

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

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

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

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

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

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

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN) is recognized for 5 minutes.

(Mrs. CHRISTENSEN addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

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

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

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Without objection, the 5-minute Special Order for the gentleman from Iowa (Mr. KING) is vacated.

There was no objection.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Sherman Williams, one of his secretaries.

COMBATING METHAMPHETAMINES

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

Mr. KING of Iowa. Mr. Speaker, I appreciate the opportunity always to come to this floor of Congress and have an opportunity to address the Chair and also the people in this Chamber here on Capitol Hill in Washington, D.C. and all across America.

A lot of important issues come in front of us here in this Congress, and one of the hardest things that we have to deal with is the priorities always change day to day. We keep this big stack of issues, and we continually pull one issue off that has drifted down below the stack aways and put it back up on top, pulling those issues out, putting them on top, trying to get them moved so that we can get them off the table, send them to the Senate, and take up the next most important issue. It is a constant process here of hundreds, in fact thousands, of issues being reprioritized.

But what we do also is keep sitting at the top those most important issues, those that are critical, those that are urgent. Sometimes we have that difficulty of taking up the issues that are urgent at the expense of those that are important, Mr. Speaker. But we have an issue before this Congress that I believe will come to this floor for a vote sometime this week or at the latest we could come back and take it up early in the first week in December, and that is the issue of methamphetamines.

I represent a district in roughly the western third of Iowa, and we have found ourselves in a situation where we have perhaps as much experience, and I will say sad and bad experience, with methamphetamines as any place in the country.

Some of the reasons for that are that the precursors for methamphetamine, and that means the components that are required in order to produce it in a meth lab, are and have been readily available in Iowa, and particularly in the Corn Belt. One of those components is hydrous ammonia, and because it is available essentially everywhere in the Corn Belt, it has been relatively easy for a meth cook to go in and to steal a tank of hydrous ammonia, take that back to their meth lab and use that to produce methamphetamines.

We did not think we really needed to have a security policy and post guards around the hydrous ammonia tanks because, after all, when you crack one of those nozzles, you get a lesson that you will never forget. Yet, these meth cooks are so intent on producing methamphetamines that that kind of a danger has not been a deterrent to them, and they have some experience with hydrous ammonia also, being from the region, and so they are more comfortable using it and handling it.

But, Mr. Speaker, there is a precursor to methamphetamines that is significantly different in that regard and still has been, up until now, readily available on the shelves of most of the stores in America, and that is a component that we are comfortable with that we know called ephedrine and pseudoephedrine, and then there is a PPA, another precursor that is used in some of this. But I brought some of this along tonight so that I can speak about it, Mr. Speaker. So when we have a cold and we have congestion, we will go down to the store and we will purchase pseudoephedrines of some kind.

Here is one example here, and I have another example here. Most people are familiar with that. The active ingredient is pseudoephedrine, and that pseudoephedrine is what the meth cooks are after.

Now, I would point out that about 10 years ago, we recognized this and began to address it legislatively. One of the things we did in Iowa was realize that the people who were making methamphetamine then, and it was fairly early in our experience with methamphetamines, they would go to the drugstore or the grocery store and buy themselves a big pill bottle; and that big pill bottle might have pills in there, mostly it was pills that were 30 milligrams each. They would buy several bottles of those dry pills, those starch-based pills, bring the bottles back to the labs, take the caps off of the big bottles, dump them all into their overall vat, and produce their methamphetamines out of those. No restrictions, easily available, go buy it off the shelf. Nobody asked any questions. After all, it was entirely legal; and up until the time they figured out how to use this, there was no negative to people having pseudoephedrine or ephedrine products in their own medicine cabinet, so there was no restriction.

Once we figured out that that is what they were doing, they were using the pseudoephedrine product in order to produce methamphetamine, in Iowa we decided we are going to fix this. We know how to outsmart these people. Since they buy these big bottles and there are 100 or more in a bottle, sometimes 500 in a bottle, we will just limit the size of the container, the numbers of pills that can be sold in a container.

So in Iowa we said, you cannot have 100 or more of these pills that contain pseudoephedrine, ephedrine, or the PPAs. Well, we thought that would solve the problem. I did not get that involved in the language; I supported it; others worked on it. It seemed to me like it was a step in the right direction. Perhaps it was. It was a step in the right direction for just a little while.

Congress understood that there was a problem too, and they concluded here in about 1995 that, you know, it is just too easy to go into the store and buy a bottle of pills that have pseudoephedrine in them and, like we thought in Iowa, take them back to the meth lab, take the cap off, dump it in their batch and cook an ounce of meth. So Congress did not address it the way we did in the Iowa legislature.

Iowa said less than 100 per container, and Congress said, well, no, no meth cook is going to go to all that work if we just require that these pills go in blister packs. So if you have noticed, for the last 10 years when you go to buy your pseudoephedrine, you will find that it is in blister packs. So you have to take it out and tear one open. I have one in my pocket because of the condition I have been in, Mr. Speaker. There is a pair, that is 30 milligrams per pill, 60 milligrams in there, and you have to tear a little corner off, tear the tin foil off the bottom, push those out of there. It is kind of hard, but you can get them out if you are sick and take your pseudoephedrine in that kind of way, because Congress said, we will put these in these blister packs so that it is too hard for the meth cooks to open up

hundreds of these, and then they will not be making methamphetamines in America any longer. So that was Congress, in blister packs. Iowa was less than 100 per container.

So you put those two things together and that means you get these kinds of packages here. This is one that I picked up at the pharmacy in Iowa a little over a week ago. This is 96 pills. These are dry pills, they are in a blister pack, and they are 30 milligrams each, and that is 96 pills in there because Iowa law said you cannot have 100 or more. Well, that did not take them very long to figure out that they could comply with Iowa law, set these on the shelf, the retailers and the pharmacists had no problem, they complied with Iowa law, they did not complain very much, if at all. And the meth cooks looked at that and said, well, there we go, 96 pills per container. I will grab a stack of those containers, take them back to my lab and make myself a little tool where I can lay these blister packs down, drill some holes in a board, use another one for a press, pop all these pills through and they rattle down into the vat below, and they can quickly remove from the blister packs thousands of these pills and turn them into an ounce of methamphetamines.

So between Iowa's method of less than 100 per pack, now we have 96; between Congress's method of they will all be in blister packs, which these are, Mr. Speaker, and all of them that we can purchase today are, it did not slow the meth cooks down very much, if at all. It made it a little bit inconvenient, but it did not really raise the cost of their transaction.

So here we are, we are back on the floor of this Congress today, tomorrow, perhaps the next day; and part of that time we will spend debating how we are going to control methamphetamines in this country.

I will tell you that this is a bipartisan effort. We have the Meth Caucus that is really headed up by the gentleman from Indiana (Mr. SOUDER). He is one of the four formal leaders there and I would say the most active and the most effective of them. They all deserve credit.

We put together legislation that I was part of back in the early part of this session called the Meth Lab Eradication Act, but the Combat Meth bill is part of this. It is a foundation for a bill that has been brought by Chairman SENSENBRENNER of the Judiciary Committee. They have added to it, made some changes, and taken input from some other areas.

So here we are functioning in the fashion that was envisioned by our Founders when they established this Congress and our Constitution, and we are listening from all over the country. But we come to this: we have toughened penalties, we have done a number of things that are all logical and rational, and I support all of those changes that are in there in the overall meth legislation. Yet, when we come to the piece that is designed to remove the meth precursors from the shelves so that the meth cooks cannot get at it, we have not done enough.

So the proposal that is before this Congress that seeks to remove these kinds of products from the hands of the people that are out there producing methamphetamines, sometimes cooking it, sometimes using other methods, it all takes pseudoephedrine of some kind or a precursor, ephedrine, pseudoephedrine or PPA.

□ 1900

The legislation that is here, I am going to argue, does not do enough. First I want to describe, what does Iowa do? Iowa has this long history of methamphetamines; Iowa has struggled with this for a long time. Iowa is in the corn belt and has anhydrous ammonia readily available almost everywhere.

Iowa, like every place in the country, has had Sudafed and those precursors readily available, almost everywhere, convenience stores, grocery stores and pharmacies. They have struggled with this, gotten it wrong in the past; the package in 1996 did not do much good, just like Congress has struggled with this; a blister pack does not do much good.

So what we have done for more than a year, we have done the research, examined this, we have interviewed retailers, convenience store owners, pharmacists, pharmaceutical companies, meth lab cooks, meth addicts, the law enforcement people, the drug czar in Iowa, put our heads together, churned this legislation through.

A retired highway patrolman, who has been 10 years or more in the Iowa House of Representatives, Trooper Clel Baudler did a lot of work to put together the language in Iowa so that we could provide the medication for the legitimate use, that it absolutely has a legitimate use, so that a mother could have a sick child, run to the convenience store, the grocery store, pick up enough medication to just supply the need.

We had enough medication on the shelf that we are supplying an inventory for a meth cook. With all this work that was done by a team in Iowa, they passed this legislation through. After a long period of work, it was passed March 22 of this year. The Governor signed it into law.

Again, this is bipartisan legislation. Since that period of time, I want to point out the success in addressing the meth labs in Iowa.

I would say here, the taller, the brighter color, is the numbers of meth labs per month that were busted by our drug enforcement teams and our law enforcement officers all across Iowa. 2004, we are up there: 142 for January; 122 for February; 299 meth labs busted in Iowa in March of 2004; then it went down to 213 in April; and in May, the number dropped down to 16.

You can see there is a little seasonal cycle to this, where in the summertime, the meth lab numbers, at least those that are busted, go down, even in 2004, 92 in July; 79, August; 68 in September. By the time October came around, of 2004, the number of meth labs busted jumped back up to 114. November of 2004, 130; December, 110. So you can kind of see the pattern that there is a little seasonal cycle here. Yet we have hundreds and hundreds of meth labs that we had to go in and take down and clean up and pay the clean-up costs, the environmental costs, the risks and the risks to children that we have there.

So this history goes back a number of years prior to 2004, and they looked at this history and determined that we want to do something about this. We want to end, we want to eradicate meth labs in Iowa; we want to eradicate meth labs in the United States of America.

So the legislation came forward, having had input from most everyone involved.

Mr. Speaker, the legislation was put together in Iowa, having taken input from all these other areas and weighed everything. They sat down, talked to the retailers, the pharmacists, the pharmaceutical companies, the consumers and came up with this proposal. The proposal was this: Let us reduce the amount of precursors, the Sudafed, we will call it, the pseudoephedrine, that can be available on the shelf easily at the grocery store, convenience store, at a normal outlet.

Let us set an amount there that is going to raise the transaction costs for the meth cook so that he cannot stop in at enough places and buy enough precursor to come home and produce himself, I will say, an ounce of meth. We have to make it so it is no longer practical to do that.

What we did was we passed a law in Iowa that says, you can buy a daily limit of 360 milligrams of pseudoephedrine, 360 milligrams. Here is an example of it. They just began packaging it in 360-milligram packages. That is 12 gel caps, another distinction. When you use the gel, it takes almost twice as much gel to produce the same amount of meth as it does the powder or the starch-based pills.

So the inconvenience of a gel, I don't know if you can really measure that. You take a gel cap or you take a pill. It is kind of inconsequential as to what you prefer. I can tell you the meth-based cooks prefer the starch-based pills far more than they do the liquid gel caps we have here. So we say, anywhere in retail, you can buy in a day anywhere from 360 milligrams of gel only.

So, for example, if a meth cook wanted to go out and produce an ounce of methamphetamine, you can go to 380 retail stops and those 380 retail stops, buy a package of this everywhere. When you get done, you can come back with 380 packages of this, that times 12

would be the number of pills that he would have to have in order to cook, produce an ounce of meth, 380 stops.

Well, that made it a little difficult for the meth cooks to be able to run around and make 380 stops and produce enough meth that paid for them to be able to do that. The results are clear. They are here in my chart.

Mr. Speaker, this is in blue; this is 2005 compared to the green from 2004. This is under the old law that said under 100 pills, and no other real restrictions on that: January, 81 meth labs busted; February, 27, actually, more than 2004; in March, down to 185, less than 2004, but still a high, high number of meth labs; April, 146, still a high number. You can see enforcement is making a difference.

But we get to this point where the bill was enacted on, actually, the first day of June, past year, March 22, the message went out that said these precursors are going to come off the shelf in large quantities, meanwhile, while we let mom go in and get 360 milligrams in a package. When that happened, the inventory began to be reduced on the shelves in Iowa.

By the time we got to the day of the bill's enactment when it had to be off the shelf, except in compliance with these smaller packages, then we saw the meth labs go up from 116, from the year before, down to 42, Mr. Speaker, a significant difference the first day that bill was enacted into law. The following month, it went down from 42 to 29; July, 25 meth labs; August, only 12; September, only 12; October, only 10.

That is the end of my statistics, but my statistics work out to be this: An 80 percent reduction in the number of meth labs in Iowa. An 80 percent reduction. That means 1,011 fewer meth labs in this 5-month period of time that we have experienced now under the new Iowa law.

You think, boy, what would not be worth it to achieve those kinds of results? How much meth came out of the hands of the addicts? What difference did that make in the lives and the lifestyles of the people that are the addicts and the people that have to live around them? We can compare this number, 1,011 fewer meth labs, 80 percent reduction in meth labs, down to around 10 a month or before we were doing 114 that same month. Who knows what it is going to be like for November, December.

By the time we come around here to January, February or March, I think we see this number way down here or maybe perhaps even in the peak month, it was 229 labs that were busted in 2004, 185 in 2005. I think we see a number down here to around 10 or fewer. But we still have a problem.

Mr. Speaker, we have a problem, because these meth precursors, this pseudoephedrine that is available, is available on the shelves of some of our surrounding States. That allows the meth cooks to drive across the river, across the border, go to the store, buy a big sack of it and bring it back home and then sit there and cook up meth for a while.

I think that these remaining labs that we have here, these 25, 12, 10 and 10 per month that we are busting now, and those that we are not uncovering because we do not have 100 percent enforcement in Iowa. I wish we did, but we do not. I think they are being supplied by the surrounding States that do not have a law that produces this kind of result. Mr. Speaker, this has been recognized. Illinois has adopted a law that is very, very close to that of Iowa.

Oregon has a law that simply requires a prescription in order to purchase anything that has pseudoephedrine in it. Oklahoma has a pretty good law. There are some States out there that made some changes in this language. But what I want to do is have a law that gets this job done. I do not want to come back to Congress 1 year, 2 years, or heaven forbid, 10 years from now and put the fix in place of the things like we did in 1995 when we said, surely a meth cook will not go to all this work to pop a pseudoephedrine out of a blister pack, or if you put it in a package under 100, that is too much trouble to screw the cap off a bottle of 96 or 99. These people are resourceful. We have to raise their transaction costs.

Mr. Speaker, my point is this, if you go to a retail stop and you are a meth cook, and you want to do an ounce of meth, you do 380 stops to get these, times 380 gets you enough to open up all of these caplets and turn it into an ounce of meth.

But under the proposal that is before us today, and this Congress, it allows for 3.6 grams a day rather than 360 milligrams, Mr. Speaker. I would point out the difference. The difference is 10 to 1. I have it just stacked up here, this is, if it does not explode in my hands, this represents 3.6 grams of methamphetamines, a typical purchase-size package that you would have.

Under the Federal law that may pass here tomorrow or the next day, one could go to a store and purchase this anywhere in a retail outlet, grocery store, a convenience, Wal-Mart, wherever it might be, and walk away with this much in one's hands. That is a daily purchase rate.

Now, that is not enough to really bother to fire up the old meth cooker, but it is enough to get one-nineteenth of an ounce, and it would allow an individual then to make 18 other stops around the retail establishments. Yes, they have to sign the book. I am glad they do. They have to show their identification. I am glad they do.

These people are breaking the law regularly. They are not going to be concerned about lying when they sign their name or the fact that we are not able to index other retail establishments so that those 19 are not going to be checking the other 18 records. Neither is law enforcement going to be able to have the resources to do that.

We will just go back on that. If we catch somebody with a truckload of this, then we will say, where did you buy it? We will find out they violated our new law. What we want to do is we want to raise the transaction costs. This meth cook can go 19 stops, get this much legally at every stop, come back home, make an ounce of methamphetamine out of that. By the way, he can buy the starch-based powder as opposed to the requirement for the gel that I have spoken about.

Nineteen stops, an ounce of meth. He can probably do that in a couple of hours, come back home and cook a batch of meth. An ounce of meth is enough to last an average addict 90 days.

The other 89 days he can continue to go out and do the same thing and continue to sell the meth. That is the result we are going to have. Or you can have three people join together. They will go around, have six stops, come back with 18 times this amount, make 1 ounce of meth and then that is good enough for each of those three addicts for a month. There will be an ounce of that meth. Yes, it will be a month.

It is about a 90-day supply for one, 30-day supply for each of the other three. Then he will have 29 days to go out there and do this for a profit.

Mr. Speaker, I do not want this Congress to be short. I do not want a solution that seems to be a solution that retailers and pharmaceutical companies agree to, but not one that is going to inconvenience and raise the transaction costs adequately for the meth cooks. I want to get this done. I want to get it done right. I want to honor the work done by the meth caucus here, all the serious work of people who put up vote after vote after vote. I will recognize it through the appropriations process.

When there was amendment after amendment that came to this floor that struck a blow against methamphetamines, I saw people on both sides of this aisle stand up and put up that vote regularly and consistently. There is a real conviction in this Congress to get this right. Sometimes we have a little trouble being able to get down into the depths of the details in order to get it right.

One of the individuals who has provided that kind of background, that kind of knowledge, who has been one of the leaders here when we introduce one of our friends and colleagues, but this time I am going to say that I am introducing the leader of this meth effort in the United States Congress, the gentleman from Indiana (Mr. SOUDER) who is the chairman of the meth caucus.

Mr. SOUDER. Mr. Speaker, I thank the gentleman from Iowa (Mr. KING) for being such a passionate and aggressive and steadfast leader and part of the meth caucus, not only back home, but out here in Washington, that has been able to help us make a lot of progress.

What I wanted to do, and take some time here, is lay out a little bit of the

history of how we got to where we are. I felt probably the simplest way to do that would be that I chair the Narcotics Subcommittee over in Government Reform where Speaker HASTERT chaired and the gentleman from Florida (Mr. MICA).

The former Congressman Ose had come to the committee when the gentleman from Florida (Mr. MICA) was chair and talked about the super lab problem in California and that it led to the death of a young child. It eventually led to the child endangerment laws in California that have been patterned elsewhere.

□ 1915

Then when I became chairman starting in 2001, we focused a lot on the southwest border. But we held our first hearing on 7/12/2001 with the DEA, with Ron Brooks, who is the national chairman of the National Narcotics Association, with a sheriff from Indiana, a police chief from California, and a sheriff in Washington State, and then a public affairs director, Susan Rook, who used to be with CNN.

Then it was 7/18/2003 when we really started to focus in on metham phetamines. After we had looked at the borders and tackled that for a 2-year cycle, we came back on meth. The gentleman from Arkansas (Mr. BOOZMAN) and the gentleman from Hawaii (Mr. CASE) had both been hard hit and testified, as well as DEA and ONDCP. And then Captain Kelly, the commander of the narcotics division in Sacramento who had been instrumental in the early superlab efforts in California as well as the chief of police in Vancouver, Washington, and the sheriff in Clark County, Washington.

Then we went into the field hearing in my own district, along with the gentleman from Indiana (Mr. CHOCOLA), where we had ONDCP come out and DEA as we usually do at field hearings. We heard from Curtis Hill, the prosecutor in Elkhart County, his chief investigator Bill Wargo, the Starke County detective, Corporal Tony Ciriello from Kosciusko County, and multiple other prosecutors and people in local law enforcement.

Then we moved up to Detroit. At Detroit on 4/20/2004 our hearing was ''Northern Ice: Stopping Methamphetamine Precursor Chemical Smuggling Across the U.S.-Canada Border.'' We had the director of the High Intensity Drug Trafficking Area in Detroit, as well as the Homeland Security, U.S. Immigration and Customs Enforcement person, a special agent in charge of DEA, and the U.S. Customs and Border Protection person in charge of Detroit.

In Detroit they had brought down a pseudoephedrine ring that was supplying at that time 40 percent of the illegal pseudoephedrine coming into the United States. It was the biggest bust in American history and dried up much of the quantity of pseudoephedrine that was coming in. It is still the kind of gold plate standard of what has happened on the north border. Of course this moved a lot to the south border then and to the Internet.

The next hearing we held was 6/28/2004, ''Ice In The Ozarks: The Methamphetamine Epidemic in Arkansas.'' We held this at the request of the gentleman from Arkansas (Mr. BOOZMAN). There we had the DEA, the U.S. Attorney, and the EPA, and then local people from the State drug director. We heard from the drug court about a very innovative program there. We had people from trucking, from children and policy, from drug treatment places.

But the thing that highlighted northwest Arkansas is People Magazine did a story on a small town near there where 70-some percent of the people were addicted. They were people in the medical field, the law enforcement field, school teachers. It started like normal out in a mom-and-pop, fairly isolated individuals, and spread as meth tends to do into this whole town and grabbed it. And People Magazine did an incredible story.

I will insert in the RECORD a list of subcommittee hearings at this point:

SUBCOMMITTEE METH HEARINGS SINCE 2001

(** indicates a field hearing)

07/12/01 ''EMERGING THREATS: METHAMPHETAMINES'' (DC)

Panel I

Joseph D. Keefe, Chief of Operations, Drug Enforcement Administration

Panel II

Ron Brooks, Chairman, National Narcotic Officers Associations Coalition

Doug Dukes, Sheriff, and Doug Harp, Deputy Sheriff, Noble County, Indiana

Henry Serrano, Chief of Police, Citrus Heights, California

John McCroskey, Sheriff, Louis County, Washington

Panel III

Susan Rook, Public Affairs Director, Step One

7/18/03 FACING THE METHAMPHETAMINE PROBLEM IN AMERICA (DC)

Panel I

Representative John Boozman

Representative Ed Case

Panel II

Mr. Roger E. Guevara, Chief of Operations, Drug Enforcement Administration

Mr. John C. Horton, Associate Deputy Director for State and Local Affairs, Office of National Drug Control Policy

Panel III

Captain William Kelly, Commander, Narcotics Division, Sacramento County Sheriff's Department

Mr. Brian J. Martinek, Chief, Vancouver, Washington Police Department

Sheriff Garry E. Lucas, Clark County, Washington Sheriff's Office

**2/6/04 FIGHTING METHAMPHETAMINE IN THE HEARTLAND: HOW CAN THE FEDERAL GOVERNMENT ASSIST STATE AND LOCAL EFFORTS? (FIELD HEARING IN ELKHART, IN)

Panel I

Mr. Scott Burns, Deputy Director for State and Local Affairs, Office of National Drug Control Policy

Mr. Armand McClintock, Assistant Special Agent in Charge, Indianapolis, Indiana District Office, Drug Enforcement Administration

Panel II

Mr. Melvin Carraway, Superintendent, Indiana State Police

Mr. Curtis T. Hill, Jr., Prosecuting Attorney, Elkhart County Prosecuting Attorney's Office

Mr. Bill Wargo, Chief Investigator, Elkhart County Prosecuting Attorney's Office

Detective Daniel Anderson, Starke County Sheriffs Department

Corporal Tony Ciriello, Kosciusko County Sheriffs Department

Panel III

Mr. Kevin Enyeart, Cass County Prosecutor

Mr. Doug Harp, Chief Deputy, Noble County Sheriffs Office

Sergeant Jeff Schnepp, Logansport-Cass County Drug Task Force

Mr. Brian Connor, Acting Executive Director, The Center for the Homeless, South Bend

Mr. Barry Humble, Executive Director, Drug & Alcohol Consortium of Allen County

Mr. Benjamin Martin, Serenity House, Inc.

**4/20/04 ''NORTHERN ICE: STOPPING METHAMPHETAMINE PRECURSOR CHEMICAL SMUGGLING ACROSS THE U.S.-CANADA BORDER'' (FIELD HEARING IN DETROIT, MI)

Mr. Abraham L. Azzam, Director, Southeast Michigan High Intensity Drug Trafficking Area, Office of National Drug Control Policy

Mr. Michael Hodzen, Interim Special Agent in Charge, Detroit, U.S. Immigration and Customs Enforcement, Department of Homeland Security

Mr. John Arvanitis, Acting Special Agent in Charge, Detroit Field Division, Drug Enforcement Administration

Mr. Kevin Weeks, Director, Field Operations, Detroit Field Office, U.S. Customs and Border Protection, Department of Homeland Security

**6/28/04 ''ICE IN THE OZARKS: THE METHAMPHETAMINE EPIDEMIC IN ARKANSAS'' (FIELD HEARING IN BENTONVILLE, AR)

Panel I

Mr. William J. Bryant, Assistant Special Agent in Charge, Little Rock, Arkansas Office (New Orleans Field Division), Drug Enforcement Administration

Mr. William M. Cromwell, Acting United States Attorney, Western District of Arkansas

Mr. James MacDonald, Federal On Scene Coordinator, Region 7, U.S. Environmental Protection Agency

Panel II

Mr. Keith Rutledge, State Drug Director, Office of the Governor of Arkansas

The Honorable David Hudson, Sebastian County Judge

Mr. J.R. Howard, Executive Director, Arkansas State Crime Lab

Ms. Shirley Louie, M.S., CIH, Environmental Epidemiology Supervisor, Arkansas Department of Health

Sheriff Danny Hickman, Boone County Sheriff's Office

Mr. David Gibbons, Prosecuting Attorney, 5th Judicial District

Panel III

The Honorable Mary Ann Gunn, Circuit Judge, Fourth Judicial District, Fourth Division

Mr. Larry Counts, Director, Decision Point Drug Treatment Facility

Mr. Bob Dufour, RPH, Director of Professional and Government Relations, Wal-Mart Stores, Inc.

Mr. Greg Hoggatt, Director, Drug Free Rogers-Lowell

Mr. Lane Kidd, President, Arkansas Trucking Association

Dr. Merlin D. Leach, Executive Director, Center for Children & Public Policy
Mr. Michael Pyle

**8/2/04 ''THE POISONING OF PARADISE: CRYSTAL METHAMPHETAMINE IN HAWAII'' (FIELD HEARING IN KAILUA-KONA, HAWAII)

Panel I

The Honorable James R. Aiona, Jr., Lieutenant Governor, State of Hawaii
Mr. Larry D. Burnett, Director, Hawaii High Intensity Drug Trafficking Area, Office of National Drug Control Policy
Mr. Charles Goodwin, Special Agent in Charge, Honolulu Office, Federal Bureau of Investigation
Mr. Briane Grey, Assistant Special Agent in Charge, Honolulu Office (Los Angeles Field Division), Drug Enforcement Administration

Panel II

The Honorable Harry Kim, Mayor, County of Hawaii
Mr. Keith Kamita, Chief, Narcotics Enforcement Division, Hawaii Department of Public Safety
Lawrence K. Mahuna, Police Chief, Hawaii County Police Department
Mr. Richard Botti, Executive Director, Hawaii Food Industry Association

Panel III

Dr. Kevin Kunz, Kona Addiction Services
Mr. Wesley Margheim, Big Island Substance Abuse Council
Mr. Alan Salavea, Hawaii County Prosecutor's Office, Youth Builders
Dr. Jamal Wasan, Lokahi Treatment Program

11/18/04 ''LAW ENFORCEMENT AND THE FIGHT AGAINST METHAMPHETAMINE'' (DC)

Panel I

Hon. Scott Burns, Deputy Director, State and Local Affairs, Office of National Drug Control Policy
Mr. Domingo S. Herraiz, Director, Bureau of Justice Assistance, Office of Justice Programs, U.S. Department of Justice
Mr. Joseph Rannazzisi, Deputy Chief, Office of Enforcement, Drug Enforcement Administration

Panel II

Mr. Lonnie Wright, Director, Oklahoma Bureau of Narcotics and Dangerous Drugs
Sheriff Steve Bundy, Rice County (Kansas) Sheriffs Department
Lt. George E. Colby, Division Commander/Project Director, Allen County Drug Task Force, Allen County (Indiana) Sheriffs Department
Mr. Joseph Heerens, Senior Vice President, Government Affairs, Marsh Supermarkets, Inc., on behalf of the Food Marketing Institute
Dr. Linda Suydam, President, Consumer Healthcare Products Association
Ms. Mary Ann Wagner, Vice President, Pharmacy Regulatory Affairs, National Association of Chain Drug Stores

**6/27/05 ''FIGHTING METH IN AMERICA'S HEARTLAND: ASSESSING FEDERAL, STATE, AND LOCAL EFFORTS'' (FIELD HEARING IN ST. PAUL, MN)

Panel I

Mr. Timothy Ogden, Associate Special Agent in Charge, Chicago Field Division, Drug Enforcement Administration
The Honorable Julie Rosen, Minnesota State Senator
Sheriff Terese Amazi, Mower County Sheriffs Office
Sheriff Brad Gerhardt, Martin County Sheriffs Office
Lt. Todd Hoffman, Wright County Sheriffs Office
Ms. Susan Gaertner, Ramsey County Attorney

Panel II

Commissioner Michael Campion, Minnesota Department of Public Safety
Mr. Bob Bushman, Senior Special Agent, Minnesota Bureau of Criminal Apprehension; President, Minnesota State Association of Narcotics Investigators; and President, Minnesota Police and Peace Officers' Association
Mr. Dennis D. Miller, Drug Court Coordinator, Hennepin County Department of Community Corrections
Ms. Kirsten Lindbloom, Social Program Specialist, Parenting Resource Center; Coordinator, Mower County Chemical Health Coalition
Mr. Buzz Anderson, President, Minnesota Retailers Association

7/26/05 ''FIGHTING METH IN AMERICA'S HEARTLAND: ASSESSING THE IMPACT ON LOCAL LAW ENFORCEMENT AND CHILD WELFARE AGENCIES'' (DC)

Panel I

Hon. Scott Burns, Deputy Director for State and Local Affairs, Office of National Drug Control Policy
Joseph Rannazzisi, Deputy Chief, Office of Enforcement, Drug Enforcement Administration
Laura Birkmeyer, Assistant U.S. Attorney, San Diego, CA; and Chairperson, National Alliance for Drug Endangered Children

Panel II

Nancy K. Young, Ph.D., Director, National Center on Substance Abuse and Child Welfare; and Director, Children and Family Futures
Valerie Brown, National Association of Counties
Freida S. Baker, Deputy Director, Family and Children's Services, Alabama Department of Human Resources
Chief Deputy Phil Byers, Rutherford County Sheriffs Office (NC)
Sylvia Deporto, Deputy Director, Riverside County Children's Services (CA)
Betsy Dunn, Investigator, Peer Supervisor, Tennessee Department of Children's Services, Child Protective Services Division
Chief Don Owens, Titusville Police Department (PA)
Sheriff Mark Shook, Watauga County Sheriffs Department (NC)

**8/23/05 ''LAW ENFORCEMENT AND THE FIGHT AGAINST METHAMPHETAMINE: IMPROVING FEDERAL, STATE, AND LOCAL EFFORTS'' (FIELD HEARING IN WILMINGTON, OH)

Panel I

Gary W. Oetjen, Assistant Special Agent in Charge, Louisville, Kentucky District Office, Drug Enforcement Administration
John Sommer, Director, Ohio High Intensity Drug Trafficking Area (HIDTA)

Panel II

Sheriff Ralph Fizer, Jr., Clinton County Sheriff
Sheriff Tom Ariss, Warren County Sheriff
Sheriff Dave Vore, Montgomery County Sheriff
Commander John Burke, Greater Warren County Drug Task Force
Jim Grandey, Esq., Highland County Prosecutor

**10/14/05 ''STOPPING THE METHAMPHETAMINE EPIDEMIC: LESSONS FROM THE PACIFIC NORTHWEST'' (FIELD HEARING: IN PENDLETON, OR)

Panel I

Rodney G. Benson, Special Agent in Charge, Seattle Field Division, Drug Enforcement Administration
Chuck Karl, Director, Oregon High Intensity Drug Trafficking Area (HIDTA)
Dave Rodriguez, Director, Northwest High Intensity Drug Trafficking Area (HIDTA)

Panel II

Karen Ashbeck, mother and grandmother of recovering methamphetamine addicts
Sheriff John Trumbo, Umatilla County Sheriff's Office
Sheriff Tim Evinger, Klamath County Sheriff's Office
Rick Jones, Choices Counseling Center
Kaleen Deatherage, Director of Public Policy, Oregon Partnership—Governor's Meth Task Force
Tammy Baney, Chair, Deschutes County Commission on Children and Families
Shawn Miller, Oregon Grocery Association

If I can digress here from what I wanted to do here, I will lay out that meth first really, crystal meth has been in Hawaii for a long time. It is the longest study pattern that we have. Then we saw the superlabs in California and Oregon and Washington were early on. Then we saw in the Ozarks area, spreading through the kind of plains States of Iowa, Nebraska, Kansas, Missouri, Arkansas and into Oklahoma. Then it started to go both east and west from there. Still mostly in small towns and rural areas, still heavily where there are national forests and open lands, and started to push into Colorado, Wyoming, up into Montana, Dakota and simultaneously towards Indiana, Tennessee, Kentucky.

Only now is it starting to reach further into the Deep South, into Titusville, Pennsylvania and a little into Upstate New York. It has basically been a Western and Great Plains phenomenon filling out gradually, and even as we were dealing with June of last year, minimal in any urban area, even in my home State.

Then in 8/2/04 then we went to ''Poisoning in Paradise: Crystal Meth in Hawaii.'' There we had the lieutenant governor who has been aggressive with this. The gentleman from Hawaii (Mr. CASE) hosted this hearing. I was chair, but he was the Member host. We had multiple people we also met not only on the Big Island but over in Maui there with a separate group of individuals. And there they have some of the only 10- and 15-year addiction studies on meth and showing how much of a problem this is.

In Honolulu while I was there, there was an announcement in the paper that one apartment complex, you would have to pay a fumigation fee coming in because so many were cooking inside the city of Honolulu that it was dangerous. If you rented the apartment, the fumes could be consumed by the kids in the apartment.

Then on 11/18/2004 we had ''Law Enforcement and the Fight Against Methamphetamine'' where we came back to D.C. In D.C., like we had earlier, we had Oklahoma back to report on the pseudoephedrine control law in Oklahoma. We first heard from them approximately 2 years before that.

We had the Kansas sheriff from Rice County. We had George Colby from my home area. We also had representatives of the health care industry, pharmacy, and the supermarket industry who were already starting to express concerns about some of the State laws and

things that Mr. KING was already addressing.

Then in June of this year, we held a hearing, ''Fighting Meth in America's Heartlands: Assessing Federal, State, and Local Efforts,'' a field hearing in St. Paul, Minnesota. The extraordinary thing about this particular hearing was this was the first time we were documenting heavy movement of methamphetamines into major urban areas. At this point, the mom-and-pop labs, and I am going to digress here for a second, and we have talked about this before, but I think it is important to have it in the RECORD at this point.

Mom-and-pop labs, or Nazi labs, or however we want to describe the kind of home cookers, are usually different than other drug addiction. You usually have two people involved. It is not like alcohol where often there is an alcoholic and an enabler. The whole family gets involved in it. Sometimes they even get their kids caught up in this. These cookers basically supply for themselves, maybe two or three other people, just enough to fund their habit. Particularly if they lost their job, they start to expand and cook just a little bit more.

But it is the incredible law enforcement problem in the United States because these mom-and-pop labs, we had a fire in a mobile home, I think it is now 2 to 4 weeks ago, in my hometown of Fort Wayne, Indiana. The local fire chief was describing to me how they went in. They did not know it was caused by a cooker because they had not had a home cooker in the city of Fort Wayne, which is 230,000. It had been more of a problem in the rural areas, places on fire.

They could have easily had anhydrous ammonia or something else in there which would have just torched the whole fire department going in, not to mention the chemical and toxic fumes. In this case, they figured out quick enough what was happening there. There was a death, not of the firemen, but of one of the individuals who lived there.

Indianapolis had their first case in the Indianapolis area of a similar-type fire just a few days ago. So we are starting to see in Indiana now after a number of years starting to move into the urban areas. But these mom-and-pop labs are 8,000 of the 8,300 seized in 2001, the last data that are compared. So you are looking at about 90 percent of the labs in the United States that are seized are mom-and-pop so-called home-user labs, whereas crystal meth, the superlabs represent only 4 percent but represent 67 percent of meth consumption in the United States.

But that is not the problem in most of our areas, because in Indiana and in Iowa we are not dealing with superlabs. So our local police force is having to pay overtime. Often they go to this site that may only be supplying three people. They are tied up there. First they have to wait until once they realize it is a lab, if they do not have the equipment, they have to get somebody in who comes in with equipment. At that point, and they also find more guns, more children in danger that you have to come in.

So they come into the site and then after they get the site secure, they then have to call the DEA to the environmental cleanup. The DEA does this. We budget for this through our programs here, but nevertheless it is a tremendous environmental cleanup cost. And probably a typical, and I imagine it is similar in Iowa, in my district it is 4 to 6 hours that the local drug task force is tied up, basically. While hundreds of people are running around abusing drugs in the area in many ways, the law enforcement are tied up at one house trying to deal with one to three people.

So, understandably, they are very upset and the costs and social costs are high on these mini-labs as opposed to a mom-and-pop. Now let me give you an idea. A typical user meth lab, a mom-and-pop, Nazi lab, can basically make a maximum of 280 doses. That is the maximum a mom-and-pop lab user makes.

A superlab makes a minimum of 100,000 to a million doses in a run. And it is purer and cheaper. So we have two problems that are somewhat different from each other.

Now, when we came into Minneapolis where I was in St. Paul, we had representatives from counties to southeast of Minneapolis, southwest of Minneapolis, and north of Minneapolis. That is the standard pattern that we see typically in a rural area, near a national forest or isolated areas or woods where people go out and hunt. They stumble across the labs. They get away from the population centers.

What we had not seen was a deputy prosecutor in St. Paul, Ramsey County, if you take Minneapolis and St. Paul you have about a million and a quarter on each side of the city and the suburbs. On the St. Paul side, she reported that approximately 80 percent of the kids in child custody were because of meth cases. That had been a standing start from 8 months before. It went from zero to 80 percent. Yet, they only had one lab. Crystal meth had hit St. Paul.

On the Minneapolis side, they had much less of a problem. But in that case, one gang in the city and most African American gangs in the big cities will have a cocaine, heroine, and hydroponic marijuana trafficking program; and they had switched over to meth. So all of the sudden this one gang switching in one neighborhood all of the sudden meant that 40 percent of their arrests soared to meth. Whereas, for example, in Elkhart, Indiana, 90 percent of the people in jail right now are meth-related.

So when you have your community get hit, it switches and it switches overnight. And here we have two major metropolitan areas.

Now, the gentleman from Nebraska (Mr. TERRY), a member of our caucus, has said that it has hit Omaha as well. Then we moved down to a hearing over in my neighboring State of Ohio with the gentleman from Ohio (Mr. TURNER), and we held it in a small town of Wilmington, which had been fairly hard hit. And Wilmington is in between Cincinnati and Dayton, two bigger cities.

While we were there in Wilmington we had TV there from both of the major markets, which in itself shows an increasing interest in the United States, because they do not usually go to small towns to cover anything. While we were having the hearing, the City of Dayton had their first bust. They had some before in the suburbs but in the city. And there they found a string of seven houses, I believe it was, where the mom-and-pop labs had connected together so the smell did not permeate around, which is what we are starting to see in some of the urban areas, a clustering like they do when they do these hydroponic grows of marijuana that we see.

That was an interesting thing, to watch it spread into the city of Dayton even as we were watching our hearing, because that was another city being hit.

Then we had another hearing in Washington, picking up and once again reviewing what we have been picking up in the field. And then our last hearing that we had was out in Pendleton, Oregon at the request of the gentleman from Oregon (Mr. WALDEN) and in his district.

Now, there we studied more the Pacific Northwest. We had DEA and the HIDA areas come down from Seattle as well as from Portland. Now, Seattle is famous more for heroine and hydroponic marijuana coming down from British Columbia, but they have had an increase too in meth. But the city of Portland has been overrun.

Now, the reason I wanted to go through that is what we are seeing and the reason our meth caucus has been so concerned and the reason we are pushing for national legislation is this is a drug where we now have a history of watching the pattern. We can see the pattern starts with mom-and-pop labs, and then you can usually get some control over that and it move to crystal meth. We see it start in rural areas, often around forests and fairly isolated areas, moving into the small towns. And then it comes in and mashes the cities, usually with a mix of crystal meth and some mom-and-pop labs. This has been a steady march, and it has been going on for years. We can see it coming. The question is where has the national strategy been?

Now, I believe that we have finally reached an agreement to get control of the pseudoephedrine. Let me step back. We can talk about trying to control it at each grocery store and pharmacy. But there are only nine places in the entire world that make the pseudoephedrine. Yet we have minimal tracking. We can check the raw pseudoephedrine, but we do not have an

international way of checking the pills. We are working with the United Nations to try to track the pills.

Secondly, almost all the pseudoephedrine that is coming in in excess capacity is coming in through the Mexican border. So the legislation that we are trying to get adopted in the near future will have a better tracking mechanism that would hold the countries of China, India, and Mexico accountable for continuing to work with us and to help develop better reporting.

It will also try to get at EPA questions of how we deal with cleanup. It will try to get into regulating because our problem when we work at this, we need laws like Iowa and Missouri. We need laws like Indiana where it is behind the counter.

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We need the daily limit. We need the monthly limit. We need the logbooks. While it may not completely deter individuals, because it is difficult to check, the fact is, as you make a bust, you can go back and see where the person is. As it gets out we are checking that, we also are lowering the threshold for drug kingpins because meth is a different type of thing. You can go back through those books and realize that signing the logbooks does, in fact, do that. We are also going to train it, and we are going to move to that, and we also need a better wholesale regulation system.

This has been a difficult process to work through because States like New York or New York City, we are now going to regulate the sale of pseudoephedrine, even though they have no meth. We are going to regulate the pseudoephedrine in Boston, even though they have no meth problem. It was a difficult process, and I appreciate our leadership, the Senate leadership, Senator TALENT and Senator FEINSTEIN, the leadership of the gentleman from Missouri (Mr. BLUNT), acting leader, and the leadership of the Energy and Commerce chairman, his willingness to work through this, because I think by working together we have as strong a bill as we can get nationally.

We also heard in Oregon, and this is one of the things that we learn in drugs, we just have to make it as difficult as possible. We have our first major case because Oregon has a tough law. They have been going to the Internet, and they are ordering the pseudoephedrine pills on the Internet. We are going to have to work long-term with FedEx, with UPS, with the other companies in distribution to track that.

One last comment, I really want to thank the Partnership for a Drug-Free America and their new meth campaign. I want to encourage Members of the House; they are willing to give these ads, both the TV, as well as developing radio, billboard and newspaper ads, to any Member of Congress who wants to work in his district to get this up on the air.

We need to take leadership ourselves and not just point out everybody else and say, we are going to get involved like the gentleman from Kentucky (Mr. ROGERS) did, like former Congressman Portman did in Cincinnati. More of us actually need to take the leadership, and so we need our local TV, radio, billboard and newspaper companies to get in front of this, to work with us. We need to use our offices to do it.

Partnership has a prevention campaign because ultimately we are going to try to regulate this stuff. We are going to try to lock the people up, but we have got to win the hearts and minds in prevention. We have got to explain to our kids. It is there in the workplace. We need our employers to drug test because many people use this as an amphetamine to try and stay awake longer, and so we need the employers to drug test, and we need to have better treatment programs and better research on how to deal with meth. If we work these things, plus the law enforcement, we will have long-term changes, not just short-term bumps based on them readjusting at our law enforcement.

I believe this bill will buy us 2 years until they adjust to the strategy. Meanwhile, we need to get our prevention and strategy and workplace programs in effect, too.

I thank the gentleman for yielding and thank him for his leadership.

Mr. KING of Iowa. Mr. Speaker, I thank the gentleman from Indiana. This has been no small task on your part, and I appreciate the chronology and the narratives of the efforts at the hearings across this condition and the history you have brought to the floor of this Congress. I know I have got a fair sense of how much work was done here, but you chronicled it in a way that is broader than I appreciated, and I am glad I have a better perspective of it now.

You pointed out some things that I think need to be explored a little bit further, and the language in there that lowers the threshold for drug kingpins is a plus, and the tracking of the few sources in the world that actually produce pseudoephedrine, ephedrine and PPAs is another important part of this legislation. It is things that have been brought together very thoughtfully, and of course, the gentleman from Missouri (Mr. BLUNT) has been a leader on this, and we rolled up our sleeves and put this language together quite a while back.

I want to point out something else, too, which is the concern, what happens with children when they are brought up in an environment where the ma and pa meth labs are and where the fumes are there replete throughout a connection of homes that these poor children are in this toxic environment?

One of the things that we recognize is a statistic that I did not offer here is that, in that 5-month period of time that we have had our law in place that removes the precursors and makes it a lot harder to find those in Ohio, the number of abused children now has gone down in that 5-month period of time. The cumulative fewer number of children is 455 for the State of Iowa, and if that is one child, it begins to be worth the effort; 455 is an astonishing number and a huge success.

It saved $2.4 million in meth labs cleanup. As the gentleman from Indiana (Mr. SOUDER) mentioned, it is 4 to 6 hours to clean up a meth lab. That is not just a one-person team. It is a multiple-person team. These people are trained. They have to have equipment. They have to have the suits to protect them from the toxic material. When it is all done, then they have to throw that all away and go get new stuff.

So between the manpower and the equipment cost and the time that is there and the logistics, and when you charge that back out, a cost to clean up the lab runs somewhere around $4,000 or more. You can kind of figure about $1,000 an hour, but there is a lot of capital involved in just having the equipment to clean up a meth lab.

What we are after here, and I am sure that, Mr. Speaker, you have to be thinking and a lot of the listeners have to be thinking, well, if you are only going to be addressing 15 percent of the meth problem in Iowa and maybe none of the meth problem in New York or in Boston, what purpose is this to try to eliminate as much as we can of the ma and pa meth labs? The purpose is logical, and it is rational because there will be many fewer children that will be abused in that kind of an environment, for one thing. There will be a lot of money that is saved and a lot of law enforcement time that is saved and a lot of resources that are saved if we do not have these ma and pa meth labs out there.

They are scattered. They are divided. They are diversified. They are hard to find. We cannot get them all. So, if we could get them all cleaned up, what remains in the area I represent is 85 percent of the meth now comes across the border from Mexico. We can turn our resources to that.

I yield to the gentleman from Indiana (Mr. SOUDER).

Mr. SOUDER. Mr. Speaker, the interrelationship between the mom and pop labs and the crystal meth lab is tied together in several ways in the pending legislation.

First off, what the pharmaceutical companies are already preparing to do is come up with non pseudoephedrine products. There will be somewhat fewer choices at grocery stores and pharmacies, but still plenty of choices. Some of those choices may not be as effective, but they will be effective. But the net is they are already taking the pseudoephedrine out which also means there will be less pseudoephedrine to divert towards the superlabs.

So while we are addressing at the pharmacy and grocery store level the

mom and pop labs, we are also affecting, because of the changes in the pharmaceutical company industry, which may have been adapting for State level and now are rushing, knowing this bill is about to pass, that we will see an effect on the supermeth, too, in addition, which is probably more like a third, two-thirds in most States, although nobody really knows.

Also, because we are going at the primary sources, this bill will marry the two. In other words, the initial bill that I had drafted, combined with a revised Talent-Feinstein, married together, is going to give us a wall across the country.

I appreciate, and many others like you in these hard hit States appreciate, that this is going to alter behavior patterns in some places where they do not yet have meth. Because of that, children are going to live. Children are not going to be beaten by their parents. They are not going to be abused, and they are not going to have as much problem. Guess what? Meth is coming to a block near you anyway. So this enables us to get in front of the curve, and I know this is going to be difficult in some areas where they have not had meth yet, but the bulk of the States have at least some.

Thirty-five or 37 States are being fairly overrun, and by doing this nationally, we will not hear what you said earlier, is them going to the next State there. But I do believe this will affect not only the ma and pop labs but what you are talking about and what you have been talking about tonight actually helps us with the superlabs as well.

Mr. KING of Iowa. Mr. Speaker, reclaiming my time, you also pointed out something that I think is important when you talked about how we need testing and how we need that as a deterrent.

Traditionally, what we have done with all of our drug enforcement that goes clear back to the heroin days is that we see it from two different ways. One of them is interdiction, and interdiction, you go out on the highway, pull a car over, check to see what they are hauling around, search somebody. When you arrest them, yeah, if they have drugs on them, you take them away from them. You prosecute them. We try to lock some people up in jail. That is the interdiction part of this.

The other side of that is the rehabilitation part, the drug treatment part. Those two things are on opposite wings of the entire problem.

I want to say to the interdiction portion of this, yes, it is important; yes, we need to be aggressive. That is really part of what we are doing. We are trying to take the components of meth out of the hands of the people that make it for one thing and remove some of those components from even overseas on the way that it is funneled through this distribution system that we have, make it harder to access. That is interdiction.

What interdiction does, by definition, when you remove a product, the more successful you are with the interdiction, the higher prices are going to go because this law of supply and demand manifests itself. Another thing that happens is, and I am not particularly concerned about this, is the quality of the drugs will go down because they will be able to sell a lower quality than they can when there is an ample supply for a cheaper price.

So the price of the drug goes up with interdiction because of this law of supply and demand. The quality will go down. In the end, if you only do the interdiction side of this thing, you can reduce that down. If it is hard enough to get, there will be fewer people that are addicted. There will be fewer people that will hand some over to their friend and get them started. It will become a more precious commodity. It will be held together in a smaller group of drug addicts. That is one of the functions that will come from interdiction.

I believe we need to do it, but it is not a solution to it all because on the other side of this is the rehab, the treatment, and meth is one of the hardest things to be successful with the rehab.

I want to at some point ask the gentleman from Indiana what the percentage of success is on rehabilitation and treatment. Do you have some numbers on that?

Mr. SOUDER. Mr. Speaker, there is quite frankly some disagreement in the field. Generally speaking, we figure six to eight times somebody's going to go through drug treatment. Many times they are pressured by a family member, and they did not really make the commitment. If somebody makes an internal commitment you can usually do it in one time.

I would also like to insert into the RECORD at this point the scientific reasons for the effect of meth. I think this will help answer the question. This is a fairly technical document here that comes from a meth report that we are about to release.

SCIENTIFIC REASONS FOR METH EFFECTS

Methamphetamine is a potent central nervous system stimulant that affects the brain by acting on the mechanisms responsible for regulating a class of neurotransmitters known as the biogenic amines or monoamine neurotransmitters. This broad class of neurotransmitters is generally responsible for regulating heart rate, body temperature, blood pressure, appetite, attention, mood and responses associated with alertness or alarm conditions. Although the exact mechanism of action is unknown, it is generally believed that methamphetamine causes the release of these monoamines through the monoamine transporter as well as blocking the re-uptake of these neurotransmitters, causing them to remain within the synaptic cleft longer than otherwise. As in most neurotransmitter chemistry, its effects are adapted by the affected neurons by a decrease in the production of the neurotransmitters being blocked from re-uptake, leading to the tolerance and withdrawal effects. In medicine it is used as an appetite suppressant in treating obesity, treating anesthetic overdose and narcolepsy.

The acute effects of the drug closely resemble the physiological and psychological effects of the fight-or-flight response including increased heart rate and blood pressure, vasoconstriction, pupil dilation, bronchial dilation and increased blood sugar. The person who ingests meth will experience an increased focus and mental alertness and the elimination of the subjective effects of fatigue as well as a decrease in appetite. Many of these effects are broadly interpreted as euphoria or a sense of well-being, intelligence and power.

The 17th edition of The Merck Manual (1999) describes the effects of heavy use of methamphetamines in these terms: ''Continued high doses of methamphetamine produce anxiety reactions during which the person is fearful, tremulous, and concerned about his physical well-being; an amphetamine psychosis in which the person misinterprets others' actions, hallucinates, and becomes unrealistically suspicious; an exhaustion syndrome, involving intense fatigue and need for sleep, after the stimulation phase; and a prolonged depression, during which suicide is possible'' (p. 1593—ch. 195).

Depending on delivery method and dosage, a dose of methamphetamine will potentially keep the user awake with a feeling of euphoria for periods lasting 2–24 hours.

The acute effects decline as the brain chemistry starts to adapt to the chemical conditions and as the body metabolizes the chemical, leading to a rapid loss of the initial effect and a significant rebound effect as the previously saturated synaptic cleft becomes depleted of the same neurotransmitters that had previously been elevated. Many users then compensate by administering more of the drug to maintain their current state of euphoria and alertness. This process can be repeated many times, often leading to the user remaining awake for days, after which secondary sleep deprivation effects manifest in the user. Classic sleep deprivation effects include irritability, blurred vision, memory lapses, confusion, paranoia, hallucinations, nausea, and (in extreme cases) death. After prolonged use, the meth user will begin to become irritable, most likely due to lack of sleep.

Methamphetamine is reported to attack the immune system, so meth users are often prone to infections of all different kinds, one being an MRSA infection. This, too, may simply be a result of long-term sleep deprivation and/or chronic malnutrition.

It is a common belief that methamphetamine gives people super-human strength. This is not really true, but methamphetamine inhibits pain and increases metabolism, which allows a person to push muscles to points of failure that would otherwise be harder or impossible to reach. (See the article entitled Exercise and Stimulants for a better description of the factors involved.)

Other side effects include twitching, ''jitteriness'', repetitive behavior (known as ''tweaking''), and jaw clenching or teeth grinding. It has been noted anecdotally that methamphetamine addicts lose their teeth abnormally fast; this may be due to the jaw clenching, although heavy meth users also tend to neglect personal hygiene, such as brushing teeth. It is often claimed that smoking methamphetamine speeds this process by leaving a crystalline residue on the teeth, and while this is apparently confirmed by dentists, no clinical studies have been done to investigate.

Some users exhibit sexually compulsive behavior and may engage in extended sexual encounters with one or more individuals, often strangers. This behavior is substantially more common among gay and bisexual male methamphetamine users than it is their heterosexual counterparts. As it is symptomatic of the user to continue taking the drug to combat fatigue, an encounter or

series of encounters can last for several days. This compulsive behavior has created a link between meth use and sexually transmitted disease (STD) transmission, especially HIV and syphilis. This caused great concern among larger gay communities, particularly those in Atlanta, Miami, New York City, and San Francisco, leading to outreach programs and rapid growth in 12-step organizations such as Crystal Meth Anonymous. See Crystal and sex.

This meth behaves differently in your brain, much more like ecstasy and much more damaging in that it gives you a false sense of high, and therefore, you become addicted to it rapidly. Thus, you think you can perform better at work. You can go three nights sometimes without sleep if you are driving a truck, but it gets so addictive and it damages your brain so significantly, the gentleman from Nebraska (Mr. OSBORNE), soon to be Governor, has been on the floor with his chart showing how rapidly your teeth start to fall out and hair starts to fall out. It is a different thing that happens to your body.

So part of the question is, how quick do you get treatment? Do you get it early? Do you get it medium? Do you get it late? Some people say, well, oh, meth is much harder to treat than other drugs, but that is really wrong.

What has been disturbing is we finally have eight studies going on out of the national research under Director Charlie Curie, but we need more because, in fact, we are dealing with mom and pop meth. We are dealing with crystal meth. We are dealing with women who use it for weight loss. We are dealing with some who are just drug addicts, and there are some who are using it like an amphetamine at work. That means different types of treatment to deal with it.

We are also not dealing with kids. We are mostly dealing with people in the workplace, 18 to 45, really 25 to 40. It is a different type of drug, and it means different kinds of treatment and success efforts vary.

Mr. KING of Iowa. As I recall, the gentleman from Nebraska's (Mr. OSBORNE) charts are incremental pictures of a lady, by the way she was an Iowan, and I believe the last picture was in the morgue. So that is the end result of an addict that takes this to the 'nth degree, and the odds of being successful on rehab, somewhere between the first time if there is conviction, maybe never if they really do not want to get cured, but six or eight times, one in six or eight might be one of those numbers then. So it sets the framework then I think for the center of this I would like to see us all focus more on.

Yes, push interdiction as much as we can, and let us get treatment for the people that we can help but in between all that is the deterrent portion of it. In between that is the testing portion that you brought up and something that I worked with. Nine years ago, when I was elected to the Iowa Senate, one of my intense planks in my platform was I will work to rewrite Iowa's drug testing law.

As a contractor and employer I have dealt with meth addicts on a construction crew. In fact, I was required to sign contracts where I would pledge a drug-free workplace in order to be able to apply for a Federal contract, and yet, there was no way I could guarantee a drug-free workplace because we did not have a law that allowed me to test my employees.

Well, today we do. On St. Patrick's Day of 1998, our Governor signed that bill into law, spent 2 years working on it, authored it, floor managed it, and pushed it through the legislation. No one's tried to amend it since then that I know of, but it allows for and sets up the legal parameters for an employer to voluntarily drug test their employees, provided that they treat each employee fairly and equally. If they offer treatment, they must offer it to every employee. They have to have a drug assistance personnel there that understands these issues, gone through and taken the educational and training.

So now we have employers that are voluntarily testing their employees, and this drug testing, if I were charged with this responsibility to eradicate all illegal drug use and abuse in America, first, I would have to have the will of the people behind me that would support the will of the people in Congress because believe me these voices in here reflect the will of the people in America. I would say the solution to this is drug testing. Testing in the workplace, people make a decision then that they like their job better than they like their drugs. When that happens, their children go to the ball game, go fishing, spend time with dad, instead of not having a new pair of shoes because the money went for meth or mom for that matter.

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We have got to be equal opportunity here even on the other side of this equation. But the positive decision that gets made because drug testing hangs over their head as an employee is deterrent enough to keep people from even trying it, many, many times. That is just in the workplace. We have also the educational. We have the welfare system. Each one of those zones out there, if we brought our drug testing to those zones, we would be able to eradicate drug abuse in America, and I think that is the most effective way to go.

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

Mr. KING of Iowa. I yield to the gentleman from Indiana.

Mr. SOUDER. Mr. Speaker, in the legislation that hopefully will be before us tomorrow, Congresswoman HOOLEY and Congressman KENNEDY and others were dealing with international, with drug kingpins. We have had many Members dealing with how to control the pseudoephedrine and some of that, but we still have some bills that we need to look at. Congressman GORDON and Congressman BOEHLERT have a bill on EPA because one of the things is this collective impact on water systems, and when we think of it, it is in the forests and it is up high and it is going down, the cumulative impact of all these little labs is fairly damaging from an environmental standpoint and yet they are not the Superfund sites that we deal with.

But the workplace question, I believe, is the one that we are going to have to address next year. And I believe the gentleman from Iowa and Congressman PETERSON have also been huge advocates of drug testing, and we have to understand that drug testing is the best deterrent in the workplace. This is where the meth battle is going to be won or lost, because if employees take meth at the workplace thinking they can produce more, the only real way to do this is targeted education at the workplace and, in effect, a check of responsibility.

A number of Congresses ago when I was on the Small Business Committee and now-Senator TALENT was chairman of the committee, we moved the drug-free workplace bill through that gave guidelines to small business and what kind of testing they needed to do, including testing the managers. I personally believe we in Congress ought to be drug tested and lead by example, but the managers need to be tested as well as employees. There needs to be security that they are not going to get false positives, and I understand all of that. But there needs to be drug testing, and ultimately we also need ad campaigns directed straight at the workplace, posters that can be there, handouts that can be there, education, because ultimately if they do not have a job, it chokes off the habit to some degree. It does not completely, because they can steal and so on; but, ultimately, the drug testing in the workplace, I believe, has been a lot of the missing link in how we have been approaching meth.

Mr. KING of Iowa. Mr. Speaker, reclaiming my time, I am very happy to hear Mr. SOUDER present that here on this floor tonight, and I am an enthusiastic supporter of that philosophy, and I will tell him that I have invested hundreds and hundreds of hours in that very subject matter, and it lights me up to hear it come from him. I am anxious to engage in this battle next year, and I believe that I will be able to bring some background to this that will be part of this team that can bring a solution.

And I have argued that if they test in the workplace, and I would be happy to drug test Members of Congress, but if they drug test in the workplace, that is a huge zone of influence in America, and we could clean up the workplace almost 100 percent. We would have a little trouble with the sole proprietors out there. It is going to be hard to get them to participate if they happen to be an addict. Most of them are responsible business people. But if we can

clean up the workplace, then the other zones of our country that we would address would be the educational system, for example, and that is a little harder nut to crack. There will be significant resistance in a place like that. But that is a place where a lot of the drug addiction gets started. Then the other place is on welfare, those people that are on public benefits.

By the way, I would only do the random testing in any of those places. I would not make it 100 percent testing of anyone. And the way we set up our law, we allow that random to be on a sliding scale. The employer can decide what that percentage is. And if that employer decides that he wants to test 100 percent of his employees once a quarter, he can do that. If he wants to slide that random number selector down, and it must be random, it cannot be personal, down to one-tenth of 1 percent, then fine. Nobody needs to know what that equation is. But the deterrent is always there.

So, Mr. Speaker, I think that we have given a good dialogue to methamphetamines here tonight on the floor of Congress and raised the issue. I hope that we bring this bill to the floor tomorrow. I know that we will do good things for methamphetamines and drug addiction in America.

One of my concerns is we are going to end up with 19 stops to get enough precursor to make an ounce of meth versus the 380 if we have the model that I brought before here. As long as I continue to believe in that, I will continue to bring it to the floor of this Congress. But mainly we have got a broad thrust. We have got a good start, and by next year I hope we do take up drug testing. But this is good work done by the meth caucus led by Mr. SOUDER of Indiana. The hearings that he has had all over this country, the work that he has done deserve a great deal of applause from the parents of America.

THE NATIONAL DEBT

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

Mr. ROSS. Mr. Speaker, I rise this evening to visit with the Members of this body about the national debt. I am one of 37 members of the fiscally conservative Blue Dog Coalition, 37 Members of Congress from all over these United States who share a common concern, and that is the amount of our national debt and the amount of our national deficit as it continues to rise each day.

As visitors walk the Halls of the House office buildings, they will occasionally spot one of these posters, which clearly marks that it is a Blue Dog member. What we are trying to do with the American people, as members of the Blue Dog Coalition, is point out that the U.S. national debt today is $8.053 trillion and some change.

If we were to divide the national debt today by the 292 million people that live in America, including the children born today, everyone in America would have to write a check for $27,000 to pay off this national debt. This is a tragedy. And it is time we restore some common sense and fiscal discipline to our Nation's government.

There are some within the Republican leadership that are trying to make us think that that is what they are trying to do, and what I mean by that is this week, we are going to be voting on what they call a budget reconciliation package. The Republican leadership is going to talk about how it is $53.9 billion in reduced spending. That sounds good. What they do not tell us is what programs are going to be cut. They will try to convince us that these cuts are happening to pay for the aftermath of Hurricane Katrina. They will try to convince us that these cuts are being made to pay for the war in Iraq. Not so. These cuts are being proposed by the Republican leadership in this Congress to help offset $70 billion in new tax cuts, new tax cuts that are being proposed in the aftermath of the most costly natural disaster in our Nation's history and, yes, at a time when America is at war, tax cuts that benefit those earning over $400,000 a year.

How are they going to pay for that? By cutting Federal student loans $14 billion; by cutting Medicaid, the only health insurance plan for the poor, the disabled, and the elderly, by $11.9 billion; by reducing child support enforcement, $5 billion; by cutting our farm families, $3.7 billion.

Mr. Speaker, it is time we restore some common sense and fiscal discipline to our Nation's government. And we can do it and we can do it in a humane way, and we can do it in a way that reflects our values, which reminds me of Matthew, chapter 25, verse 40: ''I tell you the truth. Whatever you did for one of the least of these brothers of mine, you did it for me.''

Do we really want to cut Medicaid, health insurance for the poor, the disabled, the elderly; student loans for our children; farm programs including school lunch programs and food stamps to pay for tax cuts for those earning over $400,000 a year? I can tell the Members that does not reflect the kind of values I learned growing up at Midway United Methodist Church just outside of Prescott, Arkansas.

So tonight we want to visit with the Members of this body and talk about why this budget reconciliation bill is bad. We want to address this. And here to do it with me are some of my colleagues in the Blue Dog Coalition. Not only will people find us tonight being critical of cutting programs for the most vulnerable people in America, but they will also find us offering up a solution, an alternative, what we refer to as our 12-point budget plan. And I am pleased to have a number of Blue Dogs join me tonight, including the co-chairman of the Blue Dog Coalition, DENNIS CARDOZA; STEPHANIE HERSETH of South Dakota; DAVID SCOTT of Georgia; and BEN CHANDLER of Kentucky.

Mr. Speaker, I yield to the gentleman from Kentucky (Mr. CHANDLER).

Mr. CHANDLER. Mr. Speaker, I thank Mr. ROSS for yielding to me. I appreciate my fellow Blue Dog from Arkansas putting this very important time together for us to talk to the country about what we all believe is a very important matter.

Mr. ROSS's grandparents, I am sure, just the same as my grandparents, grew up in the Great Depression. And I am sure that they had experiences very similar to mine, and those experiences instilled in them a great sense of fiscal responsibility. My grandfather, in fact, always used to tell me, and I cannot even count the times that he told me, ''If you spent more than you took in, you would go broke.'' Wise words. Too bad that the leadership of the Republican-controlled Congress seems to have forgotten this most basic rule of fiscal management. By all accounts, the mentality of our grandparents and their generation has been lost.

As the gentleman said, later this week, maybe as early as tomorrow, the House will consider the first of two bills the Republican leadership will bring to the floor under the auspices of reducing the deficit. The only problem is that this so-called deficit reduction package actually adds billions to the deficit, hastening a fiscal crisis brought on by the systematic mismanagement of our country's finances.

Our deficit has now passed $8 trillion, and we see right there on that sign that the gentleman has got next to him, that poster, the number 8 trillion. I am surprised we can even breathe a number that big, all those zeros. I did not even know what 8 trillion was until I came up to Congress and I saw that number. And I am sure the American people would be astonished if they realized just how much in debt they were now. And, incredibly, something I heard from the gentleman from Tennessee (Mr. TANNER), who I think is with us tonight, earlier this week he told me that this administration has now borrowed more money from foreign governments and banks than the previous 42 United States Presidents combined. Even using the projections from the budgets adopted by this Republican-controlled Congress, the deficit will grow by over $167 billion over the next 5 years. Bottom line, this Republican-controlled Congress has proven itself utterly incapable of responsibly managing the Federal Treasury.

Rather than use what little funds we have to pay down the deficit and help those in need, many of my Republican colleagues seek another round of tax cuts for the wealthiest of Americans that will drive our country even deeper into debt. This budget package that is being offered is nothing more than

smoke and mirrors. It is not about making sacrifices to reduce the deficit. It is about carving out space for ever-larger tax cuts for the wealthiest Americans by cutting programs that help seniors, students, and low-income families. The very principles that our men and women are fighting for in Iraq and Afghanistan, defending the ideals of our country and helping those in need are on the chopping block this week.

The message from the Republican-controlled Congress is clear: under our leadership the rich get richer, the poor get poorer, and the middle class shrinks all the while.

Low-income families in my home State of Kentucky depend on Medicaid for health care. Thousands of children in Kentucky schools depend on school lunch programs for their only hot meal of the day.

□ 2000

And over 50 percent of college students in Kentucky rely on some type of financial aid to pay for their college expenses. It is simply immoral to turn our backs on those families in need and students striving to get ahead. Not to mention the cuts to child support programs that will hurt families across our country, and the fact that at a time when the USDA must turn away three-fourths of farmers wanting to participate in conservation programs, cutting Federal funds is going to put an even larger strain on our farm families, certainly the farm families in Kentucky who are doing everything they can just to make a living.

Mr. Speaker, I urge my colleagues to oppose this misguided and immoral budget reconciliation package and instead use this as an opportunity to step back and examine the financial state of our country. Instead of leaning on the poor as a means of cutting taxes for the rich, we need to get serious about addressing the deficit.

Foreign lenders such as China own 40 percent of our total debt. At some point, America must pay back the money it owes. The Republican leaders on the other side of the aisle pride themselves in cutting taxes for the American people. But their irresponsible budget practices now are nothing more than a tax increase later. Continuing to make irresponsible financial decisions now only adds to the burden we are leaving to the coming generations.

This Congress must take immediate action to put our fiscal house in order, and I commend you, Mr. ROSS, and I commend the other Blue Dogs for your steadfast efforts to ensure that the American people understand what is happening to them and the fact that their fiscal house is not in order. You are doing a great service for this country, and I urge my colleagues to join with the Blue Dogs and examine the budget reforms that we have proposed.

Mr. ROSS. Mr. Speaker, I thank the gentleman from Kentucky for his words this evening. He reminds me, growing up at the Midway Methodist Church just outside of Prescott, I heard many a sermon about being a good steward. When I came to Congress, it did not take me long to reflect back on not only the values I learned growing up, being the son of public school educators, but also I started thinking back to those sermons I heard growing up about being a good steward. I think it is important.

As Members of Congress, I think we have a duty and a responsibility and an obligation to be a good steward of the public's money. I thank the gentleman from Kentucky for joining us this evening.

I mentioned that the Blue Dog Coalition has a 12-point plan for curing our Nation's deficit spending. Throughout the evening, we are going to bring some of them up. Let me point out that number one is to require a balanced budget.

At the Ross household in Prescott, Arkansas, we have to have a balanced budget in our family. The family pharmacy my wife and I own, we have to have a balanced budget. For 10 years I was serving in the State Senate in Arkansas, one of 49 States that requires a balanced budget. Blue Dog Coalition members believe that we, as a Nation, should have a balanced budget, and that is one of our 12 points requiring a balanced budget.

At this time I would like to yield to the co-chair of the Blue Dog Coalition, the gentleman from California (Mr. CARDOZA).

Mr. CARDOZA. Mr. Speaker, I thank Mr. ROSS. He is a fabulous Member who has led this effort in the House for a number of years, and I am very pleased he is leading this discussion here tonight. I am pleased he brought down a copy of our debt clock that sits in front of our offices. It truly outlines the fiscal irresponsibility that the current administration is engaged in.

I would also like to highlight one of the points Mr. ROSS mentioned and ask a question. I know that in Arkansas you all are pretty proud of your university there and the Razorbacks. And if you are anything like the folks where I am from, we are building a brand new university, and we have the first class going through right now. And so you know how important it is for young people, especially first-generation Americans who need a start in life, trying to get themselves established to do better for themselves and their families.

I am the first member to go to college, and I can say without a doubt that I would not be standing here in the halls of Congress today had I not gotten the great education that I got at both the CSU schools I went to in California and the University of Maryland just down the street.

This past week when I was flying out here from San Francisco, I happened on the president of the University of Maryland, Dan Mote. He was on my plane. He came up to me on the plane, and he said, Mr. CARDOZA, I know you are a supporter of education, but what you are folks doing to higher education, and these cuts to student aid? He said, This is going to devastate the young people that attend my college and the people that are going to attend the college in your hometown.

I said, President Mote, you are absolutely right. I cannot think of one Democrat who is going to vote in support of these cuts to student aid.

In fact, I told him a story about the legislature in California. When I served in the legislature, we actually lowered student fees, with the help of the Republican leadership there, because they felt that was one of the most important middle and upper income tax cuts that they could possibly do because most of the folks that were not on financial aid already due to need were their constituents.

Yet here in Congress, we see what they are proposing, and I believe it is a $1.4 billion student fee increase or the cuts in the student loans. Does the gentleman have that number?

Mr. ROSS. Out of these $50 billion in cuts, and Mr. CHANDLER from Kentucky hit the nail on the head when he pointed out that they are talking about cutting spending $50 billion, but they are really increasing spending. That is true because they are proposing $70 billion in tax cuts, $50 billion in cuts in spending which leaves $20 billion not paid for but which will have to be borrowed from foreign banks and foreign governments to fund this tax cut to those earning over $400,000 a year.

Out of the $50 billion in cuts, nearly $8 billion of the $14.3 billion in student loan cuts fall directly on students and parents. I am beginning to really understand this because I have a daughter who is 17 and a son who is 13, both getting ready before too long to go off to college.

Like every other parent in America, I spend a lot of time these days thinking I wish I had started saving sooner, and I wish I had saved enough to be able to provide for them the way I want to, and I will find a way to do it. We all do as parents, but at a time when parents are struggling to meet the needs of college tuition, the Republican leadership is proposing $14.3 billion in cuts to student loans. The CBO, not some Democrat or Republican organization, the Congressional Budget Office, has estimated that under the Republican bill there are nearly $8 billion in new charges to students and families that will raise the cost of student loans. The cost to the average student borrower will be increased by $5,800.

Mr. CARDOZA. Mr. Speaker, that is incredible. That is an unbelievable number. Really we could call this not the Reconciliation Act but the college student tax act because that is what we are going to be doing, we are going to be increasing the tax on those who can least afford it, those who are trying to

do better and increase their opportunity.

I would like to add that, under Bush, we have seen absolute record deficits. We have seen $2.5 trillion added to the debt. As the gentleman from Tennessee (Mr. TANNER) is fond of saying, we have borrowed more from foreign countries than all previous presidents combined under President Bush. And we are borrowing about 80 or 90 percent, the new borrowing that is taking place, is coming from China and countries that are competing with us in trade, and they are using that leverage to make our dollar less strong against their currency. It is just a shame what has been happening here.

Mr. Speaker, I thank Mr. ROSS for participating in this tonight and being such a great leader within the Blue Dog Coalition.

Mr. ROSS. Mr. Speaker, I thank the gentleman from California for being a part of this this evening.

The 12 points to reform this out-of-control Republican leadership that continues to increase our debt and our deficit, point number 2 that the Blue Dogs are offering up to restore common sense and fiscal discipline to our Nation's government: Do not let Congress buy on credit.

Under President Clinton, we had the first balanced budget in 40 years. It was largely due to the fact that this House at the time had what is called pay-as-you-go rules in effect, which means if you want to increase spending somewhere or pay for a new program, you have to cut spending somewhere else. It makes sense. That is called pay-as-you-go or PAYGO rules. The Republican leadership has ended the PAYGO rule in this Chamber. Point number 2 of the Blue Dog Coalition: Do not let Congress buy on credit. Restore the pay-as-you-go budgeting concept to the rules of the U.S. House of Representatives.

Mr. Speaker, at this time, it gives me real pleasure to introduce a leader in this Congress and a real leader in the Blue Dog Coalition, an outstanding Member, the gentleman from Georgia (Mr. SCOTT).

Mr. SCOTT of Georgia. Mr. Speaker, I feel very privileged and honored to be here with my fellow Blue Dogs.

Our debate is going out across the country thanks to C–SPAN, and I think it is very important that we understand that the American people have awakened. All of the polls show it. The American people are glued in to what is happening here in Washington, and right they should be.

I want to start off by saying that so that individuals who are tuning in who would like to know just what are the Blue Dogs, more than anything else, we pride ourselves on being, first and foremost, good stewards of the taxpayers' dollars. We provide the sterling leadership in the Democratic Party for responsible fiscal responsibility.

For 5 years, we in the Blue Dog Coalition have been begging and pleading that this Congress develop a plan to pay as you go. Mr. Speaker, 5 years ago when the Clinton administration left office, we had a surplus. Billions and billions and billions of dollars were left in surplus. Now 5 years later, under the Bush administration, we are trillions and trillions and trillions of dollars in debt. Make no mistake about it, our debt and our deficit is the number one problem and issue facing the survival and the future of our democracy. And we are concerned about this national debt.

But at a time when we are expressly concerned about it and pushing forward for responsible measures on the Democratic side, it is the height of hypocrisy, it is the height of being insensitive, it is the height of indeed smoke and mirrors for this Republican-led Congress and this Republican President to, under the guise of giving a tax cut for billionaires and millionaires across this country, say he wants to cut spending.

□ 2015

Cut spending of the most vital services, the most important needs in this country, as a matter of fact, in the history of this country, in this 20th century. We have just been hit with the worst hurricane season in modern times. Katrina was the worst that anybody can remember. Billions and billions and billions of dollars worth of damage, an entire city, entire region almost totally destroyed. Over 250,000 American citizens without homes. We all remember those pictures, down in New Orleans, in the flood. Our hearts went out to those people. Well, our hearts must continue to go out to those people.

And the reason it is the height of hypocrisy is here is the President of the United States and this Republican controlled Congress, who says that they want to offset a $70 billion tax cut for the wealthiest people in this country on the backs of those poor victims of this hurricane.

On the front page of the Washington Post this morning, the answer from FEMA is to throw 150,000 American citizens who have become homeless on the street. The answer from The White House and the answer from this Congress has been to cut the very programs that will help these victims the most. The most effective programs that have helped them has been the food stamp program. And under this budget, this Republican held Congress, and this President proposes to cut food stamps by $850 million. Not only at a time when we have people who are homeless, without jobs, without hope, but according to the Agriculture Department, just this year alone, we have added 2 million more citizens to the hunger roles. The Republicans answer, cut the very program that has been designed to help them by $850 billion.

Medicaid. Under this budget planned by the Republicans and President Bush, they want to cut Medicaid by $12 billion, when 45 million Americans, mostly senior elderly citizens, are going without any kind of health insurance.

And our farmers? Cut them by $2 billion. Farmers who have been devastated by the flood, who have been hurt by the flood. Now is not the time to cut the farmers.

And our veterans, $3 billion. Lord knows. We have not been doing right by our veterans. We have cut them. We have cut them. We have cut them. And the President's answer is, cut the veterans. This Republican Congress's is to cut the veterans. Is that not a reason why they have had difficulty in getting the votes? Why they have had to pull the bill last week?

And the American people need to wake up and understand and put the calls in to your Republican congressman to let them know that America does not want to cut the basic services for the needy while trying to add a $70 billion tax cut for the millionaires and the billionaires. They do not need the money. But the children do.

This budget will cut children's nutrition by $2 billion and $5 billion in child support. Heating oil is cut at a time when the oil companies are getting record profits, and their executives are sitting fast.

Student loans, $14 billion at a time when going to college costs so much. There will be tens of thousands of American children who will not go to college if this Republican budget reconciliation bill passes. That is why this is so important. That is why it is important.

Listen to me, America. And if you know other people, tell them to tune in. We are here to tell you the facts. This Blue Dog coalition is one of the most influential groups on Capitol Hill, and the reason why is because people trust us. We have earned that. We have earned that distinction. Folks like Charlie Stenholm, JOHN TANNER, they have pioneered and set the curve. Respect across party lines. Respect across this country, the Blue Dog coalition. We are speaking the truth tonight.

William Shakespeare said it well when he wrote that great play, Julius Caesar, when he said, et tu Brutus? Yours is the meanest cut of all. And that is what these Republicans are doing in this bill. It is mean. It is cold, and it is wrong. And the American people deserve better. And we are going to give them better.

So Mr. ROSS and my fellow Blue Dogs, we are here tonight to speak the truth. We are here tonight to let the American people know, and we hope and we pray that we will be successful in stopping this budget reconciliation bill from being devastating to the American people.

Mr. ROSS. Mr. Speaker, I thank the gentleman from Georgia for his insight and wisdom that he has shared with us this evening on this issue, this so-called Republican budget reconciliation bill that they say will be brought

up for a vote either some time late Friday night or perhaps early Saturday morning. We know all about that, you know, on the Medicare drug bill, for example, they waited until 3 a.m. They wanted to make sure seniors were fast asleep. And then they held a 15-minute vote open for 3 hours, until they finally got those final two votes they needed to pass it.

I challenge the Republican leadership to give us a vote on this in the middle of the day on Friday, when the sun is still up, and let the American people see how democracy should work in this country.

I talked about the Blue Dog Coalition having 12 points for budget reform to really get a handle on this debt, to stop deficit spending and to restore common sense and fiscal discipline to our Nation's government. Number one was, require a balanced budget.

Number two was, do not let Congress buy on credit. Restore PAYGO, pay-as-you-go rules, to the floor of the United States House, meaning, if you want to spend money on one program, you have got to cut spending on another program.

Number three is, put a lid on spending. Ever since I was a small child growing up, I have heard it was the Democrats that spent the money. And yet, you know it is a Democratic President, President Clinton, that gave us the first balanced budget in this country in 40 years, from 1998 through 2001. Then what happened? For the first time in 50 years, the Republicans now control the White House, the House and the Senate, and from 2001 to 2003, total government spending soared by 16 percent. The Blue Dogs propose putting a lid on spending. The Blue Dogs propose holding the line on discretionary spending for the next three fiscal years at 2.1 percent. That is point number three to our 12 point plan for budget reform.

With us this evening from the State of Tennessee is one of the founders of the Blue Dog Coalition, former cochair of the organization and a real leader, a founding father for the Blue Dog Coalition, JOHN TANNER from Tennessee. And just to expand on what Mr. SCOTT from Georgia said, I mean, look, like so many people in this country, many of us in the Blue Dog Coalition, we are sick and tired of all the partisan bickering that goes on in our Nation's Capital. We are not standing here tonight to beat up the Republicans. We are here tonight to try and hold them accountable for this spending and offer up a solution on how we can restore common sense and fiscal discipline to our Nation's government. Like so many people across this country, I am sick and tired of all the partisan bickering that goes on at our Nation's Capitol. It should not be about whether it is a Democratic idea or a Republican idea. It ought to be about is a commonsense idea and does it make sense for the people that send us here to be their voice and their representative. That is what the Blue Dog Coalition is all about, as Mr. SCOTT indicated. That is why we have earned the respect of so many across this Nation and here on Capitol Hill.

At this time, I would like to turn this over to one of the founding fathers of the Blue Dog Coalition, the gentleman from Tennessee (Mr. TANNER).

Mr. TANNER. Mr. Speaker, I think that means I am old. I appreciate the gentleman having this special order tonight and inviting us down here. Mr. SCOTT, many of you may know, but his brother-in-law is the homerun king of baseball, Hank Aaron, and he was nice enough to invite me down to an event where Hank was here. And I appreciate that. I got a picture of me and Hammering Hank Aaron that I cherish very much.

Mr. ROSS. We were glad to have you.

Mr. TANNER. I really enjoyed that. But I want to thank you all for being here tonight. I want to talk about this financial picture of our country maybe in a little different way. And the way I want to talk about it is not as a Democrat or as a Republican, but as an American. We only have one dollar. We only have one balance sheet. We only have one military. We only have one economic opportunity in our lives here. And folks, I have got to tell you, we are in deep, deep trouble. And the financial picture of this country is deteriorating as we speak. I do not know how else to say this. It is not fun to talk about the financial morass that we are in. You know, there are not many politicians that go before the American people and get elected and say, folks we have got a problem. We do not have enough revenue, or we have too much spending. And we have got to do something about it. You do not hear that. You do not hear people saying we have got problems. We have to fix them together. And yet, that is what I think the Blue Dog Coalition is all about. We have done everything we can to reach out to the administration and the Republicans. We have asked the President for a budget summit. We got a letter back saying that would not be the case. We have asked the Republican leadership to consider our 12-point plan, balanced budget amendment to try to get PAYGO back, which is just common sense. If you are going to spend money, you need to pay for it somehow. That has been refused. So we have tried every way we can, and I will tell you, quite frankly, until the President of the United States and the leadership here in Congress, the Republican leadership here in Congress at the moment, levels with the American people about the deterioration of their country's balance sheet, it is going to be awfully difficult, quite frankly, for us here on the floor as blue dogs or any other Member of Congress to convince the American people about how dramatic and how drastically our collective financial deterioration has occurred.

Let me just try to put it very briefly in a context. Since 2001, when we embarked on a different economic program, this Nation has gone into debt another $2.3 trillion; $1.3 trillion of that has been borrowed from private sources and, you know, what is so bad about this is that 85 percent of this money has come from people who have loaned us this money who do not live in the United States. I did some figuring today. Just based on what President Bush and the Republican Congress has done in the last 4 years, and again, this is not partisan. You go to www.treasury.gov, the U.S. Treasury Web site. What I am telling you is fact. It is not a political argument. I wish it were. But it is not. You go to the treasury Web site. What has happened to us is that, by these deficits, $157 billion in 2002, we are paying interest at that year at 4.3 percent—2003, $377; 2004, $412, the largest in history. Last year, $319. Anyway, you add all that up, we are now paying $50-plus billion dollars a year in interest that we were not paying before President Bush changed the economic game plan of our country with this compliant Congress—$50 billion a year. What I tell people is, quite frankly, what we have done is we have increased taxes on the American people $500 billion over the next 10 years, and that is on interest.

□ 2030

Interest is a tax that cannot be repealed. Everybody out there knows that when you run that credit card through, you do not have to pay for it today; but you know at the end of the month you are going to get a bill, and the bill is going to have interest on it. And where people get in trouble when the bill runs up so high, all they can pay is interest, and when that happens, that is when they get in trouble.

The United States Treasury announced the other day that for the first quarter of 2006, they are going to have to borrow a record $171 billion. This is just to finance our government for the first quarter of this fiscal year. On February 9, we need to mark that down on our calendars, for the first time in 5 years, the Treasury will have to offer a 30-year bond. Do you know why they are bringing that back? We did not have it in 2001. We could discontinue it then because we were on the road to some sort of semblance of financial sanity.

February 9, 5 years later, we are going to bring back the 30-year bond. Do we know what that means? It means we are borrowing so much money, we have to long-term it, because we cannot afford it in the short term. That is what the economic plan that we have been following for the last 4 or 5 years is doing to this country.

Now, if you do not think that is bad enough, consider the fact that we now owe 44 percent of our privately held debt to people who do not even live in America. Said another way, we are writing $185 billion worth of checks every year for interest. We get nothing.

We get no health care, no veterans benefits, no anything. We write checks, and 44 percent of those checks do not even stay in this country.

This has literally happened in about the last 50 months. It did not used to be this way. In fact, when they got here, we had a $5 trillion surplus. We do not need a surplus, but we need to pay our bills; and we are not doing that.

Mr. SCOTT of Georgia. Mr. Speaker, the gentleman raises such a great point on the interest, and I think the American people need to know that just on the money that we are paying these other countries, just on the interest, it amounts to more than what we are paying for our own homeland security.

Mr. TANNER. That is correct. This recklessness has got to be stopped. The Blue Dogs will work with anybody. But until the President and the United States Congress level with the American people and say we do not just have a deficit that is cyclical that the country is experiencing, until they will tell the American people the truth, we have a structural, institutionalized built-in deficit that is going to sink all of us collectively as Americans, not as Democrats or Republicans, as Americans, and rob our kids and really our citizens of any hope of a better way of life.

That is what is at stake here. Until they level with us, we can come down here and do these Special Orders, and I thank Mr. ROSS and Mr. SCOTT and Ms. HERSETH and the others, but I tell my colleagues, this is not a Democrat or Republican problem. This is an American problem; and until they face up to it, we have a terrible situation here in Washington. I commend the gentleman again for having this Special Order.

Mr. ROSS. Mr. Speaker, I thank the gentleman from Tennessee, one of the Founding Fathers of the Blue Dog Coalition, for sharing with us this evening his thoughts on this issue. He is so right: Our Nation, just on this debt, our Nation is spending nearly a half a billion dollars a day. Our Nation is spending nearly a half a billion dollars every 24 hours, simply paying interest on the national debt. Our Nation is spending nearly a half a billion dollars, that is with a B, nearly a half a billion dollars a day simply paying interest on the national debt.

A half a billion dollars, how much is that? We could build 100 brand-new elementary schools every single day in America simply with the interest we are paying on the national debt. I have Interstate 49 and Interstate 69 and Interstate 530 under construction in my congressional district. Give me about a week's worth of interest on the national debt and I could finish all three of them. So projects and priorities in this country will continue to go unmet as long as we have this $8.53 trillion debt hanging over our heads that is growing every day. That is the debt.

The other part of this the gentleman from Tennessee was talking about is the deficit. Our Nation is borrowing $907 million every single day. We are sending $188 million every day to Iraq and $33 million every day to Afghanistan. At a time when America is at war, the Republican leaders in this Congress are proposing an additional $70 billion in tax cuts. Never in the history of this Nation has America cut taxes when it is at war. And not only are we at war, but we are also coming off the most costly natural disaster in our Nation's history; and they are proposing $50 billion in cuts.

Mr. TANNER talked about how this is an American issue, and he is right. It is also an issue that as a father concerns me. Cutting student loans at a time when so many of us have children getting ready to go off to college; cutting Medicaid, health insurance for the poorest among us so we can pay for tax cuts for those earning over $400,000 a year, these are not the kinds of values I was taught growing up at the Midway United Methodist Church just outside Prescott, Arkansas.

Mr. TANNER mentioned how we have so much money that is being borrowed to run our government from foreigners. We owe Japan $714.9 billion; China, $191.1 billion; the United Kingdom, $152.5 billion; the Caribbean Banking Center, $76.2 billion; Korea, $69.3 billion; OPEC nations, and we wonder by gasoline is so high, OPEC nations, we have borrowed as a Nation $66.6 billion from them. The list goes on and on. In fact, we have borrowed, this administration has borrowed more money from foreign governments and foreign banks in less than 5 years than the previous 42 Presidents combined. It is time to restore common sense and fiscal discipline to our Nation's government.

Also joining us this evening is a relatively new Member of Congress, a new member to the Blue Dog Coalition in her second term, someone who has really made her mark here in Washington as a fiscal conservative, someone who speaks with a lot of credibility on this issue, and that is the gentlewoman from South Dakota (Ms. HERSETH).

Ms. HERSETH. Mr. Speaker, I thank the gentleman from Arkansas for his kind words and for his extraordinary leadership on this important issue within the Blue Dog Coalition and within the Congress on highlighting the impact of budget decisions over the last 5 years that have created perils, dangerous situations for the country now and into the future.

I would like to just share, if I might, and read from some quotes that have come out, quoting individuals recently within the last week or two, to highlight what Mr. SCOTT, Mr. TANNER, and Mr. ROSS have already noted, that this is not a partisan issue. There are those on both sides of the aisle and those who do not have any affiliation with either political party that are expressing the concerns with the budget reconciliation package offered by the majority.

Let me first quote Robert Bixby, the executive director of the Concord Coalition, from a statement he made just 2 days ago: ''This year's budget resolution calls for two reconciliation bills, a spending cut bill of $35 billion and a tax cut bill of $70 billion.'' He is referring here to Senate numbers. ''Simple arithmetic dispels the notion that this combination is aimed at deficit reduction. It is hard to rally support for a spending cut labeled the Deficit Reduction Act of 2005 when it will be followed by a tax cut that, by the same logic, should be labeled the Deficit Increase Act of 2005.''

Or take a quote from our colleague on the other side of the Capitol, Senator George Voinovich, a Republican from Ohio, a statement made just last week: ''I do not know how anyone can say with a straight face that when we voted to cut spending last week to help achieve deficit reductions, we can now then turn around 2 weeks later to provide tax cuts that exceed the reduction in spending. That is beyond me, and I am sure the American people.''

Or let us take a statement from Federal Reserve Chairman Alan Greenspan from 2 weeks ago: ''We should not be cutting taxes by borrowing. We do not have the capability of having both productive tax cuts and large expenditure increases, and presume that the deficit doesn't matter.''

Or take a quote from the editorial boards across the country, including one from the Des Moines Register: ''As a deficit reduction strategy, the House GOP plan is ludicrous. After passing the budget cuts, next on Congress's agenda is passing further tax cuts for the wealthy at a cost to the Treasury of $70 billion over 5 years. Cutting spending by $55 billion while cutting taxes by $70 billion will make the deficits worse, not better.''

The New York Times editorial board stated: ''An additional $70 billion worth of upper bracket tax cuts heavily backed by the White House are waiting in the wings and will drive the deficit even deeper across generations of taxpayers. The administration and congressional leaders arranged to separate votes on the two halves of the budget to obscure the full picture.''

Finally, from the Atlanta Journal and Constitution from last week: ''This proposed belt-tightening by Congress is not being driven by national security, deficit reduction, or hurricane relief. Instead, it has been proposed as a way to finance a $70 billion tax holiday for the wealthiest Americans. Congress can't tell the public one week that a dooming deficit is forcing it to cut food stamps and Medicaid, then turn around the next week and award the wealthiest Americans a generous tax cut.''

Mr. Speaker, that is really the bottom line here tonight, is it not? And what we are trying to share with our colleagues and our constituents is that if you do that, say one thing one week and turn around the next week and do something that obliterates the savings that you claimed that you were trying to achieve, that damages your credibility, it damages the credibility of the

work we do in this Congress. It damages the credibility of the budget process, which is why the Blue Dogs have offered the 12 points to reform the budget process.

Mr. Speaker, I agree with many back home in South Dakota that budget cuts take courage. They do. They take a lot of political courage. Decisions to cut spending, especially from popular programs, certainly are not easy decisions. But I contend that it is cowardly not to be straightforward with the American people about the priorities reflected in the entirety of the reconciliation process.

As my colleagues have noted here earlier this evening, we can question legitimately the priorities within the spending cut bill, the spending side of the ledger in this reconciliation process. Take higher education, over $14 billion worth of cuts out of the 50 to $55 billion overall on the spending cut side of the package. This is a double whammy on our younger generation, because not only do they have to pay thousands more to finance their higher education, but they also have to pay the interest tax on our national debt that increases.

Mr. Speaker, our knowledge base has been this country's way of staying ahead of the rest of the world and maintaining our competitiveness in a fast-changing global economy. But yet they take student loan programs that represent 1 percent of the overall Federal budget and make it 30 percent, roughly 30 percent of the spending cuts that they targeted in the spending cut side of the reconciliation equation.

Then take agriculture and rural development. We cut all of these programs out of agriculture and rural development that not only go back on the deal we cut with farmers and ranchers in the farm bill in 2002 which, by the way, has saved billions more than what was projected at the time it was passed; but then we leave rural America behind at a time of skyrocketing fuel costs, cutting value-added marketing programs, cutting programs intended to expand broadband technology in rural America.

Then, take Medicaid. Medicaid, a program designed to help children, pregnant women, people with disabilities, and the elderly. Now claims that the growth of Medicaid spending is out of control cannot be supported when you compare the growth in spending in the private sector. It is about half in Medicaid as to what it is in premiums paid out and the growth of the spending in the private sector for health care insurance.

So when you look at the number of people who are eligible for Medicaid, that really requires a different approach and different solution, like making it easier, not harder, to finance a higher education and making it easier to get a higher-paying job. These cuts also in Medicaid affect long-term care facilities, the residents, the staff, the communities; and it affects the workforce, health and productivity issues that we face in this country.

□ 2045

I also think we can raise serious questions as well about the priorities within the preferential tax treatment portion of the reconciliation bill, which extends provisions that are now secure until 2008, rather than providing a fix for the alternative minimum tax, which is affecting more and more middle-income taxpayers.

The final point here, we need to seriously question, as we have done tonight, with our colleagues in the next couple of days, with the American people, the overall result of this reconciliation package, which makes the deficit worse, as we have demonstrated, which increases the country's level of borrowing further, as Congressman TANNER pointed out with the statistics of the foreign ownership of our national debt, and the increasing percentages of that. The Treasury is set to borrow $151 billion in the first quarter of 2006 alone, not to mention that this is simply an interest tax on my generation, the generation following me, and future generations of Americans.

Let me conclude by saying, let us stop the recklessness. I think the American public wants us to stop the recklessness, to reform the budget process as the Blue Dogs have proposed, restore the credibility in managing the Nation's finances by taking action that reduces the deficit and puts us back on track towards balanced budgets.

I urge my colleagues on both sides of the aisle to vote no, oppose these reconciliation proposals for both sides of the Federal Government's ledger, for which the bottom line is even more red ink.

Mr. ROSS. I want to thank the gentlewoman from South Dakota (Ms. HERSETH) for her comments this evening, and I can assure you I join you in opposing cuts to student aid programs. I join you in opposing cuts to Medicaid, health insurance for the poor, for the disabled and the elderly. I join you in opposing cuts to child support enforcement, and I join you in opposing $3.4 billion cuts to agricultural programs, including $844 million to food stamps, the elimination of school lunches and breakfast benefits for 40,000 children, $1 billion in cuts to farm commodity programs, and, yes, $1 billion in cuts to rural development conservation and energy programs.

The gentlewoman from South Dakota is a real leader on the House Agriculture Committee. I want to thank her for standing up and fighting those cuts in that committee.

I promised you we would go over the 12 points to the Blue Dog budget reform. The gentleman from Georgia (Mr. SCOTT) is still here with me, and we are going to try to get through these before we run out of time.

Quickly, number four, require agencies, these are our solutions, how we fix the problem, restore common sense, fiscal discipline to our Nation's government. Require agencies to put their fiscal year houses in order. According to the Government Accounting Office, not some political party group, according to the Government Accounting Office, 16 of 23 major Federal agencies cannot issue a simple audit of their books. Worse, the Federal Government cannot account for $24.5 billion it spent in 2003. The Blue Dog proposal is simple, put a budget freeze for any Federal agency that cannot properly balance its books.

Number five, make Congress tell taxpayers how much they are spending.

Number six, set aside a rainy day fund.

Number seven, do not hide votes to raise the debt limit. If the gentleman would continue with a list, I think you have number 8 through 12 of the Blue Dog plan for a meaningful budget reform.

Mr. SCOTT of Georgia. Absolutely, our plan, the Blue Dog plan number eight, is to justify spending for pet projects, that while we have many projects that may be worthy, it is very important that we have written justification available to the public so the public can see, and it strengthens our credibility to make sure we are spending the taxpayer's money in an efficient effective manner, justify the spending for pet projects.

Number nine, ensure that Congress reads the bills it is voting on. So many times, we do not even have the time to read the bills we are voting on. How can you vote intelligently on an issue if you are not even given the time? The Blue Dogs will recommend that we at least be given a minimum of 3 days to finally look at the legislation, to make sure that we understand and have all the information for a vote.

Number ten, require honest cost estimates for every bill that Congress votes on, most important. Get the right amount of money that it is going to cost.

Number 11, make sure new bills fit the budget, pay-as-you-go, make sure that we are not putting in more than we have to spend.

Number 12, make sure that Congress does a better job of keeping tabs on government programs. The Blue Dogs propose that each committee be required to submit a report at least twice a year, available again to the public, which is very important that we make known that we want to make sure the public is a working, participating partner in our 12 points.

Mr. Speaker, those are our 12 points. We are very proud of them. I think they make sense. It gives vision. It gives direction. It gives purpose.

I want to just conclude, because I know our time is short, before I hand it back to the gentleman from Arkansas, we are at Thanksgiving. What an extraordinary time. Families all over this country a week from tomorrow will be gathering together. We have got to make sure that we give them a

Thanksgiving that they will appreciate, and I assure you that they will not appreciate cutting Medicaid. They will not appreciate cutting the farmers' programs. The veterans are not going to have a good Thanksgiving if they know that their benefits are cut by $2 billion. Our students are not going to have a good Thanksgiving if they know that the student loan program is being cut by $14 billion; our children, child support $5 billion, child nutrition, food stamps.

We have got to make sure that our people have a wonderful Thanksgiving holiday. The way to do that is if they bring that budget reconciliation bill up before we leave, in the name of the American people, we must vote it down.

Mr. ROSS. Mr. Speaker, members of the Blue Dog Coalition have come tonight, not only to point out our Nation's debt and deficit, but to offer a solution with our 12-point plan. We look forward to other opportunity in the future to further discuss our 12-point plan for meaningful budget reform.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Ms. Curtis, one of its clerks, announced that the Senate has passed without amendment bills of the House of the following titles:

H.R. 126. An Act to amend Public Law 89–366 to allow for an adjustment in the number of free roaming horses permitted in Cape Lookout National Seashore.

H.R. 539. An Act to designate certain National Forest System land in the Commonwealth of Puerto Rico as a component of the National Wilderness Preservation System.

H.R. 584. An act to authorize the Secretary of the Interior to recruit volunteers to assist with, or facilitate, the activities of various agencies and offices of the Department of the Interior.

H.R. 606. An act to authorize appropriations to the Secretary of the Interior to the restoration of the Angel Island Immigration Station in the State of California.

H.R. 1101. An act to revoke a Public Land Order with respect to certain lands erroneously included in the Cibola National Wildlife Refuge, California.

H.R. 1972. An act to direct the Secretary of the Interior to conduct a special resource study to determine the suitability and feasibility of including in the National Park System certain sites in Williamson County, Tennessee, relating to the Battle of Franklin.

H.R. 1973. An act to make access to safe water and sanitation for developing countries a specific policy objective of the United States foreign assistance programs, and for other purposes.

The message also announced that the Senate has passed bills of the following titles in which concurrence of the House is requested:

S. 242. An act to direct the Secretary of the Interior to carry out a study to determine the suitability and feasibility of establishing memorials to the Space Shuttle Columbia on parcels of land in the State of Texas.

S. 592 An act to amend the Irrigation Project Contract Extension Act of 1998 to extend certain contracts between the Bureau of Reclamation and certain irrigation water contractors in the States of Wyoming and Nebraska.

S 1170. An act to establish the Fort Stanton-Snowy River Cave National Conservation Area.

CONFERENCE REPORT ON H.R. 3010, DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2006

Mr. LEWIS of California (during the Special Order of Mr. BARTLETT of Maryland) submitted the following conference report and statement on the bill (H.R. 3010) making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 2006, and for other purposes.

CONFERENCE REPORT (H. REPT. 109–300)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3010) ''making appropriations for the Departments of Labor, Health and Human Services, and Education, and Related Agencies for the fiscal year ending September 30, 2006, and for other purposes'', having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert:

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Departments of Labor, Health and Human Services, and Education, and Related Agencies for the fiscal year ending September 30, 2006, and for other purposes, namely:

TITLE I—DEPARTMENT OF LABOR

EMPLOYMENT AND TRAINING ADMINISTRATION

TRAINING AND EMPLOYMENT SERVICES

(INCLUDING RESCISSIONS)

For necessary expenses of the Workforce Investment Act of 1998, the Denali Commission Act of 1998, and the Women in Apprenticeship and Non-Traditional Occupations Act of 1992, including the purchase and hire of passenger motor vehicles, the construction, alteration, and repair of buildings and other facilities, and the purchase of real property for training centers as authorized by the Workforce Investment Act of 1998; $2,652,411,000 plus reimbursements, of which $1,688,411,000 is available for obligation for the period July 1, 2006 through June 30, 2007; except that amounts determined by the Secretary of Labor to be necessary pursuant to sections 173(a)(4)(A) and 174(c) of the Workforce Investment Act of 1998 shall be available from October 1, 2005 until expended; and of which $950,000,000 is available for obligation for the period April 1, 2006 through June 30, 2007, to carry out chapter 4 of the Workforce Investment Act of 1998; and of which $8,000,000 is available for the period July 1, 2006 through June 30, 2009 for necessary expenses of construction, rehabilitation, and acquisition of Job Corps centers: Provided, That notwithstanding any other provision of law, of the funds provided herein under section 137(c) of the Workforce Investment Act of 1998, $282,800,000 shall be for activities described in section 132(a)(2)(A) of such Act and $1,193,264,000 shall be for activities described in section 132(a)(2)(B) of such Act: Provided further, That $125,000,000 shall be available for Community-Based Job Training Grants, which shall be from funds reserved under section 132(a)(2)(A) of the Workforce Investment Act of 1998 and shall be used to carry out such grants under section 171(d) of such Act, except that the 10 percent limitation otherwise applicable to the amount of funds that may be used to carry out section 171(d) shall not be applicable to funds used for Community-Based Job Training grants: Provided further, That funds provided to carry out section 132(a)(2)(A) of the Workforce Investment Act of 1998 may be used to provide assistance to a State for State-wide or local use in order to address cases where there have been worker dislocations across multiple sectors or across multiple local areas and such workers remain dislocated; coordinate the State workforce development plan with emerging economic development needs; and train such eligible dislocated workers: Provided further, That $7,936,000 shall be for carrying out section 172 of the Workforce Investment Act of 1998: Provided further, That $982,000 shall be for carrying out Public Law 102–530: Provided further, That, notwithstanding any other provision of law or related regulation, $80,557,000 shall be for carrying out section 167 of the Workforce Investment Act of 1998, including $75,053,000 for formula grants, $5,000,000 for migrant and seasonal housing (of which not less than 70 percent shall be for permanent housing), and $504,000 for other discretionary purposes, and that the Department shall take no action limiting the number or proportion of eligible participants receiving related assistance services or discouraging grantees from providing such services: Provided further, That notwithstanding the transfer limitation under section 133(b)(4) of such Act, up to 30 percent of such funds may be transferred by a local board if approved by the Governor: Provided further, That funds provided to carry out section 171(d) of the Workforce Investment Act of 1998 may be used for demonstration projects that provide assistance to new entrants in the workforce and incumbent workers: Provided further, That no funds from any other appropriation shall be used to provide meal services at or for Job Corps centers.

For necessary expenses of the Workforce Investment Act of 1998, including the purchase and hire of passenger motor vehicles, the construction, alteration, and repair of buildings and other facilities, and the purchase of real property for training centers as authorized by the Act; $2,463,000,000 plus reimbursements, of which $2,363,000,000 is available for obligation for the period October 1, 2006 through June 30, 2007, and of which $100,000,000 is available for the period October 1, 2006 through June 30, 2009, for necessary expenses of construction, rehabilitation, and acquisition of Job Corps centers.

Of the funds provided under this heading in Public Law 108–7 to carry out section 173(a)(4)(A) of the Workforce Investment Act of 1998, $20,000,000 are rescinded.

Of the funds provided under this heading in Public Law 107–117, $5,000,000 are rescinded.

Of the funds provided under this heading in division F of Public Law 108–447 for Community-Based Job Training Grants, $125,000,000 is rescinded.

The Secretary of Labor shall take no action to amend, through regulatory or administration action, the definition established in 20 CFR 667.220 for functions and activities under title I of the Workforce Investment Act of 1998, or to modify, through regulatory or administrative action, the procedure for redesignation of local areas as specified in subtitle B of title I of that Act (including applying the standards specified in section 116(a)(3)(B) of that Act, but notwithstanding the time limits specified in section

116(a)(3)(B) of that Act), until such time as legislation reauthorizing the Act is enacted. Nothing in the preceding sentence shall permit or require the Secretary of Labor to withdraw approval for such redesignation from a State that received the approval not later than October 12, 2005, or to revise action taken or modify the redesignation procedure being used by the Secretary in order to complete such redesignation for a State that initiated the process of such redesignation by submitting any request for such redesignation not later than October 26, 2005.

COMMUNITY SERVICE EMPLOYMENT FOR OLDER AMERICANS

To carry out title V of the Older Americans Act of 1965, as amended, $436,678,000.

FEDERAL UNEMPLOYMENT BENEFITS AND ALLOWANCES

For payments during the current fiscal year of trade adjustment benefit payments and allowances under part I and section 246; and for training, allowances for job search and relocation, and related State administrative expenses under part II of chapter 2, title II of the Trade Act of 1974 (including the benefits and services described under sections 123(c)(2) and 151(b) and (c) of the Trade Adjustment Assistance Reform Act of 2002, Public Law 107–210), $966,400,000, together with such amounts as may be necessary to be charged to the subsequent appropriation for payments for any period subsequent to September 15 of the current year.

STATE UNEMPLOYMENT INSURANCE AND EMPLOYMENT SERVICE OPERATIONS

For authorized administrative expenses, $125,312,000, together with not to exceed $3,266,766,000 (including not to exceed $1,228,000 which may be used for amortization payments to States which had independent retirement plans in their State employment service agencies prior to 1980), which may be expended from the Employment Security Administration Account in the Unemployment Trust Fund including the cost of administering section 51 of the Internal Revenue Code of 1986, as amended, section 7(d) of the Wagner-Peyser Act, as amended, the Trade Act of 1974, as amended, the Immigration Act of 1990, and the Immigration and Nationality Act, as amended, and of which the sums available in the allocation for activities authorized by title III of the Social Security Act, as amended (42 U.S.C. 502–504), and the sums available in the allocation for necessary administrative expenses for carrying out 5 U.S.C. 8501–8523, shall be available for obligation by the States through December 31, 2006, except that funds used for automation acquisitions shall be available for obligation by the States through September 30, 2008; of which $125,312,000, together with not to exceed $700,000,000 of the amount which may be expended from said trust fund, shall be available for obligation for the period July 1, 2006 through June 30, 2007, to fund activities under the Act of June 6, 1933, as amended, including the cost of penalty mail authorized under 39 U.S.C. 3202(a)(1)(E) made available to States in lieu of allotments for such purpose: Provided, That to the extent that the Average Weekly Insured Unemployment (AWIU) for fiscal year 2006 is projected by the Department of Labor to exceed 2,800,000, an additional $28,600,000 shall be available for obligation for every 100,000 increase in the AWIU level (including a pro rata amount for any increment less than 100,000) from the Employment Security Administration Account of the Unemployment Trust Fund: Provided further, That funds appropriated in this Act which are used to establish a national one-stop career center system, or which are used to support the national activities of the Federal-State unemployment insurance or immigration programs, may be obligated in contracts, grants or agreements with non-State entities: Provided further, That funds appropriated in this Act for activities authorized under the Wagner-Peyser Act, as amended, and title III of the Social Security Act, may be used by the States to fund integrated Employment Service and Unemployment Insurance automation efforts, notwithstanding cost allocation principles prescribed under Office of Management and Budget Circular A–87.

ADVANCES TO THE UNEMPLOYMENT TRUST FUND AND OTHER FUNDS

For repayable advances to the Unemployment Trust Fund as authorized by sections 905(d) and 1203 of the Social Security Act, as amended, and to the Black Lung Disability Trust Fund as authorized by section 9501(c)(1) of the Internal Revenue Code of 1954, as amended; and for nonrepayable advances to the Unemployment Trust Fund as authorized by section 8509 of title 5, United States Code, and to the ''Federal unemployment benefits and allowances'' account, to remain available until September 30, 2007, $465,000,000.

In addition, for making repayable advances to the Black Lung Disability Trust Fund in the current fiscal year after September 15, 2006, for costs incurred by the Black Lung Disability Trust Fund in the current fiscal year, such sums as may be necessary.

PROGRAM ADMINISTRATION

For expenses of administering employment and training programs, $117,123,000, together with not to exceed $82,877,000, which may be expended from the Employment Security Administration Account in the Unemployment Trust Fund.

WORKERS COMPENSATION PROGRAMS

(RESCISSION)

Of funds provided under this heading in the Emergency Supplemental Appropriations Act, 2002 (Public Law 107–117, division B), $120,000,000 are rescinded.

EMPLOYEE BENEFITS SECURITY ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for the Employee Benefits Security Administration, $134,900,000.

PENSION BENEFIT GUARANTY CORPORATION

PENSION BENEFIT GUARANTY CORPORATION FUND

The Pension Benefit Guaranty Corporation is authorized to make such expenditures, including financial assistance authorized by section 104 of Public Law 96–364, within limits of funds and borrowing authority available to such Corporation, and 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 amended (31 U.S.C. 9104), as may be necessary in carrying out the program, including associated administrative expenses, through September 30, 2006 for such Corporation: Provided, That none of the funds available to the Corporation for fiscal year 2006 shall be available for obligations for administrative expenses in excess of $296,978,000: Provided further, That obligations in excess of such amount may be incurred after approval by the Office of Management and Budget and the Committees on Appropriations of the House and Senate.

EMPLOYMENT STANDARDS ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for the Employment Standards Administration, including reimbursement to State, Federal, and local agencies and their employees for inspection services rendered, $413,168,000, together with $2,048,000 which may be expended from the Special Fund in accordance with sections 39(c), 44(d) and 44(j) of the Longshore and Harbor Workers' Compensation Act: Provided, That the Secretary of Labor is authorized to establish and, in accordance with 31 U.S.C. 3302, collect and deposit in the Treasury fees for processing applications and issuing certificates under sections 11(d) and 14 of the Fair Labor Standards Act of 1938, as amended (29 U.S.C. 211(d) and 214) and for processing applications and issuing registrations under title I of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1801 et seq.).

SPECIAL BENEFITS

(INCLUDING TRANSFER OF FUNDS)

For the payment of compensation, benefits, and expenses (except administrative expenses) accruing during the current or any prior fiscal year authorized by title 5, chapter 81 of the United States Code; continuation of benefits as provided for under the heading ''Civilian War Benefits'' in the Federal Security Agency Appropriation Act, 1947; the Employees' Compensation Commission Appropriation Act, 1944; sections 4(c) and 5(f) of the War Claims Act of 1948 (50 U.S.C. App. 2012); and 50 percent of the additional compensation and benefits required by section 10(h) of the Longshore and Harbor Workers' Compensation Act, as amended, $237,000,000, together with such amounts as may be necessary to be charged to the subsequent year appropriation for the payment of compensation and other benefits for any period subsequent to August 15 of the current year: Provided, That amounts appropriated may be used under section 8104 of title 5, United States Code, by the Secretary of Labor to reimburse an employer, who is not the employer at the time of injury, for portions of the salary of a reemployed, disabled beneficiary: Provided further, That balances of reimbursements unobligated on September 30, 2005, shall remain available until expended for the payment of compensation, benefits, and expenses: Provided further, That in addition there shall be transferred to this appropriation from the Postal Service and from any other corporation or instrumentality required under section 8147(c) of title 5, United States Code, to pay an amount for its fair share of the cost of administration, such sums as the Secretary determines to be the cost of administration for employees of such fair share entities through September 30, 2006: Provided further, That of those funds transferred to this account from the fair share entities to pay the cost of administration of the Federal Employees' Compensation Act, $53,695,000 shall be made available to the Secretary as follows:

(1) for enhancement and maintenance of automated data processing systems and telecommunications systems, $13,305,000;

(2) for automated workload processing operations, including document imaging, centralized mail intake and medical bill processing, $27,148,000;

(3) for periodic roll management and medical review, $13,242,000; and

(4) the remaining funds shall be paid into the Treasury as miscellaneous receipts:

Provided further, That the Secretary may require that any person filing a notice of injury or a claim for benefits under chapter 81 of title 5, United States Code, or 33 U.S.C. 901 et seq., provide as part of such notice and claim, such identifying information (including Social Security account number) as such regulations may prescribe.

SPECIAL BENEFITS FOR DISABLED COAL MINERS

For carrying out title IV of the Federal Mine Safety and Health Act of 1977, as amended by Public Law 107–275, (the ''Act''), $232,250,000, to remain available until expended.

For making after July 31 of the current fiscal year, benefit payments to individuals under title IV of the Act, for costs incurred in the current fiscal year, such amounts as may be necessary.

For making benefit payments under title IV for the first quarter of fiscal year 2007, $74,000,000, to remain available until expended.

ADMINISTRATIVE EXPENSES, ENERGY EMPLOYEES OCCUPATIONAL ILLNESS COMPENSATION FUND

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses to administer the Energy Employees Occupational Illness Compensation Act, $96,081,000, to remain available until expended: Provided, That the Secretary of Labor is authorized to transfer to any executive agency with authority under the Energy Employees Occupational Illness Compensation Act, including within the Department of Labor, such

sums as may be necessary in fiscal year 2006 to carry out those authorities: Provided further, That the Secretary may require that any person filing a claim for benefits under the Act provide as part of such claim, such identifying information (including Social Security account number) as may be prescribed: Provided further, That not later than 30 days after enactment, in addition to other sums transferred by the Secretary of Labor to the National Institute for Occupational Safety and Health (''NIOSH'') for the administration of the Energy Employees Occupational Illness Compensation Program (''EEOICPA''), the Secretary of Labor shall transfer $4,500,000 to NIOSH from the funds appropriated to the Energy Employees Occupational Illness Compensation Fund (42 U.S.C. 7384e), for use by or in support of the Advisory Board on Radiation and Worker Health (''the Board'') to carry out its statutory responsibilities under EEOICPA (42 U.S.C. 7384n–q), including obtaining audits, technical assistance and other support from the Board's audit contractor with regard to radiation dose estimation and reconstruction efforts, site profiles, procedures, and review of Special Exposure Cohort petitions and evaluation reports.

BLACK LUNG DISABILITY TRUST FUND

(INCLUDING TRANSFER OF FUNDS)

In fiscal year 2006 and thereafter, such sums as may be necessary from the Black Lung Disability Trust Fund, to remain available until expended, for payment of all benefits authorized by section 9501(d)(1), (2), (4), and (7) of the Internal Revenue Code of 1954, as amended; and interest on advances, as authorized by section 9501(c)(2) of that Act. In addition, the following amounts shall be available from the Fund for fiscal year 2006 for expenses of operation and administration of the Black Lung Benefits program, as authorized by section 9501(d)(5): $33,050,000 for transfer to the Employment Standards Administration ''Salaries and Expenses''; $24,239,000 for transfer to Departmental Management, ''Salaries and Expenses''; $344,000 for transfer to Departmental Management, ''Office of Inspector General''; and $356,000 for payments into miscellaneous receipts for the expenses of the Department of the Treasury.

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for the Occupational Safety and Health Administration, $477,199,000, including not to exceed $92,013,000 which shall be the maximum amount available for grants to States under section 23(g) of the Occupational Safety and Health Act (the ''Act''), which grants shall be no less than 50 percent of the costs of State occupational safety and health programs required to be incurred under plans approved by the Secretary under section 18 of the Act; and, in addition, notwithstanding 31 U.S.C. 3302, the Occupational Safety and Health Administration may retain up to $750,000 per fiscal year of training institute course tuition fees, otherwise authorized by law to be collected, and may utilize such sums for occupational safety and health training and education grants: Provided, That, notwithstanding 31 U.S.C. 3302, the Secretary of Labor is authorized, during the fiscal year ending September 30, 2006, to collect and retain fees for services provided to Nationally Recognized Testing Laboratories, and may utilize such sums, in accordance with the provisions of 29 U.S.C. 9a, to administer national and international laboratory recognition programs that ensure the safety of equipment and products used by workers in the workplace: Provided further, That none of the funds appropriated under this paragraph shall be obligated or expended to prescribe, issue, administer, or enforce any standard, rule, regulation, or order under the Act which is applicable to any person who is engaged in a farming operation which does not maintain a temporary labor camp and employs 10 or fewer employees: Provided further, That no funds appropriated under this paragraph shall be obligated or expended to administer or enforce any standard, rule, regulation, or order under the Act with respect to any employer of 10 or fewer employees who is included within a category having a Days Away, Restricted, or Transferred (DART) occupational injury and illness rate, at the most precise industrial classification code for which such data are published, less than the national average rate as such rates are most recently published by the Secretary, acting through the Bureau of Labor Statistics, in accordance with section 24 of that Act (29 U.S.C. 673), except—

(1) to provide, as authorized by such Act, consultation, technical assistance, educational and training services, and to conduct surveys and studies;

(2) to conduct an inspection or investigation in response to an employee complaint, to issue a citation for violations found during such inspection, and to assess a penalty for violations which are not corrected within a reasonable abatement period and for any willful violations found;

(3) to take any action authorized by such Act with respect to imminent dangers;

(4) to take any action authorized by such Act with respect to health hazards;

(5) to take any action authorized by such Act with respect to a report of an employment accident which is fatal to one or more employees or which results in hospitalization of two or more employees, and to take any action pursuant to such investigation authorized by such Act; and

(6) to take any action authorized by such Act with respect to complaints of discrimination against employees for exercising rights under such Act:

Provided further, That the foregoing proviso shall not apply to any person who is engaged in a farming operation which does not maintain a temporary labor camp and employs 10 or fewer employees: Provided further, That not less than $3,200,000 shall be used to extend funding for the Institutional Competency Building training grants which commenced in September 2000, for program activities for the period of September 30, 2006, to September 30, 2007, provided that a grantee has demonstrated satisfactory performance: Provided further, That none of the funds appropriated under this paragraph shall be obligated or expended to administer or enforce the provisions of 29 CFR 1910.134(f)(2) (General Industry Respiratory Protection Standard) to the extent that such provisions require the annual fit testing (after the initial fit testing) of respirators for occupational exposure to tuberculosis.

MINE SAFETY AND HEALTH ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for the Mine Safety and Health Administration, $280,490,000, including purchase and bestowal of certificates and trophies in connection with mine rescue and first-aid work, and the hire of passenger motor vehicles, including up to $2,000,000 for mine rescue and recovery activities; in addition, not to exceed $750,000 may be collected by the National Mine Health and Safety Academy for room, board, tuition, and the sale of training materials, otherwise authorized by law to be collected, to be available for mine safety and health education and training activities, notwithstanding 31 U.S.C. 3302; and, in addition, the Mine Safety and Health Administration may retain up to $1,000,000 from fees collected for the approval and certification of equipment, materials, and explosives for use in mines, and may utilize such sums for such activities; the Secretary is authorized to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, or private; the Mine Safety and Health Administration is authorized to promote health and safety education and training in the mining community through cooperative programs with States, industry, and safety associations; the Secretary is authorized to recognize the Joseph A. Holmes Safety Association as a principal safety association and, notwithstanding any other provision of law, may provide funds and, with or without reimbursement, personnel, including service of Mine Safety and Health Administration officials as officers in local chapters or in the national organization; and any funds available to the department may be used, with the approval of the Secretary, to provide for the costs of mine rescue and survival operations in the event of a major disaster.

BUREAU OF LABOR STATISTICS

SALARIES AND EXPENSES

For necessary expenses for the Bureau of Labor Statistics, including advances or reimbursements to State, Federal, and local agencies and their employees for services rendered, $464,678,000, together with not to exceed $77,845,000, which may be expended from the Employment Security Administration Account in the Unemployment Trust Fund, of which $5,000,000 may be used to fund the mass layoff statistics program under section 15 of the Wagner-Peyser Act (29 U.S.C. 49l–2): Provided, That the Current Employment Survey shall maintain the content of the survey issued prior to June 2005 with respect to the collection of data for the women worker series.

OFFICE OF DISABILITY EMPLOYMENT POLICY

SALARIES AND EXPENSES

For necessary expenses for the Office of Disability Employment Policy to provide leadership, develop policy and initiatives, and award grants furthering the objective of eliminating barriers to the training and employment of people with disabilities, $27,934,000.

DEPARTMENTAL MANAGEMENT

SALARIES AND EXPENSES

For necessary expenses for Departmental Management, including the hire of three sedans, and including the management or operation, through contracts, grants or other arrangements of Departmental activities conducted by or through the Bureau of International Labor Affairs, including bilateral and multilateral technical assistance and other international labor activities, $300,275,000, of which $6,944,000, to remain available until September 30, 2007, is for Frances Perkins Building Security Enhancements, and $29,760,000 is for the acquisition of Departmental information technology, architecture, infrastructure, equipment, software and related needs, which will be allocated by the Department's Chief Information Officer in accordance with the Department's capital investment management process to assure a sound investment strategy; together with not to exceed $311,000, which may be expended from the Employment Security Administration Account in the Unemployment Trust Fund.

VETERANS EMPLOYMENT AND TRAINING

Not to exceed $194,834,000 may be derived from the Employment Security Administration Account in the Unemployment Trust Fund to carry out the provisions of 38 U.S.C. 4100–4113, 4211–4215, and 4321–4327, and Public Law 103–353, and which shall be available for obligation by the States through December 31, 2006, of which $1,984,000 is for the National Veterans' Employment and Training Services Institute. To carry out the Homeless Veterans Reintegration Programs (38 U.S.C. 2021) and the Veterans Workforce Investment Programs (29 U.S.C. 2913), $29,500,000, of which $7,500,000 shall be available for obligation for the period July 1, 2006 through June 30, 2007.

OFFICE OF INSPECTOR GENERAL

For salaries and expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $66,211,000, together with not to exceed

$5,608,000, which may be expended from the Employment Security Administration Account in the Unemployment Trust Fund.

WORKING CAPITAL FUND

For the acquisition of a new core accounting system for the Department of Labor, including hardware and software infrastructure and the costs associated with implementation thereof, $6,230,000.

GENERAL PROVISIONS

SEC. 101. None of the funds appropriated in this title for the Job Corps shall be used to pay the salary of an individual, either as direct costs or any proration as an indirect cost, at a rate in excess of Executive Level I.

SEC. 102. Not later than 90 days after the date of enactment of this Act, the Secretary of Labor shall permanently establish and maintain an Office of Job Corps within the Office of the Secretary, in the Department of Labor, to carry out the functions (including duties, responsibilities, and procedures) of subtitle C of title I of the Workforce Investment Act of 1998 (29 U.S.C. 2881 et seq.). The Secretary shall appoint a senior member of the civil service to head that Office of Job Corps and carry out subtitle C. The Secretary shall transfer funds appropriated for the program carried out under that subtitle C, including the administration of such program, to the head of that Office of Job Corps. The head of that Office of Job Corps shall have contracting authority and shall receive support as necessary from the Assistant Secretary for Administration and Management with respect to contracting functions and the Assistant Secretary for Policy with respect to research and evaluation functions.

(TRANSFER OF FUNDS)

SEC. 103. Not to exceed 1 percent of any discretionary funds (pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985, as amended) which are appropriated for the current fiscal year for the Department of Labor in this Act may be transferred between a program, project, or activity, but no such program, project, or activity shall be increased by more than 3 percent by any such transfer: Provided, That a program, project, or activity may be increased by up to an additional 2 percent subject to approval by the House and Senate Committees on Appropriations: Provided further, That the transfer authority granted by this section shall be available only to meet emergency needs and shall not be used to create any new program or to fund any project or activity for which no funds are provided in this Act: Provided further, That the Appropriations Committees of both Houses of Congress are notified at least 15 days in advance of any transfer.

SEC. 104. In accordance with Executive Order No. 13126, none of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended for the procurement of goods mined, produced, manufactured, or harvested or services rendered, whole or in part, by forced or indentured child labor in industries and host countries already identified by the United States Department of Labor prior to enactment of this Act.

SEC. 105. There is authorized to be appropriated such sums as may be necessary to the Denali Commission through the Department of Labor to conduct job training of the local workforce where Denali Commission projects will be constructed.

SEC. 106. For purposes of chapter 8 of division B of the Department of Defense and Emergency Supplemental Appropriations for Recovery from and Response to Terrorist Attacks on the United States Act, 2002 (Public Law 107–117), payments made by the New York Workers' Compensation Board to the New York Crime Victims Board and the New York State Insurance Fund before the date of the enactment of this Act shall be deemed to have been made for workers compensation programs.

SEC. 107. The Department of Labor shall submit its fiscal year 2007 congressional budget justifications to the Committees on Appropriations of the House of Representatives and the Senate in the format and level of detail used by the Department of Education in its fiscal year 2006 congressional budget justifications.

SEC. 108. The Secretary shall prepare and submit not later than July 1, 2006 to the Committees on Appropriations of the Senate and of the House an operating plan that outlines the planned allocation by major project and activity of fiscal year 2006 funds made available for section 171 of the Workforce Investment Act.

This title may be cited as the ''Department of Labor Appropriations Act, 2006''.

TITLE II—DEPARTMENT OF HEALTH AND HUMAN SERVICES

HEALTH RESOURCES AND SERVICES ADMINISTRATION

HEALTH RESOURCES AND SERVICES

For carrying out titles II, III, IV, VII, VIII, X, XII, XIX, and XXVI of the Public Health Service Act, section 427(a) of the Federal Coal Mine Health and Safety Act, title V and sections 1128E, and 711, and 1820 of the Social Security Act, the Health Care Quality Improvement Act of 1986, as amended, the Native Hawaiian Health Care Act of 1988, as amended, the Cardiac Arrest Survival Act of 2000, section 712 of the American Jobs Creation Act of 2004, and for expenses necessary to support activities related to countering potential biological, disease, nuclear, radiological and chemical threats to civilian populations, $6,539,661,000 of which $64,180,000 from general revenues, notwithstanding section 1820(j) of the Social Security Act, shall be available for carrying out the Medicare rural hospital flexibility grants program under section 1820 of such Act (of which $25,000,000 is for a Delta health initiative Rural Health, Education, and Workforce Infrastructure Demonstration Program which shall solicit and fund proposals from local governments, hospitals, universities, and rural public health-related entities and organizations for research development, educational programs, job training, and construction of public health-related facilities): Provided, That of the funds made available under this heading, $222,000 shall be available until expended for facilities renovations at the Gillis W. Long Hansen's Disease Center: Provided further, That in addition to fees authorized by section 427(b) of the Health Care Quality Improvement Act of 1986, fees shall be collected for the full disclosure of information under the Act sufficient to recover the full costs of operating the National Practitioner Data Bank, and shall remain available until expended to carry out that Act: Provided further, That fees collected for the full disclosure of information under the ''Health Care Fraud and Abuse Data Collection Program'', authorized by section 1128E(d)(2) of the Social Security Act, shall be sufficient to recover the full costs of operating the program, and shall remain available until expended to carry out that Act: Provided further, That no more than $40,000 is available until expended for carrying out the provisions of 42 U.S.C. 233(o) including associated administrative expenses: Provided further, That no more than $45,000,000 is available until expended for carrying out the provisions of Public Law 104–73 and for expenses incurred by the Department of Health and Human Services pertaining to administrative claims made under such law: Provided further, That $4,000,000 is available until expended for the National Cord Blood Stem Cell Bank Program as described in House Report 108–401: Provided further, That of the funds made available under this heading, $285,963,000 shall be for the program under title X of the Public Health Service Act to provide for voluntary family planning projects: Provided further, That amounts provided to said projects under such title shall not be expended for abortions, that all pregnancy counseling shall be nondirective, and that such amounts shall not be expended for any activity (including the publication or distribution of literature) that in any way tends to promote public support or opposition to any legislative proposal or candidate for public office: Provided further, That $797,521,000 shall be for State AIDS Drug Assistance Programs authorized by section 2616 of the Public Health Service Act: Provided further, That in addition to amounts provided herein, $25,000,000 shall be available from amounts available under section 241 of the Public Health Service Act to carry out Parts A, B, C, and D of title XXVI of the Public Health Service Act to fund section 2691 Special Projects of National Significance: Provided further, That, notwithstanding section 502(a)(1) of the Social Security Act, not to exceed $117,108,000 is available for carrying out special projects of regional and national significance pursuant to section 501(a)(2) of such Act: Provided further, That of the funds provided, $39,680,000 shall be provided to the Denali Commission as a direct lump payment pursuant to Public Law 106–113.

HEALTH EDUCATION ASSISTANCE LOANS PROGRAM ACCOUNT

Such sums as may be necessary to carry out the purpose of the program, as authorized by title VII of the Public Health Service Act, as amended. For administrative expenses to carry out the guaranteed loan program, including section 709 of the Public Health Service Act, $2,916,000.

VACCINE INJURY COMPENSATION PROGRAM TRUST FUND

For payments from the Vaccine Injury Compensation Program Trust Fund, such sums as may be necessary for claims associated with vaccine-related injury or death with respect to vaccines administered after September 30, 1988, pursuant to subtitle 2 of title XXI of the Public Health Service Act, to remain available until expended: Provided, That for necessary administrative expenses, not to exceed $3,600,000 shall be available from the Trust Fund to the Secretary of Health and Human Services.

CENTERS FOR DISEASE CONTROL AND PREVENTION

DISEASE CONTROL, RESEARCH, AND TRAINING

To carry out titles II, III, VII, XI, XV, XVII, XIX, XXI, and XXVI of the Public Health Service Act, sections 101, 102, 103, 201, 202, 203, 301, and 501 of the Federal Mine Safety and Health Act of 1977, sections 20, 21, and 22 of the Occupational Safety and Health Act of 1970, title IV of the Immigration and Nationality Act, section 501 of the Refugee Education Assistance Act of 1980, and for expenses necessary to support activities related to countering potential biological, disease, nuclear, radiological, and chemical threats to civilian populations; including purchase and insurance of official motor vehicles in foreign countries; and purchase, hire, maintenance, and operation of aircraft, $5,884,934,000, of which $160,000,000 shall remain available until expended for equipment, construction and renovation of facilities; of which $30,000,000 of the amounts available for immunization activities shall remain available until expended; of which $530,000,000 shall remain available until expended for the Strategic National Stockpile; and of which $123,883,000 for international HIV/AIDS shall remain available until September 30, 2007. In addition, such sums as may be derived from authorized user fees, which shall be credited to this account: Provided, That in addition to amounts provided herein, the following amounts shall be available from amounts available under section 241 of the Public Health Service Act: (1) $12,794,000 to carry out the National Immunization Surveys; (2) $109,021,000 to carry out the National Center for Health Statistics surveys; (3) $24,751,000 to carry out information systems standards development and architecture and applications-based research used at local public health levels; (4) $463,000 for Health Marketing evaluations; (5) $31,000,000 to carry out

Public Health Research; and (6) $87,071,000 to carry out research activities within the National Occupational Research Agenda: Provided further, That none of the funds made available for injury prevention and control at the Centers for Disease Control and Prevention may be used, in whole or in part, to advocate or promote gun control: Provided further, That up to $31,800,000 shall be made available until expended for Individual Learning Accounts for full-time equivalent employees of the Centers for Disease Control and Prevention: Provided further, That the Director may redirect the total amount made available under authority of Public Law 101–502, section 3, dated November 3, 1990, to activities the Director may so designate: Provided further, That the Congress is to be notified promptly of any such transfer: Provided further, That not to exceed $12,500,000 may be available for making grants under section 1509 of the Public Health Service Act to not more than 15 States, tribes, or tribal organizations: Provided further, That notwithstanding any other provision of law, a single contract or related contracts for development and construction of facilities may be employed which collectively include the full scope of the project: Provided further, That the solicitation and contract shall contain the clause ''availability of funds'' found at 48 CFR 52.232–18: Provided further, That of the funds appropriated, $10,000 is for official reception and representation expenses when specifically approved by the Director of the Centers for Disease Control and Prevention: Provided further, That employees of the Centers for Disease Control and Prevention or the Public Health Service, both civilian and Commissioned Officers, detailed to States, municipalities, or other organizations under authority of section 214 of the Public Health Service Act, shall be treated as non-Federal employees for reporting purposes only and shall not be included within any personnel ceiling applicable to the Agency, Service, or the Department of Health and Human Services during the period of detail or assignment.

NATIONAL INSTITUTES OF HEALTH

NATIONAL CANCER INSTITUTE

For carrying out section 301 and title IV of the Public Health Service Act with respect to cancer, $4,841,774,000, of which up to $8,000,000 may be used for facilities repairs and improvements at the NCI-Frederick Federally Funded Research and Development Center in Frederick, Maryland.

NATIONAL HEART, LUNG, AND BLOOD INSTITUTE

For carrying out section 301 and title IV of the Public Health Service Act with respect to cardiovascular, lung, and blood diseases, and blood and blood products, $2,951,270,000.

NATIONAL INSTITUTE OF DENTAL AND CRANIOFACIAL RESEARCH

For carrying out section 301 and title IV of the Public Health Service Act with respect to dental disease, $393,269,000.

NATIONAL INSTITUTE OF DIABETES AND DIGESTIVE AND KIDNEY DISEASES

For carrying out section 301 and title IV of the Public Health Service Act with respect to diabetes and digestive and kidney disease, $1,722,146,000.

NATIONAL INSTITUTE OF NEUROLOGICAL DISORDERS AND STROKE

For carrying out section 301 and title IV of the Public Health Service Act with respect to neurological disorders and stroke, $1,550,260,000.

NATIONAL INSTITUTE OF ALLERGY AND INFECTIOUS DISEASES

(INCLUDING TRANSFER OF FUNDS)

For carrying out section 301 and title IV of the Public Health Service Act with respect to allergy and infectious diseases, $4,459,395,000: Provided, That $100,000,000 may be made available to International Assistance Programs ''Global Fund to Fight HIV/AIDS, Malaria, and Tuberculosis'', to remain available until expended: Provided further, That up to $30,000,000 shall be for extramural facilities construction grants to enhance the Nation's capability to do research on biological and other agents.

NATIONAL INSTITUTE OF GENERAL MEDICAL SCIENCES

For carrying out section 301 and title IV of the Public Health Service Act with respect to general medical sciences, $1,955,170,000.

NATIONAL INSTITUTE OF CHILD HEALTH AND HUMAN DEVELOPMENT

For carrying out section 301 and title IV of the Public Health Service Act with respect to child health and human development, $1,277,544,000.

NATIONAL EYE INSTITUTE

For carrying out section 301 and title IV of the Public Health Service Act with respect to eye diseases and visual disorders, $673,491,000.

NATIONAL INSTITUTE OF ENVIRONMENTAL HEALTH SCIENCES

For carrying out sections 301 and 311 and title IV of the Public Health Service Act with respect to environmental health sciences, $647,608,000.

NATIONAL INSTITUTE ON AGING

For carrying out section 301 and title IV of the Public Health Service Act with respect to aging, $1,057,203,000.

NATIONAL INSTITUTE OF ARTHRITIS AND MUSCULOSKELETAL AND SKIN DISEASES

For carrying out section 301 and title IV of the Public Health Service Act with respect to arthritis and musculoskeletal and skin diseases, $513,063,000.

NATIONAL INSTITUTE ON DEAFNESS AND OTHER COMMUNICATION DISORDERS

For carrying out section 301 and title IV of the Public Health Service Act with respect to deafness and other communication disorders, $397,432,000.

NATIONAL INSTITUTE OF NURSING RESEARCH

For carrying out section 301 and title IV of the Public Health Service Act with respect to nursing research, $138,729,000.

NATIONAL INSTITUTE ON ALCOHOL ABUSE AND ALCOHOLISM

For carrying out section 301 and title IV of the Public Health Service Act with respect to alcohol abuse and alcoholism, $440,333,000.

NATIONAL INSTITUTE ON DRUG ABUSE

For carrying out section 301 and title IV of the Public Health Service Act with respect to drug abuse, $1,010,130,000.

NATIONAL INSTITUTE OF MENTAL HEALTH

For carrying out section 301 and title IV of the Public Health Service Act with respect to mental health, $1,417,692,000.

NATIONAL HUMAN GENOME RESEARCH INSTITUTE

For carrying out section 301 and title IV of the Public Health Service Act with respect to human genome research, $490,959,000.

NATIONAL INSTITUTE OF BIOMEDICAL IMAGING AND BIOENGINEERING

For carrying out section 301 and title IV of the Public Health Service Act with respect to biomedical imaging and bioengineering research, $299,808,000.

NATIONAL CENTER FOR RESEARCH RESOURCES

For carrying out section 301 and title IV of the Public Health Service Act with respect to research resources and general research support grants, $1,110,203,000: Provided, That none of these funds shall be used to pay recipients of the general research support grants program any amount for indirect expenses in connection with such grants.

NATIONAL CENTER FOR COMPLEMENTARY AND ALTERNATIVE MEDICINE

For carrying out section 301 and title IV of the Public Health Service Act with respect to complementary and alternative medicine, $122,692,000.

NATIONAL CENTER ON MINORITY HEALTH AND HEALTH DISPARITIES

For carrying out section 301 and title IV of the Public Health Service Act with respect to minority health and health disparities research, $197,379,000.

JOHN E. FOGARTY INTERNATIONAL CENTER

For carrying out the activities at the John E. Fogarty International Center, $67,048,000.

NATIONAL LIBRARY OF MEDICINE

For carrying out section 301 and title IV of the Public Health Service Act with respect to health information communications, $318,091,000, of which $4,000,000 shall be available until expended for improvement of information systems: Provided, That in fiscal year 2006, the Library may enter into personal services contracts for the provision of services in facilities owned, operated, or constructed under the jurisdiction of the National Institutes of Health: Provided further, That in addition to amounts provided herein, $8,200,000 shall be available from amounts available under section 241 of the Public Health Service Act to carry out National Information Center on Health Services Research and Health Care Technology and related health services.

OFFICE OF THE DIRECTOR

(INCLUDING TRANSFER OF FUNDS)

For carrying out the responsibilities of the Office of the Director, National Institutes of Health, $482,895,000, of which up to $10,000,000 shall be used to carry out section 217 of this Act: Provided, That funding shall be available for the purchase of not to exceed 29 passenger motor vehicles for replacement only: Provided further, That the Director may direct up to 1 percent of the total amount made available in this or any other Act to all National Institutes of Health appropriations to activities the Director may so designate: Provided further, That no such appropriation shall be decreased by more than 1 percent by any such transfers and that the Congress is promptly notified of the transfer: Provided further, That the National Institutes of Health is authorized to collect third party payments for the cost of clinical services that are incurred in National Institutes of Health research facilities and that such payments shall be credited to the National Institutes of Health Management Fund: Provided further, That all funds credited to the National Institutes of Health Management Fund shall remain available for one fiscal year after the fiscal year in which they are deposited: Provided further, That up to $500,000 shall be available to carry out section 499 of the Public Health Service Act: Provided further, That in addition to the transfer authority provided above, a uniform percentage of the amounts appropriated in this Act to each Institute and Center may be transferred and utilized for the National Institutes of Health Roadmap for Medical Research: Provided further, That the amount utilized under the preceding proviso shall not exceed $250,000,000 without prior notification to the Committees on Appropriations of the House of Representatives and the Senate: Provided further, That amounts transferred and utilized under the preceding two provisos shall be in addition to amounts made available for the Roadmap for Medical Research from the Director's Discretionary Fund and to any amounts allocated to activities related to the Roadmap through the normal research priority-setting process of individual Institutes and Centers: Provided further, That of the funds provided $10,000 shall be for official reception and representation expenses when specifically approved by the Director of NIH: Provided further, That the Office of AIDS Research within the Office of the Director, NIH may spend up to $4,000,000 to make grants for construction or renovation of facilities as provided for in section 2354(a)(5)(B) of the Public Health Service Act: Provided further, That of the funds provided $97,000,000 shall be for expenses necessary to support activities related to countering potential nuclear, radiological and chemical threats to civilian populations.

BUILDINGS AND FACILITIES

For the study of, construction of, renovation of, and acquisition of equipment for, facilities of or used by the National Institutes of Health, including the acquisition of real property, $81,900,000, to remain available until expended.

SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES ADMINISTRATION

SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES

For carrying out titles V and XIX of the Public Health Service Act (''PHS Act'') with respect to substance abuse and mental health services, the Protection and Advocacy for Individuals with Mental Illness Act, and section 301 of the PHS Act with respect to program management, $3,237,813,000: Provided, That notwithstanding section 520A(f)(2) of the PHS Act, no funds appropriated for carrying out section 520A are available for carrying out section 1971 of the PHS Act: Provided further, That in addition to amounts provided herein, the following amounts shall be available under section 241 of the PHS Act: (1) $79,200,000 to carry out subpart II of part B of title XIX of the PHS Act to fund section 1935(b) technical assistance, national data, data collection and evaluation activities, and further that the total available under this Act for section 1935(b) activities shall not exceed 5 percent of the amounts appropriated for subpart II of part B of title XIX; (2) $21,803,000 to carry out subpart I of part B of title XIX of the PHS Act to fund section 1920(b) technical assistance, national data, data collection and evaluation activities, and further that the total available under this Act for section 1920(b) activities shall not exceed 5 percent of the amounts appropriated for subpart I of part B of title XIX; (3) $16,000,000 to carry out national surveys on drug abuse; and (4) $4,300,000 to evaluate substance abuse treatment programs.

AGENCY FOR HEALTHCARE RESEARCH AND QUALITY

HEALTHCARE RESEARCH AND QUALITY

For carrying out titles III and IX of the Public Health Service Act, and part A of title XI of the Social Security Act, amounts received from Freedom of Information Act fees, reimbursable and interagency agreements, and the sale of data shall be credited to this appropriation and shall remain available until expended: Provided, That the amount made available pursuant to section 927(c) of the Public Health Service Act shall not exceed $318,695,000: Provided further, That not more than $50,000,000 of these funds shall be for the development of scientific evidence that supports the implementation and evaluation of health care information technology systems.

CENTERS FOR MEDICARE AND MEDICAID SERVICES

GRANTS TO STATES FOR MEDICAID

For carrying out, except as otherwise provided, titles XI and XIX of the Social Security Act, $156,954,419,000, to remain available until expended.

For making, after May 31, 2006, payments to States under title XIX of the Social Security Act for the last quarter of fiscal year 2006 for unanticipated costs, incurred for the current fiscal year, such sums as may be necessary.

For making payments to States or in the case of section 1928 on behalf of States under title XIX of the Social Security Act for the first quarter of fiscal year 2007, $62,783,825,000, to remain available until expended.

Payment under title XIX may be made for any quarter with respect to a State plan or plan amendment in effect during such quarter, if submitted in or prior to such quarter and approved in that or any subsequent quarter.

PAYMENTS TO HEALTH CARE TRUST FUNDS

For payment to the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds, as provided under section 1844, 1860D–16, and 1860D–31 of the Social Security Act, sections 103(c) and 111(d) of the Social Security Amendments of 1965, section 278(d) of Public Law 97–248, and for administrative expenses incurred pursuant to section 201(g) of the Social Security Act, $177,742,200,000.

In addition, for making matching payments under section 1844, and benefit payments under 1860D–16 and 1860D–31, of the Social Security Act, not anticipated in budget estimates, such sums as may be necessary.

PROGRAM MANAGEMENT

For carrying out, except as otherwise provided, titles XI, XVIII, XIX, and XXI of the Social Security Act, titles XIII and XXVII of the Public Health Service Act, and the Clinical Laboratory Improvement Amendments of 1988, not to exceed $3,170,927,000, to be transferred from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds, as authorized by section 201(g) of the Social Security Act; together with all funds collected in accordance with section 353 of the Public Health Service Act and section 1857(e)(2) of the Social Security Act, and such sums as may be collected from authorized user fees and the sale of data, which shall remain available until expended: Provided, That all funds derived in accordance with 31 U.S.C. 9701 from organizations established under title XIII of the Public Health Service Act shall be credited to and available for carrying out the purposes of this appropriation: Provided further, That $24,205,000, to remain available until September 30, 2007, is for contract costs for the Centers for Medicare and Medicaid Services Systems Revitalization Plan: Provided further, That $79,934,000, to remain available until September 30, 2007, is for contract costs for the Healthcare Integrated General Ledger Accounting System: Provided further, That funds appropriated under this heading are available for the Healthy Start, Grow Smart program under which the Centers for Medicare and Medicaid Services may, directly or through grants, contracts, or cooperative agreements, produce and distribute informational materials including, but not limited to, pamphlets and brochures on infant and toddler health care to expectant parents enrolled in the Medicaid program and to parents and guardians enrolled in such program with infants and children: Provided further, That the Secretary of Health and Human Services is directed to collect fees in fiscal year 2006 from Medicare Advantage organizations pursuant to section 1857(e)(2) of the Social Security Act and from eligible organizations with risk-sharing contracts under section 1876 of that Act pursuant to section 1876(k)(4)(D) of that Act: Provided further, That to the extent Medicare claims volume is projected by the Centers for Medicare and Medicaid Services (CMS) to exceed 200,000,000 Part A claims and/or 1,022,100,000 Part B claims, an additional $32,500,000 shall be available for obligation for every 50,000,000 increase in Medicare claims volume (including a pro rata amount for any increment less than 50,000,000) from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds.

HEALTH MAINTENANCE ORGANIZATION LOAN AND LOAN GUARANTEE FUND

For carrying out subsections (d) and (e) of section 1308 of the Public Health Service Act, any amounts received by the Secretary in connection with loans and loan guarantees under title XIII of the Public Health Service Act, to be available without fiscal year limitation for the payment of outstanding obligations. During fiscal year 2006, no commitments for direct loans or loan guarantees shall be made.

ADMINISTRATION FOR CHILDREN AND FAMILIES

PAYMENTS TO STATES FOR CHILD SUPPORT ENFORCEMENT AND FAMILY SUPPORT PROGRAMS

For making payments to States or other non-Federal entities under titles I, IV–D, X, XI, XIV, and XVI of the Social Security Act and the Act of July 5, 1960 (24 U.S.C. ch. 9), $2,121,643,000, to remain available until expended; and for such purposes for the first quarter of fiscal year 2007, $1,200,000,000, to remain available until expended.

For making payments to each State for carrying out the program of Aid to Families with Dependent Children under title IV–A of the Social Security Act before the effective date of the program of Temporary Assistance for Needy Families (TANF) with respect to such State, such sums as may be necessary: Provided, That the sum of the amounts available to a State with respect to expenditures under such title IV–A in fiscal year 1997 under this appropriation and under such title IV–A as amended by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 shall not exceed the limitations under section 116(b) of such Act.

For making, after May 31 of the current fiscal year, payments to States or other non-Federal entities under titles I, IV–D, X, XI, XIV, and XVI of the Social Security Act and the Act of July 5, 1960 (24 U.S.C. ch. 9), for the last 3 months of the current fiscal year for unanticipated costs, incurred for the current fiscal year, such sums as may be necessary.

LOW-INCOME HOME ENERGY ASSISTANCE

For making payments under title XXVI of the Omnibus Budget Reconciliation Act of 1981, $2,000,000,000.

For making payments under title XXVI of the Omnibus Budget Reconciliation Act of 1981, $183,000,000, to remain available until September 30, 2006: Provided, That these funds are for the unanticipated home energy assistance needs of one or more States, as authorized by section 2604(e) of such Act, and notwithstanding the designation requirement of section 2602(e) of such Act.

REFUGEE AND ENTRANT ASSISTANCE

For necessary expenses for refugee and entrant assistance activities and for costs associated with the care and placement of unaccompanied alien children authorized by title IV of the Immigration and Nationality Act and section 501 of the Refugee Education Assistance Act of 1980 (Public Law 96–422), for carrying out section 462 of the Homeland Security Act of 2002 (Public Law 107–296), and for carrying out the Torture Victims Relief Act of 2003 (Public Law 108–179), $575,579,000, of which up to $9,915,000 shall be available to carry out the Trafficking Victims Protection Act of 2003 (Public Law 108–193): Provided, That funds appropriated under this heading pursuant to section 414(a) of the Immigration and Nationality Act and section 462 of the Homeland Security Act of 2002 for fiscal year 2006 shall be available for the costs of assistance provided and other activities to remain available through September 30, 2008.

PAYMENTS TO STATES FOR THE CHILD CARE AND DEVELOPMENT BLOCK GRANT

For carrying out sections 658A through 658R of the Omnibus Budget Reconciliation Act of 1981 (The Child Care and Development Block Grant Act of 1990), $2,082,910,000 shall be used to supplement, not supplant State general revenue funds for child care assistance for low-income families: Provided, That $18,967,040 shall be available for child care resource and referral and school-aged child care activities, of which $992,000 shall be for the Child Care Aware toll-free hotline: Provided further, That, in addition to the amounts required to be reserved by the States under section 658G, $270,490,624 shall be reserved by the States for activities authorized under section 658G, of which $99,200,000 shall be for activities that improve the quality of infant and toddler care: Provided further, That $9,920,000 shall be for use by the Secretary for child care research, demonstration, and evaluation activities.

SOCIAL SERVICES BLOCK GRANT

For making grants to States pursuant to section 2002 of the Social Security Act, $1,700,000,000: Provided, That notwithstanding subparagraph (B) of section 404(d)(2) of such Act, the applicable percent specified under such

subparagraph for a State to carry out State programs pursuant to title XX of such Act shall be 10 percent.

CHILDREN AND FAMILIES SERVICES PROGRAMS

(INCLUDING RESCISSION OF FUNDS)

For carrying out, except as otherwise provided, the Runaway and Homeless Youth Act, the Developmental Disabilities Assistance and Bill of Rights Act, the Head Start Act, the Child Abuse Prevention and Treatment Act, sections 310 and 316 of the Family Violence Prevention and Services Act, as amended, the Native American Programs Act of 1974, title II of Public Law 95–266 (adoption opportunities), the Adoption and Safe Families Act of 1997 (Public Law 105–89), sections 1201 and 1211 of the Children's Health Act of 2000, the Abandoned Infants Assistance Act of 1988, sections 261 and 291 of the Help America Vote Act of 2002, part B(1) of title IV and sections 413, 429A, 1110, and 1115 of the Social Security Act, and sections 40155, 40211, and 40241 of Public Law 103–322; for making payments under the Community Services Block Grant Act, sections 439(h), 473A, and 477(i) of the Social Security Act, and title IV of Public Law 105–285, and for necessary administrative expenses to carry out said Acts and titles I, IV, V, X, XI, XIV, XVI, and XX of the Social Security Act, the Act of July 5, 1960 (24 U.S.C. ch. 9), the Omnibus Budget Reconciliation Act of 1981, title IV of the Immigration and Nationality Act, section 501 of the Refugee Education Assistance Act of 1980, sections 40155, 40211, and 40241 of Public Law 103–322, and section 126 and titles IV and V of Public Law 100–485, $8,922,213,000, of which $18,000,000, to remain available until September 30, 2007, shall be for grants to States for adoption incentive payments, as authorized by section 473A of title IV of the Social Security Act (42 U.S.C. 670–679) and may be made for adoptions completed before September 30, 2006: Provided, That $6,843,114,000 shall be for making payments under the Head Start Act, of which $1,388,800,000 shall become available October 1, 2006, and remain available through September 30, 2007: Provided further, That $701,590,000 shall be for making payments under the Community Services Block Grant Act: Provided further, That not less than $7,367,000 shall be for section 680(3)(B) of the Community Services Block Grant Act: Provided further, That in addition to amounts provided herein, $6,000,000 shall be available from amounts available under section 241 of the Public Health Service Act to carry out the provisions of section 1110 of the Social Security Act: Provided further, That to the extent Community Services Block Grant funds are distributed as grant funds by a State to an eligible entity as provided under the Act, and have not been expended by such entity, they shall remain with such entity for carryover into the next fiscal year for expenditure by such entity consistent with program purposes: Provided further, That the Secretary shall establish procedures regarding the disposition of intangible property which permits grant funds, or intangible assets acquired with funds authorized under section 680 of the Community Services Block Grant Act, as amended, to become the sole property of such grantees after a period of not more than 12 years after the end of the grant for purposes and uses consistent with the original grant: Provided further, That funds appropriated for section 680(a)(2) of the Community Services Block Grant Act, as amended, shall be available for financing construction and rehabilitation and loans or investments in private business enterprises owned by community development corporations: Provided further, That $65,000,000 is for a compassion capital fund to provide grants to charitable organizations to emulate model social service programs and to encourage research on the best practices of social service organizations: Provided further, That $15,879,000 shall be for activities authorized by the Help America Vote Act of 2002, of which $11,000,000 shall be for payments to States to promote access for voters with disabilities, and of which $4,879,000 shall be for payments to States for protection and advocacy systems for voters with disabilities: Provided further, That $110,000,000 shall be for making competitive grants to provide abstinence education (as defined by section 510(b)(2) of the Social Security Act) to adolescents, and for Federal costs of administering the grant: Provided further, That grants under the immediately preceding proviso shall be made only to public and private entities which agree that, with respect to an adolescent to whom the entities provide abstinence education under such grant, the entities will not provide to that adolescent any other education regarding sexual conduct, except that, in the case of an entity expressly required by law to provide health information or services the adolescent shall not be precluded from seeking health information or services from the entity in a different setting than the setting in which abstinence education was provided: Provided further, That within amounts provided herein for abstinence education for adolescents, up to $10,000,000 may be available for a national abstinence education campaign: Provided further, That in addition to amounts provided herein for abstinence education for adolescents, $4,500,000 shall be available from amounts available under section 241 of the Public Health Service Act to carry out evaluations (including longitudinal evaluations) of adolescent pregnancy prevention approaches: Provided further, That $2,000,000 shall be for improving the Public Assistance Reporting Information System, including grants to States to support data collection for a study of the system's effectiveness.

Of the funds provided under this heading in Public Law 108–447 to carry out section 473A of title IV of the Social Security Act (42 U.S.C. 670–679), $22,500,000 are rescinded.

PROMOTING SAFE AND STABLE FAMILIES

For carrying out section 436 of the Social Security Act, $305,000,000 and for section 437, $90,000,000.

PAYMENTS TO STATES FOR FOSTER CARE AND ADOPTION ASSISTANCE

For making payments to States or other non-Federal entities under title IV–E of the Social Security Act, $4,852,800,000.

For making payments to States or other non-Federal entities under title IV–E of the Act, for the first quarter of fiscal year 2007, $1,730,000,000.

For making, after May 31 of the current fiscal year, payments to States or other non-Federal entities under section 474 of title IV–E, for the last 3 months of the current fiscal year for unanticipated costs, incurred for the current fiscal year, such sums as may be necessary.

ADMINISTRATION ON AGING

AGING SERVICES PROGRAMS

For carrying out, to the extent not otherwise provided, the Older Americans Act of 1965, as amended, and section 398 of the Public Health Service Act, $1,376,624,000, of which $5,500,000 shall be available for activities regarding medication management, screening, and education to prevent incorrect medication and adverse drug reactions.

OFFICE OF THE SECRETARY

GENERAL DEPARTMENTAL MANAGEMENT

For necessary expenses, not otherwise provided, for general departmental management, including hire of six sedans, and for carrying out titles III, XVII, XX, and XXI of the Public Health Service Act, the United States-Mexico Border Health Commission Act, and research studies under section 1110 of the Social Security Act, $352,703,000, together with $5,851,000 to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from the Hospital Insurance Trust Fund and the Supplemental Medical Insurance Trust Fund, and $39,552,000 from the amounts available under section 241 of the Public Health Service Act to carry out national health or human services research and evaluation activities: Provided, That of the funds made available under this heading for carrying out title XX of the Public Health Service Act, $13,120,000 shall be for activities specified under section 2003(b)(2), all of which shall be for prevention service demonstration grants under section 510(b)(2) of title V of the Social Security Act, as amended, without application of the limitation of section 2010(c) of said title XX: Provided further, That of this amount, $52,415,000 shall be for minority AIDS prevention and treatment activities; and $5,952,000 shall be to assist Afghanistan in the development of maternal and child health clinics, consistent with section 103(a)(4)(H) of the Afghanistan Freedom Support Act of 2002: Provided further, That specific information requests from the chairmen and ranking members of the Subcommittees on Labor, Health and Human Services, and Education, and Related Agencies, on scientific research or any other matter, shall be transmitted to the Committees on Appropriations in a prompt professional manner and within the time frame specified in the request: Provided further, That scientific information requested by the Committees on Appropriations and prepared by government researchers and scientists shall be transmitted to the Committees on Appropriations, uncensored and without delay.

OFFICE OF MEDICARE HEARINGS AND APPEALS

For expenses necessary for administrative law judges responsible for hearing cases under title XVIII of the Social Security Act (and related provisions of title XI of such Act), $60,000,000, to be transferred in appropriate part from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds.

OFFICE OF THE NATIONAL COORDINATOR FOR HEALTH INFORMATION TECHNOLOGY

For expenses necessary for the Office of the National Coordinator for Health Information Technology, including grants, contracts and cooperative agreements for the development and advancement of an interoperable national health information technology infrastructure, $42,800,000: Provided, That in addition to amounts provided herein, $18,900,000 shall be available from amounts available under section 241 of the Public Health Service Act to carry out health information technology network development.

OFFICE OF INSPECTOR GENERAL

For expenses necessary for the Office of Inspector General, including the hire of passenger motor vehicles for investigations, in carrying out the provisions of the Inspector General Act of 1978, as amended, $39,813,000: Provided, That of such amount, necessary sums are available for providing protective services to the Secretary and investigating non-payment of child support cases for which non-payment is a Federal offense under 18 U.S.C. 228.

OFFICE FOR CIVIL RIGHTS

For expenses necessary for the Office for Civil Rights, $31,682,000, together with not to exceed $3,314,000 to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from the Hospital Insurance Trust Fund and the Supplemental Medical Insurance Trust Fund.

RETIREMENT PAY AND MEDICAL BENEFITS FOR COMMISSIONED OFFICERS

For retirement pay and medical benefits of Public Health Service Commissioned Officers as authorized by law, for payments under the Retired Serviceman's Family Protection Plan and Survivor Benefit Plan, for medical care of dependents and retired personnel under the Dependents' Medical Care Act (10 U.S.C. chapter 55), such amounts as may be required during the current fiscal year.

PUBLIC HEALTH AND SOCIAL SERVICES EMERGENCY FUND

For expenses necessary to support activities related to countering potential biological, disease, nuclear, radiological and chemical threats to civilian populations, and to ensure a year-round influenza vaccine production capacity, the development and implementation of rapidly expandable influenza vaccine production technologies, and if determined necessary by the Secretary, the purchase of influenza vaccine, $183,589,000: Provided, That $120,000,000 of amounts available for influenza preparedness shall remain available until expended.

GENERAL PROVISIONS

SEC. 201. Funds appropriated in this title shall be available for not to exceed $50,000 for official reception and representation expenses when specifically approved by the Secretary.

SEC. 202. The Secretary shall make available through assignment not more than 60 employees of the Public Health Service to assist in child survival activities and to work in AIDS programs through and with funds provided by the Agency for International Development, the United Nations International Children's Emergency Fund or the World Health Organization.

SEC. 203. None of the funds appropriated in this Act may be used to implement section 399F(b) of the Public Health Service Act or section 1503 of the National Institutes of Health Revitalization Act of 1993, Public Law 103–43.

SEC. 204. None of the funds appropriated in this Act for the National Institutes of Health, the Agency for Healthcare Research and Quality, and the Substance Abuse and Mental Health Services Administration shall be used to pay the salary of an individual, through a grant or other extramural mechanism, at a rate in excess of Executive Level I.

SEC. 205. None of the funds appropriated in this title for Head Start shall be used to pay the compensation of an individual, either as direct costs or any proration as an indirect cost, at a rate in excess of Executive Level II.

SEC. 206. None of the funds appropriated in this Act may be expended pursuant to section 241 of the Public Health Service Act, except for funds specifically provided for in this Act, or for other taps and assessments made by any office located in the Department of Health and Human Services, prior to the Secretary's preparation and submission of a report to the Committee on Appropriations of the Senate and of the House detailing the planned uses of such funds.

SEC. 207. Notwithstanding section 241(a) of the Public Health Service Act, such portion as the Secretary shall determine, but not more than 2.4 percent, of any amounts appropriated for programs authorized under said Act shall be made available for the evaluation (directly, or by grants or contracts) of the implementation and effectiveness of such programs.

(TRANSFER OF FUNDS)

SEC. 208. Not to exceed 1 percent of any discretionary funds (pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985, as amended) which are appropriated for the current fiscal year for the Department of Health and Human Services in this Act may be transferred between a program, project, or activity, but no such program, project, or activity shall be increased by more than 3 percent by any such transfer: Provided, That a program, project, or activity may be increased by up to an additional 2 percent subject to approval by the House and Senate Committees on Appropriations: Provided further, That the transfer authority granted by this section shall be available only to meet emergency needs and shall not be used to create any new program or to fund any project or activity for which no funds are provided in this Act: Provided further, That the Appropriations Committees of both Houses of Congress are notified at least 15 days in advance of any transfer.

(TRANSFER OF FUNDS)

SEC. 209. The Director of the National Institutes of Health, jointly with the Director of the Office of AIDS Research, may transfer up to 3 percent among institutes and centers from the total amounts identified by these two Directors as funding for research pertaining to the human immunodeficiency virus: Provided, That the Congress is promptly notified of the transfer.

(TRANSFER OF FUNDS)

SEC. 210. Of the amounts made available in this Act for the National Institutes of Health, the amount for research related to the human immunodeficiency virus, as jointly determined by the Director of the National Institutes of Health and the Director of the Office of AIDS Research, shall be made available to the ''Office of AIDS Research'' account. The Director of the Office of AIDS Research shall transfer from such account amounts necessary to carry out section 2353(d)(3) of the Public Health Service Act.

SEC. 211. None of the funds appropriated in this Act may be made available to any entity under title X of the Public Health Service Act unless the applicant for the award certifies to the Secretary that it encourages family participation in the decision of minors to seek family planning services and that it provides counseling to minors on how to resist attempts to coerce minors into engaging in sexual activities.

SEC. 212. None of the funds appropriated by this Act (including funds appropriated to any trust fund) may be used to carry out the Medicare Advantage program if the Secretary denies participation in such program to an otherwise eligible entity (including a Provider Sponsored Organization) because the entity informs the Secretary that it will not provide, pay for, provide coverage of, or provide referrals for abortions: Provided, That the Secretary shall make appropriate prospective adjustments to the capitation payment to such an entity (based on an actuarially sound estimate of the expected costs of providing the service to such entity's enrollees): Provided further, That nothing in this section shall be construed to change the Medicare program's coverage for such services and a Medicare Advantage organization described in this section shall be responsible for informing enrollees where to obtain information about all Medicare covered services.

SEC. 213. Notwithstanding any other provision of law, no provider of services under title X of the Public Health Service Act shall be exempt from any State law requiring notification or the reporting of child abuse, child molestation, sexual abuse, rape, or incest.

SEC. 214. (a) Except as provided by subsection (e) none of the funds appropriated by this Act may be used to withhold substance abuse funding from a State pursuant to section 1926 of the Public Health Service Act (42 U.S.C. 300x–26) if such State certifies to the Secretary of Health and Human Services by May 1, 2006, that the State will commit additional State funds, in accordance with subsection (b), to ensure compliance with State laws prohibiting the sale of tobacco products to individuals under 18 years of age.

(b) The amount of funds to be committed by a State under subsection (a) shall be equal to 1 percent of such State's substance abuse block grant allocation for each percentage point by which the State misses the retailer compliance rate goal established by the Secretary of Health and Human Services under section 1926 of such Act.

(c) The State is to maintain State expenditures in fiscal year 2006 for tobacco prevention programs and for compliance activities at a level that is not less than the level of such expenditures maintained by the State for fiscal year 2005, and adding to that level the additional funds for tobacco compliance activities required under subsection (a). The State is to submit a report to the Secretary on all fiscal year 2005 State expenditures and all fiscal year 2006 obligations for tobacco prevention and compliance activities by program activity by July 31, 2006.

(d) The Secretary shall exercise discretion in enforcing the timing of the State obligation of the additional funds required by the certification described in subsection (a) as late as July 31, 2006.

(e) None of the funds appropriated by this Act may be used to withhold substance abuse funding pursuant to section 1926 from a territory that receives less than $1,000,000.

SEC. 215. In order for the Centers for Disease Control and Prevention to carry out international health activities, including HIV/AIDS and other infectious disease, chronic and environmental disease, and other health activities abroad during fiscal year 2006, the Secretary of Health and Human Services—

(1) may exercise authority equivalent to that available to the Secretary of State in section 2(c) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2669(c)). The Secretary of Health and Human Services shall consult with the Secretary of State and relevant Chief of Mission to ensure that the authority provided in this section is exercised in a manner consistent with section 207 of the Foreign Service Act of 1980 (22 U.S.C. 3927) and other applicable statutes administered by the Department of State, and

(2) is authorized to provide such funds by advance or reimbursement to the Secretary of State as may be necessary to pay the costs of acquisition, lease, alteration, renovation, and management of facilities outside of the United States for the use of the Department of Health and Human Services. The Department of State shall cooperate fully with the Secretary of Health and Human Services to ensure that the Department of Health and Human Services has secure, safe, functional facilities that comply with applicable regulation governing location, setback, and other facilities requirements and serve the purposes established by this Act. The Secretary of Health and Human Services is authorized, in consultation with the Secretary of State, through grant or cooperative agreement, to make available to public or nonprofit private institutions or agencies in participating foreign countries, funds to acquire, lease, alter, or renovate facilities in those countries as necessary to conduct programs of assistance for international health activities, including activities relating to HIV/AIDS and other infectious diseases, chronic and environmental diseases, and other health activities abroad.

SEC. 216. The Division of Federal Occupational Health hereafter may utilize personal services contracting to employ professional management/administrative and occupational health professionals.

SEC. 217. (a) AUTHORITY.—Notwithstanding any other provision of law, the Director of the National Institutes of Health may use funds available under section 402(i) of the Public Health Service Act (42 U.S.C. 282(i)) to enter into transactions (other than contracts, cooperative agreements, or grants) to carry out research in support of the NIH Roadmap for Medical Research.

(b) PEER REVIEW.—In entering into transactions under subsection (a), the Director of the National Institutes of Health may utilize such peer review procedures (including consultation with appropriate scientific experts) as the Director determines to be appropriate to obtain assessments of scientific and technical merit. Such procedures shall apply to such transactions in lieu of the peer review and advisory council review procedures that would otherwise be required under sections 301(a)(3), 405(b)(1)(B), 405(b)(2), 406(a)(3)(A), 492, and 494 of the Public Health Service Act (42 U.S.C. 241, 284(b)(1)(B), 284(b)(2), 284a(a)(3)(A), 289a, and 289c).

SEC. 218. Funds which are available for Individual Learning Accounts for employees of the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry may be transferred to ''Disease Control, Research, and Training,'' to be available only for Individual Learning Accounts: Provided,

That such funds may be used for any individual full-time equivalent employee while such employee is employed either by CDC or ATSDR.

SEC. 219. Notwithstanding any other provisions of law, funds made available in this Act may be used to continue operating the Council on Graduate Medical Education established by section 301 of Public Law 102–408.

(RESCISSION OF FUNDS)

SEC. 220. The unobligated balance in the amount of $10,000,000 appropriated by Public Law 108–11 under the heading ''Public Health and Social Services Emergency Fund'' are rescinded.

SEC. 221. (a) The Headquarters and Emergency Operations Center Building (Building 21) at the Centers for Disease Control and Prevention is hereby renamed as the Arlen Specter Headquarters and Emergency Operations Center.

(b) The Global Communications Center Building (Building 19) at the Centers for Disease Control and Prevention is hereby renamed as the Thomas R. Harkin Global Communications Center.

SEC. 222. None of the funds made available under this Act may be used to implement or enforce the interim final rule published in the Federal Register by the Centers for Medicare & Medicaid Services on August 26, 2005 (70 Fed. Reg. 50940) prior to April 1, 2006.

SEC. 223. (a) For fiscal year 2006 and subject to subsection (b), the Secretary of Health and Human Services may waive the requirements of regulations promulgated under the Head Start Act (42 U.S.C. 9831 et seq.), for one or more vehicles used by a Head Start agency or an Early Head Start entity (or the designee of either) in transporting children enrolled in a Head Start program or an Early Head Start program if—

(1) such requirements pertain to child restraint systems or vehicle monitors;

(2) the agency or entity demonstrates that compliance with such requirements will result in a significant disruption to the Head Start program or the Early Head Start program; and

(3) waiving such requirements is in the best interest of the children involved.

(b) The Secretary of Health and Human Services may not issue any waiver under subsection (a) after September 30, 2006, or the date of the enactment of a statute that authorizes appropriations for fiscal year 2006 to carry out the Head Start Act, whichever date is earlier.

SEC. 224. Section 1310.12(a) of title 45 of the Code of Federal Regulations (October 1, 2004) shall not be effective until June 30, 2006 or 60 days after the date of the enactment of a statute that authorizes appropriations for fiscal year 2006 to carry out the Head Start Act, whichever date is earlier.

(RESCISSION)

SEC. 225. The unobligated balance of the Health Professions Student Loan program authorized in Subpart II, Federally-Supported Student Loan Funds, of title VII of the Public Health Services Act is rescinded.

(RESCISSION)

SEC. 226. The unobligated balance of the Nursing Student Loan program authorized by section 835 of the Public Health Services Act is rescinded.

SEC. 227. In addition to any other amounts available for such travel, and notwithstanding any other provision of law, amounts available from this or any other appropriation for the purchase, hire, maintenance, or operation of aircraft by the Centers for Disease Control and Prevention shall be available for travel by the Secretary of Health and Human Services, the Director of the Centers for Disease Control and Prevention, and employees of the Department of Health and Human Services accompanying the Secretary or the Director during such travel.

This title may be cited as the ''Department of Health and Human Services Appropriations Act, 2006''.

TITLE III—DEPARTMENT OF EDUCATION

EDUCATION FOR THE DISADVANTAGED

For carrying out title I of the Elementary and Secondary Education Act of 1965 (''ESEA'') and section 418A of the Higher Education Act of 1965, $14,627,435,000, of which $7,043,126,000 shall become available on July 1, 2006, and shall remain available through September 30, 2007, and of which $7,383,301,000 shall become available on October 1, 2006, and shall remain available through September 30, 2007 for academic year 2006–2007: Provided, That $6,934,854,000 shall be for basic grants under section 1124: Provided further, That up to $3,472,000 of these funds shall be available to the Secretary of Education on October 1, 2005, to obtain annually updated educational-agency-level census poverty data from the Bureau of the Census: Provided further, That $1,365,031,000 shall be for concentration grants under section 1124A: Provided further, That $2,269,843,000 shall be for targeted grants under section 1125: Provided further, That $2,269,843,000 shall be for education finance incentive grants under section 1125A: Provided further, That $9,424,000 shall be to carry out part E of title I: Provided further, That $8,000,000 shall be available for section 1608 of the ESEA, of which $1,465,000 shall be available for a continuation award for the comprehensive school reform clearinghouse previously funded under the heading ''Innovation and Improvement'' in title III of division F of Public Law 108–447.

IMPACT AID

For carrying out programs of financial assistance to federally affected schools authorized by title VIII of the Elementary and Secondary Education Act of 1965, $1,240,862,000, of which $1,102,896,000 shall be for basic support payments under section 8003(b), $49,966,000 shall be for payments for children with disabilities under section 8003(d), $18,000,000 shall be for construction under section 8007(a), $65,000,000 shall be for Federal property payments under section 8002, and $5,000,000, to remain available until expended, shall be for facilities maintenance under section 8008: Provided, That for purposes of computing the amount of a payment for an eligible local educational agency under section 8003(a) of the Elementary and Secondary Education Act (20 U.S.C. 7703(a)) for school year 2005–2006, children enrolled in a school of such agency that would otherwise be eligible for payment under section 8003(a)(1)(B) of such Act, but due to the deployment of both parents or legal guardians, or a parent or legal guardian having sole custody of such children, or due to the death of a military parent or legal guardian while on active duty (so long as such children reside on Federal property as described in section 8003(a)(1)(B)), are no longer eligible under such section, shall be considered as eligible students under such section, provided such students remain in average daily attendance at a school in the same local educational agency they attended prior to their change in eligibility status.

SCHOOL IMPROVEMENT PROGRAMS

For carrying out school improvement activities authorized by title II, part B of title IV, part A and subparts 6 and 9 of part D of title V, parts A and B of title VI, and parts B and C of title VII of the Elementary and Secondary Education Act of 1965 (''ESEA''); the McKinney-Vento Homeless Assistance Act; section 203 of the Educational Technical Assistance Act of 2002; the Compact of Free Association Amendments Act of 2003; and the Civil Rights Act of 1964, $5,308,564,000, of which $3,676,482,000 shall become available on July 1, 2006, and remain available through September 30, 2007, and of which $1,435,000,000 shall become available on October 1, 2006, and shall remain available through September 30, 2007, for academic year 2006–2007: Provided, That funds made available to carry out part B of title VII of the ESEA may be used for construction, renovation and modernization of any elementary school, secondary school, or structure related to an elementary school or secondary school, run by the Department of Education of the State of Hawaii, that serves a predominantly Native Hawaiian student body: Provided further, That from the funds referred to in the preceding proviso, not less than $1,250,000 shall be for a grant to the Department of Education of the State of Hawaii for the activities described in such proviso, and $1,250,000 shall be for a grant to the University of Hawaii School of Law for a Center of Excellence in Native Hawaiian law: Provided further, That funds made available to carry out part C of title VII of the ESEA may be used for construction: Provided further, That $411,680,000 shall be for State assessments and related activities authorized under sections 6111 and 6112 of the ESEA: Provided further, That $56,825,000 shall be available to carry out section 203 of the Educational Technical Assistance Act of 2002: Provided further, That $31,693,000 shall be available to carry out part D of title V of the ESEA: Provided further, That no funds appropriated under this heading may be used to carry out section 5494 under the ESEA: Provided further, That $12,132,000 shall be available to carry out the Supplemental Education Grants program for the Federated States of Micronesia, and $6,051,000 shall be available to carry out the Supplemental Education Grants program for the Republic of the Marshall Islands: Provided further, That up to 5 percent of these amounts may be reserved by the Federated States of Micronesia and the Republic of the Marshall Islands to administer the Supplemental Education Grants programs and to obtain technical assistance, oversight and consultancy services in the administration of these grants and to reimburse the United States Departments of Labor, Health and Human Services, and Education for such services.

INDIAN EDUCATION

For expenses necessary to carry out, to the extent not otherwise provided, title VII, part A of the Elementary and Secondary Education Act of 1965, $119,889,000.

INNOVATION AND IMPROVEMENT

For carrying out activities authorized by parts G and H of title I, subpart 5 of part A and parts C and D of title II, parts B, C, and D of title V, and section 1504 of the Elementary and Secondary Education Act of 1965 (''ESEA''), $945,947,000, of which $95,000,000 shall become available on July 1, 2006 and remain available until September 30, 2007: Provided, That $16,864,000 shall be available to carry out section 2151(c) of the ESEA, of which not less than $9,920,000 shall be provided to the National Board for Professional Teaching Standards, and not less than $6,944,000 shall be provided to the American Board for the Certification of Teacher Excellence: Provided further, That from funds for subpart 4, part C of title II, up to 3 percent shall be available to the Secretary for technical assistance and dissemination of information: Provided further, That $36,981,000 shall be for subpart 2 of part B of title V: Provided further, That $260,111,000 shall be available to carry out part D of title V of the ESEA, of which $100,000,000 of the funds for subpart 1 shall be for competitive grants to local educational agencies, including charter schools that are local educational agencies, or States, or partnerships of (1) a local educational agency, a State, or both and (2) at least one non-profit organization to develop and implement performance-based teacher and principal compensation systems in high-need schools: Provided further, That such performance-based compensation systems must consider gains in student academic achievement as well as classroom evaluations conducted multiple times during each school year among other factors and provide educators with incentives to take on additional responsibilities and leadership roles: Provided further,

That five percent of such funds for competitive grants shall become available on October 1, 2005 for technical assistance, training, peer review of applications, program outreach and evaluation activities and that 95 percent shall become available on July 1, 2006 and remain available through September 30, 2007 for competitive grants.

SAFE SCHOOLS AND CITIZENSHIP EDUCATION

For carrying out activities authorized by subpart 3 of part C of title II, part A of title IV, and subparts 2, 3 and 10 of part D of title V of the Elementary and Secondary Education Act of 1965 (''ESEA''), $736,886,000, of which $350,000,000 shall become available on July 1, 2006 and remain available through September 30, 2007: Provided, That of the amount available for subpart 2 of part A of title IV of the ESEA, $850,000 shall be used to continue the National Recognition Awards program under the same guidelines outlined by section 120(f) of Public Law 105–244: Provided further, That $350,000,000 shall be available for subpart 1 of part A of title IV and $224,580,000 shall be available for subpart 2 of part A of title IV, of which $1,449,000, to remain available until expended, shall be for the Project School Emergency Response to Violence program to provide education-related services to local educational agencies in which the learning environment has been disrupted due to a violent or traumatic crisis: Provided further, That $132,901,000 shall be available to carry out part D of title V of the ESEA: Provided further, That of the funds available to carry out subpart 3 of part C of title II, up to $12,194,000 may be used to carry out section 2345 and $3,025,000 shall be used by the Center for Civic Education to implement a comprehensive program to improve public knowledge, understanding, and support of the Congress and the State legislatures.

ENGLISH LANGUAGE ACQUISITION

For carrying out part A of title III of the ESEA, $675,765,000, which shall become available on July 1, 2006, and shall remain available through September 30, 2007, except that 6.5 percent of such amount shall be available on October 1, 2005 and shall remain available through September 30, 2007, to carry out activities under section 3111(c)(1)(C).

SPECIAL EDUCATION

For carrying out the Individuals with Disabilities Education Act, $11,770,607,000, of which $6,141,604,000 shall become available on July 1, 2006, and shall remain available through September 30, 2007, and of which $5,424,200,000 shall become available on October 1, 2006, and shall remain available through September 30, 2007, for academic year 2006–2007: Provided, That $12,000,000 shall be for Recording for the Blind and Dyslexic, Inc., to support the development, production, and circulation of recorded educational materials: Provided further, That $1,500,000 shall be for the recipient of funds provided by Public Law 105–78 under section 687(b)(2)(G) of the Act (as in effect prior to the enactment of the Individuals with Disabilities Education Improvement Act of 2004) to provide information on diagnosis, intervention, and teaching strategies for children with disabilities: Provided further, That the amount for section 611(b)(2) of the Act shall be equal to the amount available for that activity during fiscal year 2005, increased by the amount of inflation as specified in section 619(d)(2)(B) of the Act.

REHABILITATION SERVICES AND DISABILITY RESEARCH

For carrying out, to the extent not otherwise provided, the Rehabilitation Act of 1973, the Assistive Technology Act of 1998 (''the AT Act''), and the Helen Keller National Center Act, $3,129,638,000, of which $1,000,000 shall be awarded to the American Academy of Orthotists and Prosthetists for activities that further the purposes of the grant received by the Academy for the period beginning October 1, 2003, including activities to meet the demand for orthotic and prosthetic provider services and improve patient care: Provided, That $30,760,000 shall be used for carrying out the AT Act, including $4,385,000 for State grants for protection and advocacy under section 5 of the AT Act and $3,760,000 shall be for alternative financing programs under section 4(b)(2)(D) of the AT Act: Provided further, That the Federal share of grants for alternative financing programs shall not exceed 75 percent, and the requirements in section 301(c)(2) and section 302 of the AT Act (as in effect on the day before the date of enactment of the Assistive Technology Act of 2004) shall not apply to such grants.

SPECIAL INSTITUTIONS FOR PERSONS WITH DISABILITIES

AMERICAN PRINTING HOUSE FOR THE BLIND

For carrying out the Act of March 3, 1879, as amended (20 U.S.C. 101 et seq.), $17,750,000.

NATIONAL TECHNICAL INSTITUTE FOR THE DEAF

For the National Technical Institute for the Deaf under titles I and II of the Education of the Deaf Act of 1986 (20 U.S.C. 4301 et seq.), $56,708,000, of which $800,000 shall be for construction and shall remain available until expended: Provided, That from the total amount available, the Institute may at its discretion use funds for the endowment program as authorized under section 207.

GALLAUDET UNIVERSITY

For the Kendall Demonstration Elementary School, the Model Secondary School for the Deaf, and the partial support of Gallaudet University under titles I and II of the Education of the Deaf Act of 1986 (20 U.S.C. 4301 et seq.), $108,079,000: Provided, That from the total amount available, the University may at its discretion use funds for the endowment program as authorized under section 207.

VOCATIONAL AND ADULT EDUCATION

For carrying out, to the extent not otherwise provided, the Carl D. Perkins Vocational and Technical Education Act of 1998, the Adult Education and Family Literacy Act, title VIII–D of the Higher Education Amendments of 1998, and subpart 4 of part D of title V of the Elementary and Secondary Education Act of 1965 (''ESEA''), $2,012,282,000, of which $1,216,558,000 shall become available on July 1, 2006 and shall remain available through September 30, 2007 and of which $791,000,000 shall become available on October 1, 2006 and shall remain available through September 30, 2007: Provided, That of the amount provided for Adult Education State Grants, $68,582,000 shall be made available for integrated English literacy and civics education services to immigrants and other limited English proficient populations: Provided further, That of the amount reserved for integrated English literacy and civics education, notwithstanding section 211 of the Adult Education and Family Literacy Act, 65 percent shall be allocated to States based on a State's absolute need as determined by calculating each State's share of a 10-year average of the Immigration and Naturalization Service data for immigrants admitted for legal permanent residence for the 10 most recent years, and 35 percent allocated to States that experienced growth as measured by the average of the 3 most recent years for which Immigration and Naturalization Service data for immigrants admitted for legal permanent residence are available, except that no State shall be allocated an amount less than $60,000: Provided further, That of the amounts made available for the Adult Education and Family Literacy Act, $9,096,000 shall be for national leadership activities under section 243 and $6,638,000 shall be for the National Institute for Literacy under section 242: Provided further, That $94,476,000 shall be available to support the activities authorized under subpart 4 of part D of title V of the Elementary and Secondary Education Act of 1965, of which up to 5 percent shall become available October 1, 2005 and shall remain available through September 30, 2007, for evaluation, technical assistance, school networks, peer review of applications, and program outreach activities, and of which not less than 95 percent shall become available on July 1, 2006, and remain available through September 30, 2007, for grants to local educational agencies: Provided further, That funds made available to local educational agencies under this subpart shall be used only for activities related to establishing smaller learning communities within large high schools or small high schools that provide alternatives for students enrolled in large high schools: Provided further, That $23,000,000 shall be for Youth Offender Grants.

STUDENT FINANCIAL ASSISTANCE

For carrying out subparts 1, 3, and 4 of part A, part C and part E of title IV of the Higher Education Act of 1965, as amended, $15,077,752,000, which shall remain available through September 30, 2007.

The maximum Pell Grant for which a student shall be eligible during award year 2006–2007 shall be $4,050.

STUDENT AID ADMINISTRATION

For Federal administrative expenses (in addition to funds made available under section 458), to carry out part D of title I, and subparts 1, 3, and 4 of part A, and parts B, C, D and E of title IV of the Higher Education Act of 1965, as amended, $120,000,000.

HIGHER EDUCATION

For carrying out, to the extent not otherwise provided, titles II, III, IV, V, VI, and VII of the Higher Education Act of 1965 (''HEA''), as amended, section 1543 of the Higher Education Amendments of 1992, the Mutual Educational and Cultural Exchange Act of 1961, title VIII of the Higher Education Amendments of 1998, and section 117 of the Carl D. Perkins Vocational and Technical Education Act, $1,970,760,000: Provided, That $9,797,000, to remain available through September 30, 2007, shall be available to fund fellowships for academic year 2007–2008 under part A, subpart 1 of title VII of said Act, under the terms and conditions of part A, subpart 1: Provided further, That notwithstanding any other provision of law or any regulation, the Secretary of Education shall not require the use of a restricted indirect cost rate for grants issued pursuant to section 117 of the Carl D. Perkins Vocational and Technical Education Act of 1998: Provided further, That $980,000 is for data collection and evaluation activities for programs under the HEA, including such activities needed to comply with the Government Performance and Results Act of 1993: Provided further, That notwithstanding any other provision of law, funds made available in this Act to carry out title VI of the HEA and section 102(b)(6) of the Mutual Educational and Cultural Exchange Act of 1961 may be used to support visits and study in foreign countries by individuals who are participating in advanced foreign language training and international studies in areas that are vital to United States national security and who plan to apply their language skills and knowledge of these countries in the fields of government, the professions, or international development: Provided further, That of the funds referred to in the preceding proviso up to 1 percent may be used for program evaluation, national outreach, and information dissemination activities: Provided further, That the funds provided for title II of the HEA shall be allocated notwithstanding section 210 of such Act.

HOWARD UNIVERSITY

For partial support of Howard University (20 U.S.C. 121 et seq.), $239,790,000, of which not less than $3,562,000 shall be for a matching endowment grant pursuant to the Howard University Endowment Act (Public Law 98–480) and shall remain available until expended.

COLLEGE HOUSING AND ACADEMIC FACILITIES LOANS PROGRAM

For Federal administrative expenses to carry out activities related to existing facility loans pursuant to section 121 of the Higher Education Act of 1965, as amended $573,000.

HISTORICALLY BLACK COLLEGE AND UNIVERSITY CAPITAL FINANCING PROGRAM ACCOUNT

The aggregate principal amount of outstanding bonds insured pursuant to section 344 of title III, part D of the Higher Education Act of 1965, shall not exceed $357,000,000, and the cost, as defined in section 502 of the Congressional Budget Act of 1974, of such bonds shall not exceed zero.

For administrative expenses to carry out the Historically Black College and University Capital Financing Program entered into pursuant to title III, part D of the Higher Education Act of 1965, as amended, $210,000.

INSTITUTE OF EDUCATION SCIENCES

For carrying out activities authorized by the Education Sciences Reform Act of 2002, as amended, the National Assessment of Educational Progress Authorization Act, section 208 of the Educational Technical Assistance Act of 2002, and section 664 of the Individuals with Disabilities Education Act, $522,695,000, of which $271,560,000 shall be available until September 30, 2007: Provided, That of the amount provided to carry out title I, parts B and D of Public Law 107–279, not less than $25,257,000 shall be for the national research and development centers authorized under section 133(c).

DEPARTMENTAL MANAGEMENT

PROGRAM ADMINISTRATION

For carrying out, to the extent not otherwise provided, the Department of Education Organization Act, including rental of conference rooms in the District of Columbia and hire of three passenger motor vehicles, $415,303,000.

OFFICE FOR CIVIL RIGHTS

For expenses necessary for the Office for Civil Rights, as authorized by section 203 of the Department of Education Organization Act, $91,526,000.

OFFICE OF THE INSPECTOR GENERAL

For expenses necessary for the Office of the Inspector General, as authorized by section 212 of the Department of Education Organization Act, $49,000,000.

GENERAL PROVISIONS

SEC. 301. No funds appropriated in this Act may be used for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to overcome racial imbalance in any school or school system, or for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to carry out a plan of racial desegregation of any school or school system.

SEC. 302. None of the funds contained in this Act shall be used to require, directly or indirectly, the transportation of any student to a school other than the school which is nearest the student's home, except for a student requiring special education, to the school offering such special education, in order to comply with title VI of the Civil Rights Act of 1964. For the purpose of this section an indirect requirement of transportation of students includes the transportation of students to carry out a plan involving the reorganization of the grade structure of schools, the pairing of schools, or the clustering of schools, or any combination of grade restructuring, pairing or clustering. The prohibition described in this section does not include the establishment of magnet schools.

SEC. 303. No funds appropriated in this Act may be used to prevent the implementation of programs of voluntary prayer and meditation in the public schools.

(TRANSFER OF FUNDS)

SEC. 304. Not to exceed 1 percent of any discretionary funds (pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985, as amended) which are appropriated for the Department of Education in this Act may be transferred between appropriations, but no such appropriation shall be increased by more than 3 percent by any such transfer: Provided, That the Appropriations Committees of both Houses of Congress are notified at least 15 days in advance of any transfer.

SEC. 305. For an additional amount to carry out subpart 1 of part A of title IV of the Higher Education Act of 1965 for the purpose of eliminating the estimated accumulated shortfall of budget authority for such subpart, $4,300,000,000, pursuant to section 303 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

SEC. 306. Subpart 12 of part D of title V of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7265 et seq.) is amended—

(1) in section 5522(b), by adding at the end the following:

''(4) To authorize and develop cultural and educational programs relating to the Mississippi Band of Choctaw Indians.'';

(2) in section 5523(a)—

(A) by redesignating paragraphs (6) through (8) as paragraphs (7) through (9), respectively; and

(B) by inserting after paragraph (5) the following:

''(6) The Mississippi Band of Choctaw Indians in Choctaw, Mississippi.''; and

(3) in section 5525, by adding at the end the following:

''(4) For cultural and educational programs, not less than $2,000,000 to the Mississippi Band of Choctaw Indians in Choctaw, Mississippi.''.

This title may be cited as the ''Department of Education Appropriations Act, 2006''.

TITLE IV—RELATED AGENCIES

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

SALARIES AND EXPENSES

For expenses necessary of the Committee for Purchase From People Who Are Blind or Severely Disabled established by Public Law 92–28, $4,669,000.

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

DOMESTIC VOLUNTEER SERVICE PROGRAMS, OPERATING EXPENSES

For expenses necessary for the Corporation for National and Community Service to carry out the provisions of the Domestic Volunteer Service Act of 1973, as amended, $316,212,000: Provided, That none of the funds made available to the Corporation for National and Community Service in this Act for activities authorized by section 122 of part C of title I and part E of title II of the Domestic Volunteer Service Act of 1973 shall be used to provide stipends or other monetary incentives to volunteers or volunteer leaders whose incomes exceed 125 percent of the national poverty level.

NATIONAL AND COMMUNITY SERVICE PROGRAMS, OPERATING EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses for the Corporation for National and Community Service (the ''Corporation'') in carrying out programs, activities, and initiatives under the National and Community Service Act of 1990 (the ''Act'') (42 U.S.C. 12501 et seq.), $520,087,000, to remain available until September 30, 2007: Provided, That not more than $267,500,000 of the amount provided under this heading shall be available for grants under the National Service Trust Program authorized under subtitle C of title I of the Act (42 U.S.C. 12571 et seq.) (relating to activities of the AmeriCorps program), including grants to organizations operating projects under the AmeriCorps Education Awards Program (without regard to the requirements of sections 121(d) and (e), section 131(e), section 132, and sections 140(a), (d), and (e) of the Act: Provided further, That not less than $140,000,000 of the amount provided under this heading, to remain available without fiscal year limitation, shall be transferred to the National Service Trust for educational awards authorized under subtitle D of title I of the Act (42 U.S.C. 12601), of which up to $4,000,000 shall be available to support national service scholarships for high school students performing community service, and of which $7,000,000 shall be held in reserve as defined in Public Law 108–45: Provided further, That in addition to amounts otherwise provided to the National Service Trust under the second proviso, the Corporation may transfer funds from the amount provided under the first proviso, to the National Service Trust authorized under subtitle D of title I of the Act (42 U.S.C. 12601) upon determination that such transfer is necessary to support the activities of national service participants and after notice is transmitted to Congress: Provided further, That of the amount provided under this heading for grants under the National Service Trust program authorized under subtitle C of title I of the Act, not more than $55,000,000 may be used to administer, reimburse, or support any national service program authorized under section 121(d)(2) of such Act (42 U.S.C. 12581(d)(2)): Provided further, That not more than $16,445,000 shall be available for quality and innovation activities authorized under subtitle H of title I of the Act (42 U.S.C. 12853 et seq.): Provided further, That notwithstanding subtitle H of title I of the Act (42 U.S.C. 12853), none of the funds provided under the previous proviso shall be used to support salaries and related expenses (including travel) attributable to Corporation employees: Provided further, That to the maximum extent feasible, funds appropriated under subtitle C of title I of the Act shall be provided in a manner that is consistent with the recommendations of peer review panels in order to ensure that priority is given to programs that demonstrate quality, innovation, replicability, and sustainability: Provided further, That $27,000,000 of the funds made available under this heading shall be available for the Civilian Community Corps authorized under subtitle E of title I of the Act (42 U.S.C. 12611 et seq.): Provided further, That $37,500,000 shall be available for school-based and community-based service-learning programs authorized under subtitle B of title I of the Act (42 U.S.C. 12521 et seq.): Provided further, That $4,000,000 shall be available for audits and other evaluations authorized under section 179 of the Act (42 U.S.C. 12639): Provided further, That $10,000,000 of the funds made available under this heading shall be made available for the Points of Light Foundation for activities authorized under title III of the Act (42 U.S.C. 12661 et seq.), of which not more than $2,500,000 may be used to support an endowment fund, the corpus of which shall remain intact and the interest income from which shall be used to support activities described in title III of the Act, provided that the Foundation may invest the corpus and income in federally insured bank savings accounts or comparable interest bearing accounts, certificates of deposit, money market funds, mutual funds, obligations of the United States, and other market instruments and securities but not in real estate investments: Provided further, That no funds shall be available for national service programs run by Federal agencies authorized under section 121(b) of such Act (42 U.S.C. 12571(b)): Provided further, That $5,000,000 of the funds made available under this heading shall be made available to America's Promise—The Alliance for Youth, Inc.: Provided further, That to the maximum extent practicable, the Corporation shall increase significantly the level of matching funds and in-kind contributions provided by the private sector, and shall reduce the total Federal costs per participant in all programs: Provided further, That notwithstanding section 501(a)(4) of the Act, of the funds provided under this heading, not more than $12,642,000 shall be

made available to provide assistance to state commissions on national and community service under section 126(a) of the Act: Provided further, That the Corporation may use up to 1 percent of program grant funds made available under this heading to defray its costs of conducting grant application reviews, including the use of outside peer reviewers.

SALARIES AND EXPENSES

For necessary expenses of administration as provided under section 501(a)(4) of the National and Community Service Act of 1990 (42 U.S.C. 12501 et seq.) and under section 504(a) of the Domestic Volunteer Service Act of 1973, including payment of salaries, authorized travel, hire of passenger motor vehicles, the rental of conference rooms in the District of Columbia, the employment of experts and consultants authorized under 5 U.S.C. 3109, and not to exceed $2,500 for official reception and representation expenses, $66,750,000.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the Inspector General Act of 1978, as amended, $6,000,000, to remain available until September 30, 2007.

ADMINISTRATIVE PROVISIONS

Notwithstanding any other provision of law, the term ''qualified student loan'' with respect to national service education awards shall mean any loan determined by an institution of higher education to be necessary to cover a student's cost of attendance at such institution and made, insured, or guaranteed directly to a student by a State agency, in addition to other meanings under section 148(b)(7) of the National and Community Service Act.

Notwithstanding any other provision of law, funds made available under section 129(d)(5)(B) of the National and Community Service Act to assist entities in placing applicants who are individuals with disabilities may be provided to any entity that receives a grant under section 121 of the Act.

The Inspector General of the Corporation for National and Community Service shall conduct random audits of the grantees that administer activities under the AmeriCorps programs and shall levy sanctions in accordance with standard Inspector General audit resolution procedures which include, but are not limited to, debarment of any grantee (or successor in interest or any entity with substantially the same person or persons in control) that has been determined to have committed any substantial violations of the requirements of the AmeriCorps programs, including any grantee that has been determined to have violated the prohibition of using Federal funds to lobby the Congress: Provided, That the Inspector General shall obtain reimbursements in the amount of any misused funds from any grantee that has been determined to have committed any substantial violations of the requirements of the AmeriCorps programs.

For fiscal year 2006, the Corporation shall make any significant changes to program requirements or policy only through public notice and comment rulemaking. For fiscal year 2006, during any grant selection process, no officer or employee of the Corporation shall knowingly disclose any covered grant selection information regarding such selection, directly or indirectly, to any person other than an officer or employee of the Corporation that is authorized by the Corporation to receive such information.

CORPORATION FOR PUBLIC BROADCASTING

For payment to the Corporation for Public Broadcasting, as authorized by the Communications Act of 1934, an amount which shall be available within limitations specified by that Act, for the fiscal year 2008, $400,000,000: Provided, That no funds made available to the Corporation for Public Broadcasting by this Act shall be used to pay for receptions, parties, or similar forms of entertainment for Government officials or employees: Provided further, That none of the funds contained in this paragraph shall be available or used to aid or support any program or activity from which any person is excluded, or is denied benefits, or is discriminated against, on the basis of race, color, national origin, religion, or sex: Provided further, That for fiscal year 2006, in addition to the amounts provided above, $30,000,000 shall be for costs related to digital program production, development, and distribution, associated with the transition of public broadcasting to digital broadcasting, to be awarded as determined by the Corporation in consultation with public radio and television licensees or permittees, or their designated representatives: Provided further, That for fiscal year 2006, in addition to the amounts provided above, $35,000,000 shall be for the costs associated with replacement and upgrade of the public television interconnection system: Provided further, That none of the funds made available to the Corporation for Public Broadcasting by this Act, Public Law 108–199 or Public Law 108–7, shall be used to support the Television Future Fund or any similar purpose.

FEDERAL MEDIATION AND CONCILIATION SERVICE

SALARIES AND EXPENSES

For expenses necessary for the Federal Mediation and Conciliation Service to carry out the functions vested in it by the Labor Management Relations Act, 1947 (29 U.S.C. 171–180, 182–183), including hire of passenger motor vehicles; for expenses necessary for the Labor-Management Cooperation Act of 1978 (29 U.S.C. 175a); and for expenses necessary for the Service to carry out the functions vested in it by the Civil Service Reform Act, Public Law 95–454 (5 U.S.C. ch. 71), $43,031,000, including $400,000, to remain available through September 30, 2007, for activities authorized by the Labor-Management Cooperation Act of 1978 (29 U.S.C. 175a): Provided, That notwithstanding 31 U.S.C. 3302, fees charged, up to full-cost recovery, for special training activities and other conflict resolution services and technical assistance, including those provided to foreign governments and international organizations, and for arbitration services shall be credited to and merged with this account, and shall remain available until expended: Provided further, That fees for arbitration services shall be available only for education, training, and professional development of the agency workforce: Provided further, That the Director of the Service is authorized to accept and use on behalf of the United States gifts of services and real, personal, or other property in the aid of any projects or functions within the Director's jurisdiction.

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

SALARIES AND EXPENSES

For expenses necessary for the Federal Mine Safety and Health Review Commission (30 U.S.C. 801 et seq.), $7,809,000.

INSTITUTE OF MUSEUM AND LIBRARY SERVICES

OFFICE OF MUSEUM AND LIBRARY SERVICES: GRANTS AND ADMINISTRATION

For carrying out the Museum and Library Services Act of 1996, $249,640,000, to remain available until expended.

MEDICARE PAYMENT ADVISORY COMMISSION

SALARIES AND EXPENSES

For expenses necessary to carry out section 1805 of the Social Security Act, $10,168,000, to be transferred to this appropriation from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds.

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

SALARIES AND EXPENSES

For necessary expenses for the National Commission on Libraries and Information Science, established by the Act of July 20, 1970 (Public Law 91–345, as amended), $993,000.

NATIONAL COUNCIL ON DISABILITY

SALARIES AND EXPENSES

For expenses necessary for the National Council on Disability as authorized by title IV of the Rehabilitation Act of 1973, as amended, $3,144,000.

NATIONAL LABOR RELATIONS BOARD

SALARIES AND EXPENSES

For expenses necessary for the National Labor Relations Board to carry out the functions vested in it by the Labor-Management Relations Act, 1947, as amended (29 U.S.C. 141–167), and other laws, $252,268,000: Provided, That no part of this appropriation shall be available to organize or assist in organizing agricultural laborers or used in connection with investigations, hearings, directives, or orders concerning bargaining units composed of agricultural laborers as referred to in section 2(3) of the Act of July 5, 1935 (29 U.S.C. 152), and as amended by the Labor-Management Relations Act, 1947, as amended, and as defined in section 3(f) of the Act of June 25, 1938 (29 U.S.C. 203), and including in said definition employees engaged in the maintenance and operation of ditches, canals, reservoirs, and waterways when maintained or operated on a mutual, nonprofit basis and at least 95 percent of the water stored or supplied thereby is used for farming purposes.

NATIONAL MEDIATION BOARD

SALARIES AND EXPENSES

For expenses necessary to carry out the provisions of the Railway Labor Act, as amended (45 U.S.C. 151–188), including emergency boards appointed by the President, $11,628,000.

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

SALARIES AND EXPENSES

For expenses necessary for the Occupational Safety and Health Review Commission (29 U.S.C. 661), $10,510,000.

RAILROAD RETIREMENT BOARD

DUAL BENEFITS PAYMENTS ACCOUNT

For payment to the Dual Benefits Payments Account, authorized under section 15(d) of the Railroad Retirement Act of 1974, $97,000,000, which shall include amounts becoming available in fiscal year 2006 pursuant to section 224(c)(1)(B) of Public Law 98–76; and in addition, an amount, not to exceed 2 percent of the amount provided herein, shall be available proportional to the amount by which the product of recipients and the average benefit received exceeds $97,000,000: Provided, That the total amount provided herein shall be credited in 12 approximately equal amounts on the first day of each month in the fiscal year.

FEDERAL PAYMENTS TO THE RAILROAD RETIREMENT ACCOUNTS

For payment to the accounts established in the Treasury for the payment of benefits under the Railroad Retirement Act for interest earned on unnegotiated checks, $150,000, to remain available through September 30, 2007, which shall be the maximum amount available for payment pursuant to section 417 of Public Law 98–76.

LIMITATION ON ADMINISTRATION

For necessary expenses for the Railroad Retirement Board for administration of the Railroad Retirement Act and the Railroad Unemployment Insurance Act, $102,543,000, to be derived in such amounts as determined by the Board from the railroad retirement accounts and from moneys credited to the railroad unemployment insurance administration fund.

LIMITATION ON THE OFFICE OF INSPECTOR GENERAL

For expenses necessary for the Office of Inspector General for audit, investigatory and review activities, as authorized by the Inspector General Act of 1978, as amended, not more than $7,196,000, to be derived from the railroad retirement accounts and railroad unemployment insurance account: Provided, That none of the

funds made available in any other paragraph of this Act may be transferred to the Office; used to carry out any such transfer; used to provide any office space, equipment, office supplies, communications facilities or services, maintenance services, or administrative services for the Office; used to pay any salary, benefit, or award for any personnel of the Office; used to pay any other operating expense of the Office; or used to reimburse the Office for any service provided, or expense incurred, by the Office.

SOCIAL SECURITY ADMINISTRATION

PAYMENTS TO SOCIAL SECURITY TRUST FUNDS

For payment to the Federal Old-Age and Survivors Insurance and the Federal Disability Insurance trust funds, as provided under sections 201(m), 228(g), and 1131(b)(2) of the Social Security Act, $20,470,000.

SUPPLEMENTAL SECURITY INCOME PROGRAM

For carrying out titles XI and XVI of the Social Security Act, section 401 of Public Law 92–603, section 212 of Public Law 93–66, as amended, and section 405 of Public Law 95–216, including payment to the Social Security trust funds for administrative expenses incurred pursuant to section 201(g)(1) of the Social Security Act, $29,369,174,000, to remain available until expended: Provided, That any portion of the funds provided to a State in the current fiscal year and not obligated by the State during that year shall be returned to the Treasury.

For making, after June 15 of the current fiscal year, benefit payments to individuals under title XVI of the Social Security Act, for unanticipated costs incurred for the current fiscal year, such sums as may be necessary.

For making benefit payments under title XVI of the Social Security Act for the first quarter of fiscal year 2007, $11,110,000,000, to remain available until expended.

LIMITATION ON ADMINISTRATIVE EXPENSES

For necessary expenses, including the hire of two passenger motor vehicles, and not to exceed $15,000 for official reception and representation expenses, not more than $9,079,400,000 may be expended, as authorized by section 201(g)(1) of the Social Security Act, from any one or all of the trust funds referred to therein: Provided, That not less than $2,000,000 shall be for the Social Security Advisory Board: Provided further, That unobligated balances of funds provided under this paragraph at the end of fiscal year 2006 not needed for fiscal year 2006 shall remain available until expended to invest in the Social Security Administration information technology and telecommunications hardware and software infrastructure, including related equipment and non-payroll administrative expenses associated solely with this information technology and telecommunications infrastructure: Provided further, That reimbursement to the trust funds under this heading for expenditures for official time for employees of the Social Security Administration pursuant to section 7131 of title 5, United States Code, and for facilities or support services for labor organizations pursuant to policies, regulations, or procedures referred to in section 7135(b) of such title shall be made by the Secretary of the Treasury, with interest, from amounts in the general fund not otherwise appropriated, as soon as possible after such expenditures are made.

In addition, $119,000,000 to be derived from administration fees in excess of $5.00 per supplementary payment collected pursuant to section 1616(d) of the Social Security Act or section 212(b)(3) of Public Law 93–66, which shall remain available until expended. To the extent that the amounts collected pursuant to such section 1616(d) or 212(b)(3) in fiscal year 2006 exceed $119,000,000, the amounts shall be available in fiscal year 2007 only to the extent provided in advance in appropriations Acts.

In addition, up to $1,000,000 to be derived from fees collected pursuant to section 303(c) of the Social Security Protection Act (Public Law 108–203), which shall remain available until expended.

OFFICE OF INSPECTOR GENERAL

(INCLUDING TRANSFER OF FUNDS)

For expenses necessary for the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $26,000,000, together with not to exceed $66,400,000, to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund.

In addition, an amount not to exceed 3 percent of the total provided in this appropriation may be transferred from the ''Limitation on Administrative Expenses'', Social Security Administration, to be merged with this account, to be available for the time and purposes for which this account is available: Provided, That notice of such transfers shall be transmitted promptly to the Committees on Appropriations of the House and Senate.

TITLE V—GENERAL PROVISIONS

SEC. 501. The Secretaries of Labor, Health and Human Services, and Education are authorized to transfer unexpended balances of prior appropriations to accounts corresponding to current appropriations provided in this Act: Provided, That such transferred balances are used for the same purpose, and for the same periods of time, for which they were originally appropriated.

SEC. 502. 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. 503. (a) No part of any appropriation contained in this Act shall be used, other than for normal and recognized executive-legislative relationships, for publicity or propaganda purposes, for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, radio, television, or video presentation designed to support or defeat legislation pending before the Congress or any State legislature, except in presentation to the Congress or any State legislature itself.

(b) No part of any appropriation contained in this Act shall be used to pay the salary or expenses of any grant or contract recipient, or agent acting for such recipient, related to any activity designed to influence legislation or appropriations pending before the Congress or any State legislature.

SEC. 504. The Secretaries of Labor and Education are authorized to make available not to exceed $28,000 and $20,000, respectively, from funds available for salaries and expenses under titles I and III, respectively, for official reception and representation expenses; the Director of the Federal Mediation and Conciliation Service is authorized to make available for official reception and representation expenses not to exceed $5,000 from the funds available for ''Salaries and expenses, Federal Mediation and Conciliation Service''; and the Chairman of the National Mediation Board is authorized to make available for official reception and representation expenses not to exceed $5,000 from funds available for ''Salaries and expenses, National Mediation Board''.

SEC. 505. Notwithstanding any other provision of this Act, no funds appropriated in this Act shall be used to carry out any program of distributing sterile needles or syringes for the hypodermic injection of any illegal drug.

SEC. 506. When issuing statements, press releases, requests for proposals, bid solicitations and other documents describing projects or programs funded in whole or in part with Federal money, all grantees receiving Federal funds included in this Act, including but not limited to State and local governments and recipients of Federal research grants, shall clearly state—

(1) the percentage of the total costs of the program or project which will be financed with Federal money;

(2) the dollar amount of Federal funds for the project or program; and

(3) percentage and dollar amount of the total costs of the project or program that will be financed by non-governmental sources.

SEC. 507. (a) None of the funds appropriated in this Act, and none of the funds in any trust fund to which funds are appropriated in this Act, shall be expended for any abortion.

(b) None of the funds appropriated in this Act, and none of the funds in any trust fund to which funds are appropriated in this Act, shall be expended for health benefits coverage that includes coverage of abortion.

(c) The term ''health benefits coverage'' means the package of services covered by a managed care provider or organization pursuant to a contract or other arrangement.

SEC. 508. (a) The limitations established in the preceding section shall not apply to an abortion—

(1) if the pregnancy is the result of an act of rape or incest; or

(2) in the case where a woman suffers from a physical disorder, physical injury, or physical illness, including a life-endangering physical condition caused by or arising from the pregnancy itself, that would, as certified by a physician, place the woman in danger of death unless an abortion is performed.

(b) Nothing in the preceding section shall be construed as prohibiting the expenditure by a State, locality, entity, or private person of State, local, or private funds (other than a State's or locality's contribution of Medicaid matching funds).

(c) Nothing in the preceding section shall be construed as restricting the ability of any managed care provider from offering abortion coverage or the ability of a State or locality to contract separately with such a provider for such coverage with State funds (other than a State's or locality's contribution of Medicaid matching funds).

(d)(1) None of the funds made available in this Act may be made available to a Federal agency or program, or to a State or local government, if such agency, program, or government subjects any institutional or individual health care entity to discrimination on the basis that the health care entity does not provide, pay for, provide coverage of, or refer for abortions.

(2) In this subsection, the term ''health care entity'' includes an individual physician or other health care professional, a hospital, a provider-sponsored organization, a health maintenance organization, a health insurance plan, or any other kind of health care facility, organization, or plan.

SEC. 509. (a) None of the funds made available in this Act may be used for—

(1) the creation of a human embryo or embryos for research purposes; or

(2) research in which a human embryo or embryos are destroyed, discarded, or knowingly subjected to risk of injury or death greater than that allowed for research on fetuses in utero under 45 CFR 46.204(b) and section 498(b) of the Public Health Service Act (42 U.S.C. 289g(b)).

(b) For purposes of this section, the term ''human embryo or embryos'' includes any organism, not protected as a human subject under 45 CFR 46 as of the date of the enactment of this Act, that is derived by fertilization, parthenogenesis, cloning, or any other means from one or more human gametes or human diploid cells.

SEC. 510. (a) None of the funds made available in this Act may be used for any activity that promotes the legalization of any drug or other substance included in schedule I of the schedules of controlled substances established by section 202 of the Controlled Substances Act (21 U.S.C. 812).

(b) The limitation in subsection (a) shall not apply when there is significant medical evidence of a therapeutic advantage to the use of such drug or other substance or that federally sponsored clinical trials are being conducted to determine therapeutic advantage.

SEC. 511. None of the funds made available in this Act may be used to promulgate or adopt any final standard under section 1173(b) of the Social Security Act (42 U.S.C. 1320d–2(b)) providing for, or providing for the assignment of, a unique health identifier for an individual (except in an individual's capacity as an employer or a health care provider), until legislation is enacted specifically approving the standard.

SEC. 512. None of the funds made available in this Act may be obligated or expended to enter into or renew a contract with an entity if—

(1) such entity is otherwise a contractor with the United States and is subject to the requirement in section 4212(d) of title 38, United States Code, regarding submission of an annual report to the Secretary of Labor concerning employment of certain veterans; and

(2) such entity has not submitted a report as required by that section for the most recent year for which such requirement was applicable to such entity.

SEC. 513. None of the funds made available in this Act may be transferred to any department, agency, or instrumentality of the United States Government, except pursuant to a transfer made by, or transfer authority provided in, this Act or any other appropriation Act.

SEC. 514. None of the funds made available by this Act to carry out the Library Services and Technology Act may be made available to any library covered by paragraph (1) of section 224(f) of such Act (20 U.S.C. 9134(f)), as amended by the Children's Internet Protections Act, unless such library has made the certifications required by paragraph (4) of such section.

SEC. 515. None of the funds made available by this Act to carry out part D of title II of the Elementary and Secondary Education Act of 1965 may be made available to any elementary or secondary school covered by paragraph (1) of section 2441(a) of such Act (20 U.S.C. 6777(a)), as amended by the Children's Internet Protections Act and the No Child Left Behind Act, unless the local educational agency with responsibility for such covered school has made the certifications required by paragraph (2) of such section.

SEC. 516. None of the funds appropriated in this Act may be used to enter into an arrangement under section 7(b)(4) of the Railroad Retirement Act of 1974 (45 U.S.C. 231f(b)(4)) with a nongovernmental financial institution to serve as disbursing agent for benefits payable under the Railroad Retirement Act of 1974.

SEC. 517. (a) None of the funds provided under this Act, or provided under previous appropriations Acts to the agencies funded by this Act that remain available for obligation or expenditure in fiscal year 2006, or provided from any 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 that—

(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 or renames offices;

(6) reorganizes programs or activities; or

(7) contracts out or privatizes any functions or activities presently performed by Federal employees;

unless the Appropriations Committees of both Houses of Congress are notified 15 days in advance of such reprogramming or of an announcement of intent relating to such reprogramming, whichever occurs earlier.

(b) None of the funds provided under this Act, or provided under previous appropriations Acts to the agencies funded by this Act that remain available for obligation or expenditure in fiscal year 2006, or provided from any 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 in excess of $500,000 or 10 percent, whichever is less, that—

(1) augments existing programs, projects (including construction 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 Appropriations Committees of both Houses of Congress are notified 15 days in advance of such reprogramming or of an announcement of intent relating to such reprogramming, whichever occurs earlier.

SEC. 518. (a) Section 316 of the Immigration and Nationality Act (8 U.S.C. 1427), is amended by adding at the end the following:

''(g)(1) The continuous residency requirement under subsection (a) may be reduced to 3 years for an applicant for naturalization if—

''(A) the applicant is the beneficiary of an approved petition for classification under section 204(a)(1)(E);

''(B) the applicant has been approved for adjustment of status under section 245(a); and

''(C) such reduction is necessary for the applicant to represent the United States at an international event.

''(2) The Secretary of Homeland Security shall adjudicate an application for naturalization under this section not later than 30 days after the submission of such application if the applicant—

''(A) requests such expedited adjudication in order to represent the United States at an international event; and

''(B) demonstrates that such expedited adjudication is related to such representation.

''(3) An applicant is ineligible for expedited adjudication under paragraph (2) if the Secretary of Homeland Security determines that such expedited adjudication poses a risk to national security. Such a determination by the Secretary shall not be subject to review.

''(4)(A) In addition to any other fee authorized by law, the Secretary of Homeland Security shall charge and collect a $1,000 premium processing fee from each applicant described in this subsection to offset the additional costs incurred to expedite the processing of applications under this subsection.

''(B) The fee collected under subparagraph (A) shall be deposited as offsetting collections in the Immigration Examinations Fee Account.''.

(b) The amendment made by subsection (a) is repealed on January 1, 2006.

SEC. 519. (a) None of the funds made available in this Act may be used to request that a candidate for appointment to a Federal scientific advisory committee disclose the political affiliation or voting history of the candidate or the position that the candidate holds with respect to political issues not directly related to and necessary for the work of the committee involved.

(b) None of the funds made available in this Act may be used to disseminate scientific information that is deliberately false or misleading.

SEC. 520. None of the funds made available in this Act may be used to reimburse, or provide reimbursement for drugs approved to treat erectile dysfunction.

This Act may be cited as the ''Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2006''.

And the Senate agree to the same.

RALPH REGULA,
ERNEST ISTOOK, JR.,
ROGER F. WICKER,
ANNE M. NORTHUP,
RANDY ''DUKE'' CUNNINGHAM,
KAY GRANGER,
JOHN E. PETERSON,
DON SHERWOOD,
DAVE WELDON,
JIM WALSH,
JERRY LEWIS,
Managers on the Part of the House.

ARLEN SPECTER,
THAD COCHRAN,
JUDD GREGG,
KAY BAILEY HUTCHISON,
LARRY E. CRAIG,
TED STEVENS,
MIKE DEWINE,
RICHARD SHELBY,
PETE V. DOMENICI,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3010) making appropriations for the Departments of Labor, Health and Human Services, and Education, and Related Agencies for the fiscal year ending September 30, 2006, and for other purposes, submit the following joint statement of the House and Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report.

In implementing this agreement, the Departments and agencies should be guided by the language and instructions set forth in House Report 109–143 and Senate Report 109–103 accompanying the bill, H.R. 3010.

In the cases where the language and instructions in either report specifically address the allocation of funds, each has been reviewed by the conferees and those that are jointly concurred in have been endorsed in this joint statement.

In the cases in which the House or the Senate reports request or direct the submission of a report, such report is to be submitted to both the House and Senate Committees on Appropriations.

The conferees note that section 517 sets forth the reprogramming requirements and limitations for the Departments and agencies funded through this Act, including the requirement to make a written request to the chairmen of the Committees 15 days prior to reprogramming, or to the announcement of intent to reprogram, funds in excess of 10 percent, or $500,000, whichever is less, between programs, projects and activities.

Finally, the conferees request that statements on the effect of this appropriation Act on the Departments and agencies funded in this Act be submitted to the Committees within 45 days of enactment of this Act. The conferees expect that these statements will provide sufficient detail to show the allocation of funds among programs, projects and activities, particularly in accounts where the final appropriation is different than that of the budget request. Furthermore, the conferees request the statements to also include the effect of the appropriation on any new activities or major initiatives discussed in the budget justifications accompanying the fiscal year 2006 budget.

The Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2006, put in place by this bill, incorporates the following agreements of the managers:

TITLE I—DEPARTMENT OF LABOR

EMPLOYMENT AND TRAINING ADMINISTRATION

TRAINING AND EMPLOYMENT SERVICES

(INCLUDING RESCISSIONS)

The conference agreement includes $5,115,411,000 for training and employment

services, instead of $5,121,792,000 as proposed by the House and $5,250,806,000 as proposed by the Senate. Of the amount appropriated, $2,463,000,000 is an advance appropriation for fiscal year 2007, as proposed by the House and the Senate.

The conference agreement includes bill language as proposed by the Senate requiring that the Secretary of Labor take no action to amend the definition established in 20 CFR 667.220 for functions and activities under title I of the Workforce Investment Act of 1998, or to modify the procedure for designation of local areas as specified in that Act until such time as legislation reauthorizing the Act is enacted. The House bill contained a similar provision.

For Adult Employment and Training Activities, the conference agreement includes $865,736,000 as proposed by the House, instead of $893,618,000 as proposed by the Senate.

For Youth Training, the conference agreement includes $950,000,000 as proposed by the House instead of $986,288,000 as proposed by the Senate.

The conference agreement includes $1,476,064,000 for the Dislocated Worker program, as proposed by the Senate, instead of $1,405,264,000 as proposed by the House. The conferees override the formula that provides that 80 percent of the funds provided will be used for State formula grants and 20 percent in a National Reserve Account. For program year 2006 the conferees provide $1,193,264,000 for the State formula grants and $282,800,000 for the National Reserve Account.

The conferees direct that the Department submit a quarterly report beginning in January, 2006 to the House and Senate Appropriations Committees on the status of H–1B and National Emergency Grant awards. This quarterly report shall be submitted to the House and Senate Committees on Appropriations no later than 15 days after the end of each quarter and shall summarize the following information: total available funds for the current program year, funding requests made, funding comments made, and amounts actually awarded for the quarter and for the current program year, total outstanding funding commitments from all program years, and total unpaid funding commitments from all program years. The report shall also include a list of each award (both new awards and modifications to existing awards) made during the quarter, including the grantee, funding commitment, amount released, and unpaid commitment for each award, and the number of workers to be trained.

The conferees direct that the Department submit a quarterly report beginning in January 2006 to the House and Senate Appropriations Committees on the status of awards made under the High-Growth Job Training Initiative. This quarterly report shall be submitted to the House and Senate Committees on Appropriations no later than 15 days after the end of each quarter and shall summarize by funding source (dislocated worker demonstration funds, community college initiative, H–1B fees, pilots and demonstrations, etc.) the total amount allocated to the High-Growth Job Training Initiative for the quarter and the program year. This report shall also include a list of all awards made during the quarter and for each award shall include the grantee, the amount of the award, the funding source of the award, whether the award was made competitively or by sole source and, if sole source, the justification, the purpose of the award, the number of workers to be trained, and other expected outcomes.

The conference agreement includes bill language as proposed by the Senate giving the Secretary of Labor authority to use dislocated worker national reserve funds to provide assistance to a State for statewide or local use in order to address cases where there have been worker dislocations across multiple sectors or across multiple local areas. The House bill contained no similar provision. The conferees urge the Secretary, when determining competitive awards under this authority, to give favorable consideration to the applications of assistance to States that have sustained worker dislocation in such a manner and can demonstrate the capacity to respond effectively in a coordinated fashion across multiple sectors or local areas.

The conference agreement includes $1,573,000,000 for Job Corps, instead of $1,542,019,000 as proposed by the House and $1,582,000,000 as proposed by the Senate. Within the total, $1,465,000,000 is provided for continuing operations of the program and $108,000,000 is for renovation and construction of Job Corps centers. The conference agreement includes $8,000,000 for second year funding of Job Corps expansion. This is in addition to $10,000,000 previously appropriated. In the selection process to award these and the previously appropriated funds for incremental expansion of Job Corps, the Department is directed to follow guidance provided in Senate Report 109–103 and in the report accompanying Public Law 108–199 regarding the priority for States that currently do not have a center and for a new site that can be quickly launched as a satellite (residential or non-residential) of a Job Corps center that is serving an entire State or region, and then later be converted to a stand-alone facility.

The conferees strongly urge the Director of Job Corps to extend the work of the Appalachian Council for career transition support services, and implement through the NJCA Foundation for Youth Opportunities, foundation initiated and nationally coordinated programs and services that raise public awareness and support for at-risk youth. The conferees expect the Director of Job Corps to implement these awards by no later than January 31, 2006, or as soon thereafter that the new independent Office of Job Corps is established.

For Migrant and Seasonal Farmworkers, the conference agreement includes a total of $80,557,000 as proposed by the Senate, instead of $75,795,000 as proposed by the House. Within the total, $75,053,000 is for State service area grants. This includes $5,000,000 for housing grants and $3,840,000 to fund grantees in States impacted by formula reductions below the amount they were allotted in program year 2004. The agreement also includes bill language not contained in House or Senate bills which prohibits the Department from restricting the provision of ''related assistance'' services by grantees. Such services are often critical to the stabilization and availability of the farm labor workforce.

The conference agreement provides $2,000,000 for other National Activities as proposed by the House, instead of $3,458,000 as proposed by the Senate. Of this amount, $982,000 is for carrying out Public Law 102–530, the Women in Apprenticeship and Non-Traditional Occupations Act of 1992, and $504,000 is to be used for training, technical assistance and related activities, including migrant rest center activities, authorized under section 167 of the Workforce Investment Act of 1998.

For Pilots, Demonstrations and Research, the conference agreement includes $30,000,000, instead of $74,000,000 as proposed by the House and $90,367,000 as proposed by the Senate.

The conferees encourage the Department of Labor to establish a pilot grant program under 171(b) of the Workforce Investment Act of 1998 to award competitive placement and retention grants to qualified nonprofit organizations that offer low income individuals' intensive assessment, education and training, placement, and retention services, including job coaching. The employment should provide the low income individuals with an annual salary at least twice the poverty line applicable to the individual. After placement, such organizations shall be eligible for retention grants once low income individuals remain with the same employer for a period of one year, taking into account the benefits received by the federal government and the community from the individuals' employment.

The conference agreement includes $49,600,000 for Responsible Reintegration of Youthful Offenders, instead of $50,000,000 as proposed by the Senate. The House did not recommend funds for this activity.

The conference agreement includes $125,000,000 to carry out the Community College/Community-Based Job Training Grant initiative. The conference agreement includes bill language as proposed by the Senate which provides that this amount is to be allocated from National Emergency Grant funds available under section 132(a)(2)(A) of the Workforce Investment Act of 1998, overriding the limitation otherwise imposed under section 171(d). The House bill contained no similar provision. The conferees expect the Secretary to initially use resources from the National Emergency Grants account for these awards that are designated for non-emergencies under sections 171(d) and 170(b) of the Workforce Investment Act of 1998. Community-Based Job Training Grant awards will also be subject to the limitations of sections 171(c)(4)(A) through 171(c)(4)(C) of the Workforce Investment Act of 1998 to ensure that these grants are awarded competitively. The conferees direct that future solicitations for grant applications for the Community-Based Job Training initiative include One Stop Career Centers as eligible applicants. The conference agreement rescinds $125,000,000 in funds provided in fiscal year 2005 for this program, as proposed by the House; the Senate bill contained no similar provision.

For the Denali Commission, the conference agreement provides $6,944,000 as proposed by the Senate for job training services. The House recommendation did not include funds for this activity.

STATE UNEMPLOYMENT INSURANCE AND EMPLOYMENT SERVICE OPERATIONS

The conference agreement includes $3,392,078,000 for State Unemployment Insurance and Employment Service Operations, instead of $3,470,366,000 as proposed by the House and $3,361,779,000 as proposed by the Senate. For unemployment insurance services, the bill provides $2,533,000,000 instead of $2,632,915,000 as proposed by the House and $2,485,000,000 as proposed by the Senate. The conference agreement includes $2,523,000,000 for UI State Operations instead of $2,622,499,000 as proposed by the House and $2,475,000,000 as proposed by the Senate. The agreement includes a contingency reserve amount should the unemployment workload exceed an average weekly insured claims volume of 2,800,000 instead of 2,984,000 as proposed by the House. The conference agreement does not include language, similar in both House and Senate bills, providing $40,000,000 for new unemployment insurance administrative activities.

For the Employment Service grants to States, the agreement includes $723,114,000 instead of $696,000,000 as proposed by the House and $746,302,000 as proposed by the Senate. This includes $23,114,000 in general funds as proposed by the Senate instead of $23,300,000 as proposed by the House and

$700,000,000 from the ''Employment Security Administration'' account of the unemployment trust fund instead of $672,700,000 as proposed by the House and $723,188,000 as proposed by the Senate. The conference agreement does not include funding to continue Reemployment Services Grants.

The conference agreement includes $17,856,000 for the work opportunity tax credit program as proposed by the Senate. The House report contained no similar provision.

PROGRAM ADMINISTRATION

The conference agreement includes $200,000,000 for Program Administration as proposed by the Senate, instead of $206,111,000 as proposed by the House. The detailed table at the end of this joint statement reflects the activity distribution agreed to by the conferees.

The conference agreement deletes language proposed by the House specifying that not to exceed $3,000,000 shall be available for contracts that are not competitively bid. The Senate bill contained no similar provision.

EMPLOYEE BENEFITS SECURITY ADMINISTRATION

SALARIES AND EXPENSES

The conference agreement includes $134,900,000 as proposed by the Senate, instead of $137,000,000 as proposed by the House. The detailed table at the end of this joint statement reflects the activity distribution agreed to by the conferees.

EMPLOYMENT STANDARDS ADMINISTRATION

SALARIES AND EXPENSES

The conference agreement includes $415,216,000 for the Employment Standards Administration, salaries and expenses, instead of $416,332,000 as proposed by the House and $412,616,000 as proposed by the Senate. Within the amount for Program Direction and Support the conference agreement includes $2,000,000 as proposed by the Senate to make available personnel and other resources to facilitate the expeditious startup of a system to resolve the claims of injury caused by asbestos exposure. The detailed table at the end of this joint statement reflects the activity distribution agreed to by the conferees.

The conference agreement deletes language proposed by the Senate authorizing the Secretary of Labor to accept, retain, and spend all sums of money ordered to be paid in accordance with the Consent Judgment in the case with the Northern Mariana Islands. This provision, carried in the bill in prior years, is no longer necessary. The House bill contained no similar provision.

The conferees note that the Employment Standards Administration's most recent regulatory plan indicates that the Employment Standards Administration plans to issue in December 2005 a notice of proposed rulemaking on the Family and Medical Leave Act (FMLA). The conferees urge that the Employment Standards Administration consider providing ample time (more than the 60 days indicated in the regulatory plan) for careful consideration of any proposed changes to the FMLA regulations.

SPECIAL BENEFITS

(INCLUDING TRANSFER OF FUNDS)

Within the total transferred to this account from fair share entities to pay the cost of administration of the Federal Employees' Compensation Act, the conference agreement provides that $27,148,000 shall be made available for automated workload processing operations, including document imaging, centralized mail intake and medical bill processing, as proposed by the Senate, instead of $18,454,000 as proposed by the House.

ADMINISTRATIVE EXPENSES, ENERGY EMPLOYEES

OCCUPATIONAL ILLNESS COMPENSATION FUND

(INCLUDING TRANSFER OF FUNDS)

Within the total, the conference agreement includes a proviso transferring $4,500,000 to the National Institute for Occupational Safety and Health for use by the Advisory Board on Radiation and Worker Health, as proposed by the Senate. The House bill contained no similar provision.

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

SALARIES AND EXPENSES

The conference agreement includes $477,199,000 for the Occupational Safety and Health Administration as proposed by the House instead of $477,491,000 as proposed by the Senate. The detailed table at the end of this joint statement reflects the activity distribution agreed to by the conferees.

The conference agreement includes a limitation regarding OSHA's enforcement of the Respiratory Standard as it applies to tuberculosis, as proposed by the House. The Senate bill contained no similar provision.

MINE SAFETY AND HEALTH ADMINISTRATION

SALARIES AND EXPENSES

The conference agreement includes a provision that authorizes the Secretary to recognize the Joseph A. Holmes Safety Association as a principal safety association and to provide funds and personnel to the organization, as proposed by the House. The Senate bill contained no similar provision.

BUREAU OF LABOR STATISTICS

SALARIES AND EXPENSES

The conference agreement includes a provision maintaining the women worker series from the Current Employment Survey as proposed by the Senate. The House bill contained no similar provision.

OFFICE OF DISABILITY EMPLOYMENT POLICY

SALARIES AND EXPENSES

The conference agreement includes $27,934,000 for the Office of Disability Employment Policy as proposed by the House, instead of $47,164,000 as proposed by the Senate.

Within the total, the conferees have included $5,000,000 for a national initiative focusing on self-employment as an option for persons with disabilities, to be allocated according to the conditions in Senate Report 109–103. In addition, the conferees concur with the Senate in directing that the existing, structured ''Public Service Internship Program for Students with Disabilities'' be continued through fiscal year 2006 at no less than current appropriations levels. The House recommendation contained no similar provisions.

DEPARTMENTAL MANAGEMENT

SALARIES AND EXPENSES

The conference agreement includes $300,586,000 for Departmental Management, salaries and expenses, instead of $239,783,000 as proposed by the House and $320,561,000 as proposed by the Senate. The detailed table at the end of this joint statement reflects the activity distribution agreed to by the conferees.

The conference agreement includes $73,248,000 for the Bureau of International Labor Affairs (ILAB), instead of $12,419,000 as proposed by the House and $93,248,000 as proposed by the Senate. Of this amount, the conferees' recommendation includes $38,000,000 for the U.S. contribution to the ILO's International Program for the Elimination of Child Labor [IPEC] and $23,000,000 for bilateral assistance to improve access to basic education in international areas with a high rate of abusive and exploitative child labor. The conferees concur with the Senate directive that $4,500,000 of the basic education funds be distributed in a 3-year grant to a human rights center at a major university with expertise in African studies, child labor and business ethics to provide critical oversight of both the public and private investment. The conferees expect that any grant or contract to provide this oversight will include annual reporting requirements to both the Congress and the Department by the end of each federal fiscal year. That report should cite progress made on key points of the protocol including: development of a child labor monitoring system by industry, the elimination of the worst forms of child labor in the supply chain, and the development of an industry-wide, public, transparent certification system covering at least 50 percent of the growing area in the Ivory Coast and Ghana.

For other ILAB programs, including 125 FTE for Federal Administration, the conferees have included $12,248,000. Within this amount, the conferees have included sufficient funding for the compilation of the statutorily required report tracking the progress of countries that are designated as beneficiaries under the U.S. Generalized System of Preferences [GSP] or former GSP recipients who achieved a free trade agreement over the preceding two years. The conferees concur with a Senate mandate that the 2006 report shall be transmitted to the Congress no later than September 1, 2006.

The conference agreement does not include provisos in the Senate bill intended to ensure that decisions on appeals of Longshore and Harbor Worker?s Compensation Act claims are reached in a timely manner. The House bill did not include similar provisions. Carried in previous years, the provisos are no longer considered necessary to avoid delays.

The conferees do not retain language in the House report regarding employee benefit products covered by the Employee Retirement Income Security Act.

VETERANS EMPLOYMENT AND TRAINING

The conference agreement includes $224,334,000 for Veterans Employment and Training as proposed by the Senate, instead of $229,334,000 as proposed by the House. The detailed table at the end of this joint statement reflects the activity distribution agreed to by the conferees.

The conferees are pleased by the number of programs being undertaken by a variety of federal agencies, including the Centers for Medicare and Medicaid Services and the Internal Revenue Service, to employ persons with disabilities in telework occupations. With a significant number of veterans coming home with physical impairments, the conferees urge the department to pursue interagency efforts to help disabled veterans achieve employment in the federal government through telework and other innovative programs.

OFFICE OF INSPECTOR GENERAL

The conference agreement includes $71,819,000 for the Office of Inspector General, instead of $70,819,000 as proposed by the House and $72,819,000 as proposed by the Senate.

GENERAL PROVISIONS

JOB CORPS

The conference agreement includes language that prohibits the use of funds for the Job Corps to pay the salary of any individual, either as direct costs or any pro-ration as an indirect cost, at a rate in excess of Executive Level I, instead of Executive Level II as proposed by the House. The Senate bill did not contain a similar provision.

The conference agreement includes language not contained in House or Senate bills

directing the Secretary to establish and maintain an Office of Job Corps within the Office of the Secretary of Labor. The Secretary is directed to transfer current Job Corps functions and staff from the Employment and Training Administration to the Job Corps office established in the Office of the Secretary. To ensure continuity, the Secretary is further directed to staff the new agency with the staff in place as of October 1, 2005 and at a level of FTE approved as of October 31, 2005.

ONE PERCENT TRANSFER AUTHORITY

The conference agreement includes a provision as proposed by the Senate limiting the authority to transfer or reprogram funds between a program, project or activity and requiring a 15 day notification of any reprogramming request or announcement of such transfer or reprogramming request. The House bill contained a similar provision.

DENALI COMMISSION

The conference agreement includes a provision as proposed by the Senate that authorizes to be appropriated such sums as may be necessary to the Denali Commission to conduct job training where Denali Commission projects will be constructed. The House bill contained no similar provision.

CONGRESSIONAL JUSTIFICATIONS

The conference agreement includes bill language proposed by the Senate requiring the Department of Labor to submit its fiscal year 2007 congressional budget justifications in the format and level of detail used by the Department of Education in its fiscal year 2006 congressional budget justifications. The House bill contained no similar provision.

NEW YORK RESCISSION

The conference agreement does not include language as proposed by the Senate making $125,000,000 available to the New York State Uninsured Employers Fund and to the Centers for Disease Control and Prevention for purposes related to the September 11, 2001 terrorist attacks. The House bill contained no similar provision.

OPERATING PLAN

The conferees note that the Department failed to submit a fiscal year 2005 operating plan for pilots, demonstrations and research activities as requested last year in House Report 108–792. This plan is nearly six months late. Accordingly, the conferees have included bill language directing the Department to provide not later than July 1, 2006 an operating plan that outlines the planned allocation by major project and activity of fiscal year 2006 funds for pilot, demonstration, multi-service, research and multi-state projects. The conferees direct that the Department submit a quarterly report beginning in January 2006 to the House and Senate Appropriations Committees on the status of awards made for pilot, demonstration, multi-service, research, and multi-state projects under section 171 of the Workforce Investment Act. This quarterly report shall be submitted to the House and Senate Committees on Appropriations no later than 45 days after the end of each quarter and shall include the following information: a list of all awards made during the quarter and for each award shall include the grantee or contractor, the amount of the award, the funding source for the award, whether the award was made competitively or by sole source and, if sole source, the justification, the purpose of the award, and expected outcomes.

TITLE II—DEPARTMENT OF HEALTH AND HUMAN SERVICES

HEALTH RESOURCES AND SERVICES ADMINISTRATION

HEALTH RESOURCES AND SERVICES

The conference agreement includes $6,564,661,000 for health resources and services, of which $6,539,661,000 is provided as budget authority and $25,000,000 is made available from the Public Health Service policy evaluation set-aside, instead of $6,468,437,000 as proposed by the House and $7,396,534,000 as proposed by the Senate. Funds for the individual HRSA programs are displayed in the table at the end of the statement of the managers. Funding levels that were in disagreement but not displayed on the table are discussed in this statement.

The conference agreement includes a technical bill language change to eliminate an unnecessary citation of the Poison Control Center Act which was included in both bills.

The conference agreement includes a citation for section 712 of the American Jobs Creation Act of 2004 for authority for the sickle cell demonstration program. The House bill did not include a similar citation.

The conference agreement does not include bill language proposed by the Senate providing $393,051,000 for construction and renovation of health care and other facilities and other health-related activities. The House bill included no similar language.

The conference agreement includes bill language identifying $64,180,000 for the rural hospital flexibility grants program, as provided by the Senate. The House bill provided $39,180,000. Within the total provided, the conferees have included bill language similar to that contained in the Senate bill creating the authority and identifying $25,000,000 for a Delta health initiative rural health, education, and workforce infrastructure program. The House bill had no similar provision. The conferees urge HRSA to implement this program by a competitive grant to a non-Federal, not-for-profit alliance of no less than four academic institutions who have a history of collaboration, along with their State Medical Association and State Hospital Association, for the purpose of addressing longstanding, unmet health needs in the Mississippi Delta, including health education, access and research, and job training. Alliance partners should include an academic health center, at least two regional universities, a school of nursing, and a relationship with a strong economic development entity. The alliance should experience working with Federally qualified health centers and local health departments. The alliance should have experience in diabetes education and management, promoting healthy communities, health education and wellness.

The conferees have not included either bill language proposed by the Senate identifying $20,000,000 for base grant adjustments for existing community health centers or a similar directive included in the House report.

The conference agreement includes bill language identifying $40,000 for malpractice insurance for volunteer physicians who practice at free clinics, including administrative expenses, instead of $99,000 as proposed by the Senate. The House did not provide funding for this program. The conferees understand that claims against the Federal malpractice insurance are not likely to appear until at least fiscal year 2007, but want to signal the intent to continue the program.

The conference agreement does not include bill language identifying funding for community health centers in high-need counties. The Senate bill identified $13,000,000 for this purpose; the House bill identified $26,000,000.

The conferees direct that the increase in funding provided for community health centers be allocated for the center applications that have already been approved and announced in April 2005. The House and Senate reports had similar references to pre-approved awards.

The conference agreement includes bill language contained in the Senate bill permitting funding appropriated for the community health centers Federal malpractice claims program to be used for administrative expenses. The House bill included no similar provision.

The conference agreement includes bill language providing $4,000,000 to remain available until expended for the National Cord Blood Stem Cell Bank Program. The Senate bill provided $9,859,000. The House did not provide funding for this program.

The conference agreement includes bill language designating $117,108,000 out of the funds provided for the maternal and child health block grant to be for special projects of regional and national significance (SPRANS). The Senate bill provided $121,396,250 for this purpose; the House provided $116,124,000. It is intended that $3,880,000 of the SPRANS amount will be used to continue the sickle cell newborn screening program and its locally based outreach and counseling efforts. The House and Senate both proposed $4,000,000 for this program. In addition, $4,850,000 of the SPRANS amount will be used to continue the oral health demonstration programs and activities in the States. The House and Senate both proposed $5,000,000 for this program. The conference agreement also includes within the SPRANS set-aside $1,552,000 to continue mental health programs and activities in the States, $2,910,000 to continue the epilepsy demonstration, and $1,940,000 to continue newborn and child screening for heritable disorders. The conferees provide $1,000,000 for a fetal alcohol syndrome demonstration program as described in the Senate report. The House and Senate had both proposed $3,000,000 for the epilepsy demonstration. The House had proposed $3,000,000 for the heritable disorders screening program; the Senate had proposed $2,000,000. The Senate proposed $3,000,000 for the mental health programs, while the House had not proposed funding for this program. The Senate proposed $1,000,000 for the fetal alcohol syndrome demonstration, while the House had not proposed funding for this program.

The conference agreement includes bill language as proposed by the Senate providing $39,680,000 to the Denali Commission as a direct lump payment pursuant to P.L. 106–113. The House did not include funding for the Commission. The conferees concur with the Senate report language regarding the allocation of Denali funds to a mix of facilities.

The conference agreement provides $14,100,000 for Native Hawaiian health care activities within the consolidated health centers program as proposed by the Senate. The House did not identify specific funding for Native Hawaiian activities.

The conference agreement provides $4,000,000 for allied health training programs, of which $2,000,000 is allocated to the chiropractic-medical school demonstration grant and $2,000,000 is designated for the geropsychology training program. The Senate provided $11,753,000 for allied health programs. The House did not provide funding.

The conferees concur in the Senate report language identifying $3,000,000 within traumatic brain injury funding for protection and advocacy services. The House report did not have similar language.

The conferees concur with the Senate report language regarding the recompetition of Healthy Start programs.

Within funds provided to the Office of the Advancement of Telehealth, $3,000,000 has been included to carry out programs and activities under the Health Care Safety Net Amendments of 2002 (Public Law 107–251). Of that amount, the conferees intend that $1,500,000 be used to fund telehealth resource centers that provide assistance with respect

to technical, legal, regulatory service delivery or other related barriers to the development of telehealth technologies. The conferees intend that HRSA place a high priority on the needs of rural States with populations of less than 1,500,000 individuals in the award and geographical placement of the telehealth resource grants. The conferees intend that $750,000 will be used for network grants and demonstration or pilot projects for telehomecare and that $750,000 will be used for grants to carry out the licensure provisions in Section 102 of Public Law 107–251.

The conferees agree that family planning funds should be distributed to regional offices in the same manner and time frame as in fiscal year 2005. In addition, conferees intend that the same percentage of appropriated family planning funds be used for clinical services as in fiscal year 2005.

Within the funds provided for bioterrorism grants to States, the conference agreement includes $475,000,000 for State grants, $21,000,000 for education incentives for medical school curriculum, and $4,000,000 to continue the credentialing emergency system for advance registration of volunteer health professionals. The conferees do not provide funding for a medical surge capacity demonstration as requested by the Administration. The House provided $464,479,000 for State grants; $8,000,000 for credentialing; $27,521,000 for training; and no funding for a surge capacity demonstration. The Senate provided $458,000,000 for State grants, indicating that credentialing, deployable mass casualty units and increases to the medical reserve corps could be supported within that total; $27,500,000 for training; and $25,000,000 for a national surge capacity demonstration.

The conference agreement includes $145,992,000 for program management instead of $143,992,000 as provided by the Senate and $143,072,000 as provided by the House. The conference agreement includes $2,000,000 within this activity for dental workforce programs authorized in section 340G of the Public Health Service Act. The Senate provided $5,000,000 for this activity; the House did not propose funding for the program.

VACCINE INJURY COMPENSATION PROGRAM TRUST FUND

The conference agreement provides $3,600,000 for administration for the Trust Fund as proposed by the Senate instead of $3,500,000 as proposed by the House.

CENTERS FOR DISEASE CONTROL AND PREVENTION

DISEASE CONTROL, RESEARCH, AND TRAINING

The conference agreement includes $5,884,934,000 for disease control, research, and training at the Centers for Disease Control and Prevention (CDC), instead of $5,945,991,000 as proposed by the House and $6,064,115,000 as proposed by the Senate. In addition, $265,100,000 is made available under section 241 of the Public Health Service Act. The House bill proposed that $159,595,000 and the Senate bill proposed that $265,100,000 be derived from section 241 authority.

The conference agreement includes bill language earmarking $160,000,000 for equipment, construction, and renovation of facilities, including the new data center and recovery site to ensure availability of critical systems and data supporting CDC's homeland security and public health emergency responsibilities, instead of $30,000,000 as proposed by the House and $225,000,000 as proposed by the Senate. Within this total, $136,000,000 is for continuation of CDC's program to upgrade and replace facilities in Atlanta and $24,000,000 is to continue construction and purchase equipment for the replacement of CDC's infectious disease laboratory in Fort Collins, Colorado.

The conference agreement includes bill language providing that within the amount available, $530,000,000 shall remain available until expended for the Strategic National Stockpile, the same as proposed by the House. The Senate bill included $542,000,000 for this purpose.

The conference agreement includes bill language to earmark $123,883,000 for international HIV/AIDS, the same as proposed by both the House and the Senate.

The conference agreement includes bill language as proposed by the Senate, and similar to language proposed by the House, designating that the following amounts shall be available under section 241 (Public Health Service Act evaluation set-aside) for the specified activities:

$12,794,000—National Immunization Surveys;

$109,021,000—National Center for Health Statistics Surveys;

$24,751,000—Information systems standards development and architecture and applications-based research used at local public health levels;

$463,000—Health Marketing evaluations;

$31,000,000—Public Health Research; and

$87,071,000—Research Tools and Approaches within the National Occupational Research Agenda.

The conference agreement includes bill language providing that up to $31,800,000 is available until expended for individual learning accounts, as proposed by the Senate. The House bill had included $30,000,000 for the same purpose.

The conference agreement includes bill language carried in prior years to allow the CDC to enter into a single contract or related contracts for the full scope of development and construction of facilities as proposed by both the House and the Senate. The agreement does not include language proposed by the Senate to allow funds appropriated to the CDC to be used to enter into a long-term ground lease for construction on non-Federal land. The conferees understand that this language is no longer necessary for the completion of the laboratory in the Fort Collins, Colorado area.

Given the full-scope contract authority, the conferees understand that sufficient funds are available from within amounts provided for buildings and facilities for unabated progress on the B&F Master Plan and to support the new data center recovery site, including the center's operations and maintenance services.

The conference agreement includes bill language providing that employees of the CDC or the Public Health Service, detailed to States, municipalities, or other organizations under authority of section 214 of the Public Health Service Act shall be treated as non-Federal employees for reporting purposes only and shall not be included within any personnel ceiling applicable to the Agency. The House bill included similar language but limited to employees detailed for purposes related to homeland security.

INFECTIOUS DISEASES

The conference agreement includes $1,697,397,000 for Infectious Diseases, instead of $1,704,529,000 as proposed by the House and $1,696,567,000 as proposed by the Senate. In addition, $12,794,000 is available to carry out National Immunization Surveys to be derived from section 241 evaluation set-aside funds.

The conferees note that unless otherwise specified, the sub-budget activity amounts provided are at the levels recommended in the budget request.

INFECTIOUS DISEASE CONTROL

Within the total for Infectious Diseases, the conference agreement includes $229,059,000 for infectious disease control activities instead of $229,471,000 as proposed by the House and $229,010,000 as proposed by the Senate.

Within the total, $102,650,000 is for areas of highest scientific and programmatic priority for preparing and responding to present and emerging infectious disease threats.

Within the total provided, $5,500,000 is to expand and improve surveillance, research, and prevention activities on prion disease, including the work of the National Prion Disease Pathology Surveillance Center.

HIV/AIDS, STD and TB Prevention

Within the total for Infectious Diseases the conference agreement includes $956,138,000 for HIV/AIDS, STD and TB prevention, the same as proposed by the House and $713,000 below the amount proposed by the Senate.

Included is $657,694,000 for domestic HIV/AIDS activities; $159,633,000 for STD activities; and $138,811,000 for TB activities.

Within the total for HIV/AIDS, the conferees intend that the activities that are targeted to address the growing HIV/AIDS epidemic and its disparate impact on communities of color, including African Americans, Latinos, Native Americans, Asian Americans, Native Hawaiians, and Pacific Islanders be supported at not less than the fiscal year 2005 level, as proposed by the House. The conferees intend that CDC follow the report accompanying the Labor, HHS and Education and Related Agencies Appropriations Act, 2002 regarding the disbursement of these funds, including continuing support for the Directly Funded Minority Community-Based Organization Program.

Immunization

Within the total for Infectious Diseases, the conference agreement includes a discretionary program level of $524,994,000 for immunization, instead of $526,500,000 as proposed by the House and $523,500,000 as proposed by the Senate. Of the amount provided, $12,794,000 is for national immunization surveys to be derived from section 241 evaluation set-aside funds, the same as proposed by both the House and Senate.

The conferees note, that subsequent to House action, $5,214,000 was reallocated to Global Immunization activities within Global Health to more accurately reflect immunization program levels prior to CDC's recent reorganization.

In addition, the Vaccines for Children (VFC) program funded through the Medicaid program includes $1,502,333,000 in vaccine purchases and distribution support for fiscal year 2006, yielding a total domestic immunization program level of $2,027,327,000.

Included in the amount provided is $461,478,000 for immunization assistance to states and localities under the section 317 immunization program, $4,960,000 for vaccine tracking, and $58,556,000 for prevention activities. The conferees intend that the $1,494,000 provided above the request for prevention activities support expanded vaccine safety research as outlined in the House Report.

HEALTH PROMOTION

The conference agreement includes $971,157,000 for Health Promotion, instead of $983,647,000 as proposed by the House and $974,080,000 as proposed by the Senate.

The conferees note that unless otherwise specified, the sub-budget activity amounts provided for Health Promotion are at the levels recommended in the budget request.

The conference agreement does not include $2,421,000 for a new program to award grants to organizations in the area of chronic disease prevention and birth defects and developmental disabilities as proposed by the Senate.

Chronic Disease Prevention, Health Promotion, and Genomics

Within the amount for Health Promotion, the conference agreement includes $845,135,000 for chronic disease prevention and health promotion instead of $856,468,000 as proposed by the House and $845,845,000 as proposed by the Senate.

The conference agreement includes the following amounts:

Budget activity	($ in 000s)
Heart Disease and Stroke	44,918
Diabetes	63,757
Cancer Prevention and Control	311,023
Arthritis and Other Chronic Diseases	22,693
Tobacco	105,858
Nutrition, Physical Activity, and Obesity	41,939
Health Promotion	27,721
School Health	56,760
Safe Motherhood/Infant Health	44,740
Oral Health	11,800
Prevention Centers	30,000
Steps to a Healthier U.S.	44,300
Racial and Ethnic Approach to Community Health (REACH)	34,605
Genomics	5,022

Within the amount provided for Cancer Prevention and Control the conference agreement includes $17,113,000 for comprehensive cancer activities, including $100,000 for a national education campaign concerning gynecologic cancer. The conferees urge that the CDC coordinate this effort both with the Office of Women's Health, within the Office of the Secretary, and qualified non-profit private sector organizations.

The conferees also reiterate their support for the CDC's partnership with the Lance Armstrong Foundation and have provided sufficient funds to continue support of the National Cancer Survivorship Resource Center at not less than the fiscal year 2005 level.

Within the amount provided for Arthritis and Other Chronic Diseases, $7,762,000 is available for epilepsy activities.

The conferees concur that the increase provided for tobacco activities is for an enhanced counter-marketing program to reduce underage tobacco use, as proposed by the Senate. The conferees expect that this effort will be carried out by a private sector organization that will match federal dollars at least equally and has demonstrated effectiveness in this area.

The conferees understand that the Centers for Disease Control and Prevention (CDC) is now the lead federal agency for the National 5 A Day Program and that funding will be transferred for fiscal year 2006 from the previous lead federal agency, the National Cancer Institute, to CDC.

The conferees urge CDC to set up a 5 A Day Program with a distinct program identity within its Division of Nutrition and Physical Activity, and that this program receive the necessary resources, both fiscal and designated full time equivalents (FTEs), to ensure that the CDC provides national leadership, strong technical assistance and training to State 5 A Day programs, effective communications, and other activities to encourage Americans to eat more fruits and vegetables and move closer to meeting the recommendations of the 2005 Dietary Guidelines for Americans.

The conferees encourage CDC to collaborate with the West Virginia Department of Health and Human Resources to develop a model obesity prevention program that could be replicated nationwide.

The conferees provide the following amounts from within funds provided for Community Health Promotion:

Budget activity	($ in 000s)
Mind-Body Institute	1,800
Glaucoma	3,500
Visual Screening Education	2,500
Alzheimer's Disease	1,650
Inflammatory Bowel Disease	700
Interstitial Cystitis	690
Pioneering Healthier Communities (YMCA)	1,450
Kidney Disease	1,800

The conferees concur with language in the Senate report providing that $50,000 from within Oral Health be used to develop an instructional video for school age children on the harmful effects of excessive consumption of soft drinks.

Within the funds for Genomics, $2,546,000 is provided to support and expand activities related to Primary Immune Deficiency Syndrome implemented in the same manner as in fiscal year 2005 and as outlined in the Senate report.

Birth defects

Within the amount available for Health Promotion, the conference agreement includes $126,022,000 for birth defects, developmental disabilities, disability and health instead of $127,179,000 as proposed by the House and $125,815,000 as proposed by the Senate.

Within the total, the following amounts are provided for the specified activities:

Budget activity	($ in 000s)
Folic Acid	2,300
Tourette Syndrome	1,800
Early Hearing Detection and Intervention	6,600
Muscular Dystrophy	6,500
Special Olympics Healthy Athletes	5,700
Paralysis Resource Center (Christopher Reeve)	6,000
Spina Bifida	5,100
Autism	15,300

The conferees strongly support the activities of both the National Folic Acid Education and Prevention Program and National Spina Bifida Program and believe the activities are complementary. The National Folic Acid Education Program's goal is primary prevention through the promotion of the consumption of folic acid to prevent Spina Bifida and other neural tube defects. The National Spina Bifida Program works to improve the quality of life for individuals affected by Spina Bifida and reduce and prevent the occurrence of, and suffering from this birth defect. The conferees have provided $7,400,000 for these activities. In order to achieve budget transparency, prevent any overlap of effort, ensure the continued proper balance between primary prevention and quality of life activities, and to maximize the effectiveness of these funds, the conferees request that CDC develop a comprehensive strategic plan whose goal is to establish a unified program to be housed in the Human Development and Disability Division and to be prepared to report on the feasibility of such a unified program during fiscal year 2007 budget hearings.

Within the amount for activities related to Duchenne and Becker Muscular Dystrophy, $750,000 is to enhance the coordinated education and outreach initiative through the Parent Project Muscular Dystrophy. In addition, the conferees concur in the directive in the Senate report for CDC to develop and submit a strategic plan for the Duchenne and Becker Muscular Dystrophy program by May 1, 2006.

Within the amount for Autism activities, $14,750,000 is for surveillance and research and $550,000 is to continue and expand the national autism awareness campaign.

HEALTH INFORMATION AND SERVICE

The conference agreement includes $89,564,000 for Health Information and Service, the same as proposed by the Senate. The House had included $195,069,000. In addition, $134,235,000, to be derived from section 241 evaluation set-aside funds, is included to carry out National Center for Health Statistics surveys, Public Health Informatics evaluations, and health marketing evaluations.

ENVIRONMENTAL HEALTH AND INJURY PREVENTION

The conference agreement includes $287,733,000 for Environmental Health and Injury Prevention activities, instead of $285,721,000 as proposed by the House and $288,982,000 as proposed by the Senate.

The conferees note that unless otherwise specified, the sub-budget activity amounts provided for Environment Health and Injury Prevention are at the levels recommended in the budget request.

Environmental health

Within the funds available for Environmental Health and Injury Prevention, the conference agreement includes $147,293,000 for environmental health instead of $147,483,000 as proposed by the House and $147,417,000 as proposed by the Senate.

Within the total, $900,000 is provided to begin a nationwide Amyotrophic Lateral Sclerosis (ALS) registry as recommended in the Senate report.

The conferees also urge the CDC to maintain support for the Environmental and Health Outcome Tracking Network and the Landmine Survivor Network at not less than the fiscal year 2005 level.

Injury prevention and control

Within the funds provided for Environmental Health and Injury Prevention, the conference agreement includes $140,440,000 for injury control, instead of $138,237,000 as proposed by the House and $141,565,000 as proposed by the Senate.

Within the total for injury prevention and control, $105,083,000 is for intentional injury prevention activities, including $24,379,000 for Youth Violence Prevention as outlined in the Senate report (of which $12,028,000 is for youth violence base funding), and not less than the fiscal year 2005 level is for the National Violent Death Reporting System.

In addition, $35,357,000 of the amounts for injury prevention and control is for unintentional injury. The conferees are agreed that sufficient funds are provided to support the existing Injury Control Research Centers at not less than the fiscal year 2005 level.

OCCUPATIONAL SAFETY AND HEALTH

The conference agreement provides a total program level of $256,971,000 for occupational safety and health, instead of $251,241,000 as proposed by the House and $257,121,000 as proposed by the Senate. Within that amount, $87,071,000 is available to carry out research tools and approaches activities within the National Occupational Research Agenda (NORA) to be derived from section 241 evaluation set-aside funds.

The conference agreement includes sufficient funds to maintain staffing levels at the Morgantown facility as proposed by the Senate.

Within the amount provided, $1,000,000 is for the establishment of a National Mesothelioma Registry and Tissue Bank as described in the Senate report. The conferees strongly encourage NIOSH to work closely with the mesothelioma research and patient community in developing the registry and tissue bank to maximize the effectiveness of data collection and allow researchers real time access to clinical data associated with tissue specimens from the registry.

Organizations eligible to implement the registry and tissue bank should have a demonstrated history of collaborative mesothelioma research and experience working with, and access to, the patient population. Eligible applicants should share the goal of developing a cost-effective infrastructure and have a data-sharing plan that will ensure the

registry and tissue bank will be used to expand scientific discovery and effective treatments to benefit the mesothelioma research and patient community.

The agreement also includes $150,000 above the budget request to expand support for the existing NIOSH Education and Research Centers.

In addition, the conferees have included sufficient funds for implementation of the Miners' Choice Health Screening Program at two or more sites in fiscal year 2006. This program was initiated in the Department of Labor to encourage all miners to obtain free and confidential chest x-rays to obtain more data on the prevalence of Coal Workers' Pneumonconiosis in support of development of new respirable coal dust rules.

GLOBAL HEALTH

The conference agreement provides $313,340,000 for Global Health activities, instead of $309,076,000 as proposed by the House and $313,227,000 as proposed by the Senate.

Within the total:

$123,883,000 is for Global HIV/AIDS;

$144,455,000 is for Global Immunization, including $101,254,000 for Polio Eradication and $43,201,000 for other global immunization activities;

$9,113,000 is for Global Malaria; and

$33,503,000 is for Global Disease Detection.

The conferees note, that subsequent to House action, $5,214,000 was reallocated from the domestic immunization program to Global Immunization activities. This reallocation more accurately reflects immunization program levels prior to CDC's recent reorganization.

PUBLIC HEALTH RESEARCH

The conference agreement includes $31,000,000, to be derived from section 241 evaluation set-aside funds, for Public Health Research.

PUBLIC HEALTH IMPROVEMENT AND LEADERSHIP

The conference agreement includes $206,535,000 for Public Health Improvement and Leadership instead of $258,541,000 as proposed by the House and $344,055,000 as proposed by the Senate.

Within the total, $7,930,000 is included for a Director's Discretionary Fund to support activities deemed by the Director as having high scientific and programmatic priority and to respond to emergency public health requirements. The conferees concur with language in the Senate report regarding the Director's authority to reallocate management savings to the Director's Discretionary Fund upon notification of the Committees on Appropriations in the House and Senate.

PREVENTIVE HEALTH SERVICES BLOCK GRANT

The conference agreement includes $100,000,000 for the Preventive Health Services Block Grant, the same as proposed by the Senate and the House.

TERRORISM AND PUBLIC HEALTH PREPAREDNESS

The conference agreement includes $1,593,189,000 for activities related to terrorism and public health preparedness, instead of $1,616,723,000 as proposed by the House and $1,566,471,000 as proposed by the Senate.

Within the total, $831,994,000 is for Upgrading State and Local Capacity; $137,972,000 is for Upgrading CDC Capacity; $14,000,000 is for Anthrax Studies; $79,223,000 is for the Biosurveillance Initiative; and $530,000,000 is for the Strategic National Stockpile.

Of the funds available for Upgrading State and Local Capacity, the conference agreement includes: $768,695,000 for bioterrorism cooperative agreements; $31,000,000 for Centers for Public Health Preparedness; and $5,400,000 for Advanced Practice Centers.

BUSINESS SERVICES SUPPORT

The conference agreement includes $296,119,000 for Business Services Support, as proposed by the Senate. The House had provided $298,515,000 for this purpose.

The conferees concur with language in the Senate report regarding the Director's authority to reallocate savings that result from efficiencies gained in business services support to the Director's Discretionary Fund upon notification of the Committees on Appropriations in the House and Senate.

The conferees also request that CDC continue to include at least the level of detail provided in past years in the Justification of Estimates for the Appropriations Committees, including the functional tables for each budget activity, the mechanism table by activity, and the crosswalks of funding between programs and CDC organizations.

The conferees also request that the CDC prepare and submit a report to the House and Senate Committees on Appropriations detailing intramural and extramural funding splits by sub-budget activity by no later than March 1, 2006. The report should include actual splits for fiscal years 2004 and 2005, as well as estimates for fiscal years 2006 and 2007.

The conferees continue to support partnerships between CDC and the minority health professions community.

NATIONAL INSTITUTES OF HEALTH

NATIONAL CANCER INSTITUTE

The conference agreement includes $4,841,774,000 for the National Cancer Institute as proposed by the House instead of $4,960,828,000 as proposed by the Senate.

The conferees urge the NCI to respond to the Bladder and Kidney Research Progress Review Group report and encourage appropriate funding for bladder and kidney cancer research.

NATIONAL HEART, LUNG AND BLOOD INSTITUTE

The conference agreement includes $2,951,270,000 for the National Heart, Lung and Blood Institute as proposed by the House instead of $3,023,381,000 as proposed by the Senate.

NATIONAL INSTITUTE OF DENTAL AND CRANIOFACIAL RESEARCH

The conference agreement includes $393,269,000 for the National Institute of Dental and Craniofacial Research as proposed by the House instead of $405,269,000 as proposed by the Senate.

NATIONAL INSTITUTE OF DIABETES AND DIGESTIVE AND KIDNEY DISEASES

The conference agreement includes $1,722,146,000 for the National Institute of Diabetes and Digestive and Kidney Diseases as proposed by the House instead of $1,767,919,000 as proposed by the Senate. An amount of $150,000,000 is also available to the Institute through a permanent appropriation for juvenile diabetes.

The conferees urge NIDDK to continue to support and develop the ''Urologic Diseases in America'' report and to include urological complications as well as diabetes and obesity research initiatives. The conferees further encourage the Institute to continue the Urinary Incontinence Treatment Network and to convene an external strategic planning group to develop future urology clinical trials. The conferees also encourage the Institute to convene a Strategic Planning Group to make recommendations on basic and clinical research in men's health, including the development of biomarkers to distinguish benign prostatic hyperplasia from prostate cancer.

NATIONAL INSTITUTE OF NEUROLOGICAL DISORDERS AND STROKE

The conference agreement includes $1,550,260,000 for the National Institute of Neurological Disorders and Stroke as proposed by the House instead of $1,591,924,000 as proposed by the Senate.

NATIONAL INSTITUTE OF ALLERGY AND INFECTIOUS DISEASES

(INCLUDING TRANSFER OF FUNDS)

The conference agreement includes $4,459,395,000 for the National Institute of Allergy and Infectious Diseases instead of $4,359,395,000 as proposed by the House and $4,547,136,000 as proposed by the Senate.

The conference agreement includes bill language permitting the transfer of $100,000,000 to International Assistance Programs, Global Fund to Fight HIV/AIDS, Malaria, and Tuberculosis as proposed by the Senate. The House bill did not permit a transfer.

NATIONAL INSTITUTE OF GENERAL MEDICAL SCIENCES

The conference agreement includes $1,955,170,000 for the National Institute of General Medical Sciences as proposed by the House instead of $2,002,622,000 as proposed by the Senate.

NATIONAL INSTITUTE OF CHILD HEALTH AND HUMAN DEVELOPMENT

The conference agreement includes $1,277,544,000 for the National Institute of Child Health and Human Development as proposed by the House instead of $1,310,989,000 as proposed by the Senate.

NATIONAL EYE INSTITUTE

The conference agreement includes $673,491,000 for the National Eye Institute as proposed by the House instead of $693,559,000 as proposed by the Senate.

NATIONAL INSTITUTE OF ENVIRONMENTAL HEALTH SCIENCES

The conference agreement includes $647,608,000 for the National Institute of Environmental Health Sciences as proposed by the House instead of $667,372,000 as proposed by the Senate.

The conferees urge NIEHS to work with CDC and expert independent researchers on research that could identify or rule out any association between thimerosal exposure in pediatric vaccines and increased rates of autism. The conferees believe that the Vaccine Safety Datalink (VSD), a CDC-constructed database that follows 7 million immunized children from 1990 to present, could be helpful in the research, especially regarding pre-2001 VSD data and post-2000 VSD data, since thimerosal was removed from most childhood vaccines in 2001. The conferees urge NIEHS and CDC to organize a workshop by May 2006 to explore the research possibilities and scientific feasibility of such a study and report back to the House and Senate Appropriations Committees soon after.

NATIONAL INSTITUTE ON AGING

The conference agreement includes $1,057,203,000 for the National Institute on Aging as proposed by the House instead of $1,090,600,000 as proposed by the Senate.

NATIONAL INSTITUTE OF ARTHRITIS AND MUSCULOSKELETAL AND SKIN DISEASES

The conference agreement includes $513,063,000 for the National Institute of Arthritis and Musculoskeletal and Skin Diseases as proposed by the House instead of $525,758,000 as proposed by the Senate.

NATIONAL INSTITUTE ON DEAFNESS AND OTHER COMMUNICATION DISORDERS

The conference agreement includes $397,432,000 for the National Institute on Deafness and Other Communication Disorders as proposed by the House instead of $409,432,000 as proposed by the Senate.

NATIONAL INSTITUTE OF NURSING RESEARCH

The conference agreement includes $138,729,000 for the National Institute of Nursing Research as proposed by the House instead of $142,549,000 as proposed by the Senate.

NATIONAL INSTITUTE ON ALCOHOL ABUSE AND ALCOHOLISM

The conference agreement includes $440,333,000 for the National Institute on Alcohol Abuse and Alcoholism as proposed by the House instead of $452,271,000 as proposed by the Senate.

NATIONAL INSTITUTE ON DRUG ABUSE

The conference agreement includes $1,010,130,000 for the National Institute on Drug Abuse as proposed by the House instead of $1,035,167,000 as proposed by the Senate.

The conferees encourage NIDA to move expeditiously on a cooperative research and development agreement (CRADA) regarding the use of vigabatrin for the treatment of cocaine and methamphetamine addiction.

NATIONAL INSTITUTE OF MENTAL HEALTH

The conference agreement includes $1,417,692,000 for the National Institute of Mental Health as proposed by the House instead of $1,460,393,000 as proposed by the Senate.

NATIONAL HUMAN GENOME RESEARCH INSTITUTE

The conference agreement includes $490,959,000 for the National Human Genome Research Institute as proposed by the House instead of $502,804,000 as proposed by the Senate.

NATIONAL INSTITUTE OF BIOMEDICAL IMAGING AND BIOENGINEERING

The conference agreement includes $299,808,000 for the National Institute of Biomedical Imaging and Bioengineering as proposed by the House instead of $309,091,000 as proposed by the Senate.

NATIONAL CENTER FOR RESEARCH RESOURCES

The conference agreement includes $1,110,203,000 for the National Center for Research Resources instead of $1,100,203,000 as proposed by the House and $1,188,079,000 as proposed by the Senate.

The conference agreement does not include bill language to earmark extramural facilities construction grants, as proposed by the House. The Senate bill proposed $30,000,000 for this purpose.

The conference agreement provides $326,000,000 from NCRR and Roadmap funds for general clinical research centers and the clinical and translational science awards (CTSA) combined. The Senate provided $327,000,000 for the combined awards; the House did not include similar language. As indicated in the Senate report, the total number of awards for the combined programs should remain at 79 in fiscal year 2006. When making the CTSA awards, consideration must be given to the units and functions currently carried out through the MO1 mechanism.

The conference agreement provides $222,208,000 for the Institutional Development Award (IdeA) program, as proposed by the House. The Senate had included $230,000,000 for this program.

NATIONAL CENTER FOR COMPLEMENTARY AND ALTERNATIVE MEDICINE

The conference agreement includes $122,692,000 for the National Center for Complementary and Alternative Medicine as proposed by the House instead of $126,978,000 as proposed by the Senate.

NATIONAL CENTER ON MINORITY HEALTH AND HEALTH DISPARITIES

The conference agreement includes $197,379,000 for the National Center on Minority Health and Health Disparities as proposed by the House instead of $203,367,000 as proposed by the Senate.

JOHN E. FOGARTY INTERNATIONAL CENTER

The conference agreement includes $67,048,000 for the John E. Fogarty International Center as proposed by the House instead of $68,745,000 as proposed by the Senate.

NATIONAL LIBRARY OF MEDICINE

The conference agreement provides $318,091,000 for the National Library of Medicine as proposed by the House instead of $327,222,000 as proposed by the Senate. In addition, $8,200,000 is provided from section 241 authority as proposed by both the House and Senate.

OFFICE OF THE DIRECTOR

(INCLUDING TRANSFER OF FUNDS)

The conference agreement includes $482,895,000 for the Office of the Director instead of $482,216,000 as proposed by the House and $487,434,000 as proposed by the Senate.

The conference agreement includes bill language permitting the Office of AIDS Research (OAR) to use its funding to make grants for construction or renovation of facilities, as provided for in section 2354(a)(5)(B) of the Public Health Service Act. This language was not included in either the House or Senate bill. The conferees support the efforts of OAR to expand a breeding colony that will serve as a new national resource to breed non-human primates for AIDS research. The conferees understand that this breeding colony is designed to represent a collaboration of several National Primate Research Centers (NPRCs). These resources will further the progress in identifying approaches to halt the transmission of HIV, slow disease progression, and treat those who are HIV-infected both in the United States and globally.

The conference agreement includes bill language identifying $97,000,000 for biodefense countermeasures that was not included in either the House or Senate bill. The House and Senate both included report language identifying $97,021,000 for this purpose.

The conferees believe, that to the extent resources allow, NIH should follow its cost management plan principles, which will help NIH continue to maintain the purchasing power of the research in which it invests. The Senate indicated that sufficient funds were included to fully pay committed levels on existing grants and to provide a 3.2 percent increase in the average cost of new grants. The House did not include a similar provision.

The conferees encourage NCI, NIDDK and NIBIB to conduct a multi-institute study focusing on: developing information on the history of polyps, including size and other histopathologic characteristics, which may serve as indicators of future colorectal cancer; the extent to which polyps can be monitored including colonoscopic and colonography or other screening techniques; and the optimal time in the course of polyp development when removal becomes essential to minimize the onset of colorectal cancer.

The conferees are disappointed that the director of NIH has not yet responded to the recommendations of the ACD working group on research opportunities in the basic behavioral sciences. The conferees urge the director of NIH, in consultation with senior IC leadership and the OBSSR, to develop a structural framework for managing support of NIH basic behavioral science research. This framework should include a division of portfolio and funding responsibility among the affected ICs, and should encourage co-funded trans-Institute research initiatives. The conferees request a report to the House and Senate Appropriations Committees describing the new framework and its relationship to the Office of Portfolio Analysis and Strategic Initiatives by May 1, 2006.

BUILDINGS AND FACILITIES

The conference agreement includes $81,900,000 for buildings and facilities as proposed by the House instead of $113,626,000 as proposed by the Senate.

The conference agreement does not include bill language granting full scope authority for the contracting of construction of the first and second phases of the John E. Porter Neurosciences Building as proposed by the Senate. The House bill contained no similar provision.

SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES ADMINISTRATION

SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES

The conference agreement includes $3,359,116,000 for substance abuse and mental health services, of which $3,237,813,000 is provided through budget authority and $121,303,000 is provided through the evaluation set-aside. The House bill proposed $3,352,047,000 for SAMHSA, of which $121,303,000 was from the evaluation set-aside and the Senate bill proposed $3,398,086,000, of which $123,303,000 was from the evaluation set-aside. The detailed table at the end of this joint statement reflects the activity distribution agreed to by the conferees.

Within the total provided, the conference agreement includes funding at no less than the fiscal year 2005 level, as proposed by the House, for activities throughout SAMHSA that are targeted to address the growing HIV/AIDS epidemic and its disparate impact on communities of color, including African Americans, Latinos, Native Americans, Asian Americans, Native Hawaiians, and Pacific Islanders. The Senate did not include similar language.

Within the total provided, the conference agreement also includes funding at no less than the fiscal year 2005 level for activities throughout SAMHSA addressing the needs of the homeless as proposed by the Senate. The House did not include similar language. Specifically, the conference agreement has provided funding at last year's level for programs directed at chronic homelessness and for programs directed at providing mental health and substance abuse treatment services to homeless individuals.

CENTER FOR MENTAL HEALTH SERVICES

The conference agreement includes $265,922,000 for programs of regional and national significance instead of $253,257,000 as proposed by the House and $287,297,000 as proposed by the Senate.

Within the total provided, the conference agreement provides no less than last year's level of funding, $94,240,000, for programs for prevention of youth violence, including the Safe Schools/Healthy Students interdepartmental program, as proposed by the Senate. The House included $84,000,000 for these programs. The conferees expect the Substance Abuse and Mental Health Services Administration to collaborate with the Departments of Education and Justice to continue a coordinated approach.

For programs addressing youth suicide prevention, the conference agreement includes $23,000,000 for State and campus-based programs as proposed by the Senate rather than $8,444,000 as proposed by the House, and $4,000,000 for the National Suicide Prevention Resource Center rather than $2,976,000 as proposed by the House and $3,976,000 as proposed by the Senate. In addition, no less than the amount provided in fiscal year 2005 should be allocated for the Suicide Prevention Hotline program and mental health screening demonstrations, as proposed by the Senate. The House report did not contain similar language.

The conference agreement includes $29,760,000 for the National Child Traumatic Stress Initiative as proposed by the House. The Senate did not include similar language.

The conference agreement provides $26,000,000 for the State incentive grants for transformation as proposed by both the House and Senate. These competitive grants will support the development of comprehensive State mental health plans and improve the mental health services infrastructure.

The conference agreement provides no less than the level allocated in fiscal year 2005 for grants for jail diversion programs as proposed by the House. The Senate did not include similar language.

The conference agreement provides the current level of funding for the consumer and consumer-supporter national technical assistance centers as proposed by the Senate. The conferees direct the Center for Mental Health Services to support multi-year grants to fund five such national technical assistance centers. The House did not include similar language.

The conferees request the Substance Abuse and Mental Health Services Administration to provide a report by May 1, 2006 on efforts to strengthen parenting and enhance child resilience in the face of adversity, as described in the Senate report. The House did not include similar language.

The conference agreement provides the same level of funding as was provided in fiscal year 2005 for the elderly treatment and outreach program as proposed by both the House and Senate.

The conference agreement includes $432,756,000 for the mental health block grant, which includes $21,803,000 from the evaluation set-aside, the same levels as proposed by both the House and the Senate. Included in the agreement is bill language transferring the State Infrastructure Planning Grants activity from the mental health programs of regional and national significance to the mental health block grant set-aside, as proposed by the House. The Senate proposed to continue to fund this activity through the programs of regional and national significance.

CENTER FOR SUBSTANCE ABUSE TREATMENT

The conference agreement includes $402,935,000 for programs of regional and national significance, which includes $4,300,000 from the evaluation set-aside, instead of $409,431,000 as proposed by the House and $412,091,000 as proposed by the Senate. Both the House and Senate bills included the evaluation set-aside at $4,300,000.

Within funds provided, $99,200,000 is for the Access to Recovery program as proposed by the House rather than $100,000,000 as proposed by the Senate. The conferees expect that addictive disorder clinical treatment providers participating in the Access to Recovery program meet the certification, accreditation, and/or licensing standards recognized in their respective States as proposed by the House. The Senate included similar language, but added the phrase, ''and their respective staff.''

The conference agreement provides $10,500,000 for treatment programs for pregnant, postpartum and residential women and their children rather than $11,000,000 as proposed by the Senate. Within these funds, no less than last year's level shall be used for the residential treatment program for pregnant and postpartum women in fiscal year 2006 authorized under section 508 of the Public Health Service Act. The House did not include similar language.

The conference agreement includes $8,166,000 to maintain the funding at the fiscal year 2005 level for the Addiction Technology Transfer Centers as proposed by both the House and Senate.

The conferees understand that the National Institute for Alcohol Abuse and Alcoholism recently published an updated 2005 edition of its clinician's guide for treating patients who have alcohol abuse problems, titled ''Helping Patients Who Drink Too Much.'' The guide includes new information on expanded options for treating alcohol dependent patients, including a section on approved medications. The conferees urge the Center for Substance Abuse Treatment, in conjunction with its Science to Services agenda, to launch a counselor education initiative to inform physicians and program staff in the substance abuse community about the guide's treatment recommendations for alcohol dependence, including pharmacotherapy options.

As part of the $4,300,000 set-aside to evaluate substance abuse treatment programs, the conferees encourage the Substance Abuse and Mental Health Services Administration to determine the most effective way to maximize the number of qualified doctors who utilize buprenorphine in the office-based treatment of their opiate-addicted patients, as authorized by the Drug Addiction Treatment Act of 2000.

CENTER FOR SUBSTANCE ABUSE PREVENTION

The conference agreement includes $194,850,000 for programs of regional and national significance instead of $194,950,000 as proposed by the House and $202,289,000 as proposed by the Senate.

Within the funds provided, the conference agreement includes $4,000,000, as proposed by the Senate, for the Center for Substance Abuse Prevention (CSAP) to continue to fund grants aimed at expanding the capacity of health care and community organizations to address methamphetamine abuse. The House did not include similar language.

The conference agreement provides $850,000 for the third year of funding for the Advertising Council?s parent-oriented media campaign to combat underage drinking as proposed by the Senate. The House proposed to fund the third year of this campaign through the Office of the Secretary.

The conferees expect the Substance Abuse and Mental Health Services Administration (SAMHSA) to ensure that grantees within the strategic prevention framework State incentive grant program do not fund duplicative sub-State anti-drug coalition infrastructures, but utilize those already functioning and funded by programs such as the Drug Free Communities program.

The conferees are concerned that consolidating the successful efforts that were pioneered by CSAP across all three of the Centers at SAMHSA will result in a dilution of the funding and emphasis on substance abuse prevention. The conferees expect SAMHSA to maintain substance abuse prevention as its highest priority for emphasis in both the National Registry of Effective Programs and Practices (NREPP) and the SAMHSA Health Information Network (SHIN). The conferees expect SAMHSA to report in its fiscal year 2007 congressional justification on how substance abuse prevention is being maintained as the highest priority for emphasis in both NREPP and SHIN.

PROGRAM MANAGEMENT

The conference agreement includes $92,817,000 for program management, of which $16,000,000 is provided through the evaluation set-aside. The House bill proposed $91,817,000 with a $16,000,000 evaluation set-aside and the Senate bill proposed $93,817,000 with an $18,000,000 evaluation set-aside.

The conference agreement includes $1,000,000 to expand on the collaborative effort by the Substance Abuse and Mental Health Services Administration and the Centers for Disease Control and Prevention to establish a population-based source of data on the mental and behavioral health needs in this country, rather than $2,000,000 as proposed by the Senate. The House did not provide funding for this activity.

AGENCY FOR HEALTHCARE RESEARCH AND QUALITY

HEALTHCARE RESEARCH AND QUALITY

The conference agreement includes $318,695,000 as proposed by the House instead of $323,695,000 as proposed by the Senate. The agreement makes these funds available through the policy evaluation set-aside as proposed by the Senate. The House had provided budget authority.

The conference agreement includes bill language proposed by the Senate limiting the funds to be spent on health care information technology to no more than $50,000,000. The House bill did not contain similar language. The conferees note that AHRQ has planned activities relating to patient safety, such as clinical terminology and messaging standards that have a large health information technology component. The conferees do not intend these activities as counting toward the $50,000,000 for the Health Care Information Technology program.

The conferees provide $15,000,000 within the total provided for AHRQ for clinical effectiveness research as proposed by the House. The Senate included $20,000,000 for this purpose. This type of research can help improve the quality, effectiveness and efficiency of health care, thereby reducing costs while still improving quality of care. The conferees urge AHRQ to ensure broad access to its findings in this research. In addition, the conferees encourage AHRQ to continue conducting high quality, comprehensive research studies in this area, building upon the priority list of conditions it identified in fiscal year 2005 and conducting research in additional areas such as organization, delivery and management of health care items and services.

The conferees are pleased with AHRQ's efforts to include bedside medication bar-coding as a component of its health information technology grants, particularly for those grants in rural areas. The conferees understand that almost ten percent of the funding for health information technology grants is allocated to rural projects with a bar-coding component. The conferees encourage AHRQ to increase its awards in this area since bar-coding has been shown to have a substantial effect on preventable errors in adverse drug events.

CENTERS FOR MEDICARE AND MEDICAID SERVICES

PAYMENTS TO THE HEALTH CARE TRUST FUNDS

The conference agreement provides $177,742,200,000 for the payment to the Health Care Trust Funds as proposed by the House rather than $177,822,200,000 as proposed by the Senate.

PROGRAM MANAGEMENT

The conference agreement includes $3,170,927,000 for program management instead of $3,180,284,000 as proposed by the House and $3,181,418,000 as proposed by the Senate. An additional appropriation of $720,000,000 has been provided for the Medicare Integrity Program through the Health Insurance Portability and Accountability Act of 1996.

The conferees encourage CMS to consider using $3,000,000 of the funds provided through the Medicare Integrity Program to study and demonstrate the use of data fusion technology that enables accurate linkages between data records across large, disparate databases in near-real time using public records, commercial data and complete CMS data sets to help prevent, and determine instances of, fraud, waste and abuse.

The conference agreement includes $58,000,000 for research, demonstration, and

evaluation instead of $65,000,000 as proposed by the House and $83,494,000 as proposed by the Senate. Within the total provided, the conference agreement provides $25,000,000 for Real Choice Systems Change Grants to States. The Senate provided $40,000,000 for these grants. The House did not provide funding for them.

The conferees are pleased with the demonstration project at participating sites licensed by the Program for Reversing Heart Disease and encourage its continuation. The conferees further urge CMS to continue the demonstration project being conducted at the Mind Body Institute of Boston, Massachusetts.

The conferees are very pleased with the ongoing efforts of CMS to address the seriously adverse health status of Native Hawaiians and American Samoans residing in the geographical area of the Waimanalo Health Center. The conferees urge CMS to consider waivers for rural or isolated area demonstration projects when calculating such requirements as population density in the State of Hawaii and are particularly pleased with the University of Hawaii's efforts to provide necessary health care in rural Hilo.

The conferees encourage CMS to conduct a national, three-year demonstration project to identify effective Medication Therapy Management Program (MTMP) models for Medicare Part D enrollees. The demonstration project should emphasize evidence-based prescribing, prospective medication management, technological innovation and outcomes reporting and should be capable of implementation on a large scale.

The conference agreement includes $2,172,987,000 for Medicare operations as proposed by the House instead of $2,184,984,000 as proposed by the Senate.

The conference agreement includes bill language proposed by the Senate making up to an additional $32,500,000 available to CMS for Medicare claims processing if the volume of claims exceeds particular thresholds. The House bill did not contain similar language.

The conference agreement does not include bill language proposed by the Senate directing the Secretary to send a notice to Medicare beneficiaries by January 1, 2006, notifying them of an error in the annual notice that had previously been mailed to them. The House bill did not contain similar language. The conferees are very concerned about the incorrect information on the new Medicare prescription drug plan that was inadvertently sent to beneficiaries. The conferees request that by no later than March 1, 2006, CMS report to the House and Senate Appropriations Committees a comprehensive summary of the actions taken to correct errors in the ''Medicare & You 2006'' handbook that was mailed to beneficiaries in October 2005. The conferees further direct that any notices to beneficiaries regarding the handbook error clearly state that the guidebook's tables on the levels of premium assistance were in error and that beneficiaries have until May 15, 2006 to enroll in a plan.

The conference agreement does not include general provision language proposed by the House that would prohibit funds being used to place social security numbers on ID cards issued to Medicare beneficiaries. The agreement also does not include general provision language proposed by the Senate that directs the Secretary to issue a report by June 30, 2006 describing plans to change the numerical identifier used for Medicare beneficiaries. The conferees consider this issue to be one of the utmost urgency and expect the Secretary to accelerate ongoing plans to convert the beneficiary identifiers.

The conference agreement provides $655,000,000 for Federal administration instead of $657,357,000 as proposed by the House and $628,000,000 as proposed by the Senate.

The conferees urge CMS to carefully review its decision to cut Medicare funding for second-year, specialized pharmacy residency programs, which provide specialized training to medication use experts in areas like geriatrics, oncology, and critical care. CMS should take into account new data submitted by national pharmacist associations and provide a full report to the House and Senate Committees within three months describing the agency?s rationale for any decision that results in these programs remaining unfunded.

The conferees are concerned about the recent data published by CMS showing that less than one-third of Medicare beneficiaries eligible for diabetes self-management training (DSMT) are receiving the care and instruction they need. The conferees urge CMS to consider removing barriers for certified diabetes educators to providing DSMT to Medicare beneficiaries, including but not limited to the addition of Medicare coverage for the provision of such services, and to identify strategies for evaluating the effectiveness of diabetes education in improving the self-care of people with diabetes and in reducing risk factors for diabetes.

The conferees are concerned with the unprecedented increase in autism diagnoses over the past two decades and its effect on the Medicaid program. As more young children reach adolescence and adulthood, the need for home-based as well as out-of-home, residential services will increase. The conferees encourage CMS to facilitate the expansion and availability of respite care to families with autism. The conferees also encourage CMS to work with States to design geographically-based demonstrations allowing for greater concentration of resources for home-based assistance and respite care.

The conferees urge CMS to promulgate regulations providing the option of direct access to licensed audiologists under similar terms and conditions used by the Department of Veterans Affairs and the Office of Personnel Management. The Department of Veterans Affairs reports that direct access provides high quality, efficient, and cost-effective hearing care. If CMS does not believe it has the current legal authority to make such a change, CMS should provide a written report to the House and Senate Appropriations Committees by April 1, 2006 detailing the legal reasoning for this position.

HEALTH CARE FRAUD AND ABUSE CONTROL

The conference agreement does not include funding for this new account as proposed by the House. The Senate had provided $80,000,000 for this activity.

ADMINISTRATION FOR CHILDREN AND FAMILIES

LOW-INCOME HOME ENERGY ASSISTANCE

The conference agreement provides $2,183,000,000 for low-income home energy assistance as proposed by the Senate instead of $2,006,799,000 as proposed by the House. Of the amount provided $2,000,000,000 is provided for formula grants to States. The House bill proposed the full amount for State formula grants and the Senate bill proposed $1,883,000,000. Within the funds available, $27,500,000 is included for the leveraging incentive fund as proposed by the Senate. The House did not include funding for the leveraging incentive fund. As proposed by the House, the conference agreement does not include funding within State formula grants for a feasibility study. The Senate proposed $500,000 for this activity.

The conference agreement includes $183,000,000 for the contingency fund to be available through September 30, 2006. The Senate bill proposed $300,000,000 for the emergency fund and designated those funds as an emergency. The House did not propose funding for either the contingency or emergency fund. Together with the $20,350,000 still available in the emergency fund appropriated in fiscal year 2005, the total amount available in fiscal year 2006 to respond to heating and cooling emergencies is $203,350,000.

The conferees expect the appropriation provided for the contingency fund to be released, in full, prior to September 30, 2006. Given the forecasts of the costs associated with home heating this winter, the conferees anticipate that States will experience energy emergency conditions that will require additional Federal support that is available through the contingency fund.

REFUGEE AND ENTRANT ASSISTANCE

The conference agreement includes $575,579,000 for the refugee and entrant assistance programs rather than $560,919,000 as proposed by the House and $571,140,000 as proposed by the Senate. The conference agreement does not include funds for any of these activities through emergency funding. The Senate bill provided $19,100,000 within the total as emergency funding; the House bill did not include emergency funding for these activities. The detailed table at the end of this joint statement reflects the activity distribution agreed to by the conferees.

The conference agreement includes $268,229,000 for the transitional and medical services program. The House included $264,129,000 for this program. The Senate provided $264,129,000 through regular appropriations and $4,100,000 as an emergency for this program. The conference agreement does not include emergency funding for this program. It is the intention of the conferees that the level provided would allow for assistance to eligible individuals during their first eight months in the United States.

The conference agreement provides $155,560,000 for social services, rather than $160,000,000 as proposed in the House and $151,121,000 as proposed by the Senate. Within the funds provided, the conference agreement includes $19,000,000 as outlined in the House report. The Senate did not include similar language. The conferees intend that funds provided above the request for social services shall be used for refugee school impact grants and for additional assistance in resettling and meeting the needs of the Hmong refugees expected to arrive during 2006 and 2007 or for other urgent needs.

The conference agreement provides $78,083,000 for the unaccompanied minors program. The House bill proposed $63,083,000 for this program. The Senate provided $63,083,000 through regular appropriations and $15,000,000 as an emergency for this program. The conference agreement does not include emergency funding for this program. The conferees direct the Secretary of Health and Human Services to issue a report by no later than one year after the date of enactment of this Act on progress made by the Office of Refugee Resettlement and programs funded under this Act to shift children to more child-centered, age-appropriate, small group, home-like environments for unaccompanied children in its custody.

PAYMENTS TO STATES FOR THE CHILD CARE AND DEVELOPMENT BLOCK GRANT

The conference agreement includes $2,082,910,000 for the child care and development block grant, the same level as both the House and Senate bills. The conference agreement includes several specified funding recommendations within the total at levels proposed by the House rather than at the funding levels proposed by the Senate.

CHILDREN AND FAMILIES SERVICES PROGRAMS

(INCLUDING RESCISSION OF FUNDS)

The conference agreement includes $8,932,713,000 for children and families services programs, of which $10,500,000 is provided through the evaluation set-aside. The

House bill proposed $8,701,207,000 for these programs with $12,500,000 from the evaluation set-aside and the Senate proposed $9,036,453,000 with $10,500,000 from the evaluation set-aside. The detailed table at the end of this joint statement reflects the activity distribution agreed to by the conferees.

Head Start

The conference agreement includes $6,843,114,000 for Head Start rather than $6,899,000,000 as proposed by the House and $6,863,114,000 as proposed by the Senate. The agreement includes $1,388,800,000 in advance funding, the same level as proposed by the Senate. The House bill proposed $1,400,000,000 for advance funding.

To enable the establishment of a panel of independent experts under the National Academy of Sciences to review and provide guidance on appropriate outcomes and assessments for young children, the conferees provide $1,000,000, within the total for Head Start, for the National Academy of Sciences.

The conference agreement includes, as a general provision, a limitation against the use of funds for Head Start to pay the compensation of an individual, either as direct costs or any proration as an indirect cost, at a rate in excess of Executive Level II, as proposed by the House. The Senate did not include a similar provision.

The conference agreement includes two general provisions relating to waiving requirements of regulations promulgated under the Head Start Act for transporting children enrolled in either Head Start or Early Head Start. The Senate bill included one general provision regarding this issue, but used different language than is included in the conference agreement. The House included report language pertaining to transportation waivers for this program.

Consolidated runaway and homeless youth program

The conference agreement includes $88,724,000 for the consolidated runaway and homeless youth program, the same level as proposed by the Senate, rather than $88,728,000 as proposed by the House.

Child abuse discretionary activities

The conference agreement includes $26,040,000 for child abuse discretionary programs instead of $31,645,000 as proposed by the House and $31,640,000 as proposed by the Senate.

Adoption incentive

The conference agreement includes $18,000,000 for the adoption incentive program rather than $31,846,000 as proposed by the House and $22,846,000 as proposed by the Senate. Actual bonus payments to States for fiscal year 2005 were less than amounts previously estimated, therefore, of the funds provided in fiscal year 2005 and made available through fiscal year 2006, the conference agreement rescinds $22,500,000. Neither the House nor the Senate proposed rescinding funds from this program.

Compassion capital fund

The conference agreement includes $65,000,000 for the compassion capital fund rather than $75,000,000 as proposed by the House and $95,000,000 as proposed by the Senate. Prior to advertising the availability of funds for any grant for the youth gang prevention initiative, the conferees request that the Department of Health and Human Services brief the House and Senate Committees on Appropriations regarding the planned use of these funds.

Social services and income maintenance research

The conference agreement includes $11,927,000 for social services and income maintenance research, of which $6,000,000 is provided through the evaluation set-aside. The House proposed $10,621,000 for this program, of which $8,000,000 was funded through the evaluation set-aside and the Senate proposed $32,012,000, of which $6,000,000 was from the evaluation set-aside.

The conferees note that efforts undertaken through the State information technology consortium have led to greatly improved systems communications and compliance in both the TANF and child support enforcement (CSE) programs. For TANF, the conferees have provided $2,000,000 to permit States to utilize uniquely designed web-based technology to improve benefit delivery and fulfill new Federal reporting requirements. For CSE, the conferees have provided $3,000,000 to continue the consortium's efforts to improve data exchange between CSE and the courts in ways that will significantly reduce the time lag between court orders and enforcement/collections activities.

Developmental disabilities

Within developmental disabilities programs, the conference agreement includes $39,109,000 for protection and advocacy services as proposed by the Senate instead of $38,109,000 as proposed by the House.

The conference agreement also includes $15,879,000 for voting access for individuals with disabilities rather than $14,879,000 as proposed by the House and $30,000,000 as proposed by the Senate. Within the funds provided, $11,000,000 is for payments to States to promote access for voters with disabilities and $4,879,000 is for State protection and advocacy systems.

As proposed by both the House and Senate, the conference agreement provides $11,529,000 for the developmental disabilities projects of national significance. Within this amount, $4,000,000 is to expand activities of the Family Support Program, as proposed by the Senate. The House did not include similar language.

Community services

The conference agreement includes $636,793,000 for the community services block grant (CSBG) as proposed by the Senate rather than $320,000,000 as proposed by the House. The conferees concur with language included in the Senate report that the Office of Community Services (OCS) release funding to States in the timeliest manner and that States make funds available promptly to local eligible entities. In addition, the conferees expect OCS to inform State CSBG grantees of any policy changes affecting carryover funds within a reasonable time after the beginning of the Federal fiscal year. The House did not include similar language.

As proposed by both the House and Senate, the conference agreement includes $32,731,000 for community economic development. The conferees concur with language included in the Senate report that appropriated funds be allocated, to the maximum extent possible, in the form of grants to qualified community development corporations in order to maximize the leveraging power of the Federal investment and the number and the amount of set-asides should be reduced to the most minimal levels. The House did not include similar language.

The conference agreement includes $7,367,000 for rural community facilities instead of $7,242,000 as proposed by the House and $7,492,000 as proposed by the Senate. The conferees intend that the increase provided for the Rural Community Facilities program be used to provide additional funding to the six regional RCAPs.

The conference agreement does not include funding for the National Youth Sports program as proposed by the House. The Senate proposed $10,000,000 for this program.

The conference agreement does not include funding for community food and nutrition as proposed by the House. The Senate proposed $7,180,000 for this program.

Independent living training vouchers

The conference agreement includes $46,623,000 for independent living training vouchers as proposed by the Senate instead of $50,000,000 as proposed by the House.

Community-based abstinence education

The conference agreement includes $114,500,000 for community-based abstinence education as proposed by the House rather than $105,500,000 as proposed by the Senate. The conference agreement includes $4,500,000 in program evaluation funds for the abstinence education program and $110,000,000 in budget authority. The conferees concur with language included in the House report regarding technical assistance and capacity-building support to grantees. The Senate report did not include similar language.

Within the total for community-based abstinence education, up to $10,000,000 may be used to carry out a national abstinence education campaign as proposed by both the House and the Senate. The conferees concur with language included in the Senate report that the Administration for Children and Families use available funds to continue support for an independent group to conduct a thorough and rigorous evaluation of this campaign. The House did not include similar language.

Program direction

The conference agreement includes $185,217,000 for program direction as proposed by the House instead of $186,000,000 as proposed by the Senate.

PROMOTING SAFE AND STABLE FAMILIES

The conference agreement includes $90,000,000 for the discretionary grant program of promoting safe and stable families as proposed by the Senate rather than $99,000,000 as proposed by the House.

ADMINISTRATION ON AGING

AGING SERVICES PROGRAMS

The conference agreement includes $1,376,624,000 for aging services programs instead of $1,376,217,000 as proposed by the House and $1,391,699,000 as proposed by the Senate. The detailed table at the end of this joint statement reflects the activity distribution agreed to by the conferees.

The conference agreement includes $20,360,000 for activities for the protection of vulnerable older Americans as proposed by the Senate instead of $19,360,000 as proposed by the House. Within the funds provided $15,162,000 is for the ombudsman services program as proposed by the Senate.

Included in the conference agreement is $157,744,000 for the family caregivers program rather than $155,744,000 as proposed by the House and $160,744,000 as proposed by the Senate.

The conference agreement includes $722,292,000 for nutrition programs rather than $725,885,000 as proposed by the House and $718,697,000 as proposed by the Senate. Within the total, $389,211,000 is provided for congregate meals rather than $391,147,000 as proposed by the House and $387,274,000 as proposed by the Senate; $183,742,000 is provided for home delivered meals rather than $184,656,000 as proposed by the House and $182,827,000 as proposed by the Senate; and, $149,339,000 is provided for the nutrition services incentives program rather than $150,082,000 as proposed by the House and $148,596,000 as proposed by the Senate.

The conference agreement includes $24,843,000 for program innovations instead of $23,843,000 as proposed by the House and $40,513,000 as proposed by the Senate. The conferees continue to support funding at no less than last year's level for national programs scheduled to be refunded in fiscal year

2006 as proposed by the Senate that address a variety of issues, including elder abuse, Native American issues and legal services. The House report did not include similar language.

Within the funding provided, the conference agreement includes $3,000,000, as proposed by the House, for social research into Alzheimer's disease care options, best practices and other Alzheimer's research priorities that include research into cause, cure and care, as well as respite care, assisted living, the impact of intervention by social service agencies on victims, and related needs. The agreement recommends this research utilize and give discretion to area agencies on aging and their non-profit divisions in municipalities with aged populations (over the age of 60) of over 1,000,000, with preference given to the largest population. The conferees also recommend that unique partnerships to affect this research be considered for the selected area agency on aging. The Senate did not include funding for this activity.

Given the enormous demands on Alzheimer's family caregivers, the conferees have included $1,000,000, as proposed by the Senate, to support an Alzheimer's family contact center for round-the-clock help to Alzheimer's families in crisis. The House did not include funding for this activity.

OFFICE OF THE SECRETARY

GENERAL DEPARTMENTAL MANAGEMENT

The conference agreement includes $352,703,000 for general departmental management instead of $338,695,000 as proposed by the House and $363,614,000 as proposed by the Senate, along with $5,851,000 from Medicare trust funds, which was provided by both the House and Senate. In addition, $39,552,000 in program evaluation funding is provided, which was proposed by both the House and Senate.

The conference agreement includes bill language proposed by the Senate directing that specific information requests from the chairmen and ranking members of the Subcommittees on Labor, Health and Human Services, and Education, and Related Agencies, on scientific research or any other matter, be transmitted to the Committees on Appropriations in a prompt professional manner and within the time frame specified in the request. The bill language further directs that scientific information requested by the Committees on Appropriations and prepared by government researchers and scientists be transmitted to the Committees on Appropriations, uncensored and without delay. The House did not include such a provision.

The conference report does not include a general provision proposed by the Senate related to compliance with section 2 of the Improper Payments Information Act of 2002 (IPIA) for the Temporary Assistance for Needy Families Program, the Foster Care and Adoption Assistance program, the Medicaid program, the State Children's Health Insurance Program, and the Child Care and Development Block Grant program. The House bill did not contain similar language. The conferees request that not later than sixty days after the date of enactment of the Act the Secretary of Health and Human Services provides a report on this topic to the Appropriations Committees. In addition to the actions that have been taken to date, this report should include HHS's plans and the specific steps that are necessary to achieve compliance with section 2 in these programs.

The conference agreement includes $2,500,000 to support the last year of the Citizens' Health Care Working Group established in the Medicare Modernization Act. The Senate proposed $3,000,000 for this activity; the House report did not contain a similar provision.

The conference agreement includes $500,000 with which the Secretary is directed to conduct a study to determine the best way to promote the use of advance directives among competent adults as a means of specifying their wishes about end of life care. The Senate report had a similar provision. The House report did not request such a study.

The conferees intend that, of the funding provided to the Office of Minority Health, no less than the fiscal year 2005 funding level be allocated to a culturally competent and linguistically appropriate public health response to the HIV/AIDS epidemic. The House report had a similar provision; the Senate report did not have such a provision.

The conference report does not include funding within the Office of the Secretary for the third year of the Ad Council's underage drinking media campaign as proposed by the House. The conferees have instead provided funding for this effort within the Substance Abuse and Mental Health Services Administration as proposed by the Senate.

The conferees are concerned about the diminished partnership between OMH and the nation's historically black medical schools. Despite repeated urging by the Committees, OMH has not maintained and cultivated cooperative agreements and other mechanisms of support with Meharry Medical College, Morehouse School of Medicine, and Charles R. Drew University of Medicine and Science. The conferees encourage OMH to: 1) re-establish its unique cooperative agreement with Meharry Medical College, 2) develop a formal partnership with the Morehouse School of Medicine and its National Center for Primary Care, and 3) coordinate a Public Health Service-wide response to the challenges facing the Charles R. Drew University of Medicine and Science, including expanded opportunities for biomedical research and support for residency training faculty.

The conferees recognize that gynecological cancers are treatable if diagnosed at an early stage, and are concerned about the low level of awareness among women concerning the early warning signs of gynecologic cancers. The conferees recognize that there are many activities undertaken by the Secretary to raise awareness about gynecologic cancers, but are concerned that a lack of coordination of these activities among the agencies may limit the effectiveness and outreach of these programs. The conferees encourage the Secretary to examine these programs, and coordinate their activities through the Office of Women's Health. The Secretary is also encouraged to consider developing a national education campaign.

OFFICE OF MEDICARE HEARINGS AND APPEALS

The conference agreement includes $60,000,000 for this activity as proposed by the House instead of $75,000,000 as proposed by the Senate.

OFFICE OF THE NATIONAL COORDINATOR FOR HEALTH INFORMATION TECHNOLOGY

The conference agreement includes $61,700,000 for this activity, of which $42,800,000 is provided in budget authority and $18,900,000 is made available through the Public Health Service program evaluation set-aside. The House had provided a combined total of $75,000,000 for this activity; the Senate provided a combined total of $45,150,000.

The conference agreement does not include general provision language proposed by the Senate or similar language proposed by the House prohibiting the use of funds provided in the Act to implement any strategic plan that does not require a patient whose information is maintained by the Department to be given notice if it is lost, stolen or used for another purpose. The conferees underscore the importance of consumer confidence in the privacy and security of their personal health information as a fundamental principle in all actions taken to carry out the HHS Health Information Technology (HIT) strategic plan. The conferees understand that HHS has funded a ''Privacy and Security Solutions for Interoperable Health Information Exchange'' contract to study and address variations in State law and business practices related to privacy and security that may pose challenges to interoperable health information exchange. Funds are included for the Office of the National Coordinator for Health Information Technology to continue its work to evaluate and initiate solutions, including those that will maintain the security and privacy protections for personal health information, as part of the Department's activities in carrying out its HIT strategic plan. The conferees request a report within 90 days describing how HHS plans to address privacy issues in the information technology program.

OFFICE OF INSPECTOR GENERAL

The conference agreement includes $39,813,000 for the Office of Inspector General (OIG) as proposed by both the House and the Senate. The conferees expect that the OIG will utilize funds provided in section 121 of H.J. Res. 68 to provide continued oversight of Medicare Modernization Act implementation and the Medicare program.

PUBLIC HEALTH AND SOCIAL SERVICES EMERGENCY FUND

The conference agreement includes $183,589,000 for the Public Health and Social Services Emergency Fund (PHSSEF) to enhance Federal, State, and local preparedness to counter potential biological, disease, chemical, and radiological threats to civilian populations, the same as proposed by the House. The Senate had provided $8,158,589,000, with $8,095,000,000 designated as an emergency requirement pursuant to the concurrent resolution on the budget for fiscal year 2006.

Within the amount provided, the conference agreement includes $120,000,000, available until expended, for activities to ensure year-round production capacity of influenza vaccine. This is the same as proposed by the House. The Senate had incorporated this funding within the $8,095,000,000 designated as emergency spending.

GENERAL PROVISIONS

HEAD START COMPENSATION

The conference agreement includes a general provision that prohibits the use of funds for Head Start to pay the compensation of an individual, either as direct costs or any proration as an indirect cost, at a rate in excess of Executive Level II, as proposed by the House. The Senate bill did not contain a similar provision.

EVALUATION TAP AUTHORITY

The conference agreement includes a provision to allow for a 2.4 percent evaluation tap pursuant to section 241 of the Public Health Service Act. This tap is to be applied to programs authorized under the Public Health Service Act. The House bill contained a provision to allow for a 1.3 percent evaluation tap and the Senate bill allowed for a 2.5 percent evaluation tap.

ONE PERCENT TRANSFER AUTHORITY

The conference agreement includes language proposed by the Senate providing the Secretary of HHS with the authority to transfer up to 1 percent of discretionary funds between a program, project, or activity, but no such program, project or activity shall be increased by more than 3 percent by

any such transfer. Additionally, a program, project or activity may be increased up to an additional 2 percent subject to written approval of the House and Senate Appropriations Committees. The House bill included a similar provision, but allowed the authority to transfer between appropriations.

HIV RESEARCH FUNDS TRANSFER

The conference agreement includes a general provision as proposed by the House allowing the Director of the National Institutes of Health, jointly with the Director of the Office of AIDS Research, to transfer up to 3 percent of funding identified by these two directors as funding pertaining to HIV research among institutes and centers. The Senate included similar language.

COUNCIL ON GRADUATE MEDICAL EDUCATION

The conference agreement includes a general provision proposed by the Senate allowing for the continued operation of the Council on Graduate Medical Education. The House bill contained no similar provision.

SMALLPOX VACCINE INJURY COMPENSATION RESCISSION

The conference agreement includes a general provision rescinding $10,000,000 from the smallpox vaccine injury compensation fund as proposed by the Senate. The House bill contained no similar provision.

NAMING OF CDC BUILDINGS

The conference agreement includes a general provision proposed by the Senate naming two Centers for Disease Control and Prevention buildings. The House did not include a similar provision.

POWER WHEELCHAIR REGULATIONS

The conference agreement modifies a general provision proposed by the Senate prohibiting funds to be used to implement or enforce Medicare regulations on power mobility devices prior to April 1, 2006. The conference agreement includes limitation language prohibiting the implementation of a regulation until April 1, 2006 and deletes the portions of the Senate provision that reduced payments for power mobility devices and established deadlines for future rulemaking. The House bill contained no similar provision. The conferees concur in the intent of the Senate language that a proposed rule be published by January 1, 2006, followed by a 45-day period to comment on the proposed rule, and that by not later than February 14, 2006, a final rule be published, followed by a 45-day transition period for implementation.

HEAD START TRANSPORTATION WAIVER

The conference agreement modifies general provision language proposed by the Senate pertaining to waivers for the transportation of children enrolled in either Head Start or Early Head Start. The House included report language dealing with this issue.

HEAD START TRANSPORTATION REGULATION

The conference agreement includes a general provision that the regulation pertaining to Head Start transportation shall not be effective until June 30, 2006, or 60 days after the date of enactment of a statute that authorizes appropriations for fiscal year 2006 to carry out the Head Start Act, whichever date is earlier. This clarifying provision was not included in either the House or Senate bills.

HEALTH PROFESSIONS STUDENT LOAN RESCISSIONS

The conference agreement includes two general provisions rescinding unobligated balances of the Health Professions Student Loan Program and the Nursing Student Loan Program. The House and Senate included similar provisions for the Health Professions Student Loan Program.

DEPARTMENT OF HEALTH AND HUMAN SERVICES TRAVEL

The conference agreement includes a new provision granting authority to the Secretary to use, at his discretion, charter aircraft under contract with the Centers for Disease Control and Prevention (CDC). The Secretary has significant operational responsibilities in times of emergencies and in the days following such emergencies. The Department is the primary agency for directing public health and medical services in response to significant events. Due to the unpredictable nature of such events, the conferees believe the Secretary must be in a posture to respond and communicate as an event is unfolding. Yet, existing travel limitations on the Secretary make this extremely difficult. The availability of CDC's charter aircraft will allow the Secretary to immediately return to Washington or rapidly move to another location as the situation dictates, at the same time being able to securely communicate with and direct the Department.

The conference agreement also extends this authority to the Director of the Centers for Disease Control and Prevention. The conferees understand that, due to existing restrictions, the Director on a number of occasions has not been able to accompany employees of the Agency responding to public health emergencies.

The conferees expect the Secretary and the Director of CDC to exercise this authority in an economical and judicious manner. The conferees request that the Secretary report to the Committees on Appropriations of the House and Senate regarding the use of this authority in the annual justification of estimates for the Appropriations Committees and at the end of the third quarter of each fiscal year.

STATE PHARMACEUTICAL ASSISTANCE PROGRAMS

The conference agreement does not include a general provision proposed by the Senate to extend the availability of fiscal year 2005 funding appropriated for State Pharmaceutical Assistance Programs in the Medicare Modernization Act through fiscal year 2006. The House bill did not include a similar provision.

USE OF SOCIAL SECURITY NUMBERS ON MEDICARE ID CARDS

The conference agreement deletes without prejudice general provisions proposed by both the House and Senate relating to the use of Social Security numbers on Medicare ID cards. Language is included within the Centers for Medicare and Medicaid Services section of the statement of the managers.

RAPID ORAL HIV TESTS

The conference agreement does not include a general provision proposed by the Senate directing the Secretary of HHS to use funds appropriated in Title II of this Act to purchase not less than one million rapid oral HIV tests. The House did not include a similar provision.

TELEHEALTH APPROPRIATION

The conference agreement deletes without prejudice a general provision proposed by the Senate relating to increased funding for telehealth programs. Funding for telehealth programs is included within HRSA. The House did not include a similar provision.

DENTAL WORKFORCE PROGRAM

The conference agreement does not include a general provision proposed by the Senate earmarking, within funds appropriated to HRSA, grants for programs to address dental workforce needs. Funding for this program is included within HRSA program management. The House did not include a similar provision.

MEDICALLY ACCURATE INFORMATION IN ABSTINENCE PROGRAMS

The conference agreement does not include a general provision proposed by the Senate that none of the funds made available in the Act may be used to provide abstinence education that includes information that is medically inaccurate, which is defined by information that is unsupported or contradicted by peer-reviewed research by leading medical, psychological, psychiatric, and public health publications, organizations, and agencies. The House did not include a similar provision.

LOW-VISION REHABILITATION SERVICES DEMONSTRATION

The conference agreement deletes without prejudice a general provision proposed by the Senate appropriating funding for a low-vision rehabilitation services demonstration. The House bill contained no similar provision. The Secretary of HHS is strongly urged to implement the Low-Vision Rehabilitation Services Demonstration Project, which was originally requested in the fiscal year 2004 appropriations conference report. The demonstration is to examine the impact of standardized national coverage for vision rehabilitation services provided in the home by vision rehabilitation professionals under the Medicare program. The conferees expect the Secretary of HHS and CMS to take the necessary steps to finalize the design and structure of the demonstration project no later than January 1, 2006. The conferees intend the Secretary to expend from available funds appropriated to him, including transfers authorized under existing authorities from the Federal Supplementary Insurance Trust Fund, an amount not to exceed $2,000,000 in fiscal year 2006. The conferees expect the Secretary to take steps to update the design and expand the size of the Low-Vision Rehabilitation Services Demonstration Project in fiscal year 2007.

DSH MEDICAID PAYMENTS TO THE STATE OF VIRGINIA

The conference agreement deletes without prejudice a general provision proposed by the Senate containing a sense of the Senate resolution expressing awareness of the issue of defining ''hospital costs'' incurred by the State of Virginia for purposes of Medicaid reimbursement and urging CMS to work with the State to resolve the pending issue. The House did not include a similar provision.

DEFIBRILLATION DEVICES

The conference agreement deletes without prejudice a general provision proposed by the Senate appropriating funds for the Automatic Defibrillation in Adam's Memory Act. Funding for this program is included within HRSA. The House did not include a similar provision.

OFFICE OF MINORITY HEALTH

The conference agreement does not include a general provision proposed by the Senate shifting funding to the Office of Minority Health from the Program Management account within CMS. Funding for the Office of Minority Health and CMS Program Management are included within those specific accounts. The House did not include a similar provision.

MOSQUITO ABATEMENT

The conference agreement does not include a general provision proposed by the Senate earmarking funds within CDC for mosquito abatement for safety and health. The House did not include a similar provision.

COMMUNITY HEALTH CENTERS

The conference agreement does not include a general provision proposed by the Senate increasing funding for the Community

Health Centers program. Funding for the Community Health Centers program is included within HRSA. The House did not include a similar provision.

HEALTH INFORMATION SECURITY

The conference agreement deletes without prejudice a general provision proposed by the Senate prohibiting the use of funds provided in the Act to implement any strategic plan that does not require a patient whose information is maintained by the Department to be given notice if it is lost, stolen or used for another purpose. The House bill contained a similar provision. Language is included within the Office of the National Coordinator for Health Information Technology section of the statement of the managers.

LIMITATION ON TRAVEL AND CONFERENCES

The conference agreement does not include a general provision proposed by the Senate reducing the appropriations for travel, conference programs and related expenses for the Department of Health and Human Services. The House did not include a similar provision.

HELP AMERICA VOTE ACT

The conference agreement does not include a general provision proposed by the Senate providing additional funding for the Help America Vote Act. Funding for programs authorized by the Help America Vote Act and administered by HHS are included within the Children and Families Services section of the Administration for Children and Families. The House did not include a similar provision.

TITLE III—DEPARTMENT OF EDUCATION

EDUCATION FOR THE DISADVANTAGED

The conference agreement includes $14,627,435,000 for the Education for the Disadvantaged account instead of $14,728,735,000 as proposed by the House and $14,532,785,000 as proposed by the Senate. The agreement provides $7,244,134,000 in fiscal year 2006 and $7,383,301,000 in fiscal year 2007 funding for this account.

The conference agreement includes $100,000,000 for the Even Start program instead of $200,000,000 as proposed by the House. The Senate bill did not include funding for this program.

The conferees intend for funds available under the Reading First program to be used for reading programs with the strongest possible scientific evidence of effectiveness. The conferees strongly urge the Department to provide clear guidance to its technical assistance centers and the States to: fully consider scientific evidence of effectiveness in rating programs for use under Reading First; contemplate expanded lists of allowable programs that include innovative programs with scientific evidence of effectiveness; when awarding new grants, consider giving preference to those schools that select programs with strong, scientific evidence of effectiveness; and ensure that comprehensive reading programs that have scientific evidence of effectiveness will be implemented in full, as they have been researched, without modification to conform to other models of instruction. The conferees also are concerned that certain practices under the Reading First program may unduly interfere with local control of curriculum. The conferees note that Reading First materials decisions are to be made at the school level, subject to the approval of the State.

The conference agreement includes $30,000,000 for the Striving Readers program as proposed by the House instead of $35,000,000 as proposed by the Senate.

The conference agreement also includes $390,428,000 for the State Agency Migrant Education program as proposed by the House instead of $395,228,000 as proposed by the Senate.

The conference agreement includes $50,300,000 for the Neglected and Delinquent program instead of $49,600,000 as proposed by the House and $51,000,000 as proposed by the Senate.

The conference agreement includes $8,000,000 for Comprehensive School Reform quality initiatives. The House bill provided $10,000,000 for the Comprehensive School Reform Demonstration program and the Senate bill did not include any funding related to Comprehensive School Reform. The conferees concur that comprehensive school reform (CSR) models provide an exemplary approach to raising academic achievement, particularly for schools that do not make adequate yearly progress under the No Child Left Behind Act. The conferees believe that States should utilize their four percent school improvement set-aside funds to support implementation of comprehensive school reform models with demonstrated success. The conferees strongly urge States to examine methods for distributing school improvement funds that will result in awards of sufficient size and scope to support the initial costs of comprehensive school reforms and to limit funding to programs that include each of the reform components described in section 1606(a) of the No Child Left Behind Act of 2001 and have the capacity to improve the academic achievement of all students in core academic subjects within participating schools. Further, the conferees intend that the Secretary shall notify States that schools currently receiving CSR subgrants shall receive priority for targeted grants and/or technical assistance under section 1003(a) of ESEA.

The conference agreement also includes $18,737,000 for the Migrant Education High School Equivalency program as proposed by the House instead of $21,587,000 as proposed by the Senate.

IMPACT AID

The conference agreement includes bill language not included in either the House or Senate bill that restricts the release of impact aid construction funds to a formula distribution.

SCHOOL IMPROVEMENT PROGRAMS

The conference agreement includes $5,308,564,000 for the School Improvement Programs account instead of $5,393,765,000 as proposed by the House and $5,457,953,000 as proposed by the Senate. The agreement provides $3,873,564,000 in fiscal year 2006 and $1,435,000,000 in fiscal year 2007 funding for this account.

The conference agreement includes $184,000,000 for the Mathematics and Science Partnerships (MSP) program instead of $190,000,000 as proposed by the House and $178,560,000 as proposed by the Senate. The conferees urge the Secretary to encourage MSP grantees to incorporate advanced placement (AP) or pre-advanced placement (PRE-AP) staff development training into their math and science partnership projects to help teachers meet the highly qualified criteria under the No Child Left Behind Act. The AP and PRE-AP professional development initiatives support teachers' content and pedagogical knowledge development so that all students, regardless of whether or not they take AP, will receive rigorous, challenging math and science instruction. The AP math and science initiative has the primary objective of increasing the number of AP opportunities, AP participation rates, and postsecondary acceptance and success rates for disadvantaged students.

The conference agreement includes $100,000,000 for State Grants for Innovative Education as proposed by the Senate instead of $198,400,000 as proposed by the House. The agreement also includes $275,000,000 for Educational Technology State Grants instead of $300,000,000 as proposed by the House and $425,000,000 as proposed by the Senate.

The conferees are concerned that many schools are unable to properly assess the performance of students with disabilities and students with limited English proficiency. Therefore, the conferees urge the Department to continue to place a high priority on grant applications for funds available from the enhanced assessments instruments program that aim to improve the quality of state assessments for these two groups of students and to ensure the most accurate means of measuring their performance on these assessments.

The conference agreement includes $9,693,000 for the Javits Gifted and Talented program instead of $11,022,000 as proposed by the Senate. The House did not propose funding for this program.

The agreement also includes $22,000,000 for the Foreign Language Assistance program instead of $25,000,000 as proposed by the Senate. The House did not propose funding for this program. The conferees concur with all of the language contained in the Senate report related to the use of these funds and administration of this program. The conference agreement includes language in the Senate bill that prohibits funds from being used for the Foreign Language Incentive Fund program. The House bill did not include a similar provision.

The conference agreement includes $34,250,000 for the Education of Native Hawaiians program instead of $24,770,000 as proposed by the House and $34,500,000 as proposed by the Senate. The agreement includes bill language that allows funds under this program to be used for construction, renovation and modernization of any elementary school, secondary school, or structure related to an elementary school or secondary school run by the Department of Education of the State of Hawaii that serves a predominantly Native Hawaiian student body as proposed by the Senate. The House bill did not include a similar provision.

The conference agreement also includes bill language, as proposed by the Senate, which provides not less than $1,250,000 to the Hawaii Department of Education for school construction/renovation activities, and $1,250,000 for the University of Hawaii's Center of Excellence in Native Hawaiian Law. The House bill did not include a similar provision.

The conference agreement includes $34,250,000 for the Alaska Native Educational Equity program instead of $31,224,000 as proposed by the House and $34,500,000 as proposed by the Senate. The conference agreement includes bill language which allows funds available through this program to be used for construction, as proposed by the Senate. The House bill did not include a similar provision. The conferees direct the Department to use at least a portion of these funds to address the construction needs of rural schools.

The conferees are aware that the Department recently awarded a grant for a California Comprehensive Center, which will provide technical assistance to state and local educational agencies in California. This new Center will have to establish and develop a strong relationship to serve schools in Southern California, which has a majority of California's students and schools identified as in need of improvement as well as the highest number of English Language Learners and schools targeted for restructuring. The conferees encourage the Department of Education to ensure that this Center adequately addresses the needs of Southern California's local school districts.

INNOVATION AND IMPROVEMENT

The conference agreement includes $945,947,000 for programs in the Innovation and Improvement account, instead of $708,522,000 as proposed by the House and $1,038,785,000 as proposed by the Senate.

The conference agreement includes $21,750,000 for the National Writing Project program instead of $20,336,000 as proposed by the House and $23,000,000 as proposed by the Senate.

The conference agreement includes $121,000,000 for the Teaching of Traditional American History program as proposed by the Senate. The House bill proposed $50,000,000 for this program. The conferees direct the Department to continue its current policy of awarding 3–year grants. The conference agreement also includes bill language proposed by the Senate that allows not more than 3 percent of the funds available for this program to be used for technical assistance. The House bill did not include a similar provision.

The conference agreement includes $14,880,000 for the School Leadership program as proposed by the House instead of $15,000,000 as proposed by the Senate.

The conference agreement includes $16,864,000 for the Advanced Credentialing program as proposed by the House instead of $10,000,000 as proposed by the Senate. The conference agreement includes bill language that provides $9,920,000 of these funds to the National Board for Professional Teaching Standards and $6,944,000 to the American Board for the Certification of Teacher Excellence. The Senate bill included language that provided $10,000,000 to the National Board for Professional Teaching Standards and the House bill did not include a similar provision.

The conference agreement includes $36,981,000 for the Credit Enhancement for Charter Schools program as proposed by the House. The Senate did not propose funding for this program.

Fund for the Improvement of Education (FIE)

The conference agreement includes $160,111,000 for the Fund for the Improvement of Education instead of $27,000,000 as proposed by the House and $387,424,000 as proposed by the Senate. The amount included in bill language for the Fund for the Improvement of Education provides an additional $100,000,000 for the Teacher Incentive Fund, which is described later in this section.

The conference agreement includes funding for the following activities authorized under section 5411 of the Elementary and Secondary Education Act:

National Institute of Building Sciences for the National Clearinghouse for Educational Facilities	$694,000
Presidential and Congressional American History and Civics Academies	2,000,000
Evaluation and data quality initiative	2,000,000
Reach out and Read, peer review, teacher quality and other activities	9,092,000

The conference agreement includes $2,000,000 to carry out the American History and Civics Education Act of 2004, instead of $10,000,000 as proposed by the Senate. The House bill did not include funding for this program. The conferees concur in the language contained in the Senate Report regarding the use of funds for this activity. The conferees intend $1,265,000 will be used for Presidential Academies for Teaching of American History and Civics and the remaining funds will support the establishment of Congressional Academies for Students of American History and Civics.

The conferees direct the Department to implement the Act consistent with their intent, as reflected above, and request an implementation plan to be submitted to the House and Senate Committees on Appropriations within 30 days of enactment of the Department of Education Appropriations Act, 2006.

Within the total amount provided for FIE, the conference agreement also includes funding for separately authorized programs in the following amounts:

Reading is Fundamental	$25,296,000
Star Schools	15,000,000
Ready to Teach	11,000,000
Education through Cultural and Historical Organizations	9,000,000
Arts in Education	35,633,000
Parental Information and Resource Centers	40,000,000
Excellence in Economic Education	1,488,000
Women's Educational Equity	2,956,000
Foundations for Learning Grants	992,000
Mental Health Integration Grants	4,960,000

For Arts in Education, the conferees intend that within this total, $7,440,000 is for Very Special Arts and $6,369,000 is for the John F. Kennedy Center for the Performing Arts. In addition, $7,936,000 is for model professional development programs for music, drama, dance and visual arts educators and $496,000 is for evaluation activities, as outlined by the Senate. The remaining $13,392,000 is available to continue model arts programs.

While the conferees applaud the Department's efforts to help students learn foreign languages, they remain concerned that the Department, using data provided by the e-Language Learning System (eLLS), is developing web-based learning products that could be used in direct competition with the private sector. The conferees understand that, based on the President's budget request, the Department had no plans to continue this project in fiscal year 2006 using Star School funds. However, the conference agreement includes funds for the Star Schools program, which has been the primary source of funds for this activity. Therefore, the conferees direct the Department not to fund any grant that will compete directly with the private sector and further direct the Secretary to notify the House and Senate Appropriations Committees 15 days prior to any Department expenditures related to the eLLS project.

The conference agreement includes $100,000,000 for a pilot program to develop and implement innovative ways to provide financial incentives for teachers and principals who raise student achievement and close the achievement gap in some of our Nation's highest-need schools, as proposed in the House bill. The Senate bill did not propose funding for this program.

The conferees intend that the Secretary use not less than 95 percent of these funds to award competitive grants to local educational agencies (LEAs), including charter schools that are LEAs, States, or partnerships of (1) a local educational agency, a State, or both and (2) at least one non-profit organization to design and implement fair, differentiated compensation systems for public school teachers and principals based primarily on measures of gains in student academic achievement, in addition to other factors, for teachers and principals in high-need schools. The conferees intend high-need schools to have the same meaning as the term is defined in section 2312 of the Elementary and Secondary Education Act. The conferees further intend that each applicant demonstrate a significant investment in, and ensure the sustainability of, its project by committing to pay for an increasing share of the total cost of the project, for each year of the grant, with State, local, or other non-Federal funds.

The conference agreement includes bill language, modified from the House bill, which requires the Secretary to use funds for performance-based compensation systems that: consider gains in student academic achievement as well as classroom evaluations conducted multiple times during each school year and provide educators with incentives to take on additional responsibilities and leadership roles. In addition, the conferees urge the Secretary to give priority to applications that demonstrate the majority support of educators for such compensation systems.

The conference agreement also includes bill language, not included in either House or Senate bill, which allows not more than $5,000,000 to be used to provide schools with assistance in implementing this program. The conferees intend that the Secretary use these funds for one or more grants to an organization or organizations with expertise in providing research-based expert advice to support schools initiating and implementing differentiated compensation systems, training school personnel, disseminating information on effective teacher compensation systems, and providing program outreach through a clearinghouse of best practices. The conferees also urge the Secretary to design an appropriate, long-term and rigorous evaluation, using randomized controlled trials to the extent practicable, of this program which will be used to inform Congress on the results achieved under this program.

Other programs

The conference agreement includes $24,500,000 for the Ready to Learn program instead of $25,000,000 as proposed by the Senate. The House bill did not include funding for this program. The conferees note that the original intent for the Ready to Learn program consisted of two distinct but coordinated elements: development of national educational programming that supports emergent literacy and other school readiness skills and community-based local outreach. The purpose of local outreach has been to extend the educational impact of the programming as well as to provide practical training for parents and educators on how to promote early learning and literacy and make responsible choices about television viewing. Given the demonstrated track record of the outreach component of the Ready to Learn program, the conferees believe that broad-based outreach, which capitalizes on the strength and reach of public television stations and includes local adult training workshops, should continue to be a central feature of this program. Therefore, the conference agreement includes an increase of $1,188,000 over last year for additional support of the outreach project funded during the fiscal year 2005 competition.

The conference agreement includes $4,900,000 for the Dropout Prevention program as proposed by the Senate. The House did not propose funding for this program.

The conference agreement includes $32,500,000 for Advanced Placement programs instead of $30,000,000 as proposed by the House and $40,000,000 as proposed by the Senate.

The conference agreement does not include language proposed in the House bill related to the evaluation of the D.C. School Choice Incentive Act of 2003. The Senate bill did not include a similar provision.

SAFE SCHOOLS AND CITIZENSHIP EDUCATION

The conference agreement includes $736,886,000 for programs in the Safe Schools

and Citizenship Education account instead of $763,870,000 as proposed by the House and $697,300,000 as proposed by the Senate.

The conference agreement includes $350,000,000 for Safe and Drug-Free Schools State Grants instead of $400,000,000 as proposed by the House and $300,000,000 as proposed by the Senate.

The conferees are concerned that the Department of Education has neglected to report specific data to Congress as required under Section 4122(c) of Title IV, Part A of the No Child Left Behind Act. This data is required to be included in the State report under Section 4116 of the Safe and Drug-Free Schools and Communities program. The report specifically requires all States to collect and report to the Secretary, in a form specified by the Secretary, the following data: incidence and prevalence, age of onset, perception of health risk and perception of social disapproval of drug use and violence by youth in schools and communities. The conferees expect the Department to develop a plan for how it will collect the specified data from the States and report it to Congress in a timely manner. The plan should be submitted to the House and Senate authorizing, appropriations and oversight committees within 60 days of enactment of this bill.

The conference agreement includes $142,537,000 for National Programs instead of $152,537,000 as proposed by the House and $150,000,000 as proposed by the Senate. The conference agreement includes funding for the following activities:

School Safety Initiatives ..	$27,000,000
Planning/Needs Assessment/Data for State Grants	8,257,000
Safe Schools/Healthy Students	80,000,000
Drug Testing Initiative	9,180,000
Postsecondary Ed Drug and Violence Prevention (including $850,000 for the recognition program)	7,500,000
Violence prevention impact evaluation	1,551,000
National Institute of Building Sciences for the National Clearinghouse for Educational Facilities	300,000
Project SERV	1,449,000
Other activities	7,300,000

The conferees direct the Department to implement the Act consistent with their intent, as reflected in the table above, and request an implementation plan to be submitted to the House and Senate Committees on Appropriations within 30 days of enactment of the Department of Education Appropriations Act, 2006.

The conference agreement includes bill language requiring the Department to spend $850,000 for the National Recognition Awards program under the guidelines described in section 120(f) of Public Law 105–244 as proposed in the Senate bill. The House bill did not include a similar provision.

The conference agreement includes $32,736,000 for Grants to Reduce Alcohol Abuse instead of $33,500,000 as proposed by the Senate. The House did not propose funding for this activity.

The conference agreement includes $35,000,000 for the Elementary and Secondary School Counseling program instead of $34,720,000 as proposed by the House and $36,000,000 as proposed by the Senate.

The conference agreement includes $73,408,000 for the Physical Education program as proposed by the House, instead of $74,000,000 as proposed by the Senate.

The conference agreement includes $29,405,000 for the Civic Education program to support both the We the People programs and the Cooperative Education Exchange as proposed by the House instead of $30,000,000 as proposed by the Senate. The conferees intend that $17,211,000 will be provided to the nonprofit Center for Civic Education to support We the People programs. Within the total for the We the People program, the conferees intend that $3,025,000 be reserved to continue the comprehensive program to improve public knowledge, understanding, and support of American democratic institutions, which is a cooperative project among the Center for Civic Education, the Center on Congress at Indiana University, and the Trust for Representative Democracy at the National Conference of State Legislatures, and that $1,513,000 be used for continuation of the school violence prevention demonstration program, including $500,000 for the Native American initiative.

The conference agreement also includes $12,194,000 for the Cooperative Education Exchange program. Within this amount, the conferees intend that $4,573,000 is for the Center for Civic Education and $4,573,000 is for the National Council on Economic Education, while the remaining $3,048,000 should be used to continue the existing grants funded under the authorizing statute for civics and government education, and for economic education.

English Language Acquisition

The conference agreement includes $675,765,000 for the English Language Acquisition account as proposed by the House instead of $683,415,000 as proposed by the Senate.

Special Education

The conference agreement includes $11,770,607,000 for the Special Education account instead of $11,813,783,000 as proposed by the House and $11,775,107,000 as proposed by the Senate. The agreement provides $6,346,407,000 in fiscal year 2006 and $5,424,200,000 in fiscal year 2007 funding for this account.

The conference agreement includes $10,689,746,000 for Grants to States Part B as proposed by the Senate instead of $10,739,746,000 as proposed by the House. The agreement also includes $440,808,000 for Grants for Infants and Families as proposed by the House instead of $444,308,000 as proposed by the Senate.

The conference agreement includes $49,397,000 for Technical Assistance and Dissemination as proposed by the House instead of $50,397,000 as proposed by the Senate.

The agreement also includes $38,816,000 for Technology and Media Services as proposed by the Senate instead of $31,992,000 as proposed by the House. Within this amount, $1,500,000 is available for Public Telecommunications Information and Training Dissemination as proposed by the Senate. The House did not include funding for this activity. Also within this amount, the conference agreement includes $12,000,000 for Recording for the Blind and Dyslexic, Inc. as proposed by the Senate instead of $11,400,000 as proposed by the House.

Rehabilitation Services and Disability Research

The conference agreement includes $3,129,638,000 for Rehabilitation Services and Disability Research instead of $3,128,638,000 as proposed by the House and $3,133,638,000 as proposed by the Senate.

The conference agreement includes $1,000,000 to continue an award to the American Academy of Orthotists and Prosthetists (AAOP) for activities that further the purposes of the grant received by the Academy for the period beginning October 1, 2003 as proposed by the Senate. The House bill did not include a similar provision.

The conference agreement includes $30,760,000 for assistive technology instead of $29,760,000 as proposed by the House and $34,760,000 as proposed by the Senate. Within this amount, the conferees intend that $21,552,000 shall be for the state grant program, $4,385,000 for grants for protection and advocacy, $1,063,000 for national activities and $3,760,000 for alternative financing programs.

Special Institutions for Persons With Disabilities

American Printing House for the Blind

The conference agreement includes $17,750,000 for the American Printing House for the Blind instead of $17,000,000 as proposed by the House and $18,500,000 as proposed by the Senate.

National Technical Institute for the Deaf

The conference agreement includes $56,708,000 for the National Technical Institute for the Deaf instead of $56,137,000 as proposed by the House and $57,279,000 as proposed by the Senate.

Gallaudet University

The conference agreement includes $108,079,000 for Gallaudet University instead of $107,657,000 as proposed by the House and $108,500,000 as proposed by the Senate.

Vocational and Adult Education

The conference agreement includes $2,012,282,000 for Vocational and Adult Education instead of $1,991,782,000 as proposed by the House and $1,927,016,000 as proposed by the Senate. The agreement provides $1,221,282,000 in fiscal year 2006 and $791,000,000 in fiscal year 2007 funding for this account.

The conference agreement includes $9,257,000 for Vocational Education National programs, as proposed by the Senate. The House included $11,757,000 for National programs.

The conference agreement includes $569,672,000 for Adult Education State Grants as proposed by the House, instead of $572,922,000 as proposed by the Senate.

The conference agreement includes $94,476,000 for the Smaller Learning Communities program as proposed by the House. The Senate bill did not include funding for this program. The conferees agree that these funds shall be used only for activities related to establishing smaller learning communities within large high schools or small high schools that provide alternatives for students enrolled in large high schools. The conferees again direct that the Department consult with the House and Senate Committees on Appropriations prior to the release of program guidance for the fiscal years 2005 and 2006 Smaller Learning Communities grant competitions. The conferees urge that a greater share of the 5 percent set-aside for national activities be used to support direct technical assistance to grantees through regional laboratories, university-based organizations, and other entities with expertise in high school reform, and request a report not later than January 1, 2006 on its planned use of this set-aside in fiscal year 2005. Further, the conferees strongly encourage the Department to enter into a jointly funded program with a private or public foundation with expertise in designing and implementing small schools in order to further leverage the Federal investment in smaller learning communities.

The conference agreement includes $23,000,000 for State Grants for Incarcerated Youth Offenders, instead of $24,000,000 as proposed by the Senate. The House did not include funding for this program. The conferees concur with the language included in the Senate Report regarding the administration of this program.

The conference agreement does not include funding for Community Technology Centers, as proposed by the House. The Senate included $4,960,000 for this activity.

STUDENT FINANCIAL ASSISTANCE

The conference agreement includes $15,077,752,000 for Student Financial Assistance instead of $15,283,752,000 as proposed by the House and $15,103,795,000 as proposed by the Senate.

The agreement provides a program level of $13,177,000,000 for Pell Grants as proposed by the Senate instead of $13,383,000,000 as proposed by the House. The agreement maintains the maximum Pell Grant at $4,050 as proposed by the Senate rather than $4,100 as proposed by the House. Additional funds are included in section 305 of this Act to completely pay down the shortfall that has been accumulating in the Pell Grant program over the last several fiscal years as proposed by both the House and Senate.

The conferees believe it is essential for Congress to have the most accurate and reliable information available to make decisions regarding the allocation of limited discretionary funding. Therefore, the conferees direct the Department of Education to provide to the House and Senate Committees on Appropriations, on a quarterly basis, updated estimates of the cost of the Pell Grant program, based on current law and the most current data related to valid applications, applicant type, and other information incorporated into the Department's Pell Grant forecasting model.

The conference agreement also includes $778,720,000 for the supplemental educational opportunity grant program as proposed by the House instead of $804,763,000 as proposed by the Senate.

The conference agreement provides $990,257,000 for Federal work-study programs as proposed by both the House and Senate. Within this total, the conference agreement includes $6,000,000, as proposed by the Senate, for the work colleges program. The House report did not include similar language.

STUDENT AID ADMINISTRATION

The conference agreement includes $120,000,000 for student aid administration as proposed by the Senate instead of $124,084,000 as proposed by the House.

HIGHER EDUCATION

The conference agreement includes $1,970,760,000 for Higher Education instead of $1,936,936,000 as proposed by the House and $2,112,958,000 as proposed by the Senate. The conference agreement does not include bill language as proposed by the Senate regarding the use of funds to develop a strategic plan for foreign student access to American colleges and universities. The House bill did not include similar language.

Aid for institutional development

The conference agreement includes $95,873,000 for Hispanic Serving Institutions as proposed by the House instead of $100,823,000 as proposed by the Senate. The conference agreement also includes $11,904,000 for Alaska and Native Hawaiian Institutions as proposed by the Senate instead of $6,500,000 as proposed by the House.

Fund for the improvement of postsecondary education

The conference agreement includes $22,211,000 for the Fund for the Improvement of Postsecondary Education instead of $49,211,000 as proposed by the House and $157,211,000 as proposed by the Senate.

Other programs

The conference agreement includes $836,543,000 for TRIO as proposed by the House instead of $841,543,000 as proposed by the Senate.

The conference agreement includes $306,488,000 for the GEAR UP program, the same level proposed by both the House and the Senate. The conferees intend that funds be awarded on an annual basis and that the Department consult with Congressional committees of jurisdiction prior to new grant competition announcements. The conference agreement provides a sixth and final year award to grantees first funded in 2001, while continuing all other funded projects. The conferees also intend that these funds are available to eligible 2000 grantees that opt to apply for new grant awards servicing a cohort no later than seventh grade, and are allowed to continue assisting students who have not yet completed the program through high school graduation.

The conference agreement includes sufficient funds for a GEAR UP competition in fiscal year 2006 for new partnership awards. The twin goals of GEAR UP are to ensure that low-income students are academically prepared for college and that they receive scholarships to enable them to actually attend college. Accordingly, the conferees encourage the Department to give consideration in the 2006 GEAR UP competition to partnerships that, in addition to providing early intervention services, guarantee college scholarships to GEAR UP students.

The conference agreement includes $41,000,000 for Byrd Honors Scholarships and $6,944,000 for demonstrations in disabilities as proposed by the Senate. The House did not propose funding for these activities.

The conference agreement includes $60,500,000 for the Teacher Quality Enhancement Grants program. The House and Senate proposed $58,000,000 for this program.

The conference agreement includes $2,000,000 for the Underground Railroad program instead of $2,204,000 as proposed by the Senate and $2,976,000 for Thurgood Marshall Scholarships instead of $3,500,000 as proposed by the Senate. The House did not propose funding these activities.

The conference agreement also includes $980,000 for Olympic Scholarships as proposed by the House. The Senate bill did not provide funding for this program.

HOWARD UNIVERSITY

The conference agreement includes $239,790,000 for Howard University instead of $240,790,000 as proposed by the House and $238,789,000 as proposed by the Senate.

INSTITUTE OF EDUCATION SCIENCES

The conference agreement includes $522,695,000 for the Institute of Education Sciences (IES) instead of $522,696,000 as proposed by the House and $529,695,000 as proposed by the Senate.

The conferees concur with the language included in the House report that a key purpose of public education is being neglected: the civic mission of schools to educate our young people for democracy and to prepare them to be engaged citizens. The National Assessments of Educational Progress in civics and history are the best way we have to measure how well schools are doing in fulfilling this purpose. Therefore, the conferees request that the National Assessment Governing Board, in consultation with the Commissioner, National Center for Education Statistics, prepare a report on the feasibility of the National Assessment of Educational Progress conducting State level assessments in the subjects of U.S. history and civics at grades 8 and 12 and, if feasible, the earliest schedule under which such assessments could be administered. The Governing Board shall, within 180 days of enactment of this Act, submit the feasibility report to the House and Senate Appropriations Committees, the House Education and the Workforce Committee, the Senate Health, Education, Labor and Pensions Committee, and the Secretary of Education. The Senate report did not include similar language.

The conferees are very concerned with the funding levels directed to the Research and Development Centers. The current levels, which are $10,000,000 less than the amount outlined in the fiscal year 2005 and fiscal year 2006 budget justifications, are inadequate to create long-term comprehensive interdisciplinary programs. The conferees have therefore included bill language requiring IES to provide $25,257,000 for Research and Development Centers. The conferees direct that these funds be used to support not less than eight Research and Development Centers, as authorized by law.

The conferees expect, as stated in the fiscal year 2005 statement of the managers and the fiscal year 2006 budget justification, that funds in excess of those amounts needed to maintain or establish new centers, be used for supplemental awards to Research and Development Centers. The conferees further expect that funds be used to make adjustments to studies or services as needs arise. The conferees believe that current funding levels provide for inflexible, narrowly focused research rather than work that is of sufficient size and scope to be effective. The conferees also believe it is essential that centers not be restricted to particular research methodologies but instead use rigorous methods to address areas of high priority. The conferees request the IES to submit a report within 45 days of enactment of this Act on the steps it will take to comply with Congressional intent.

The conferees urge the Department's National Center for Education Statistics to use the Fast Response Survey System to collect data for the report of Arts Education in Public Elementary and Secondary Schools during the 2006–2007 school year. The conferees expect this survey and reporting to have the comprehensive quality of the 2002 report and include national samples of elementary and secondary school principals, as well as surveys of elementary and secondary classroom teachers and arts specialists.

DEPARTMENTAL MANAGEMENT

The conference agreement includes $415,303,000 for Departmental program administration instead of $410,612,000 as proposed by the House and $411,992,000 as proposed by the Senate. The agreement also includes $49,000,000 for the Office of the Inspector General as proposed by the House instead of $49,408,000 as proposed by the Senate.

The conferees concur with the views expressed in the House report with regard to the Communities Can program and its role in enhancing integrated and coordinated services for children with disabilities and their families. The conferees request that the plan of action for carrying forward this activity be provided to both the House and Senate Appropriations Committees. The Senate did not include similar language.

The conference agreement concurs with language contained in the Senate report regarding the proposed reorganization of the regional office structure within the Rehabilitation Services Administration. Therefore, the conferees request a report that describes the steps taken to reach out to stakeholder groups on this issue; a detailed plan for ensuring that policy guidance, technical assistance and program monitoring will be of higher quality and more timely than currently available; and the specific performance goals under the proposed reorganization for frequency of monitoring visits, and timeliness and relevancy of technical assistance, compared to the actual performance under the current administrative structure. The conferees expect to receive this report not later

than 60 days after enactment of this Act, but encourage the Department to make it available as soon as possible. The House report expressed similar concerns, but used different language.

The conferees are concerned that the Department, in implementing Reading First and other programs authorized by the No Child Left Behind Act, which are required to implement activities that are backed by scientifically based research, may not be effectively helping States and local educational agencies implement program studies. The conferees therefore request the Secretary to submit a report to the House and Senate Committees on Appropriations within 30 days of the enactment of this Act, on the actions that program offices have taken or will take, effective this fiscal year, in the selection, oversight, and evaluation of grantees, to ensure that grantees effectively implement such research-based programs, including close replication of the specific elements of these programs.

TITLE III—GENERAL PROVISIONS

Pell Grant Shortfall

The conference agreement includes a general provision as proposed by the Senate providing $4,300,000,000 for the purpose of eliminating the estimated accumulated shortfall of budget authority for the Pell Grant program. The House bill contained the same provision, but used slightly different language.

Mississippi Band of Choctaw Indians

The conference agreement includes a general provision as proposed by the Senate to authorize educational and cultural programs relating to the Mississippi Band of Choctaw Indians. The House bill contained no similar provision.

Impact Aid

The conference agreement does not include a general provision proposed by the Senate relating to applications filed by two school districts in Colorado and Arizona. The House bill contained no similar provision.

Violence Prevention

The conference agreement does not include a provision proposed by the Senate relating to a study to evaluate the effectiveness of violence prevention programs. The House did not include a similar provision.

Assessment of Education Progress Tests in U.S. History

The conference agreement does not include a general provision as proposed by the Senate providing additional funding for a national assessment of education progress tests in United States history. The House bill contained no similar provision.

Dropout Prevention Programs

The conference agreement does not include a general provision as proposed by the Senate providing additional funding for school dropout prevention programs. Funding for this program is included under the heading, ''Innovation and Improvement.'' The House bill contained no similar provision.

Advanced Placement Programs

The conference agreement does not include a general provision as proposed by the Senate providing additional funding for advanced placement programs. Funding for this program is included under the heading, ''Innovation and Improvement.'' The House bill contained no similar provision.

Thurgood Marshall and Office of Special Education Programs

The conference agreement does not include a general provision as proposed by the Senate providing additional funding for the Thurgood Marshall Legal Education Opportunity Program and the Office of Special Education Programs. Funding for these activities is included under the headings, ''Higher Education'' and ''Special Education'' respectively. The House bill contained no similar provision.

Federal Trio Programs

The conference agreement does not include a general provision as proposed by the Senate providing additional funding for Federal TRIO programs. Funding for this program is included under the heading, ''Higher Education.'' The House bill contained no similar provision.

Education Programs Serving Hispanic Students

The conference agreement does not include a general provision as proposed by the Senate providing additional funding for education programs to improve Hispanic educational opportunities. Funding for these programs is included elsewhere in Title III. The House bill contained no similar provision.

TITLE IV—RELATED AGENCIES

Corporation for National and Community Service

The conference agreement includes $909,049,000 for the Corporation for National and Community Service, the same as the House, instead of $935,205,000 as proposed by the Senate.

Domestic Volunteer Service Programs, Operating Expenses

The conference agreement includes $316,212,000 for the Domestic Volunteer Service programs as proposed by the Senate instead of $357,962,000 as proposed by the House.

National Senior Volunteer Corps

The conference agreement includes $219,784,000 for fiscal year 2006 for the National Senior Volunteer Corps programs, as proposed by the House and the Senate. The conferees concur with language in the Senate report that directs that the Corporation shall comply with the directive that use of PNS funding increases in the Foster Grandparents Program, Retired Senior Volunteer Program, Senior Companion Program, and Volunteers in Service to America shall not be restricted to any particular activity and further direct that the Corporation shall not stipulate a minimum or maximum for PNS grant augmentation.

Program administration

The conference agreement includes funds for the administration of the Domestic Volunteer Service of America program administration in the NCSA account as proposed by the Senate.

National and Community Service Programs, Operating Expenses

(INCLUDING TRANSFER OF FUNDS)

The conference agreement includes $520,087,000 for the programs authorized under the National Community Service Act of 1990, instead of $518,087,000 as proposed by the House and $546,243,000 as proposed by the Senate. The conference agreement includes $267,500,000 for AmeriCorps State and National operating grants, as proposed by the House instead of $280,000,000 as proposed by the Senate. The conference agreement includes $140,000,000 for the National Service Trust instead of $146,000,000 as proposed by the House and $149,000,000 as proposed by the Senate. The conference agreement includes $16,445,000 for subtitle H fund activities instead of $9,945,000 as proposed by the House and $15,945,000 as proposed by the Senate. The conference agreement includes $27,000,000 for AmeriCorps National Civilian Community Corps as proposed by the Senate instead of $25,500,000 as proposed by the House. The conference agreement includes $37,500,000 for Learn and Serve as proposed by the House instead of $42,656,000 as proposed by the Senate.

AmeriCorps Grants Program

The conferees concur with language proposed by the Senate to keep the Committees better informed of the recipients receiving AmeriCorps funding. The conferees direct the Corporation to publish in its fiscal year 2007 budget justifications a list of recipients that have received more than $500,000 from the Corporation, delineated by program, and the amount and source of both Federal and non-Federal funds that were received by each recipient.

Innovation, assistance and other activities

Within the $16,445,000 for innovation, demonstration, and assistance activities, the conference agreement includes $4,000,000 for Teach for America and $2,000,000 for Communities in Schools, Inc., as proposed by the Senate.

AmeriCorps National Civilian Community Corps

The conference agreement includes $27,000,000 for the NCCC and within this amount, $1,500,000, as proposed by the Senate, is to conduct an evaluation of current NCCC site placement and expansion of new sites in the Southern and Midwestern United States, in accordance with the report issued on March 1, 2005.

Salaries and Expenses

The conference agreement includes $66,750,000 for the Corporation's salaries and expenses, as proposed by the Senate. This includes $39,750,000 for administration of the DVSA programs. The House bill had provided salaries and expenses in two separate accounts, but for the same total amount. The conferees reiterate that Subtitle H funds for Innovation, Assistance and Other Activities shall not be used to pay Corporation staff.

Office of Inspector General

The conference agreement includes $6,000,000 for the Office of Inspector General (OIG) as proposed by the House and Senate. The conferees concur with language proposed by the Senate directing the OIG to continue reviewing the Corporation's management of the National Service Trust fund. The conferees direct the OIG to review the monthly Trust reports and to notify the Committees on Appropriations on the accuracy of the reports.

Corporation for Public Broadcasting

The conference agreement includes $30,000,000 for digital conversion, instead of $35,000,000 as proposed by the Senate. The House had proposed providing authority for CPB to utilize previously appropriated funds for this purpose.

The conference agreement also includes $35,000,000 for the replacement project of the satellite interconnection system, instead of $40,000,000 as proposed by the Senate. The House had proposed providing authority for CPB to utilize previously appropriated funds for this purpose.

The conferees request that the Corporation for Public Broadcasting (CPB) Inspector General submit a status report to the House and Senate Committees on Appropriations not later than June 1, 2006 on actions CPB management and its Board of Directors have taken in response to the Inspector General's November 15, 2005 report and any outstanding issues or recommendations in the report that may remain unaddressed.

Federal Mediation and Conciliation Service

The conference agreement includes $43,031,000 for the Federal Mediation and

Conciliation Service (FMCS) instead of $42,331,000 as proposed by the House and $43,439,000 as proposed by the Senate.

The conference agreement includes $400,000 for FMCS Labor-Management Grants Program instead of $500,000 as proposed by the Senate. The House bill did not include funding for this program. The 1978 Labor-Management Cooperation Act authorized the Agency to encourage and support joint labor-management committees. This program awards grants to encourage these committees to develop innovative joint approaches to workplace problems and solutions.

The conference agreement includes $300,000 for the FMCS program to prevent youth violence.

INSTITUTE OF MUSEUM AND LIBRARY SERVICES

The conference agreement provides $249,640,000 for the Institute of Museum and Library Services as proposed by the House instead of $290,129,000 as proposed by the Senate.

Within the total for the Institute, the conference agreement includes funding for the following activities in the following amounts.

(Dollars in thousands)

Program	*FY 2006*
Museums for America	$17,325
Museum Assessment	446
Museum Conservation Projects	2,800
Museum Conservation Assessment	815
Museum Natl. Leadership Proj.	8,000
Native American Museum Services	920
21st Century Museum Professionals	992
Museum Grants, African American History and Culture	850
Library Serv. State Grants	165,400
Native American Library Services	3,675
Library Natl. Leadership Grants	12,500
Laura Bush 21st Century Librarian Program	24,000
Administration	11,917

The conferees concur with language proposed by the House to rename the Librarians for the 21st Century Program in honor of the First Lady, the Laura Bush 21st Century Librarians Program.

NATIONAL COUNCIL ON DISABILITY

The conference agreement includes $3,144,000 for the National Council on Disability instead of $2,800,000 as proposed by the House and $3,344,000 as proposed by the Senate.

NATIONAL LABOR RELATIONS BOARD

The conferees concur with language in the Senate report regarding the NLRB's plan to restructure its regional offices and specifically oppose the elimination of Region 30.

RAILROAD RETIREMENT BOARD

LIMITATION ON ADMINISTRATION

The conferees are concerned about a proposal to consolidate the financial statements and audit of the National Railroad Retirement Investment Trust with the financial statements and audit of the Railroad Retirement Board in the context of the preparation of the Railroad Retirement Board's fiscal year 2006 Statement of Social Insurance. The conferees note that the Railroad Retirement and Survivors' Improvement Act of 2001 mandates that the Trust functions independently from the Railroad Retirement Board. Further, the Act specifically requires a separate audit of the Trust by a nongovernmental auditor, and requires that the results of this audit be included in the Trust's Annual Management Report to Congress. The conferees expect that the Trust be administered and audited solely in conformance with the Act of 2001.

LIMITATION ON THE OFFICE OF INSPECTOR GENERAL

The conference agreement does not include language proposed by the Senate that allows the Office of the Inspector General to conduct audits, investigations, and reviews of the Medicare programs.

SOCIAL SECURITY ADMINISTRATION

SUPPLEMENTAL SECURITY INCOME PROGRAM

The conference agreement includes $29,369,174,000 for the Supplemental Security Income Program instead of $29,533,174,000 as proposed by the House and $29,510,574,000 as proposed by the Senate. The conference agreement also includes an advance appropriation of $11,110,000,000, as proposed by both the House and the Senate, for the first quarter of fiscal year 2007, to ensure uninterrupted benefit payments. Also within the total, $2,733,000,000 is included for the administrative costs of the program rather than $2,897,000,000 as proposed by the House and $2,874,400,000 as proposed by the Senate.

The conference agreement does not include a provision proposed by the Senate that changes the delivery date of benefit payments from fiscal year 2006 to 2007. The House did not include this provision.

LIMITATION ON ADMINISTRATIVE EXPENSES

The conference agreement includes $9,199,400,000 for the limitation on administrative expenses rather than $9,279,700,000 as proposed by the House and $9,329,400,000 as proposed by the Senate.

OFFICE OF INSPECTOR GENERAL

(INCLUDING TRANSFER OF FUNDS)

The conference agreement includes $92,400,000 for the Office of Inspector General rather than $92,805,000 as proposed by the House and $93,000,000 as proposed by the Senate.

TITLE V—GENERAL PROVISIONS

USE OF APPROPRIATED FUNDS FOR PUBLICITY AND PROPAGANDA

The conference agreement includes a general provision as proposed by the Senate pertaining to the use of appropriated funds for publicity or propaganda purposes. The House bill included a similar provision, but expanded the scope to include private contractors.

STERILE NEEDLE PROGRAM

The conference agreement includes a general provision as proposed by the Senate pertaining to sterile needle programs. The Senate bill made a minor technical change to the language carried in prior years. The House bill included the same provision, but without the technical modification.

USE OF FEDERAL FUNDS FOR ABORTIONS

The conference agreement includes a general provision as proposed by the Senate pertaining to the use of federal funds in the Act for abortions. The Senate bill made a minor technical change to the language carried in prior years. The House bill included the same provision, but without the technical modification.

CONSCIENCE CLAUSE

The conference agreement includes a general provision as proposed by the House regarding discrimination against those health care providers or institutions who are opposed to abortion. The Senate bill proposed to modify this provision.

EMBRYO RESEARCH BAN

The conference report includes a technical correction to the longstanding bill language prohibiting funds to be used for research involving the creation or destruction of human embryos. The citation of the Code of Federal Regulations contained in both the House and Senate versions of the bill is corrected.

VETERANS' EMPLOYMENT REPORT

The conference agreement includes a general provision as proposed by the Senate pertaining to the availability of funds to enter into or renew any contract with an entity that is subject to submitting a report concerning the employment of certain veterans. The House bill did not include this provision.

LIMITATION ON LIBRARIES

The conference agreement includes a limitation, carried in prior years, on the ability of a library to access funding provided under this Act unless the library is in compliance with the Children's Internet Protections Act, as proposed by the House. The Senate bill did not include this provision.

LIMITATION ON SCHOOLS

The conference agreement includes a limitation, carried in prior years, on the ability of an elementary or secondary school to access technology funding provided under this Act unless the school is in compliance with the Children's Internet Protections Act, as proposed by the House. The Senate bill did not include this provision.

REPROGRAMMING OF FUNDS

The conference agreement includes a general provision as proposed by the House pertaining to the reprogramming of funds. The Senate bill included the same substantive provision, but with minor technical differences.

IMMIGRATION AND NATIONALITY ACT AMENDMENT

The conference agreement includes a general provision amending the Immigration and Nationality Act as proposed by the Senate. The House bill did not include this provision.

SCIENTIFIC ADVISORY COMMITTEE APPOINTMENTS

The conference agreement includes a general provision as proposed by the Senate pertaining to appointments to a scientific advisory committee, instead of a similar provision included in the House bill.

ERECTILE DYSFUNCTION (E.D.) DRUGS FUNDS LIMITATION

The conference agreement includes a general provision as proposed by the Senate prohibiting the use of funds for drugs approved to treat E.D. The House bill included a similar provision, but with slightly different language.

AVAILABILITY OF MMA FUNDS

The conference agreement does not include a general provision as proposed by the House extending the availability of funds provided by the Medicare Modernization Act from fiscal year 2005 to fiscal year 2006. The Senate bill did not include this provision.

LIMITATION OF FUNDS FOR SEXUAL OR ERECTILE DYSFUNCTION TREATMENT

The conference agreement does not include a general provision as proposed by the House pertaining to the payment for or the reimbursement of a drug for the treatment of sexual or erectile dysfunction funded in this Act for individuals who have been convicted for sexual abuse, sexual assault or any other sexual offense. The Senate bill did not include this provision.

CPB FUNDING AMENDMENT

The conference agreement does not include a general provision as proposed by the House reducing the amounts available to certain specified programs and activities in order to restore funding for the Corporation for Public Broadcasting. Funding for the programs included in this provision are specified under

the relevant headings. The Senate bill did not include this provision.

EDUCATION OIG DETERMINATION

The conference agreement does not include a general provision as proposed by the House pertaining to a specific Department of Education Office of the Inspector General determination. The Senate bill did not include this provision.

PBGC LIMITATION

The conference agreement does not include a general provision proposed by the House pertaining to the Pension Benefit Guaranty Corporation and a specific settlement agreement. The Senate bill did not include this provision.

IMMIGRATION LIMITATION

The conference agreement does not include a general provision as proposed by the House prohibiting the use of funds by the Department of Education in contravention of section 505 of the Illegal Immigration Reform and Responsibility Act of 1996. The Senate bill did not include this provision.

NIMH GRANTS

The conference agreement does not include a general provision as proposed by the House regarding NIMH grants. The Senate bill did not include this provision.

MEXICAN TOTALIZATION

The conference agreement does not include a general provision proposed by the House pertaining to a totalization agreement with Mexico. The Senate bill did not include this provision.

HIGHER EDUCATION LIMITATION

The conference agreement does not include a general provision proposed by the House regarding student loans. The Senate bill did not include this provision.

LIMITATION, DIRECTIVE, OR EARMARKING

The conference agreement does not include a general provision proposed by the Senate regarding directives contained in either the House or Senate reports accompanying H.R. 3010. The House bill did not include this provision.

DIVERSITY VISA FAIRNESS ACT

The conference agreement does not include a general provision as proposed by the Senate that contains the Diversity Visa Fairness Act. The House bill did not include this provision.

PORT OF ENTRY DESIGNATION

The conference agreement does not include a general provision as proposed by the Senate designating the MidAmerica St. Louis Airport in Mascoutah, Illinois a port of entry. The House bill did not include this provision.

RISK ASSESSMENT ESTIMATE

The conference agreement does not include a general provision as proposed by the Senate pertaining to improper payments for a variety of programs administered by the Departments of Health and Human Services and Education. The House did not include this provision. Language regarding this issue is included in the statement of the managers for the Department of Health and Human Services.

INTERNAL REVENUE SERVICE OUTSOURCING

The conference agreement deletes without prejudice a general provision as proposed by the Senate expressing the sense of the Senate on the outsourcing of IRS duties and the effects on the employment of disabled veterans and other persons with severe disabilities. The House did not include this provision.

CONFERENCE AGREEMENT

The following table displays the amounts agreed to for each program, project or activity with appropriate comparisons:

LABOR-HEALTH and HUMAN SERVICES-EDUCATION AND RELATED AGENCIES
(Amounts in thousands)

	FY 2005 Comparable	FY 2006 Request	House	Senate	Conference	Conference vs. FY 2005 Comparable	Conference vs. FY 2006 House	Conference vs. FY 2006 Senate		
TITLE I - DEPARTMENT OF LABOR										
EMPLOYMENT AND TRAINING ADMINISTRATION										
TRAINING AND EMPLOYMENT SERVICES										
Grants to States:										
Adult Training, current year	184,618	153,736	153,736	181,618	153,736	-30,882	---	-27,882	D	FF
Advance from prior year	(706,304)	(712,000)	(712,000)	(712,000)	(712,000)	(+5,696)	---	---	NA	
FY 2007	712,000	712,000	712,000	712,000	712,000	---	---	---	D	
Adult Training	896,618	865,736	865,736	893,618	865,736	-30,882	---	-27,882		
Youth Training	986,288	950,000	950,000	986,288	950,000	-36,288	---	-36,288	D	FF
Dislocated Worker Assistance, current year	345,264	226,867	345,264	345,264	345,264	---	---	---	D	FF
Advance from prior year	(841,216)	(848,000)	(848,000)	(848,000)	(848,000)	(+6,784)	---	---	NA	
FY 2007	848,000	848,000	848,000	848,000	848,000	---	---	---	D	
Dislocated Worker Assistance	1,193,264	1,074,867	1,193,264	1,193,264	1,193,264	---	---	---		
Federally Administered Programs:										
Dislocated Worker Assistance National Reserve:										
Current year	70,800	56,717	---	70,800	70,800	---	+70,800	---	D	FF
Advance from prior year	(210,304)	(212,000)	(212,000)	(212,000)	(212,000)	(+1,696)	---	---	NA	
FY 2007	212,000	212,000	212,000	212,000	212,000	---	---	---	D	
Dislocated Worker Assistance Nat'l Reserve	282,800	268,717	212,000	282,800	282,800	---	+70,800	---		

LABOR-HEALTH and HUMAN SERVICES-EDUCATION AND RELATED AGENCIES
(Amounts in thousands)

	FY 2005 Comparable	FY 2006 Request	House	Senate	Conference	Conference vs. FY 2005 Comparable	Conference vs. FY 2006 House	Conference vs. FY 2006 Senate		
Less funding reserved for Community College Initiative (NA)	(-125,000)	---	---	(-125,000)	(-125,000)	---	(-125,000)	---		
Dislocated Worker Assistance Nat'l Reserve	157,800	268,717	212,000	157,800	157,800	---	-54,200	---		
Total, Dislocated Worker Assistance	1,476,064	1,343,584	1,405,264	1,476,064	1,476,064	---	+70,800	---		
Native Americans	54,238	54,238	54,238	54,238	54,238	---	---	---	D	FF
Migrant and Seasonal Farmworkers	75,759	---	75,759	80,053	80,053	+4,294	+4,294	---	D	FF
Job Corps:										
Operations	844,670	851,019	851,019	881,000	874,000	+29,330	+22,981	-7,000	D	FF
Advance from prior year	(586,272)	(591,000)	(591,000)	(591,000)	(591,000)	(+4,728)	---	---	NA	
FY 2007	591,000	591,000	591,000	591,000	591,000	---	---	---	D	
Construction and Renovation	16,190	---	---	10,000	8,000	-8,190	+8,000	-2,000	D	FF
Advance from prior year	(99,200)	(100,000)	(100,000)	(100,000)	(100,000)	(+800)	---	---	NA	
FY 2007	100,000	75,000	100,000	100,000	100,000	---	---	---	D	
Subtotal, Job Corps	1,551,860	1,517,019	1,542,019	1,582,000	1,573,000	+21,140	+30,981	-9,000		
National Activities:										
Pilots, Demonstrations and Research	85,167	30,000	74,000	90,367	30,000	-55,167	-44,000	-60,367	D	FF
Responsible Reintegration of Youthful Offender	49,600	---	---	50,000	49,600	---	+49,600	-400	D	FF
Evaluation	7,936	7,936	7,936	7,936	7,936	---	---	---	D	FF
Prisoner Re-entry	19,840	35,000	19,840	19,840	19,840	---	---	---	D	

LABOR-HEALTH and HUMAN SERVICES-EDUCATION AND RELATED AGENCIES
(Amounts in thousands)

	FY 2005 Comparable	FY 2006 Request	House	Senate	Conference	Conference vs. FY 2005 Comparable	Conference vs. FY 2006 House	Conference vs. FY 2006 Senate		
Community College initiative	124,000	250,000	125,000	---	---	-124,000	-125,000	---	D	
Community College initiative (NA) 1/	(125,000)	---	---	(125,000)	(125,000)	---	(+125,000)	---	NA	
Subtotal, CC initiative, program level	249,000	250,000	125,000	125,000	125,000	-124,000	---	---		
Denali Commission	6,944	---	---	6,944	6,944	---	+6,944	---	D	
Other	3,458	2,000	2,000	3,458	2,000	-1,458	---	-1,458	D	FF
Subtotal, National activities	296,945	324,936	228,776	178,545	116,320	-180,625	-112,456	-62,225		
Subtotal, Federal activities	2,261,602	2,164,910	2,112,792	2,177,636	2,106,411	-155,191	-6,381	-71,225		
Current Year	(1,358,602)	(1,286,910)	(1,209,792)	(1,274,636)	(1,203,411)	(-155,191)	(-6,381)	(-71,225)		
FY 2007	(903,000)	(878,000)	(903,000)	(903,000)	(903,000)	---	---	---		
Total, Training and Employment Services	5,337,772	5,055,513	5,121,792	5,250,806	5,115,411	-222,361	-6,381	-135,395		
Current Year	(2,874,772)	(2,617,513)	(2,658,792)	(2,787,806)	(2,652,411)	(-222,361)	(-6,381)	(-135,395)		
FY 2007	(2,463,000)	(2,438,000)	(2,463,000)	(2,463,000)	(2,463,000)	---	---	---		
COMMUNITY SERVICE EMPLOYMENT FOR OLDER AMERICANS	436,678	436,678	436,678	436,678	436,678	---	---	---	D	FF
FEDERAL UNEMPLOYMENT BENEFITS AND ALLOWANCES	1,057,300	966,400	966,400	966,400	966,400	-90,900	---	---	M	
STATE UNEMPLOYMENT INSURANCE AND EMPLOYMENT SERVICE OPERATIONS										
Unemployment Compensation:										
State Operations	2,663,040	2,622,499	2,622,499	2,475,000	2,523,000	-140,040	-99,499	+48,000	TF	
National Activities	10,416	10,416	10,416	10,000	10,000	-416	-416	---	TF	
Subtotal, Unemployment Compensation	2,673,456	2,632,915	2,632,915	2,485,000	2,533,000	-140,456	-99,915	+48,000		

LABOR-HEALTH and HUMAN SERVICES-EDUCATION AND RELATED AGENCIES
(Amounts in thousands)

	FY 2005 Comparable	FY 2006 Request	House	Senate	Conference	Conference vs. FY 2005 Comparable	Conference vs. FY 2006 House	Conference vs. FY 2006 Senate		
Employment Service:										
Allotments to States:										
Federal Funds	23,114	23,300	23,300	23,114	23,114	---	-186	---	D	
Trust Funds	757,478	672,700	672,700	723,188	700,000	-57,478	+27,300	-23,188	TF	
Subtotal, allotments to States	780,592	696,000	696,000	746,302	723,114	-57,478	+27,114	-23,188		
ES National Activities	64,976	33,766	33,766	33,766	33,766	-31,210	---	---	TF	
Subtotal, Employment Service	845,568	729,766	729,766	780,068	756,880	-88,688	+27,114	-23,188		
Federal Funds	23,114	23,300	23,300	23,114	23,114	---	-186	---		
Trust Funds	822,454	706,466	706,466	756,954	733,766	-88,688	+27,300	-23,188		
One-Stop Career Centers/Labor Market Information	97,974	87,974	87,974	77,000	82,487	-15,487	-5,487	+5,487	D	
Work Incentives Grants	19,711	19,711	19,711	19,711	19,711	---	---	---	D	FF
Total, State Unemployment & Employment Srvcs	3,636,709	3,470,366	3,470,366	3,361,779	3,392,078	-244,631	-78,288	+30,299		
Federal Funds	140,799	130,985	130,985	119,825	125,312	-15,487	-5,673	+5,487		
Trust Funds	(3,495,910)	(3,339,381)	(3,339,381)	(3,241,954)	(3,266,766)	(-229,144)	(-72,615)	(+24,812)		
ADVANCES TO THE UI AND OTHER TRUST FUNDS 2/	517,000	465,000	465,000	465,000	465,000	-52,000	---	---	M	
NEW YORK STATE UNINSURED EMPLOYERS FUND	---	---	---	50,000	---	---	---	-50,000		
PROGRAM ADMINISTRATION										
Adult Employment and Training	38,874	44,631	44,631	43,631	43,631	+4,757	-1,000	---	D	
Trust Funds	6,901	7,925	7,925	7,925	7,925	+1,024	---	---	TF	
Youth Employment and Training	39,627	38,805	38,805	38,805	38,805	-822	---	---	D	

LABOR-HEALTH and HUMAN SERVICES-EDUCATION AND RELATED AGENCIES
(Amounts in thousands)

	FY 2005 Comparable	FY 2006 Request	House	Senate	Conference	Conference vs. FY 2005 Comparable	Conference vs. FY 2006 House	Conference vs. FY 2006 Senate	
Employment Security	6,045	6,039	6,039	6,039	6,039	-6	---	---	D
Trust Funds	48,235	77,952	77,952	72,841	72,841	+24,606	-5,111	---	TF
Apprenticeship Services	21,136	21,655	21,655	21,655	21,655	+519	---	---	D
Executive Direction	6,845	6,993	6,993	6,993	6,993	+148	---	---	D
Trust Funds	2,065	2,111	2,111	2,111	2,111	+46	---	---	TF
Welfare to Work	373	---	---	---	---	-373	---	---	D
Total, Program Administration	170,101	206,111	206,111	200,000	200,000	+29,899	-6,111	---	
Federal Funds	112,900	118,123	118,123	117,123	117,123	+4,223	-1,000	---	
Trust Funds	57,201	87,988	87,988	82,877	82,877	+25,676	-5,111	---	
Total, Employment and Training Administration	11,155,560	10,600,068	10,666,347	10,730,663	10,575,567	-579,993	-90,780	-155,096	
Federal Funds	7,602,449	7,172,699	7,238,978	7,405,832	7,225,924	-376,525	-13,054	-179,908	
Current Year	(5,139,449)	(4,734,699)	(4,775,978)	(4,942,832)	(4,762,924)	(-376,525)	(-13,054)	(-179,908)	
FY 2007	(2,463,000)	(2,438,000)	(2,463,000)	(2,463,000)	(2,463,000)	---	---	---	
Trust Funds	3,553,111	3,427,369	3,427,369	3,324,831	3,349,643	-203,468	-77,726	+24,812	
EMPLOYEE BENEFITS SECURITY ADMINISTRATION									
SALARIES AND EXPENSES									
Enforcement and Participant Assistance	109,374	114,462	114,462	112,362	112,362	+2,988	-2,100	---	D
Policy and Compliance Assistance	17,357	17,458	17,458	17,458	17,458	+101	---	---	D
Executive Leadership, Program Oversight and Admin	4,482	5,080	5,080	5,080	5,080	+598	---	---	D
Total, EBSA	131,213	137,000	137,000	134,900	134,900	+3,687	-2,100	---	

LABOR-HEALTH and HUMAN SERVICES-EDUCATION AND RELATED AGENCIES
(Amounts in thousands)

	FY 2005 Comparable	FY 2006 Request	House	Senate	Conference	Conference vs. FY 2005 Comparable	Conference vs. FY 2006 House	Conference vs. FY 2006 Senate	
PENSION BENEFIT GUARANTY CORPORATION									
Pension insurance activities	(12,211)	(42,122)	(42,122)	(42,122)	(42,122)	(+29,911)	---	---	NA
Pension plan termination	(169,739)	(161,117)	(161,117)	(161,117)	(161,117)	(-8,622)	---	---	NA
Operational support	(84,380)	(93,739)	(93,739)	(93,739)	(93,739)	(+9,359)	---	---	NA
Total, PBGC (Program level)	(266,330)	(296,978)	(296,978)	(296,978)	(296,978)	(+30,648)	---	---	
EMPLOYMENT STANDARDS ADMINISTRATION									
SALARIES AND EXPENSES									
Enforcement of Wage and Hour Standards	164,493	167,359	167,359	167,359	167,359	+2,866	---	---	D
Office of Labor-Management Standards	41,681	48,799	48,799	43,599	46,199	+4,518	-2,600	+2,600	D
Federal Contractor EEO Standards Enforcement	80,059	82,106	82,106	82,106	82,106	+2,047	---	---	D
Federal Programs for Workers' Compensation	97,339	100,129	100,129	100,129	100,129	+2,790	---	---	D
Trust Funds	2,023	2,048	2,048	2,048	2,048	+25	---	---	TF
Program Direction and Support	15,252	15,891	15,891	17,375	17,375	+2,123	+1,484	---	D
Total, ESA salaries and expenses	400,847	416,332	416,332	412,616	415,216	+14,369	-1,116	+2,600	
Federal Funds	398,824	414,284	414,284	410,568	413,168	+14,344	-1,116	+2,600	
Trust Funds	2,023	2,048	2,048	2,048	2,048	+25	---	---	

LABOR-HEALTH and HUMAN SERVICES-EDUCATION AND RELATED AGENCIES
(Amounts in thousands)

	FY 2005 Comparable	FY 2006 Request	House	Senate	Conference	Conference vs. FY 2005 Comparable	Conference vs. FY 2006 House	Conference vs. FY 2006 Senate	
SPECIAL BENEFITS									
Federal employees compensation benefits	230,000	234,000	234,000	234,000	234,000	+4,000	---	---	M
Longshore and harbor workers' benefits	3,000	3,000	3,000	3,000	3,000	---	---	---	M
Total, Special Benefits	233,000	237,000	237,000	237,000	237,000	+4,000	---	---	
SPECIAL BENEFITS FOR DISABLED COAL MINERS									
Benefit payments	358,806	308,000	308,000	308,000	308,000	-50,806	---	---	M
Administration	5,191	5,250	5,250	5,250	5,250	+59	---	---	M
Subtotal, FY 2006 program level	363,997	313,250	313,250	313,250	313,250	-50,747	---	---	
Less funds advanced in prior year	-88,000	-81,000	-81,000	-81,000	-81,000	+7,000	---	---	M
Total, Current Year, FY 2006	275,997	232,250	232,250	232,250	232,250	-43,747	---	---	
New advances, 1st quarter FY 2007	81,000	74,000	74,000	74,000	74,000	-7,000	---	---	M
Total, Special Benefits for Disabled Coal Miners	356,997	306,250	306,250	306,250	306,250	-50,747	---	---	
ENERGY EMPLOYEES OCCUPATIONAL ILLNESS COMPENSATION FUND, Part B Administrative Expenses	40,321	96,081	96,081	96,081	96,081	+55,760	---	---	M
BLACK LUNG DISABILITY TRUST FUND									
Benefit payments and interest on advances	1,004,951	1,010,011	1,010,011	1,010,011	1,010,011	+5,060	---	---	M
Employment Standards Adm. S&E	32,615	33,050	33,050	33,050	33,050	+435	---	---	M

LABOR-HEALTH and HUMAN SERVICES-EDUCATION AND RELATED AGENCIES
(Amounts in thousands)

	FY 2005 Comparable	FY 2006 Request	House	Senate	Conference	Conference vs. FY 2005 Comparable	Conference vs. FY 2006 House	Conference vs. FY 2006 Senate	
Departmental Management S&E	23,705	24,239	24,239	24,239	24,239	+534	---	---	M
Departmental Management, Inspector General	342	344	344	344	344	+2	---	---	M
Subtotal, Black Lung Disability	1,061,613	1,067,644	1,067,644	1,067,644	1,067,644	+6,031	---	---	
Treasury Administrative Costs	356	356	356	356	356	---	---	---	M
Total, Black Lung Disability Trust Fund	1,061,969	1,068,000	1,068,000	1,068,000	1,068,000	+6,031	---	---	
Total, Employment Standards Administration	2,093,134	2,123,663	2,123,663	2,119,947	2,122,547	+29,413	-1,116	+2,600	
Federal Funds	2,091,111	2,121,615	2,121,615	2,117,899	2,120,499	+29,388	-1,116	+2,600	
Current year	(2,010,111)	(2,047,615)	(2,047,615)	(2,043,899)	(2,046,499)	(+36,388)	(-1,116)	(+2,600)	
FY 2007	(81,000)	(74,000)	(74,000)	(74,000)	(74,000)	(-7,000)	---	---	
Trust Funds	2,023	2,048	2,048	2,048	2,048	+25	---	---	
OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION									
SALARIES AND EXPENSES									
Safety and Health Standards	16,003	16,628	16,628	16,628	16,628	+625	---	---	D
Federal Enforcement	169,652	174,318	174,318	174,318	174,318	+4,666	---	---	D
State Programs	91,013	92,013	92,013	92,013	92,013	+1,000	---	---	D
Technical Support	20,742	21,652	21,652	21,652	21,652	+910	---	---	D
Compliance Assistance:									
Federal Assistance	70,859	73,278	73,278	73,278	73,278	+2,419	---	---	D
State Consultation Grants	53,362	53,896	53,896	53,896	53,896	+534	---	---	D

LABOR-HEALTH and HUMAN SERVICES-EDUCATION AND RELATED AGENCIES
(Amounts in thousands)

	FY 2005 Comparable	FY 2006 Request	House	Senate	Conference	Conference vs. FY 2005 Comparable	Conference vs. FY 2006 House	Conference vs. FY 2006 Senate	
Training Grants	10,218	---	10,218	10,510	10,218	---	---	-292	D
Subtotal, Compliance Assistance	134,439	127,174	137,392	137,684	137,392	+2,953	---	-292	D
Safety and Health Statistics	22,203	24,498	24,498	24,498	24,498	+2,295	---	---	D
Executive Direction and Administration	10,106	10,698	10,698	10,698	10,698	+592	---	---	D
Total, OSHA	464,158	466,981	477,199	477,491	477,199	+13,041	---	-292	
MINE SAFETY AND HEALTH ADMINISTRATION									
SALARIES AND EXPENSES									
Coal Enforcement	115,251	118,335	118,335	118,335	118,335	+3,084	---	---	D
Metal/Non-Metal Enforcement	66,752	68,750	68,750	68,750	68,750	+1,998	---	---	D
Standards Development	2,334	2,506	2,506	2,506	2,506	+172	---	---	D
Assessments	5,238	5,445	5,445	5,445	5,445	+207	---	---	D
Educational Policy and Development	31,255	32,021	32,021	32,021	32,021	+766	---	---	D
Technical Support	25,111	25,736	25,736	25,736	25,736	+625	---	---	D
Program evaluation and information resources (PEIR)	17,525	15,671	15,671	15,671	15,671	-1,854	---	---	D
Program Administration	15,670	12,026	12,026	12,026	12,026	-3,644	---	---	D
Total, Mine Safety and Health Administration	279,136	280,490	280,490	280,490	280,490	+1,354	---	---	

LABOR-HEALTH and HUMAN SERVICES-EDUCATION AND RELATED AGENCIES
(Amounts in thousands)

	FY 2005 Comparable	FY 2006 Request	House	Senate	Conference	Conference vs. FY 2005 Comparable	Conference vs. FY 2006 House	Conference vs. FY 2006 Senate	
BUREAU OF LABOR STATISTICS									
SALARIES AND EXPENSES									
Employment and Unemployment Statistics	162,714	167,047	167,047	167,047	167,047	+4,333	---	---	D
Labor Market Information	77,845	77,845	77,845	77,845	77,845	---	---	---	TF
Prices and Cost of Living	169,370	174,779	174,779	174,779	174,779	+5,409	---	---	D
Compensation and Working Conditions	78,942	81,532	81,532	81,532	81,532	+2,590	---	---	D
Productivity and Technology	10,503	10,847	10,847	10,847	10,847	+344	---	---	D
Executive Direction and Staff Services	29,629	30,473	30,473	30,473	30,473	+844	---	---	D
Total, Bureau of Labor Statistics	529,003	542,523	542,523	542,523	542,523	+13,520	---	---	
Federal Funds	451,158	464,678	464,678	464,678	464,678	+13,520	---	---	
Trust Funds	77,845	77,845	77,845	77,845	77,845	---	---	---	
OFFICE OF DISABILITY EMPLOYMENT POLICY									D
Salaries and expenses	47,164	27,934	27,934	47,164	27,934	-19,230	---	-19,230	D
DEPARTMENTAL MANAGEMENT									
SALARIES AND EXPENSES									
Executive Direction	26,720	29,504	24,864	26,720	25,792	-928	+928	-928	D
Departmental IT Crosscut	29,760	29,760	29,760	29,760	29,760	---	---	---	D
Departmental Management Crosscut	4,960	1,700	1,700	1,700	1,700	-3,260	---	---	D
Legal Services	79,769	81,907	81,907	80,000	80,953	+1,184	-954	+953	D
Trust Funds	311	311	311	311	311	---	---	---	TF

LABOR-HEALTH and HUMAN SERVICES-EDUCATION AND RELATED AGENCIES
(Amounts in thousands)

	FY 2005 Comparable	FY 2006 Request	House	Senate	Conference	Conference vs. FY 2005 Comparable	Conference vs. FY 2006 House	Conference vs. FY 2006 Senate		
International Labor Affairs	93,248	12,419	12,419	93,248	73,248	-20,000	+60,829	-20,000	D	
Administration and Management	32,414	33,197	33,197	33,197	33,197	+783	---	---	D	
Frances Perkins building security enhancements	6,944	6,944	6,944	6,944	6,944	---	---	---	D	
Adjudication	25,665	27,126	27,126	27,126	27,126	+1,461	---	---	D	
Women's Bureau	9,478	9,764	9,764	9,764	9,764	+286	---	---	D	
Civil Rights Activities	6,237	6,451	6,451	6,451	6,451	+214	---	---	D	
Chief Financial Officer	5,182	5,340	5,340	5,340	5,340	+158	---	---	D	
Total, Salaries and expenses	320,688	244,423	239,783	320,561	300,586	-20,102	+60,803	-19,975		
Federal Funds	320,377	244,112	239,472	320,250	300,275	-20,102	+60,803	-19,975		
Trust Funds	311	311	311	311	311	---	---	---		
VETERANS EMPLOYMENT AND TRAINING										
State administration, Grants	161,097	162,415	162,415	162,415	162,415	+1,318	---	---	TF	
Federal Administration	30,438	30,435	31,935	30,435	30,435	-3	-1,500	---	TF	
National Veterans Training Institute	1,984	1,984	2,484	1,984	1,984	---	-500	---	TF	
Homeless Veterans Program	20,832	22,000	25,000	22,000	22,000	+1,168	-3,000	---	D	
Veterans Workforce Investment Programs	8,482	7,500	7,500	7,500	7,500	-982	---	---	D	FF
Total, Veterans Employment and Training	222,833	224,334	229,334	224,334	224,334	+1,501	-5,000	---		
Federal Funds	29,314	29,500	32,500	29,500	29,500	+186	-3,000	---		
Trust Funds	193,519	194,834	196,834	194,834	194,834	+1,315	-2,000	---		

LABOR-HEALTH and HUMAN SERVICES-EDUCATION AND RELATED AGENCIES
(Amounts in thousands)

	FY 2005 Comparable	FY 2006 Request	House	Senate	Conference	Conference vs. FY 2005 Comparable	Conference vs. FY 2006 House	Conference vs. FY 2006 Senate	
OFFICE OF THE INSPECTOR GENERAL									
Program Activities	63,478	65,211	65,211	67,211	66,211	+2,733	+1,000	-1,000	D
Trust Funds	5,517	5,608	5,608	5,608	5,608	+91	---	---	TF
Total, Office of the Inspector General	68,995	70,819	70,819	72,819	71,819	+2,824	+1,000	-1,000	
Federal funds	63,478	65,211	65,211	67,211	66,211	+2,733	+1,000	-1,000	
Trust funds	5,517	5,608	5,608	5,608	5,608	+91	---	---	
Total, Departmental Management	612,516	539,578	539,936	617,714	596,739	-15,777	+56,803	-20,975	
Federal Funds	413,169	338,823	337,183	416,961	395,986	-17,183	+58,803	-20,975	
Trust Funds	199,347	200,753	202,753	200,753	200,753	+1,406	-2,000	---	
WORKING CAPITAL FUND									
Working capital fund	9,920	6,230	6,230	6,230	6,230	-3,690	---	---	D
Total, Title I, Department of Labor	15,321,804	14,724,465	14,801,322	14,957,122	14,764,129	-557,675	-37,193	-192,993	
Federal Funds	11,489,478	11,016,450	11,091,307	11,351,645	11,133,840	-355,638	+42,533	-217,805	
Current Year	(8,945,478)	(8,504,450)	(8,554,307)	(8,814,645)	(8,596,840)	(-348,638)	(+42,533)	(-217,805)	
FY 2007	(2,544,000)	(2,512,000)	(2,537,000)	(2,537,000)	(2,537,000)	(-7,000)	---	---	
Trust Funds	3,832,326	3,708,015	3,710,015	3,605,477	3,630,289	-202,037	-79,726	+24,812	

Title I Footnotes:
1/ Funding from the Dislocated Worker National Reserve
2/ Two year availability

LABOR-HEALTH and HUMAN SERVICES-EDUCATION AND RELATED AGENCIES
(Amounts in thousands)

	FY 2005 Comparable	FY 2006 Request	House	Senate	Conference	Conference vs. FY 2005 Comparable	Conference vs. FY 2006 House	Conference vs. FY 2006 Senate	
TITLE II - DEPARTMENT OF HEALTH AND HUMAN SERVICES									
HEALTH RESOURCES AND SERVICES ADMINISTRATION									
HEALTH RESOURCES AND SERVICES									
BUREAU OF PRIMARY HEALTH CARE									
Community health centers	1,734,311	2,037,871	1,834,311	1,889,311	1,800,311	+66,000	-34,000	-89,000	D
Free Clinics Medical Malpractice	99	---	---	99	40	-59	+40	-59	D
Radiation Exposure Compensation Act	1,958	1,936	1,900	1,958	1,936	-22	+36	-22	D
Healthy Community Access Program	82,993	---	---	60,000	---	-82,993	---	-60,000	D
Hansen's Disease Services	17,251	16,066	16,066	17,066	16,066	-1,185	---	-1,000	D
Buildings and Facilities	247	222	222	222	222	-25	---	---	D
Payment to Hawaii, treatment of Hansen's	2,017	2,016	2,016	2,017	2,016	-1	---	-1	D
Black lung clinics	5,951	5,912	5,912	5,975	5,951	---	+39	-24	D
Subtotal, Bureau of Primary Health Care	1,844,827	2,064,023	1,860,427	1,976,648	1,826,542	-18,285	-33,885	-150,106	
BUREAU OF HEALTH PROFESSIONS									
National Health Service Corps:									
Field placements	45,068	40,705	40,705	40,705	40,705	-4,363	---	---	D
Recruitment	86,380	86,091	86,091	86,091	86,091	-289	---	---	D
Subtotal, National Health Service Corps	131,448	126,796	126,796	126,796	126,796	-4,652	---	---	

LABOR-HEALTH and HUMAN SERVICES-EDUCATION AND RELATED AGENCIES
(Amounts in thousands)

	FY 2005 Comparable	FY 2006 Request	House	Senate	Conference	Conference vs. FY 2005 Comparable	Conference vs. FY 2006 House	Conference vs. FY 2006 Senate	
Health Professions									
Training for Diversity:									
Centers of excellence	33,609	---	12,000	33,609	12,000	-21,609	---	-21,609	D
Health careers opportunity program	35,647	---	---	35,647	4,000	-31,647	+4,000	-31,647	D
Faculty loan repayment	1,302	---	---	1,302	700	-602	+700	-602	D
Scholarships for disadvantaged students	47,128	9,831	35,128	47,128	35,128	-12,000	---	-12,000	D
Subtotal, Training for Diversity	117,686	9,831	47,128	117,686	51,828	-65,858	+4,700	-65,858	
Training in Primary Care Medicine and Dentistry	88,816	---	---	90,000	28,173	-60,643	+28,173	-61,827	D
Interdisciplinary Community-Based Linkages:									
Area health education centers	28,971	---	---	28,971	2,000	-26,971	+2,000	-26,971	D
Health education and training centers	3,819	---	---	3,819	---	-3,819	---	-3,819	D
Allied health and other disciplines	11,753	---	---	11,753	4,000	-7,753	+4,000	-7,753	D
Geriatric programs	31,548	---	---	29,548	---	-31,548	---	-29,548	D
Quentin N. Burdick program for rural training	6,076	---	---	6,076	---	-6,076	---	-6,076	D
Subtotal, Interdisciplinary Comm. Linkages	82,167	---	---	80,167	6,000	-76,167	+6,000	-74,167	
Health Professions Workforce Info & Analysis	716	712	---	712	---	-716	---	-712	D
Public Health Workforce Development:									
Public health, preventive med. and dental programs	9,097	---	---	9,097	8,000	-1,097	+8,000	-1,097	D
Health administration programs	1,070	---	---	1,070	---	-1,070	---	-1,070	D
Subtotal, Public Health Workforce Development	10,167	---	---	10,167	8,000	-2,167	+8,000	-2,167	

LABOR-HEALTH and HUMAN SERVICES-EDUCATION AND RELATED AGENCIES
(Amounts in thousands)

	FY 2005 Comparable	FY 2006 Request	House	Senate	Conference	Conference vs. FY 2005 Comparable	Conference vs. FY 2006 House	Conference vs. FY 2006 Senate	
Nursing Programs:									
Advanced Education Nursing	58,160	42,806	57,637	58,160	57,637	-523	---	-523	D
Nurse education, practice, and retention	36,468	46,325	36,468	40,468	37,668	+1,200	+1,200	-2,800	D
Nursing workforce diversity	16,270	21,244	16,270	17,270	16,270	---	---	-1,000	D
Loan repayment and scholarship program	31,482	31,369	31,369	31,482	31,369	-113	---	-113	D
Comprehensive geriatric education	3,450	3,426	3,426	3,450	3,426	-24	---	-24	D
Nursing faculty loan program	4,831	4,821	4,821	4,831	4,821	-10	---	-10	D
Subtotal, Nursing programs	150,661	149,991	149,991	155,661	151,191	+530	+1,200	-4,470	
Subtotal, Health Professions	450,213	160,534	197,119	454,393	245,192	-205,021	+48,073	-209,201	
Children's Hospitals Graduate Medical Education	300,730	200,000	300,000	300,000	300,000	-730	---	---	D
National Practitioner Data Bank	15,700	15,700	15,700	15,700	15,700	---	---	---	D
User Fees	-15,700	-15,700	-15,700	-15,700	-15,700	---	---	---	D
Health Care Integrity and Protection Data Bank	4,000	4,000	4,000	4,000	4,000	---	---	---	D
User Fees	-4,000	-4,000	-4,000	-4,000	-4,000	---	---	---	D
Subtotal, Bureau of Health Professions	882,391	487,330	623,915	881,189	671,988	-210,403	+48,073	-209,201	
MATERNAL AND CHILD HEALTH BUREAU									
Maternal and Child Health Block Grant	723,928	723,928	700,000	710,000	700,000	-23,928	---	-10,000	D
Sickle cell anemia demonstration program	198	---	---	500	2,200	+2,002	+2,200	+1,700	D

LABOR-HEALTH and HUMAN SERVICES-EDUCATION AND RELATED AGENCIES
(Amounts in thousands)

	FY 2005 Comparable	FY 2006 Request	House	Senate	Conference	Conference vs. FY 2005 Comparable	Conference vs. FY 2006 House	Conference vs. FY 2006 Senate	
Traumatic Brain Injury	9,297	---	9,000	9,297	9,000	-297	---	-297	D
Healthy Start	102,543	97,747	97,747	104,000	102,543	---	+4,796	-1,457	D
Universal Newborn Hearing	9,792	---	10,000	9,792	9,900	+108	-100	+108	D
Emergency medical services for children	19,830	---	19,000	20,000	20,000	+170	+1,000	---	D
Poison control	23,499	23,301	23,301	23,301	23,301	-198	---	---	D
Subtotal, Maternal and Child Health Bureau	889,087	844,976	859,048	876,890	866,944	-22,143	+7,896	-9,946	
HIV/AIDS BUREAU									
Ryan White AIDS Programs:									
Emergency Assistance	610,094	610,094	610,094	610,094	610,094	---	---	---	D
Comprehensive Care Programs	1,121,836	1,131,836	1,131,836	1,131,836	1,131,836	+10,000	---	---	D
AIDS Drug Assistance Program (ADAP) (NA)	(787,521)	(797,521)	(797,521)	(797,521)	(797,521)	(+10,000)	---	---	NA
Early Intervention Program	195,578	195,578	195,578	195,578	195,578	---	---	---	D
Pediatric HIV/AIDS	72,519	72,519	72,519	72,519	72,519	---	---	---	D
AIDS Dental Services	13,218	13,218	13,218	13,218	13,218	---	---	---	D
Education and Training Centers	35,051	35,051	35,051	35,051	35,051	---	---	---	D
Subtotal, Ryan White AIDS programs	2,048,296	2,058,296	2,058,296	2,058,296	2,058,296	+10,000	---	---	
Evaluation Tap Funding (NA)	(25,000)	(25,000)	(25,000)	(25,000)	(25,000)	---	---	---	NA
Subtotal, Ryan White AIDs program level	(2,073,296)	(2,083,296)	(2,083,296)	(2,083,296)	(2,083,296)	(+10,000)	---	---	

LABOR-HEALTH and HUMAN SERVICES-EDUCATION AND RELATED AGENCIES
(Amounts in thousands)

	FY 2005 Comparable	FY 2006 Request	House	Senate	Conference	Conference vs. FY 2005 Comparable	Conference vs. FY 2006 House	Conference vs. FY 2006 Senate	
Telehealth	3,916	3,888	3,888	13,888	6,888	+2,972	+3,000	-7,000	D
Subtotal, HIV/AIDS Bureau	2,052,212	2,062,184	2,062,184	2,072,184	2,065,184	+12,972	+3,000	-7,000	
SPECIAL PROGRAMS BUREAU									
Organ Transplantation	24,413	23,282	23,282	24,413	23,282	-1,131	---	-1,131	D
Cord Blood Stem Cell Bank	9,859	---	---	9,859	4,000	-5,859	+4,000	-5,859	D
Bone Marrow Program	25,416	22,916	25,416	22,916	25,416	---	---	+2,500	D
Trauma Care	3,418	---	---	3,418	---	-3,418	---	-3,418	D
State Planning Grants for Health Care Access	10,910	---	---	---	---	-10,910	---	---	D
Subtotal, Special programs bureau	74,016	46,198	48,698	60,606	52,698	-21,318	+4,000	-7,908	
RURAL HEALTH PROGRAMS									
Rural outreach grants	39,278	10,767	10,767	39,278	10,767	-28,511	---	-28,511	D
Rural Health Research	8,825	8,528	---	8,825	---	-8,825	---	-8,825	D
Rural Hospital Flexibility Grants	39,180	---	39,180	64,180	64,180	+25,000	+25,000	---	D
Rural and community access to emergency devices	8,927	1,960	1,960	9,727	1,500	-7,427	-460	-8,227	D
Rural EMS	496	---	---	500	---	-496	---	-500	D
State Offices of Rural Health	8,321	8,223	8,223	8,321	8,223	-98	---	-98	D
Denali Commission	39,680	---	---	39,680	39,680	---	+39,680	---	D
Subtotal, Rural health programs	144,707	29,478	60,130	170,511	124,350	-20,357	+64,220	-46,161	

LABOR-HEALTH and HUMAN SERVICES-EDUCATION AND RELATED AGENCIES
(Amounts in thousands)

	FY 2005 Comparable	FY 2006 Request	House	Senate	Conference	Conference vs. FY 2005 Comparable	Conference vs. FY 2006 House	Conference vs. FY 2006 Senate	
Family Planning	285,963	285,963	285,963	285,963	285,963	---	---	---	D
Health Care-related Facilities and activities	482,729	---	---	393,051	---	-482,729	---	-393,051	D
Bioterrorism hospital grants to States 1/	---	---	500,000	510,500	500,000	+500,000	---	-10,500	
Program Management	147,080	145,992	143,072	143,992	145,992	-1,088	+2,920	+2,000	D
Total, Health resources and services	6,803,012	5,966,144	6,443,437	7,371,534	6,539,661	-263,351	+96,224	-831,873	
Total, Health resources & services program level	(6,828,012)	(5,991,144)	(6,468,437)	(7,396,534)	(6,564,661)	(-263,351)	(+96,224)	(-831,873)	
Evaluation tap funding	(25,000)	(25,000)	(25,000)	(25,000)	(25,000)	---	---	---	
HEALTH EDUCATION ASSISTANCE LOANS (HEAL) PROGRAM:									
Liquidating account	(4,000)	(4,000)	(4,000)	(4,000)	(4,000)	---	---	---	NA
Program management	3,244	2,916	2,916	2,916	2,916	-328	---	---	D
Total, HEAL	3,244	2,916	2,916	2,916	2,916	-328	---	---	
VACCINE INJURY COMPENSATION PROGRAM TRUST FUND:									
Post-FY 1988 claims	66,000	70,884	70,884	70,884	70,884	+4,884	---	---	M
HRSA administration	3,151	2,832	3,500	3,600	3,600	+449	+100	---	D
Total, Vaccine Injury Compensation Trust Fund	69,151	73,716	74,384	74,484	74,484	+5,333	+100	---	
Total, Health Resources and Services Admin	6,875,407	6,042,776	6,520,737	7,448,934	6,617,061	-258,346	+96,324	-831,873	
Total, HRSA program level	(6,904,407)	(6,071,776)	(6,549,737)	(7,477,934)	(6,646,061)	(-258,346)	(+96,324)	(-831,873)	

LABOR-HEALTH and HUMAN SERVICES-EDUCATION AND RELATED AGENCIES
(Amounts in thousands)

	FY 2005 Comparable	FY 2006 Request	House	Senate	Conference	Conference vs. FY 2005 Comparable	Conference vs. FY 2006 House	Conference vs. FY 2006 Senate	
CENTERS FOR DISEASE CONTROL AND PREVENTION									
Infectious Diseases	1,667,095	1,696,964	1,704,529	1,696,567	1,697,397	+30,302	-7,132	+830	D
Evaluation Tap Funding	(12,794)	(12,794)	(12,794)	(12,794)	(12,794)	---	---	---	NA
Subtotal, Program level	(1,679,889)	(1,709,758)	(1,717,323)	(1,709,361)	(1,710,191)	(+30,302)	(-7,132)	(+830)	
Health Promotion	1,021,709	964,421	983,647	974,080	971,157	-50,552	-12,490	-2,923	D
Health Information and Service	94,438	89,564	195,069	89,564	89,564	-4,874	-105,505	---	D
Evaluation Tap Funding	(134,235)	(134,235)	(28,730)	(134,235)	(134,235)	---	(+105,505)	---	NA
Subtotal, Program level	(228,673)	(223,799)	(223,799)	(223,799)	(223,799)	(-4,874)	---	---	
Environmental health and injury	285,721	284,820	285,721	288,982	287,733	+2,012	+2,012	-1,249	D
Occupational safety and health 2/	198,970	198,859	164,170	170,050	169,900	-29,070	+5,730	-150	D
Evaluation Tap Funding	(87,071)	(87,071)	(87,071)	(87,071)	(87,071)	---	---	---	NA
Subtotal, Program level 2/	(286,041)	(285,930)	(251,241)	(257,121)	(256,971)	(-29,070)	(+5,730)	(-150)	
Global health	293,863	306,079	309,076	313,227	313,340	+19,477	+4,264	+113	D
Supplemental (P.L. 109-13) (emergency)	15,000	---	---	---	---	-15,000	---	---	
Subtotal, Global health	(308,863)	(306,079)	(309,076)	(313,227)	(313,340)	(+4,477)	(+4,264)	(+113)	
Terrorism preparedness and response 1/	---	---	1,616,723	1,566,471	1,593,189	+1,593,189	-23,534	+26,718	D
Public Health research:									D
Evaluation Tap Funding	(31,000)	(31,000)	(31,000)	(31,000)	(31,000)	---	---	---	NA

LABOR-HEALTH and HUMAN SERVICES-EDUCATION AND RELATED AGENCIES
(Amounts in thousands)

	FY 2005 Comparable	FY 2006 Request	House	Senate	Conference	Conference vs. FY 2005 Comparable	Conference vs. FY 2006 House	Conference vs. FY 2006 Senate	
Public health improvement and leadership	266,842	206,541	258,541	344,055	206,535	-60,307	-52,006	-137,520	D
Preventive health and health services block grant	118,526	---	100,000	100,000	100,000	-18,526	---	---	D
Buildings and Facilities	269,708	30,000	30,000	225,000	160,000	-109,708	+130,000	-65,000	D
Business services	278,838	263,715	298,515	296,119	296,119	+17,281	-2,396	---	D
Total, Centers for Disease Control	4,510,710	4,040,963	5,945,991	6,064,115	5,884,934	+1,374,224	-61,057	-179,181	
Emergency appropriations	15,000	---	---	---	---	-15,000	---	---	
Evaluation Tap Funding (NA)	(265,100)	(265,100)	(159,595)	(265,100)	(265,100)	---	(+105,505)	---	
Total, Centers for Disease Control program level	(4,775,810)	(4,306,063)	(6,105,586)	(6,329,215)	(6,150,034)	(+1,374,224)	(+44,448)	(-179,181)	
NATIONAL INSTITUTES OF HEALTH									
National Cancer Institute	4,825,259	4,841,774	4,841,774	4,960,828	4,841,774	+16,515	---	-119,054	D
National Heart, Lung, and Blood Institute	2,941,201	2,951,270	2,951,270	3,023,381	2,951,270	+10,069	---	-72,111	D
National Institute of Dental & Craniofacial Research	391,829	393,269	393,269	405,269	393,269	+1,440	---	-12,000	D
National Institute of Diabetes and Digestive and Kidney Diseases	1,713,584	1,722,146	1,722,146	1,767,919	1,722,146	+8,562	---	-45,773	D
Juvenile diabetes (mandatory)	(150,000)	(150,000)	(150,000)	(150,000)	(150,000)	---	---	---	NA
Subtotal, NIDDK	(1,863,584)	(1,872,146)	(1,872,146)	(1,917,919)	(1,872,146)	(+8,562)	---	(-45,773)	
National Institute of Neurological Disorders & Stroke	1,539,448	1,550,260	1,550,260	1,591,924	1,550,260	+10,812	---	-41,664	D
National Institute of Allergy and Infectious Diseases	4,303,640	4,359,395	4,359,395	4,447,136	4,359,395	+55,755	---	-87,741	D
Global HIV/AIDS Fund Transfer	99,200	100,000	---	100,000	100,000	+800	+100,000	---	D
Subtotal, NIAID	4,402,840	4,459,395	4,359,395	4,547,136	4,459,395	+56,555	+100,000	-87,741	

LABOR-HEALTH and HUMAN SERVICES-EDUCATION AND RELATED AGENCIES
(Amounts in thousands)

	FY 2005 Comparable	FY 2006 Request	House	Senate	Conference	Conference vs. FY 2005 Comparable	Conference vs. FY 2006 House	Conference vs. FY 2006 Senate	
National Institute of General Medical Sciences	1,944,067	1,955,170	1,955,170	2,002,622	1,955,170	+11,103	---	-47,452	D
National Institute of Child Health & Human Development	1,270,321	1,277,544	1,277,544	1,310,989	1,277,544	+7,223	---	-33,445	D
National Eye Institute	669,070	673,491	673,491	693,559	673,491	+4,421	---	-20,068	D
National Institute of Environmental Health Sciences	644,505	647,608	647,608	667,372	647,608	+3,103	---	-19,764	D
National Institute on Aging	1,051,990	1,057,203	1,057,203	1,090,600	1,057,203	+5,213	---	-33,397	D
National Institute of Arthritis and Musculoskeletal and Skin Diseases	511,157	513,063	513,063	525,758	513,063	+1,906	---	-12,695	D
National Institute on Deafness and Other Communication Disorders	394,259	397,432	397,432	409,432	397,432	+3,173	---	-12,000	D
National Institute of Nursing Research	138,072	138,729	138,729	142,549	138,729	+657	---	-3,820	D
National Institute on Alcohol Abuse and Alcoholism	438,277	440,333	440,333	452,271	440,333	+2,056	---	-11,938	D
National Institute on Drug Abuse	1,006,419	1,010,130	1,010,130	1,035,167	1,010,130	+3,711	---	-25,037	D
National Institute of Mental Health	1,411,933	1,417,692	1,417,692	1,460,393	1,417,692	+5,759	---	-42,701	D
National Human Genome Research Institute	488,608	490,959	490,959	502,804	490,959	+2,351	---	-11,845	D
National Institute of Biomedical Imaging and Bioengineering	298,209	299,808	299,808	309,091	299,808	+1,599	---	-9,283	D
National Center for Research Resources	1,115,090	1,100,203	1,100,203	1,188,079	1,110,203	-4,887	+10,000	-77,876	D
National Center for Complementary and Alternative Medicine	122,105	122,692	122,692	126,978	122,692	+587	---	-4,286	D
National Center on Minority Health and Health Disparities	196,159	197,379	197,379	203,367	197,379	+1,220	---	-5,988	D
John E. Fogarty International Center	66,632	67,048	67,048	68,745	67,048	+416	---	-1,697	D

LABOR-HEALTH and HUMAN SERVICES-EDUCATION AND RELATED AGENCIES
(Amounts in thousands)

	FY 2005 Comparable	FY 2006 Request	House	Senate	Conference	Conference vs. FY 2005 Comparable	Conference vs. FY 2006 House	Conference vs. FY 2006 Senate	
National Library of Medicine	315,146	318,091	318,091	327,222	318,091	+2,945	---	-9,131	D
Evaluation Tap Funding	(8,200)	(8,200)	(8,200)	(8,200)	(8,200)	---	---	---	NA
Subtotal, NLM	323,346	326,291	326,291	335,422	326,291	+2,945	---	-9,131	
Office of the Director 1/	358,047	385,195	482,216	487,434	482,895	+124,848	+679	-4,539	D
Biodefense countermeasures 1/	---	---	(97,021)	(97,021)	(97,000)	(+97,000)	(-21)	(-21)	NA
Buildings and Facilities	110,288	81,900	81,900	113,626	81,900	-28,388	---	-31,726	D
Total, National Institutes of Health (NIH)	28,364,515	28,509,784	28,506,805	29,414,515	28,617,484	+252,969	+110,679	-797,031	
Global HIV/AIDS Fund Transfer	-99,200	-100,000	---	-100,000	-100,000	-800	-100,000	---	
Evaluation Tap Funding	(8,200)	(8,200)	(8,200)	(8,200)	(8,200)	---	---	---	
Total, NIH, Program Level	(28,273,515)	(28,417,984)	(28,515,005)	(29,322,715)	(28,525,684)	(+252,169)	(+10,679)	(-797,031)	
SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES ADMINISTRATION (SAMHSA)									
Mental Health:									
Programs of Regional and National Significance	274,297	210,213	253,257	287,297	265,922	-8,375	+12,665	-21,375	D
Mental Health block grant	410,953	410,953	410,953	410,953	410,953	---	---	---	D
Evaluation Tap Funding	(21,803)	(21,803)	(21,803)	(21,803)	(21,803)	---	---	---	NA
Subtotal, Program level	(432,756)	(432,756)	(432,756)	(432,756)	(432,756)	---	---	---	
Children's Mental Health	105,112	105,129	105,129	105,129	105,129	+17	---	---	D
Grants to States for the Homeless (PATH)	54,809	54,809	54,809	54,809	54,809	---	---	---	D

LABOR-HEALTH and HUMAN SERVICES-EDUCATION AND RELATED AGENCIES
(Amounts in thousands)

	FY 2005 Comparable	FY 2006 Request	House	Senate	Conference	Conference vs. FY 2005 Comparable	Conference vs. FY 2006 House	Conference vs. FY 2006 Senate	
Protection and Advocacy	34,343	34,343	34,343	34,343	34,343	---	---	---	D
Subtotal, Mental Health	879,514	815,447	858,491	892,531	871,156	-8,358	+12,665	-21,375	
Subtotal, Program level	(901,317)	(837,250)	(880,294)	(914,334)	(892,959)	(-8,358)	(+12,665)	(-21,375)	
Substance Abuse Treatment:									
Programs of Regional and National Significance	418,066	442,752	405,131	407,791	398,635	-19,431	-6,496	-9,156	D
Evaluation Tap Funding	(4,300)	(4,300)	(4,300)	(4,300)	(4,300)	---	---	---	NA
Subtotal, Program level	(422,366)	(447,052)	(409,431)	(412,091)	(402,935)	(-19,431)	(-6,496)	(-9,156)	
Substance Abuse block grant	1,696,355	1,696,355	1,696,355	1,696,355	1,696,355	---	---	---	D
Evaluation Tap Funding	(79,200)	(79,200)	(79,200)	(79,200)	(79,200)	---	---	---	NA
Subtotal, Program level	(1,775,555)	(1,775,555)	(1,775,555)	(1,775,555)	(1,775,555)	---	---	---	
Subtotal, Substance Abuse Treatment	2,114,421	2,139,107	2,101,486	2,104,146	2,094,990	-19,431	-6,496	-9,156	
Subtotal, Program level	(2,197,921)	(2,222,607)	(2,184,986)	(2,187,646)	(2,178,490)	(-19,431)	(-6,496)	(-9,156)	
Substance Abuse Prevention:									
Programs of Regional and National Significance	198,725	184,349	194,950	202,289	194,850	-3,875	-100	-7,439	D

LABOR-HEALTH and HUMAN SERVICES-EDUCATION AND RELATED AGENCIES
(Amounts in thousands)

	FY 2005 Comparable	FY 2006 Request	House	Senate	Conference	Conference vs. FY 2005 Comparable	Conference vs. FY 2006 House	Conference vs. FY 2006 Senate	
Program Management	75,806	75,817	75,817	75,817	76,817	+1,011	+1,000	+1,000	D
Evaluation Tap funding (NA)	(18,000)	(16,000)	(16,000)	(18,000)	(16,000)	(-2,000)	---	(-2,000)	NA
Subtotal, Program level	93,806	91,817	91,817	93,817	92,817	-989	+1,000	-1,000	
Total, SAMHSA	3,268,466	3,214,720	3,230,744	3,274,783	3,237,813	-30,653	+7,069	-36,970	
Evaluation Tap funding	(123,303)	(121,303)	(121,303)	(123,303)	(121,303)	(-2,000)	---	(-2,000)	
Total, SAMHSA program level	(3,391,769)	(3,336,023)	(3,352,047)	(3,398,086)	(3,359,116)	(-32,653)	(+7,069)	(-38,970)	
AGENCY FOR HEALTHCARE RESEARCH AND QUALITY									
Research on Health Costs, Quality, and Outcomes:									
Federal Funds	---	---	318,695	---	---	---	-318,695	---	D
Evaluation Tap funding (NA)	(260,695)	(260,695)	---	(265,695)	(260,695)	---	(+260,695)	(-5,000)	NA
Clinical effectiveness research (NA)	(15,000)	(15,000)	---	(20,000)	(15,000)	---	(+15,000)	(-5,000)	NA
Reducing medical errors (NA)	(84,000)	(84,000)	---	(84,000)	(84,000)	---	(+84,000)	---	NA
Subtotal, Program level	(260,695)	(260,695)	(318,695)	(265,695)	(260,695)	---	(-58,000)	(-5,000)	
Health Insurance and Expenditure Surveys:									NA
Evaluation Tap funding (NA)	(55,300)	(55,300)	---	(55,300)	(55,300)	---	(+55,300)	---	NA
Program Support:									D
Evaluation Tap funding (NA)	(2,700)	(2,700)	---	(2,700)	(2,700)	---	(+2,700)	---	NA
Total, AHRQ	---	---	318,695	---	---	---	-318,695	---	
Evaluation Tap funding (NA)	(318,695)	(318,695)	---	(323,695)	(318,695)	---	(+318,695)	(-5,000)	
Total, AHRQ program level	(318,695)	(318,695)	(318,695)	(323,695)	(318,695)	---	---	(-5,000)	

LABOR-HEALTH and HUMAN SERVICES-EDUCATION AND RELATED AGENCIES
(Amounts in thousands)

	FY 2005 Comparable	FY 2006 Request	House	Senate	Conference	Conference vs. FY 2005 Comparable	Conference vs. FY 2006 House	Conference vs. FY 2006 Senate	
Total, Public Health Service appropriation	43,019,098	41,808,243	44,522,972	46,202,347	44,357,292	+1,338,194	-165,680	-1,845,055	
Total, Public Health Service program level	(43,664,196)	(42,450,541)	(44,841,070)	(46,851,645)	(44,999,590)	(+1,335,394)	(+158,520)	(-1,852,055)	
CENTERS FOR MEDICARE AND MEDICAID SERVICES									
GRANTS TO STATES FOR MEDICAID									
Medicaid current law benefits	171,407,893	204,166,276	204,166,276	204,166,276	204,166,276	+32,758,383	---	---	M
State and local administration	9,318,602	9,803,100	9,803,100	9,803,100	9,803,100	+484,498	---	---	M
Vaccines for Children	1,468,799	1,502,333	1,502,333	1,502,333	1,502,333	+33,534	---	---	M
Subtotal, Medicaid program level	182,195,294	215,471,709	215,471,709	215,471,709	215,471,709	+33,276,415	---	---	
Less funds advanced in prior year	-58,416,275	-58,517,290	-58,517,290	-58,517,290	-58,517,290	-101,015	---	---	M
Total, Grants to States for medicaid	123,779,019	156,954,419	156,954,419	156,954,419	156,954,419	+33,175,400	---	---	
New advance, 1st quarter	58,517,290	62,783,825	62,783,825	62,783,825	62,783,825	+4,266,535	---	---	M
PAYMENTS TO HEALTH CARE TRUST FUNDS									
Supplemental medical insurance	114,002,000	128,015,000	128,015,000	128,015,000	128,015,000	+14,013,000	---	---	M
Hospital insurance for the uninsured	87,000	202,000	202,000	202,000	202,000	+115,000	---	---	M
Federal uninsured payment	199,000	206,000	206,000	206,000	206,000	+7,000	---	---	M
Program management	215,000	164,000	164,000	164,000	164,000	-51,000	---	---	M
General revenue for Part D benefit	---	53,596,000	53,596,000	53,596,000	53,596,000	+53,596,000	---	---	M
General revenue for Part D administration (CMS)	---	357,000	357,000	357,000	357,000	+357,000	---	---	M
General revenue for Part D administration (SSA)	---	320,000	320,000	320,000	320,000	+320,000	---	---	M

LABOR-HEALTH and HUMAN SERVICES-EDUCATION AND RELATED AGENCIES
(Amounts in thousands)

	FY 2005 Comparable	FY 2006 Request	House	Senate	Conference	Conference vs. FY 2005 Comparable	Conference vs. FY 2006 House	Conference vs. FY 2006 Senate	
HCFAC reimbursement	---	80,000	---	80,000	---	---	---	-80,000	M
Prescription drug eligibility determinations	105,900	99,100	99,100	99,100	99,100	-6,800	---	---	M
Subtotal, Payments to Trust Funds, current law	114,608,900	183,039,100	182,959,100	183,039,100	182,959,100	+68,350,200	---	-80,000	
Less funds advanced in prior year	---	-5,216,900	-5,216,900	-5,216,900	-5,216,900	-5,216,900	---	---	
New Advance FY 2007	5,216,900	---	---	---	---	-5,216,900	---	---	M
Total, Payments to Trust Funds, current law	119,825,800	177,822,200	177,742,200	177,822,200	177,742,200	+57,916,400	---	-80,000	
PROGRAM MANAGEMENT									
Medicare reform funding 3/ 4/ 5/ (NA)	(250,000)	(250,000)	(250,000)	(250,000)	(250,000)	---	---	---	NA
Research, Demonstration, Evaluation	77,494	45,194	65,000	83,494	58,000	-19,494	-7,000	-25,494	TF
Medicare Operations	1,722,984	2,189,987	2,172,987	2,184,984	2,172,987	+450,003	---	-11,997	TF
H.R. 3103 funding (NA)	(720,000)	(720,000)	(720,000)	(720,000)	(720,000)	---	---	---	NA
Subtotal, Medicare Operations program level	(2,442,984)	(2,909,987)	(2,892,987)	(2,904,984)	(2,892,987)	(+450,003)	---	(-11,997)	
Revitalization plan	24,205	24,205	24,205	24,205	24,205	---	---	---	TF
State Survey and Certification	258,735	260,735	260,735	260,735	260,735	+2,000	---	---	TF
Federal Administration	581,493	657,357	657,357	628,000	655,000	+73,507	-2,357	+27,000	TF
Total, Program management, Limitation on new BA	2,664,911	3,177,478	3,180,284	3,181,418	3,170,927	+506,016	-9,357	-10,491	
Total, Program management, program level	(3,384,911)	(3,897,478)	(3,900,284)	(3,901,418)	(3,890,927)	(+506,016)	(-9,357)	(-10,491)	

LABOR-HEALTH and HUMAN SERVICES-EDUCATION AND RELATED AGENCIES
(Amounts in thousands)

	FY 2005 Comparable	FY 2006 Request	House	Senate	Conference	Conference vs. FY 2005 Comparable	Conference vs. FY 2006 House	Conference vs. FY 2006 Senate	
Health Care Fraud and Abuse Control:									
Part D drug benefit/medicare advantage (MIP)	---	75,000	---	75,000	---	---	---	-75,000	TF
Medicaid and SCHIP financial management	---	5,000	---	5,000	---	---	---	-5,000	TF
Total, Health Care Fraud and Abuse Control	---	80,000	---	80,000	---	---	---	-80,000	
Total, Center for Medicare and Medicaid Services	304,787,020	400,817,922	400,660,728	400,821,862	400,651,371	+95,864,351	-9,357	-170,491	
Federal funds	302,122,109	397,560,444	397,480,444	397,560,444	397,480,444	+95,358,335	---	-80,000	
Current year	(238,387,919)	(334,776,619)	(334,696,619)	(334,776,619)	(334,696,619)	(+96,308,700)	---	(-80,000)	
New advance, FY 2007	(63,734,190)	(62,783,825)	(62,783,825)	(62,783,825)	(62,783,825)	(-950,365)	---	---	
Trust Funds	2,664,911	3,257,478	3,180,284	3,261,418	3,170,927	+506,016	-9,357	-90,491	
ADMINISTRATION FOR CHILDREN AND FAMILIES									
FAMILY SUPPORT PAYMENTS TO STATES									
Payments to territories	23,000	33,000	33,000	33,000	33,000	+10,000	---	---	M
Repatriation	1,000	1,000	1,000	1,000	1,000	---	---	---	M
Subtotal, Welfare payments	24,000	34,000	34,000	34,000	34,000	+10,000	---	---	
Child Support Enforcement:									
State and local administration	3,610,465	3,767,816	3,767,816	3,767,816	3,767,816	+157,351	---	---	M
Federal incentive payments	446,000	458,000	458,000	458,000	458,000	+12,000	---	---	M
Access and visitation	10,000	10,000	10,000	10,000	10,000	---	---	---	M
Subtotal, Child Support Enforcement	4,066,465	4,235,816	4,235,816	4,235,816	4,235,816	+169,351	---	---	
Total, Family support payments program level	4,090,465	4,269,816	4,269,816	4,269,816	4,269,816	+179,351	---	---	

LABOR-HEALTH and HUMAN SERVICES-EDUCATION AND RELATED AGENCIES
(Amounts in thousands)

	FY 2005 Comparable	FY 2006 Request	House	Senate	Conference	Conference vs. FY 2005 Comparable	Conference vs. FY 2006 House	Conference vs. FY 2006 Senate	
Less funds advanced in previous years	-1,200,000	-1,200,000	-1,200,000	-1,200,000	-1,200,000	---	---	---	M
Total, Family support payments, current year	2,890,465	3,069,816	3,069,816	3,069,816	3,069,816	+179,351	---	---	
New advance, 1st quarter, FY 2007	1,200,000	1,200,000	1,200,000	1,200,000	1,200,000	---	---	---	M
Total, Family support payments	4,090,465	4,269,816	4,269,816	4,269,816	4,269,816	+179,351	---	---	
LOW INCOME HOME ENERGY ASSISTANCE PROGRAM									
Formula grants	1,884,799	1,800,000	2,006,799	1,883,000	2,000,000	+115,201	-6,799	+117,000	D
Emergency allocation: Contingency fund	---	200,000	---	---	183,000	+183,000	+183,000	+183,000	D
Emergency allocation	297,600	---	---	300,000	---	-297,600	---	-300,000	D
Total, Low income home energy assistance	2,182,399	2,000,000	2,006,799	2,183,000	2,183,000	+601	+176,201	---	
REFUGEE AND ENTRANT ASSISTANCE									
Transitional and Medical Services	204,992	268,229	264,129	264,129	268,229	+63,237	+4,100	+4,100	D
Victims of Trafficking	9,915	9,915	9,915	9,915	9,915	---	---	---	D
Social Services	152,242	151,121	160,000	151,121	155,560	+3,318	-4,440	+4,439	D
Preventive Health	4,796	4,796	4,796	4,796	4,796	---	---	---	D
Targeted Assistance	49,081	49,081	49,081	49,081	49,081	---	---	---	D
Unaccompanied minors	53,771	78,083	63,083	63,083	78,083	+24,312	+15,000	+15,000	D
Victims of Torture	9,915	9,915	9,915	9,915	9,915	---	---	---	D

LABOR-HEALTH and HUMAN SERVICES-EDUCATION AND RELATED AGENCIES
(Amounts in thousands)

	FY 2005 Comparable	FY 2006 Request	House	Senate	Conference	Conference vs. FY 2005 Comparable	Conference vs. FY 2006 House	Conference vs. FY 2006 Senate	
Emergency refugee fund (emergency)	---	---	---	19,100	---	---	---	-19,100	
Total, Refugee and entrant assistance	484,712	571,140	560,919	571,140	575,579	+90,867	+14,660	+4,439	
CHILD CARE AND DEVELOPMENT BLOCK GRANT	2,082,921	2,082,910	2,082,910	2,082,910	2,082,910	-11	---	---	D
SOCIAL SERVICES BLOCK GRANT (TITLE XX)	1,700,000	1,700,000	1,700,000	1,700,000	1,700,000	---	---	---	M
CHILDREN AND FAMILIES SERVICES PROGRAMS									
Programs for Children, Youth and Families:									
Head Start, current funded	5,454,314	5,499,336	5,499,000	5,474,314	5,454,314	---	-44,686	-20,000	D
Advance from prior year	(1,388,800)	(1,400,000)	(1,400,000)	(1,400,000)	(1,400,000)	(+11,200)	---	---	NA
FY 2007	1,400,000	1,388,800	1,400,000	1,388,800	1,388,800	-11,200	-11,200	---	D
Subtotal, Head Start, program level	6,843,114	6,899,336	6,899,000	6,874,314	6,854,314	+11,200	-44,686	-20,000	
Consolidated Runaway, Homeless Youth Program	88,724	88,728	88,728	88,724	88,724	---	-4	---	D
Maternity Group Homes	---	10,000	---	---	---	---	---	---	D
Prevention grants to reduce abuse of runaway youth	15,178	15,179	15,179	15,179	15,179	+1	---	---	D
Child Abuse State Grants	27,280	27,280	27,280	27,280	27,280	---	---	---	D
Child Abuse Discretionary Activities	31,640	31,645	31,645	31,640	26,040	-5,600	-5,605	-5,600	D
Community based child abuse prevention	42,858	42,859	42,859	42,859	42,859	+1	---	---	D
Abandoned Infants Assistance	11,955	11,955	11,955	11,955	11,955	---	---	---	D
Child Welfare Services	289,650	289,650	289,650	289,650	289,650	---	---	---	D

LABOR-HEALTH and HUMAN SERVICES-EDUCATION AND RELATED AGENCIES
(Amounts in thousands)

	FY 2005 Comparable	FY 2006 Request	House	Senate	Conference	Conference vs. FY 2005 Comparable	Conference vs. FY 2006 House	Conference vs. FY 2006 Senate	
Child Welfare Training	7,409	7,409	7,409	7,409	7,409	---	---	---	D
Adoption Opportunities	27,116	27,119	27,119	27,119	27,119	+3	---	---	D
Adoption Incentive (no cap adjustment)	31,528	22,846	31,846	22,846	18,000	-13,528	-13,846	-4,846	D
Adoption Awareness	12,802	12,802	12,802	12,802	12,802	---	---	---	D
Compassion Capital Fund	54,549	100,000	75,000	95,000	65,000	+10,451	-10,000	-30,000	D
Social Services and Income Maintenance Research	26,012	---	2,621	26,012	5,927	-20,085	+3,306	-20,085	D
Evaluation tap funding	(6,000)	(6,000)	(8,000)	(6,000)	(6,000)	---	(-2,000)	---	NA
Subtotal, Program level	(32,012)	(6,000)	(10,621)	(32,012)	(11,927)	(-20,085)	(+1,306)	(-20,085)	
Developmental Disabilities Programs: State Councils	72,496	72,496	72,496	72,496	72,496	---	---	---	D
Protection and Advocacy	38,109	38,109	38,109	39,109	39,109	+1,000	+1,000	---	D
Voting access for individuals with disabilities	14,879	14,879	14,879	30,000	15,879	+1,000	+1,000	-14,121	D
Developmental Disabilities Projects of National Significance	11,542	11,529	11,529	11,529	11,529	-13	---	---	D D
University Centers for Excellence in Developmental Disabilities	31,549	31,548	33,548	33,548	33,548	+1,999	---	---	D D
Subtotal, Developmental disabilities programs	168,575	168,561	170,561	186,682	172,561	+3,986	+2,000	-14,121	
Native American Programs	44,786	44,780	44,780	44,780	44,780	-6	---	---	D

LABOR-HEALTH and HUMAN SERVICES-EDUCATION AND RELATED AGENCIES
(Amounts in thousands)

	FY 2005 Comparable	FY 2006 Request	House	Senate	Conference	Conference vs. FY 2005 Comparable	Conference vs. FY 2006 House	Conference vs. FY 2006 Senate	
Community Services:									
Grants to States for Community Services	636,793	---	320,000	636,793	636,793	---	+316,793	---	D
Community Initiative Program:									
Economic Development	32,731	---	32,731	32,731	32,731	---	---	---	D
Individual Development Account Initiative	24,704	24,699	24,699	24,699	24,699	-5	---	---	D
Rural Community Facilities	7,242	---	7,242	7,492	7,367	+125	+125	-125	D
Subtotal, Community Initiative Program	64,677	24,699	64,672	64,922	64,797	+120	+125	-125	
National Youth Sports	17,856	---	---	10,000	---	-17,856	---	-10,000	D
Community Food and Nutrition	7,180	---	---	7,180	---	-7,180	---	-7,180	D
Subtotal, Community Services	726,506	24,699	384,672	718,895	701,590	-24,916	+316,918	-17,305	
Domestic Violence Hotline	3,224	3,000	3,000	3,000	3,000	-224	---	---	D
Family Violence/Battered Women's Shelters	125,630	125,991	125,991	125,991	125,991	+361	---	---	D
Early Learning Fund	35,712	---	---	---	---	-35,712	---	---	D
Mentoring Children of Prisoners	49,598	49,993	49,993	49,993	49,993	+395	---	---	D
Independent Living Training Vouchers	46,623	59,999	50,000	46,623	46,623	---	-3,377	---	D
Abstinence Education	99,198	138,045	110,000	101,000	110,000	+10,802	---	+9,000	D
Evaluation Tap Funding	(4,500)	(4,500)	(4,500)	(4,500)	(4,500)	---	---	---	NA
Subtotal, Program level	(103,698)	(142,545)	(114,500)	(105,500)	(114,500)	(+10,802)	---	(+9,000)	
Faith-Based Center	1,375	1,400	1,400	1,400	1,400	+25	---	---	D

LABOR-HEALTH and HUMAN SERVICES-EDUCATION AND RELATED AGENCIES
(Amounts in thousands)

	FY 2005 Comparable	FY 2006 Request	House	Senate	Conference	Conference vs. FY 2005 Comparable	Conference vs. FY 2006 House	Conference vs. FY 2006 Senate	
Program Direction	185,210	185,217	185,217	186,000	185,217	+7	---	-783	D
Total, Children and Families Services Programs	9,007,452	8,377,293	8,688,707	9,025,953	8,922,213	-85,239	+233,506	-103,740	
Current Year	(7,607,452)	(6,988,493)	(7,288,707)	(7,637,153)	(7,533,413)	(-74,039)	(+244,706)	(-103,740)	
FY 2007	(1,400,000)	(1,388,800)	(1,400,000)	(1,388,800)	(1,388,800)	(-11,200)	(-11,200)	---	
Evaluation Tap funding	(10,500)	(10,500)	(12,500)	(10,500)	(10,500)	---	(-2,000)	---	
Total, Program level	9,017,952	8,387,793	8,701,207	9,036,453	8,932,713	-85,239	+231,506	-103,740	
PROMOTING SAFE AND STABLE FAMILIES	305,000	305,000	305,000	305,000	305,000	---	---	---	M
Discretionary Funds	98,586	105,000	99,000	90,000	90,000	-8,586	-9,000	---	D
PAYMENTS TO STATES FOR FOSTER CARE AND ADOPTION									
Foster Care	4,895,500	4,685,000	4,685,000	4,685,000	4,685,000	-210,500	---	---	M
Adoption Assistance	1,770,100	1,795,000	1,795,000	1,795,000	1,795,000	+24,900	---	---	M
Independent living	140,000	140,000	140,000	140,000	140,000	---	---	---	M
Total, Payments to States	6,805,600	6,620,000	6,620,000	6,620,000	6,620,000	-185,600	---	---	
Less Advances from Prior Year	-1,767,700	-1,767,200	-1,767,200	-1,767,200	-1,767,200	+500	---	---	M
Total, payments, current year	5,037,900	4,852,800	4,852,800	4,852,800	4,852,800	-185,100	---	---	
New Advance, 1st quarter	1,767,200	1,730,000	1,730,000	1,730,000	1,730,000	-37,200	---	---	M
Total, Administration for Children & Families	26,756,635	25,993,959	26,295,951	26,810,619	26,711,318	-45,317	+415,367	-99,301	
Current year	(22,389,435)	(21,675,159)	(21,965,951)	(22,491,819)	(22,392,518)	(+3,083)	(+426,567)	(-99,301)	
FY 2007	(4,367,200)	(4,318,800)	(4,330,000)	(4,318,800)	(4,318,800)	(-48,400)	(-11,200)	---	
Evaluation Tap funding	(10,500)	(10,500)	(12,500)	(10,500)	(10,500)	---	(-2,000)	---	
Total, Administration for Children & Families	26,767,135	26,004,459	26,308,451	26,821,119	26,721,818	-45,317	+413,367	-99,301	

LABOR-HEALTH and HUMAN SERVICES-EDUCATION AND RELATED AGENCIES
(Amounts in thousands)

	FY 2005 Comparable	FY 2006 Request	House	Senate	Conference	Conference vs. FY 2005 Comparable	Conference vs. FY 2006 House	Conference vs. FY 2006 Senate	
ADMINISTRATION ON AGING									
Grants to States:									
Supportive Services and Centers	354,136	354,136	354,136	354,136	354,136	---	---	---	D
Preventive Health	21,616	21,616	21,616	21,616	21,616	---	---	---	D
Protection of Vulnerable Older Americans-Title VII	19,288	19,360	19,360	20,360	20,360	+1,072	+1,000	---	D
Family Caregivers	155,744	155,744	155,744	160,744	157,744	+2,000	+2,000	-3,000	D
Native American Caregivers Support	6,304	6,304	6,304	6,304	6,304	---	---	---	D
Subtotal, Caregivers	162,048	162,048	162,048	167,048	164,048	+2,000	+2,000	-3,000	
Nutrition:									
Congregate Meals	387,274	387,274	391,147	387,274	389,211	+1,937	-1,936	+1,937	D
Home Delivered Meals	182,827	182,826	184,656	182,827	183,742	+915	-914	+915	D
Nutrition Services Incentive Program	148,596	148,596	150,082	148,596	149,339	+743	-743	+743	D
Subtotal, Nutrition	718,697	718,696	725,885	718,697	722,292	+3,595	-3,593	+3,595	
Subtotal, Grants to States	1,275,785	1,275,856	1,283,045	1,281,857	1,282,452	+6,667	-593	+595	
Grants for Native Americans	26,398	26,398	26,398	26,398	26,398	---	---	---	D
Program Innovations	43,286	23,843	23,843	40,513	24,843	-18,443	+1,000	-15,670	D
Aging Network Support Activities	13,266	13,266	13,266	13,266	13,266	---	---	---	D
Alzheimer's Disease Demonstrations	11,786	11,786	11,786	11,786	11,786	---	---	---	D

LABOR-HEALTH and HUMAN SERVICES-EDUCATION AND RELATED AGENCIES
(Amounts in thousands)

	FY 2005 Comparable	FY 2006 Request	House	Senate	Conference	Conference vs. FY 2005 Comparable	Conference vs. FY 2006 House	Conference vs. FY 2006 Senate	
White House Conference on Aging	4,520	---	---	---	---	-4,520	---	---	D
Program Administration	18,301	17,879	17,879	17,879	17,879	-422	---	---	D
Total, Administration on Aging	1,393,342	1,369,028	1,376,217	1,391,699	1,376,624	-16,718	+407	-15,075	
OFFICE OF THE SECRETARY									
GENERAL DEPARTMENTAL MANAGEMENT:									
Federal Funds	179,837	172,643	172,643	182,810	175,643	-4,194	+3,000	-7,167	D
Trust Funds	5,804	5,851	5,851	5,851	5,851	+47	---	---	TF
Subtotal	185,641	178,494	178,494	188,661	181,494	-4,147	+3,000	-7,167	
Adolescent Family Life (Title XX)	30,900	30,742	30,742	30,742	30,742	-158	---	---	D
Minority health	50,518	47,236	47,236	60,980	57,236	+6,718	+10,000	-3,744	D
Office of women's health	28,818	28,715	28,715	28,715	28,715	-103	---	---	D
Minority HIV/AIDS	52,415	52,415	52,415	52,415	52,415	---	---	---	D
Afghanistan	5,952	5,952	5,952	5,952	5,952	---	---	---	D
Embryo adoption awareness campaign	992	992	992	2,000	2,000	+1,008	+1,008	---	D
IT Security and Innovation Fund	14,695	14,630	---	---	---	-14,695	---	---	D
Evaluation tap funding (ASPE) (NA)	(39,552)	(39,552)	(39,552)	(39,552)	(39,552)	---	---	---	NA
Total, General Departmental Management	369,931	359,176	344,546	369,465	358,554	-11,377	+14,008	-10,911	
Federal Funds	364,127	353,325	338,695	363,614	352,703	-11,424	+14,008	-10,911	
Trust Funds	5,804	5,851	5,851	5,851	5,851	+47	---	---	
Evaluation tap funding	(39,552)	(39,552)	(39,552)	(39,552)	(39,552)	---	---	---	

LABOR-HEALTH and HUMAN SERVICES-EDUCATION AND RELATED AGENCIES
(Amounts in thousands)

	FY 2005 Comparable	FY 2006 Request	House	Senate	Conference	Conference vs. FY 2005 Comparable	Conference vs. FY 2006 House	Conference vs. FY 2006 Senate	
OFFICE OF MEDICARE HEARINGS AND APPEALS	57,536	80,000	60,000	75,000	60,000	+2,464	---	-15,000	TF
OFFICE OF THE NATIONAL COORDINATOR FOR HEALTH INFORMATION TECHNOLOGY 6/	4,318	75,000	46,100	32,800	42,800	+38,482	-3,300	+10,000	D
Evaluation tap funding	(16,943)	(2,750)	(28,900)	(12,350)	(18,900)	(+1,957)	(-10,000)	(+6,550)	NA
Total, Health Information Tech. program level	(21,261)	(77,750)	(75,000)	(45,150)	(61,700)	(+40,439)	(-13,300)	(+16,550)	
OFFICE OF THE INSPECTOR GENERAL:									
Federal Funds	39,930	39,813	39,813	39,813	39,813	-117	---	---	D
HIPAA funding (NA)	(160,000)	(160,000)	(160,000)	(160,000)	(160,000)	---	---	---	NA
Total, Inspector General program level	(199,930)	(199,813)	(199,813)	(199,813)	(199,813)	(-117)	---	---	
OFFICE FOR CIVIL RIGHTS:									
Federal Funds	31,726	31,682	31,682	31,682	31,682	-44	---	---	D
Trust Funds	3,287	3,314	3,314	3,314	3,314	+27	---	---	TF
Total, Office for Civil Rights	35,013	34,996	34,996	34,996	34,996	-17	---	---	
MEDICAL BENEFITS FOR COMMISSIONED OFFICERS									
Retirement payments	241,294	256,193	256,193	256,193	256,193	+14,899	---	---	M
Survivors benefits	14,750	15,600	15,600	15,600	15,600	+850	---	---	M
Dependents' medical care	74,592	56,759	56,759	56,759	56,759	-17,833	---	---	M
Total,Medical benefits for Commissioned Officers	330,636	328,552	328,552	328,552	328,552	-2,084	---	---	

LABOR-HEALTH and HUMAN SERVICES-EDUCATION AND RELATED AGENCIES
(Amounts in thousands)

	FY 2005 Comparable	FY 2006 Request	House	Senate	Conference	Conference vs. FY 2005 Comparable	Conference vs. FY 2006 House	Conference vs. FY 2006 Senate	
PUBLIC HEALTH AND SOCIAL SERVICE EMERGENCY FUND									
HRSA homeland security activities 1/	514,618	510,500	---	---	---	-514,618	---	---	D
CDC homeland security activities 1/	1,622,757	1,766,723	---	---	---	-1,622,757	---	---	D
NIH homeland security activities 1/	47,021	97,021	---	---	---	-47,021	---	---	D
Office of the Secretary homeland security activities	63,821	83,589	63,589	63,589	63,589	-232	---	---	D
Other PHSSEF homeland security activities	109,198	120,000	120,000	---	120,000	+10,802	---	+120,000	D
Supplemental (P.L. 108-234) (emergency)	50,000	---	---	---	---	-50,000	---	---	D
Pandemic Flu (emergency)	---	---	---	8,095,000	---	---	---	-8,095,000	D
Total, PHSSEF	2,407,415	2,577,833	183,589	8,158,589	183,589	-2,223,826	---	-7,975,000	
Total, Office of the Secretary	3,244,779	3,495,370	1,037,596	9,039,215	1,048,304	-2,196,475	+10,708	-7,990,911	
Federal Funds	3,178,152	3,406,205	968,431	8,955,050	979,139	-2,199,013	+10,708	-7,975,911	
Trust Funds	66,627	89,165	69,165	84,165	69,165	+2,538	---	-15,000	
Total, Title II, Dept of Health & Human Services	379,200,874	473,484,522	473,893,464	484,265,742	474,144,909	+94,944,035	+251,445	-10,120,833	
Federal Funds	376,469,336	470,137,879	470,644,015	480,920,159	470,904,817	+94,435,481	+260,802	-10,015,342	
Current year	(308,367,946)	(403,035,254)	(403,530,190)	(413,817,534)	(403,802,192)	(+95,434,246)	(+272,002)	(-10,015,342)	
FY 2007	(68,101,390)	(67,102,625)	(67,113,825)	(67,102,625)	(67,102,625)	(-998,765)	(-11,200)	---	
Trust Funds	2,731,538	3,346,643	3,249,449	3,345,583	3,240,092	+508,554	-9,357	-105,491	

Title II Footnotes:
1/ Funds provided for biodefense activities are reflected within HRSA, CDC, and NIH respectively.
2/ Includes Mine Safety and Health.
3/ Funds provided in P.L. 108-173, the 2003 Medicare Prescription Drug, Improvement & Modernization Act
4/ $1 billion available for fiscal years 2004-2005
5/ $250 million available for fiscal years 2005-2008
6/ An additional $50 million for Health IT within AHRQ

LABOR-HEALTH and HUMAN SERVICES-EDUCATION AND RELATED AGENCIES
(Amounts in thousands)

	FY 2005 Comparable	FY 2006 Request	House	Senate	Conference	Conference vs. FY 2005 Comparable	Conference vs. FY 2006 House	Conference vs. FY 2006 Senate		
TITLE III - DEPARTMENT OF EDUCATION										
EDUCATION FOR THE DISADVANTAGED										
Grants to Local Educational Agencies (LEAs)										
Basic Grants:										
Advance from prior year	(1,883,584)	(1,383,584)	(1,383,584)	(1,383,584)	(1,383,584)	(-500,000)	---	---	NA	
Forward funded	5,547,798	5,955,536	5,452,798	5,452,798	5,452,798	-95,000	---	---	D	FF
Current funded	3,472	3,472	3,472	3,472	3,472	---	---	---	D	
Subtotal, Basic grants current year approp.	5,551,270	5,959,008	5,456,270	5,456,270	5,456,270	-95,000	---	---		
Subtotal, Basic grants total funds available	(7,434,854)	(7,342,592)	(6,839,854)	(6,839,854)	(6,839,854)	(-595,000)	---	---		
Basic Grants FY 2007 Advance	1,383,584	975,846	1,478,584	1,478,584	1,478,584	+95,000	---	---	D	
Subtotal, Basic grants, program level	6,934,854	6,934,854	6,934,854	6,934,854	6,934,854	---	---	---		
Concentration Grants:										
Advance from prior year	(1,365,031)	(1,365,031)	(1,365,031)	(1,365,031)	(1,365,031)	---	---	---	NA	
FY 2007 Advance	1,365,031	1,365,031	1,365,031	1,365,031	1,365,031	---	---	---	D	
Subtotal, Concentration Grants program level	1,365,031	1,365,031	1,365,031	1,365,031	1,365,031	---	---	---		
Targeted Grants:										
Advance from prior year	(1,969,843)	(2,219,843)	(2,219,843)	(2,219,843)	(2,219,843)	(+250,000)	---	---	NA	
FY 2007 Advance	2,219,843	2,822,581	2,269,843	2,269,843	2,269,843	+50,000	---	---	D	
Subtotal, Targeted Grants program level	2,219,843	2,822,581	2,269,843	2,269,843	2,269,843	+50,000	---	---		

LABOR-HEALTH and HUMAN SERVICES-EDUCATION AND RELATED AGENCIES
(Amounts in thousands)

	FY 2005 Comparable	FY 2006 Request	House	Senate	Conference	Conference vs. FY 2005 Comparable	Conference vs. FY 2006 House	Conference vs. FY 2006 Senate		
Education Finance Incentive Grants:										
Advance from prior year	(1,969,843)	(2,219,843)	(2,219,843)	(2,219,843)	(2,219,843)	(+250,000)	---	---	NA	
FY 2007 Advance	2,219,843	2,219,843	2,269,843	2,269,843	2,269,843	+50,000	---	---	D	
Subtotal, Education Finance Incentive Grants	2,219,843	2,219,843	2,269,843	2,269,843	2,269,843	+50,000	---	---		
Subtotal, Grants to LEAs, program level	12,739,571	13,342,309	12,839,571	12,839,571	12,839,571	+100,000	---	---		
Even Start	225,095	---	200,000	---	100,000	-125,095	-100,000	+100,000	D	FF
Reading First:										
State Grants (forward funded)	846,600	1,041,600	1,041,600	1,041,600	1,041,600	+195,000	---	---	D	FF
Advance from prior year	(195,000)	(195,000)	(195,000)	(195,000)	(195,000)	---	---	---	NA	
FY 2007 Advance	195,000	---	---	---	---	-195,000	---	---	D	
Subtotal, Reading First State Grants	1,041,600	1,041,600	1,041,600	1,041,600	1,041,600	---	---	---		
Early Reading First	104,160	104,160	104,160	104,160	104,160	---	---	---	D	
Striving readers	24,800	200,000	30,000	35,000	30,000	+5,200	---	-5,000	D	
Literacy through School Libraries	19,683	19,683	19,683	19,683	19,683	---	---	---	D	
High School Intervention	---	1,240,000	---	---	---	---	---	---	D	FF
State Agency Programs:										
Migrant	390,428	390,428	390,428	395,228	390,428	---	---	-4,800	D	FF
Neglected and Delinquent/High Risk Youth	49,600	49,600	49,600	51,000	50,300	+700	+700	-700	D	FF
Subtotal, State Agency programs	440,028	440,028	440,028	446,228	440,728	+700	+700	-5,500		

LABOR-HEALTH and HUMAN SERVICES-EDUCATION AND RELATED AGENCIES
(Amounts in thousands)

	FY 2005 Comparable	FY 2006 Request	House	Senate	Conference	Conference vs. FY 2005 Comparable	Conference vs. FY 2006 House	Conference vs. FY 2006 Senate		
Evaluation	9,424	9,424	9,424	9,424	9,424	---	---	---	D	
Comprehensive School Reform Demonstration	205,344	---	10,000	---	8,000	-197,344	-2,000	+8,000	D	FF
Migrant Education:										
High School Equivalency Program	18,737	18,737	18,737	21,587	18,737	---	---	-2,850	D	
College Assistance Migrant Program	15,532	15,532	15,532	15,532	15,532	---	---	---	D	
Subtotal, Migrant Education	34,269	34,269	34,269	37,119	34,269	---	---	-2,850		
Total, Education for the disadvantaged	14,843,974	16,431,473	14,728,735	14,532,785	14,627,435	-216,539	-101,300	+94,650		
Current Year	(7,460,673)	(9,048,172)	(7,345,434)	(7,149,484)	(7,244,134)	(-216,539)	(-101,300)	(+94,650)		
FY 2007	(7,383,301)	(7,383,301)	(7,383,301)	(7,383,301)	(7,383,301)	---	---	---		
Subtotal, forward funded	(7,264,865)	(8,677,164)	(7,144,426)	(6,940,626)	(7,043,126)	(-221,739)	(-101,300)	(+102,500)		
IMPACT AID										
Basic Support Payments	1,075,018	1,075,018	1,102,896	1,102,896	1,102,896	+27,878	---	---	D	
Payments for Children with Disabilities	49,966	49,966	49,966	49,966	49,966	---	---	---	D	
Facilities Maintenance (Sec. 8008)	7,838	7,838	5,000	5,000	5,000	-2,838	---	---	D	
Construction (Sec. 8007)	48,545	45,544	18,000	18,000	18,000	-30,545	---	---	D	
Payments for Federal Property (Sec. 8002)	62,496	62,496	65,000	65,000	65,000	+2,504	---	---	D	
Total, Impact aid	1,243,863	1,240,862	1,240,862	1,240,862	1,240,862	-3,001	---	---		

LABOR-HEALTH and HUMAN SERVICES-EDUCATION AND RELATED AGENCIES
(Amounts in thousands)

	FY 2005 Comparable	FY 2006 Request	House	Senate	Conference	Conference vs. FY 2005 Comparable	Conference vs. FY 2006 House	Conference vs. FY 2006 Senate		
SCHOOL IMPROVEMENT PROGRAMS										
State Grants for Improving Teacher Quality	1,481,605	1,481,605	1,481,605	1,481,605	1,481,605	---	---	---	D	FF
Advance from prior year	(1,435,000)	(1,435,000)	(1,435,000)	(1,435,000)	(1,435,000)	---	---	---	NA	
FY 2007	1,435,000	1,435,000	1,435,000	1,435,000	1,435,000	---	---	---	D	
Subtotal, State Grants for Improving Teacher Quality, program level	(2,916,605)	(2,916,605)	(2,916,605)	(2,916,605)	(2,916,605)	---	---	---		
Early Childhood Educator Professional Development	14,695	14,696	14,696	14,696	14,696	+1	---	---	D	
Mathematics and Science Partnerships	178,560	269,000	190,000	178,560	184,000	+5,440	-6,000	+5,440	D	FF
State Grants for Innovative Education (Education Block Grant)	198,400	100,000	198,400	100,000	100,000	-98,400	-98,400	---	D	FF
Educational Technology State Grants	496,000	---	300,000	425,000	275,000	-221,000	-25,000	-150,000	D	FF
Supplemental Education Grants	18,183	18,183	18,183	18,183	18,183	---	---	---	D	
21st Century Community Learning Centers	991,077	991,077	991,077	991,077	991,077	---	---	---	D	FF
State Assessments/Enhanced Assessment Instruments	411,680	411,680	411,680	411,680	411,680	---	---	---	D	FF
High school assessments	---	250,000	---	---	---	---	---	---	D	FF
Javits gifted and talented education	11,022	---	---	11,022	9,693	-1,329	+9,693	-1,329	D	
Foreign language assistance	17,856	---	---	25,000	22,000	+4,144	+22,000	-3,000	D	
Education for Homeless Children and Youth	62,496	62,496	62,496	62,496	62,496	---	---	---	D	FF
Training and Advisory Services (Civil Rights)	7,185	7,185	7,185	7,185	7,185	---	---	---	D	
Education for Native Hawaiians	34,224	32,624	24,770	34,500	34,250	+26	+9,480	-250	D	

LABOR-HEALTH and HUMAN SERVICES-EDUCATION AND RELATED AGENCIES
(Amounts in thousands)

	FY 2005 Comparable	FY 2006 Request	House	Senate	Conference	Conference vs. FY 2005 Comparable	Conference vs. FY 2006 House	Conference vs. FY 2006 Senate		
Alaska Native Education Equity	34,224	31,224	31,224	34,500	34,250	+26	+3,026	-250	D	
Rural Education	170,624	170,624	170,624	170,624	170,624	---	---	---	D	FF
Comprehensive Centers	56,825	56,825	56,825	56,825	56,825	---	---	---	D	
Total, School improvement programs	5,619,656	5,332,219	5,393,765	5,457,953	5,308,564	-311,092	-85,201	-149,389		
Current Year	(4,184,656)	(3,897,219)	(3,958,765)	(4,022,953)	(3,873,564)	(-311,092)	(-85,201)	(-149,389)		
FY 2007	(1,435,000)	(1,435,000)	(1,435,000)	(1,435,000)	(1,435,000)	---	---	---		
Subtotal, forward funded	(3,990,442)	(3,736,482)	(3,805,882)	(3,821,042)	(3,676,482)	(-313,960)	(-129,400)	(-144,560)		
INDIAN EDUCATION										
Grants to Local Educational Agencies	95,166	96,294	96,294	96,294	96,294	+1,128	---	---	D	
Federal Programs:										
Special Programs for Indian Children	19,595	19,595	19,595	19,595	19,595	---	---	---	D	
National Activities	5,129	4,000	4,000	4,000	4,000	-1,129	---	---	D	
Subtotal, Federal Programs	24,724	23,595	23,595	23,595	23,595	-1,129	---	---		
Total, Indian Education	119,890	119,889	119,889	119,889	119,889	-1	---	---		
INNOVATION AND IMPROVEMENT										
Troops-to-Teachers	14,793	14,793	14,793	14,793	14,793	---	---	---	D	
Transition to Teaching	44,933	44,933	44,933	44,933	44,933	---	---	---	D	
National Writing Project	20,336	---	20,336	23,000	21,750	+1,414	+1,414	-1,250	D	
Teaching of Traditional American History	119,040	119,040	50,000	121,000	121,000	+1,960	+71,000	---	D	
School Leadership	14,880	---	14,880	15,000	14,880	---	---	-120	D	

LABOR-HEALTH and HUMAN SERVICES-EDUCATION AND RELATED AGENCIES
(Amounts in thousands)

	FY 2005 Comparable	FY 2006 Request	House	Senate	Conference	Conference vs. FY 2005 Comparable	Conference vs. FY 2006 House	Conference vs. FY 2006 Senate		
Advanced Credentialing	16,864	8,000	16,864	10,000	16,864	---	---	+6,864	D	
Charter Schools Grants	216,952	218,702	216,952	216,952	216,952	---	---	---	D	
Credit Enhancement for Charter School Facilities	36,981	36,981	36,981	---	36,981	---	---	+36,981	D	
Voluntary Public School Choice	26,543	26,543	26,543	26,543	26,543	---	---	---	D	
Magnet Schools Assistance	107,771	107,771	107,771	107,771	107,771	---	---	---	D	
Fund for the Improvement of Education (FIE)	414,079	156,296	27,000	387,424	160,111	-253,968	+133,111	-227,313	D	
Teacher Incentive Fund, Current funded	---	---	100,000	---	5,000	+5,000	-95,000	+5,000	D	
Teacher Incentive Fund, Forward funded	---	500,000	---	---	95,000	+95,000	+95,000	+95,000	D	FF
Ready-to-Learn television	23,312	23,312	---	25,000	24,500	+1,188	+24,500	-500	D	
Dropout Prevention Programs	4,930	---	---	4,900	4,900	-30	+4,900	---	D	
Close Up Fellowships	1,469	---	1,469	1,469	1,469	---	---	---	D	
Advanced Placement	29,760	51,500	30,000	40,000	32,500	+2,740	+2,500	-7,500	D	
Total, Innovation and Improvement	1,092,643	1,307,871	708,522	1,038,785	945,947	-146,696	+237,425	-92,838		
Subtotal, Forward funded	---	(500,000)	---	---	(95,000)	(+95,000)	(+95,000)	(+95,000)		
SAFE SCHOOLS AND CITIZENSHIP EDUCATION										
Safe and Drug Free Schools and Communities: State Grants, forward funded	437,381	---	400,000	300,000	350,000	-87,381	-50,000	+50,000	D	FF
National Programs	152,537	267,967	152,537	150,000	142,537	-10,000	-10,000	-7,463	D	
Alcohol Abuse Reduction	32,736	---	---	33,500	32,736	---	+32,736	-764	D	

LABOR-HEALTH and HUMAN SERVICES-EDUCATION AND RELATED AGENCIES
(Amounts in thousands)

	FY 2005 Comparable	FY 2006 Request	House	Senate	Conference	Conference vs. FY 2005 Comparable	Conference vs. FY 2006 House	Conference vs. FY 2006 Senate		
Mentoring Programs	49,307	49,307	49,307	49,307	49,307	---	---	---	D	
Character education	24,493	24,493	24,493	24,493	24,493	---	---	---	D	
Elementary and Secondary School Counseling	34,720	---	34,720	36,000	35,000	+280	+280	-1,000	D	
Carol M. White Physical Education Program	73,408	55,000	73,408	74,000	73,408	---	---	-592	D	
Civic Education	29,405	---	29,405	30,000	29,405	---	---	-595	D	
Total, Safe Schools and Citizenship Education	833,987	396,767	763,870	697,300	736,886	-97,101	-26,984	+39,586		
Current Year	(833,987)	(396,767)	(763,870)	(697,300)	(736,886)	(-97,101)	(-26,984)	(+39,586)		
Subtotal, Forward funded	(437,381)	---	(400,000)	(300,000)	(350,000)	(-87,381)	(-50,000)	(+50,000)		
ENGLISH LANGUAGE ACQUISITION										
Current funded	84,816	---	---	43,925	43,925	-40,891	+43,925	---	D	
Forward funded	590,949	675,765	675,765	639,490	631,840	+40,891	-43,925	-7,650	D	FF
Total, English Language Acquisition	675,765	675,765	675,765	683,415	675,765	---	---	-7,650		
SPECIAL EDUCATION										
State Grants:										
Grants to States Part B current year	5,176,746	4,893,746	5,326,746	5,265,546	5,265,546	+88,800	-61,200	---	D	FF
Part B advance from prior year	(5,413,000)	(5,413,000)	(5,413,000)	(5,413,000)	(5,413,000)	---	---	---	NA	
Grants to States Part B (FY 2007)	5,413,000	6,204,000	5,413,000	5,424,200	5,424,200	+11,200	+11,200	---	D	
Subtotal, Grants to States, program level	10,589,746	11,097,746	10,739,746	10,689,746	10,689,746	+100,000	-50,000	---		

LABOR-HEALTH and HUMAN SERVICES-EDUCATION AND RELATED AGENCIES
(Amounts in thousands)

	FY 2005 Comparable	FY 2006 Request	House	Senate	Conference	Conference vs. FY 2005 Comparable	Conference vs. FY 2006 House	Conference vs. FY 2006 Senate		
Preschool Grants	384,597	384,597	384,597	384,597	384,597	---	---	---	D	FF
Grants for Infants and Families	440,808	440,808	440,808	444,308	440,808	---	---	-3,500	D	FF
Subtotal, State grants, program level	11,415,151	11,923,151	11,565,151	11,518,651	11,515,151	+100,000	-50,000	-3,500		
IDEA National Activities (current funded):										
State Improvement	50,653	---	50,653	50,653	50,653	---	---	---	D	FF
Special Education-Voc Rehab transition initiative	---	5,000	---	---	---	---	---	---	D	
Technical Assistance and Dissemination	52,396	49,397	49,397	50,397	49,397	-2,999	---	-1,000	D	
Personnel Preparation	90,626	90,626	90,626	90,626	90,626	---	---	---	D	
Parent Information Centers	25,964	25,964	25,964	25,964	25,964	---	---	---	D	
Technology and Media Services	38,816	31,992	31,992	38,816	38,816	---	+6,824	---	D	
Subtotal, IDEA special programs	258,455	202,979	248,632	256,456	255,456	-2,999	+6,824	-1,000		
Total, Special education	11,673,606	12,126,130	11,813,783	11,775,107	11,770,607	+97,001	-43,176	-4,500		
Current Year	(6,260,606)	(5,922,130)	(6,400,783)	(6,350,907)	(6,346,407)	(+85,801)	(-54,376)	(-4,500)		
FY 2007	(5,413,000)	(6,204,000)	(5,413,000)	(5,424,200)	(5,424,200)	(+11,200)	(+11,200)	---		
Subtotal, Forward funded	(6,052,804)	(5,719,151)	(6,202,804)	(6,145,104)	(6,141,604)	(+88,800)	(-61,200)	(-3,500)		
REHABILITATION SERVICES AND DISABILITY RESEARCH										
Vocational Rehabilitation State Grants	2,635,845	2,720,192	2,720,192	2,720,192	2,720,192	+84,347	---	---	M	
Client Assistance State grants	11,901	11,901	11,901	11,901	11,901	---	---	---	D	
Training	38,826	38,826	38,826	38,826	38,826	---	---	---	D	
Demonstration and training programs	25,607	6,577	6,577	6,577	6,577	-19,030	---	---	D	

LABOR-HEALTH and HUMAN SERVICES-EDUCATION AND RELATED AGENCIES
(Amounts in thousands)

	FY 2005 Comparable	FY 2006 Request	House	Senate	Conference	Conference vs. FY 2005 Comparable	Conference vs. FY 2006 House	Conference vs. FY 2006 Senate	
Migrant and seasonal farmworkers	2,302	---	2,302	2,302	2,302	---	---	---	D
Recreational programs	2,543	---	2,543	2,543	2,543	---	---	---	D
Protection and advocacy of individual rights (PAIR)	16,656	16,656	16,656	16,656	16,656	---	---	---	D
Projects with industry	21,625	---	19,735	19,735	19,735	-1,890	---	---	D
Supported employment State grants	37,379	---	30,000	30,000	30,000	-7,379	---	---	D
Independent living:									
State grants	22,816	22,816	22,816	22,816	22,816	---	---	---	D
Centers	75,392	75,392	75,392	75,392	75,392	---	---	---	D
Services for older blind individuals	33,227	33,227	33,227	33,227	33,227	---	---	---	D
Subtotal, Independent living	131,435	131,435	131,435	131,435	131,435	---	---	---	
Program Improvement	843	843	843	843	843	---	---	---	D
Evaluation	1,488	1,488	1,488	1,488	1,488	---	---	---	D
Helen Keller National Center for Deaf/Blind Youth and Adults	10,581	8,597	8,597	8,597	8,597	-1,984	---	---	D D
National Inst. Disability and Rehab. Research (NIDRR)	107,783	107,783	107,783	107,783	107,783	---	---	---	D
Assistive Technology	29,760	15,000	29,760	34,760	30,760	+1,000	+1,000	-4,000	D
Subtotal, discretionary programs	438,729	339,106	408,446	413,446	409,446	-29,283	+1,000	-4,000	
Total, Rehabilitation services	3,074,574	3,059,298	3,128,638	3,133,638	3,129,638	+55,064	+1,000	-4,000	

LABOR-HEALTH and HUMAN SERVICES-EDUCATION AND RELATED AGENCIES
(Amounts in thousands)

	FY 2005 Comparable	FY 2006 Request	House	Senate	Conference	Conference vs. FY 2005 Comparable	Conference vs. FY 2006 House	Conference vs. FY 2006 Senate		
SPECIAL INSTITUTIONS FOR PERSONS WITH DISABILITIES										
AMERICAN PRINTING HOUSE FOR THE BLIND	16,864	16,864	17,000	18,500	17,750	+886	+750	-750	D	
NATIONAL TECHNICAL INSTITUTE FOR THE DEAF (NTID):										
Operations	53,672	53,672	55,337	56,479	55,908	+2,236	+571	-571	D	
Construction	1,672	800	800	800	800	-872	---	---	D	
Total, NTID	55,344	54,472	56,137	57,279	56,708	+1,364	+571	-571		
GALLAUDET UNIVERSITY	104,557	104,557	107,657	108,500	108,079	+3,522	+422	-421	D	
Total, Special Institutions for Persons with Disabilities	176,765	175,893	180,794	184,279	182,537	+5,772	+1,743	-1,742		
VOCATIONAL AND ADULT EDUCATION										
Vocational Education:										
Basic State Grants/Secondary & Technical Education State Grants, current funded	403,331	---	403,331	403,331	403,331	---	---	---	D	FF
Advance from prior year	(791,000)	(791,000)	(791,000)	(791,000)	(791,000)	---	---	---	NA	
FY 2007	791,000	---	791,000	791,000	791,000	---	---	---	D	
Subtotal, Basic State Grants, program level	1,194,331	---	1,194,331	1,194,331	1,194,331	---	---	---		
Tech-Prep Education State Grants	105,812	---	105,812	105,812	105,812	---	---	---	D	FF
National Programs	11,757	---	11,757	9,257	9,257	-2,500	-2,500	---	D	FF
Tech-Prep Education Demonstration	4,899	---	---	---	---	-4,899	---	---	D	FF

LABOR-HEALTH and HUMAN SERVICES-EDUCATION AND RELATED AGENCIES
(Amounts in thousands)

	FY 2005 Comparable	FY 2006 Request	House	Senate	Conference	Conference vs. FY 2005 Comparable	Conference vs. FY 2006 House	Conference vs. FY 2006 Senate		
Occupational and Employment Information Program...	9,307	---	---	---	---	-9,307	---	---	D	FF
Subtotal, Vocational Education.....	1,326,106	---	1,311,900	1,309,400	1,309,400	-16,706	-2,500	---		
Adult Education:										
State Grants/Adult basic and literacy education:										
State Grants, current funded.....	569,672	200,000	569,672	572,922	569,672	---	---	-3,250	D	FF
National Programs:										
National Leadership Activities.....	9,096	9,096	9,096	9,096	9,096	---	---	---	D	FF
National Institute for Literacy.....	6,638	6,638	6,638	6,638	6,638	---	---	---	D	FF
Subtotal, National programs.....	15,734	15,734	15,734	15,734	15,734	---	---	---		
Subtotal, Adult education.....	585,406	215,734	585,406	588,656	585,406	---	---	-3,250		
Smaller Learning Communities, current funded.....	4,724	---	4,724	---	4,724	---	---	+4,724	D	
Smaller Learning Communities, forward funded.....	89,752	---	89,752	---	89,752	---	---	+89,752	D	FF
State Grants for Incarcerated Youth Offenders 1/.....	26,784	---	---	24,000	23,000	-3,784	+23,000	-1,000	D	FF
Community Technology Centers.....	4,960	---	---	4,960	---	-4,960	---	-4,960	D	
Total, Vocational and adult education.....	2,037,732	215,734	1,991,782	1,927,016	2,012,282	-25,450	+20,500	+85,266		
Current Year.....	(1,246,732)	(215,734)	(1,200,782)	(1,136,016)	(1,221,282)	(-25,450)	(+20,500)	(+85,266)		
FY 2007.....	(791,000)	---	(791,000)	(791,000)	(791,000)	---	---	---		
Subtotal, forward funded.....	(1,237,048)	(215,734)	(1,196,058)	(1,131,056)	(1,216,558)	(-20,490)	(+20,500)	(+85,502)		
STUDENT FINANCIAL ASSISTANCE										
Pell Grants -- maximum grant (NA) 2/.....	(4,050)	(4,050)	(4,100)	(4,050)	(4,050)	---	(-50)	---	NA	

LABOR-HEALTH and HUMAN SERVICES-EDUCATION AND RELATED AGENCIES
(Amounts in thousands)

	FY 2005 Comparable	FY 2006 Request	House	Senate	Conference	Conference vs. FY 2005 Comparable	Conference vs. FY 2006 House	Conference vs. FY 2006 Senate	
Pell Grants:									
Regular Program	12,364,997	13,199,000	13,383,000	13,177,000	13,177,000	+812,003	-206,000	---	D
Enhanced Pell grants for State scholars	---	33,000	---	---	---	---	---	---	D
Federal Supplemental Educational Opportunity Grants	778,720	778,720	778,720	804,763	778,720	---	---	-26,043	D
Federal Work Study	990,257	990,257	990,257	990,257	990,257	---	---	---	D
Federal Perkins Loans:									
Loan Cancellations	66,132	---	66,132	66,132	66,132	---	---	---	D
Presidential math and science scholars	---	50,000	---	---	---	---	---	---	D
LEAP program	65,643	---	65,643	65,643	65,643	---	---	---	D
Total, Student Financial Assistance	14,265,749	15,050,977	15,283,752	15,103,795	15,077,752	+812,003	-206,000	-26,043	
STUDENT AID ADMINISTRATION									
Administrative Costs	119,084	939,285	124,084	120,000	120,000	+916	-4,084	---	D
Fed Direct Student Loan Reclassification (Leg prop)	---	-625,000	---	---	---	---	---	---	D
LOANS FOR SHORT-TERM TRAINING	---	11,000	---	---	---	---	---	---	D
HIGHER EDUCATION									
Aid for Institutional Development:									
Strengthening Institutions	80,338	80,338	80,338	80,338	80,338	---	---	---	D
Hispanic Serving Institutions	95,106	95,873	95,873	100,823	95,873	+767	---	-4,950	D
Strengthening Historically Black Colleges (HBCUs)	238,576	240,500	240,500	240,500	240,500	+1,924	---	---	D

LABOR-HEALTH and HUMAN SERVICES-EDUCATION AND RELATED AGENCIES
(Amounts in thousands)

	FY 2005 Comparable	FY 2006 Request	House	Senate	Conference	Conference vs. FY 2005 Comparable	Conference vs. FY 2006 House	Conference vs. FY 2006 Senate	
Strengthening Historically Black Graduate Institutions	58,032	58,500	58,500	58,500	58,500	+468	---	---	D
Strengthening Alaska Native and Native Hawaiian-Serving Institutions	11,904	6,500	6,500	11,904	11,904	---	+5,404	---	D
Strengthening Tribal Colleges	23,808	23,808	23,808	23,808	23,808	---	---	---	D
Subtotal, Aid for Institutional development	507,764	505,519	505,519	515,873	510,923	+3,159	+5,404	-4,950	
International Education and Foreign Language:									
Domestic Programs	92,465	92,466	92,466	92,466	92,466	+1	---	---	D
Overseas Programs	12,737	12,737	12,737	12,737	12,737	---	---	---	D
Institute for International Public Policy	1,616	1,616	1,616	1,616	1,616	---	---	---	D
Subtotal, International Education & Foreign Lang	106,818	106,819	106,819	106,819	106,819	+1	---	---	
Fund for the Improvement of Postsec. Ed. (FIPSE)	162,108	22,211	49,211	157,211	22,211	-139,897	-27,000	-135,000	D
Minority Science and Engineering Improvement	8,818	8,818	8,818	8,818	8,818	---	---	---	D
Interest Subsidy Grants	1,488	---	---	---	---	-1,488	---	---	D
Tribally Controlled Postsec Voc/Tech Institutions	7,440	7,440	7,440	7,440	7,440	---	---	---	D
Federal TRIO Programs	836,543	369,390	836,543	841,543	836,543	---	---	-5,000	D
GEAR UP	306,488	---	306,488	306,488	306,488	---	---	---	D
Byrd Honors Scholarships	40,672	---	---	41,000	41,000	+328	+41,000	---	D
Javits Fellowships	9,797	9,797	9,797	9,797	9,797	---	---	---	D
Graduate Assistance in Areas of National Need	30,371	30,371	30,371	30,371	30,371	---	---	---	D

LABOR-HEALTH and HUMAN SERVICES-EDUCATION AND RELATED AGENCIES
(Amounts in thousands)

	FY 2005 Comparable	FY 2006 Request	House	Senate	Conference	Conference vs. FY 2005 Comparable	Conference vs. FY 2006 House	Conference vs. FY 2006 Senate	
Teacher Quality Enhancement Grants	68,337	---	58,000	58,000	60,500	-7,837	+2,500	+2,500	D
Child Care Access Means Parents in School	15,970	15,970	15,970	15,970	15,970	---	---	---	D
Community college access	---	125,000	---	---	---	---	---	---	D
Demonstration in Disabilities / Higher Education	6,944	---	---	6,944	6,944	---	+6,944	---	D
Underground Railroad Program	2,204	---	---	2,204	2,000	-204	+2,000	-204	D
GPRA data/HEA program evaluation	980	980	980	980	980	---	---	---	D
B.J. Stupak Olympic Scholarships	980	---	980	---	980	---	---	+980	D
Thurgood Marshall legal education opportunity program	2,976	---	---	3,500	2,976	---	+2,976	-524	D
Total, Higher education	2,116,698	1,202,315	1,936,936	2,112,958	1,970,760	-145,938	+33,824	-142,198	
HOWARD UNIVERSITY									
Academic Program	205,507	205,506	207,507	205,430	206,469	+962	-1,038	+1,039	D
Endowment Program	3,524	3,524	3,524	3,600	3,562	+38	+38	-38	D
Howard University Hospital	29,759	29,759	29,759	29,759	29,759	---	---	---	D
Total, Howard University	238,790	238,789	240,790	238,789	239,790	+1,000	-1,000	+1,001	
COLLEGE HOUSING AND ACADEMIC FACILITIES LOANS(CHAFL)	573	573	573	573	573	---	---	---	D
HBCU CAPITAL FINANCING PROGRAM -- Federal Adm	210	210	210	210	210	---	---	---	D

LABOR-HEALTH and HUMAN SERVICES-EDUCATION AND RELATED AGENCIES
(Amounts in thousands)

	FY 2005 Comparable	FY 2006 Request	House	Senate	Conference	Conference vs. FY 2005 Comparable	Conference vs. FY 2006 House	Conference vs. FY 2006 Senate	
INSTITUTE OF EDUCATION SCIENCES									
Research, development and dissemination	164,194	164,194	164,194	164,194	164,194	---	---	---	D
Statistics	90,931	90,931	90,931	90,931	90,931	---	---	---	D
Regional Educational Laboratories	66,132	---	66,132	66,131	66,131	-1	-1	---	D
Research in special education	83,104	72,566	72,566	72,566	72,566	-10,538	---	---	D
Special education studies and evaluations	---	10,000	10,000	10,000	10,000	+10,000	---	---	
Statewide data systems	24,800	24,800	24,800	24,800	24,800	---	---	---	D
Assessment:									
National Assessment	88,985	111,485	88,985	95,985	88,985	---	---	-7,000	D
National Assessment Governing Board	5,088	5,088	5,088	5,088	5,088	---	---	---	D
Subtotal, Assessment	94,073	116,573	94,073	101,073	94,073	---	---	-7,000	
Total, IES	523,234	479,064	522,696	529,695	522,695	-539	-1	-7,000	
DEPARTMENTAL MANAGEMENT									
PROGRAM ADMINISTRATION	419,280	418,992	410,612	411,992	415,303	-3,977	+4,691	+3,311	D
OFFICE FOR CIVIL RIGHTS	89,375	91,526	91,526	91,526	91,526	+2,151	---	---	D
OFFICE OF THE INSPECTOR GENERAL	47,327	49,408	49,000	49,408	49,000	+1,673	---	-408	D
Total, Departmental management	555,982	559,926	551,138	552,926	555,829	-153	+4,691	+2,903	

LABOR-HEALTH and HUMAN SERVICES-EDUCATION AND RELATED AGENCIES
(Amounts in thousands)

	FY 2005 Comparable	FY 2006 Request	House	Senate	Conference	Conference vs. FY 2005 Comparable	Conference vs. FY 2006 House	Conference vs. FY 2006 Senate
TITLE III GENERAL PROVISIONS								
Pell grant shortfall payoff 3/	---	---	4,300,000	4,300,000	4,300,000	+4,300,000	---	--- M
Total, Title III, Department of Education	59,212,775	58,939,040	63,706,584	63,749,975	63,538,021	+4,325,246	-168,563	-211,954
Current Year	(44,190,474)	(43,916,739)	(48,684,283)	(48,716,474)	(48,504,520)	(+4,314,046)	(-179,763)	(-211,954)
FY 2007	(15,022,301)	(15,022,301)	(15,022,301)	(15,033,501)	(15,033,501)	(+11,200)	(+11,200)	---

1/ Previously funded under Office of Safe and Drug Free Schools.
2/ An additional $100 was requested for the Pell maximum grant through HEA reauthorization proposal.
3/ Payoff of the Pell Grant shortfall requested as part of the President's HEA reauthorization proposal.

LABOR-HEALTH and HUMAN SERVICES-EDUCATION AND RELATED AGENCIES
(Amounts in thousands)

	FY 2005 Comparable	FY 2006 Request	House	Senate	Conference	Conference vs. FY 2005 Comparable	Conference vs. FY 2006 House	Conference vs. FY 2006 Senate	
TITLE IV - RELATED AGENCIES									
COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED	4,669	4,669	4,669	4,669	4,669	---	---	---	D
CORPORATION FOR NATIONAL AND COMMUNITY SERVICE									
DOMESTIC VOLUNTEER SERVICE PROGRAMS									
Volunteers in Service to America (VISTA)	94,240	96,428	96,428	96,428	96,428	+2,188	---	---	D
Volunteers in Homeland Security	4,960	---	---	---	---	-4,960	---	---	D
Teach for America	---	4,000	2,000	---	---	---	-2,000	---	D
National Senior Volunteer Corps:									
Foster Grandparents Program	111,424	112,058	112,058	112,058	112,058	+634	---	---	D
Senior Companion Program	45,905	47,438	47,438	47,438	47,438	+1,533	---	---	D
Retired Senior Volunteer Program	58,528	60,288	60,288	60,288	60,288	+1,760	---	---	D
Subtotal, Senior Volunteers	215,857	219,784	219,784	219,784	219,784	+3,927	---	---	
Program Administration	38,688	39,750	39,750	---	---	-38,688	-39,750	---	D
Total, Domestic Volunteer Service Programs	353,745	359,962	357,962	316,212	316,212	-37,533	-41,750	---	
National and Community Service Programs: 1/									
National service trust	142,848	146,000	146,000	149,000	140,000	-2,848	-6,000	-9,000	D
AmeriCorps grants	287,680	275,000	267,500	280,000	267,500	-20,180	---	-12,500	D
Innovation, assistance, and other activities	13,227	9,945	9,945	15,945	16,445	+3,218	+6,500	+500	D

LABOR-HEALTH and HUMAN SERVICES-EDUCATION AND RELATED AGENCIES
(Amounts in thousands)

	FY 2005 Comparable	FY 2006 Request	House	Senate	Conference	Conference vs. FY 2005 Comparable	Conference vs. FY 2006 House	Conference vs. FY 2006 Senate	
Evaluation	3,522	4,000	4,000	4,000	4,000	+478	---	---	D
National Civilian Community Corps	25,296	25,500	25,500	27,000	27,000	+1,704	+1,500	---	D
Learn and Serve America: K-12 and Higher Ed	42,656	40,000	37,500	42,656	37,500	-5,156	---	-5,156	D
State Commission Administrative Grants	11,904	12,642	12,642	12,642	12,642	+738	---	---	D
Points of Light Foundation	9,920	10,000	10,000	10,000	10,000	+80	---	---	D
America's Promise	4,464	5,000	5,000	5,000	5,000	+536	---	---	D
Subtotal, National & Community Service Programs	541,517	528,087	518,087	546,243	520,087	-21,430	+2,000	-26,156	
National and Community Service, Salaries & expenses 1/	25,792	27,000	27,000	66,750	66,750	+40,958	+39,750	---	
Office of Inspector General 1/	5,952	6,000	6,000	6,000	6,000	+48	---	---	
Total, Corp. for National and Community Service	927,006	921,049	909,049	935,205	909,049	-17,957	---	-26,156	
CORPORATION FOR PUBLIC BROADCASTING:									
FY 2008 (current) with FY 2007 comparable	400,000	---	400,000	400,000	400,000	---	---	---	D
FY 2007 advance with FY 2006 comparable (NA)	(400,000)	(400,000)	(400,000)	(400,000)	(400,000)	---	---	---	NA
FY 2006 advance with FY 2005 comparable (NA)	(386,880)	(400,000)	(400,000)	(400,000)	(400,000)	(+13,120)	---	---	NA
Rescission of FY 2006 funds (NA)	---	(-10,000)	---	---	---	---	---	---	NA
Subtotal, FY 2006 program level	386,880	390,000	400,000	400,000	400,000	+13,120	---	---	
Digitalization program, current funded 2/	39,387	---	---	35,000	30,000	-9,387	+30,000	-5,000	D
Previous appropriated funds (NA) 3/	---	(30,000)	(30,000)	---	---	---	(-30,000)	---	NA

LABOR-HEALTH and HUMAN SERVICES-EDUCATION AND RELATED AGENCIES
(Amounts in thousands)

	FY 2005 Comparable	FY 2006 Request	House	Senate	Conference	Conference vs. FY 2005 Comparable	Conference vs. FY 2006 House	Conference vs. FY 2006 Senate	
Interconnection, current funded 2/	39,680	---	---	40,000	35,000	-4,680	+35,000	-5,000	D
Previous appropriated funds (NA) 3/	(75,000)	(52,000)	(52,000)	---	---	(-75,000)	(-52,000)	---	NA
Subtotal, FY 2006 appropriation	79,067	---	---	75,000	65,000	-14,067	+65,000	-10,000	
FEDERAL MEDIATION AND CONCILIATION SERVICE	44,439	42,331	42,331	43,439	43,031	-1,408	+700	-408	D
FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION	7,809	7,809	7,809	7,809	7,809	---	---	---	D
INSTITUTE OF MUSEUM AND LIBRARY SERVICES	280,564	262,240	249,640	290,129	249,640	-30,924	---	-40,489	D
MEDICARE PAYMENT ADVISORY COMMISSION	9,899	10,168	10,168	10,168	10,168	+269	---	---	TF
NATIONAL COMMISSION ON LIBRARIES AND INFO SCIENCE	993	993	993	993	993	---	---	---	D
NATIONAL COUNCIL ON DISABILITY	3,344	2,800	2,800	3,344	3,144	-200	+344	-200	D
NATIONAL LABOR RELATIONS BOARD	249,860	252,268	252,268	252,268	252,268	+2,408	---	---	D
NATIONAL MEDIATION BOARD	11,628	11,628	11,628	11,628	11,628	---	---	---	D
OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION	10,510	10,510	10,510	10,510	10,510	---	---	---	D
RAILROAD RETIREMENT BOARD									
Dual Benefits Payments Account	107,136	97,000	97,000	97,000	97,000	-10,136	---	---	D
Less Income Tax Receipts on Dual Benefits	-7,936	-7,000	-7,000	-7,000	-7,000	+936	---	---	D
Subtotal, Dual Benefits	99,200	90,000	90,000	90,000	90,000	-9,200	---	---	
Federal Payment to the RR Retirement Account	150	150	150	150	150	---	---	---	M

LABOR-HEALTH and HUMAN SERVICES-EDUCATION AND RELATED AGENCIES
(Amounts in thousands)

	FY 2005 Comparable	FY 2006 Request	House	Senate	Conference	Conference vs. FY 2005 Comparable	Conference vs. FY 2006 House	Conference vs. FY 2006 Senate	
Limitation on Administration	102,543	102,543	102,543	102,543	102,543	---	---	---	TF
Inspector General	7,196	7,196	7,196	7,196	7,196	---	---	---	TF
SOCIAL SECURITY ADMINISTRATION									
Payments to Social Security Trust Funds	20,454	20,470	20,470	20,470	20,470	+16	---	---	M
SUPPLEMENTAL SECURITY INCOME									
Federal benefit payments	38,109,000	37,487,174	37,487,174	37,487,174	37,487,174	-621,826	---	---	M
Beneficiary services	45,929	52,000	52,000	52,000	52,000	+6,071	---	---	M
Research and demonstration	35,000	27,000	27,000	27,000	27,000	-8,000	---	---	M
Administration	2,986,900	2,897,000	2,897,000	2,710,400	2,733,000	-253,900	-164,000	+22,600	D
Subtotal, SSI program level	41,176,829	40,463,174	40,463,174	40,276,574	40,299,174	-877,655	-164,000	+22,600	
Less funds advanced in prior year	-12,590,000	-10,930,000	-10,930,000	-10,930,000	-10,930,000	+1,660,000	---	---	M
Subtotal, regular SSI current year	28,586,829	29,533,174	29,533,174	29,346,574	29,369,174	+782,345	-164,000	+22,600	
Total, SSI, current request	28,586,829	29,533,174	29,533,174	29,346,574	29,369,174	+782,345	-164,000	+22,600	
New advance, 1st quarter, FY 2007	10,930,000	11,110,000	11,110,000	11,110,000	11,110,000	+180,000	---	---	M
Total, SSI program	39,516,829	40,643,174	40,643,174	40,456,574	40,479,174	+962,345	-164,000	+22,600	

LABOR-HEALTH and HUMAN SERVICES-EDUCATION AND RELATED AGENCIES
(Amounts in thousands)

	FY 2005 Comparable	FY 2006 Request	House	Senate	Conference	Conference vs. FY 2005 Comparable	Conference vs. FY 2006 House	Conference vs. FY 2006 Senate	
LIMITATION ON ADMINISTRATIVE EXPENSES									
OASDI Trust Funds	4,359,033	4,665,400	4,617,600	4,604,000	4,640,400	+281,367	+22,800	+36,400	TF
HI/SMI Trust Funds	1,256,968	1,704,000	1,643,100	1,704,000	1,704,000	+447,032	+60,900	---	TF
Social Security Advisory Board	2,000	2,000	2,000	2,000	2,000	---	---	---	TF
SSI	2,986,900	2,897,000	2,897,000	2,710,400	2,733,000	-253,900	-164,000	+22,600	TF
Subtotal, regular LAE	8,604,901	9,268,400	9,159,700	9,020,400	9,079,400	+474,499	-80,300	+59,000	
Additional CDR Funding	---	---	---	189,000	---	---	---	-189,000	TF
SSI User Fee activities	124,000	119,000	119,000	119,000	119,000	-5,000	---	---	D
SSPA User Fee Activities	1,000	1,000	1,000	1,000	1,000	---	---	---	D
Total, Limitation on Administrative Expenses	8,729,901	9,388,400	9,279,700	9,329,400	9,199,400	+469,499	-80,300	-130,000	
MEDICARE REFORM FUNDING									NA
Medicare reform funding 4/ 5/ 6/	(446,054)	---	---	---	---	(-446,054)	---	---	NA
OFFICE OF INSPECTOR GENERAL									
Federal Funds	25,542	26,000	26,000	26,000	26,000	+458	---	---	D
Trust Funds	64,836	67,000	66,805	67,000	66,400	+1,564	-405	-600	TF
Total, Office of Inspector General	90,378	93,000	92,805	93,000	92,400	+2,022	-405	-600	
Adjustment: Trust fund transfers from general revenues	-2,986,900	-2,897,000	-2,897,000	-2,710,400	-2,733,000	+253,900	+164,000	-22,600	TF

LABOR-HEALTH and HUMAN SERVICES-EDUCATION AND RELATED AGENCIES
(Amounts in thousands)

	FY 2005 Comparable	FY 2006 Request	House	Senate	Conference	Conference vs. FY 2005 Comparable	Conference vs. FY 2006 House	Conference vs. FY 2006 Senate
Total, Social Security Administration	45,370,662	47,248,044	47,139,149	47,189,044	47,058,444	+1,687,782	-80,705	-130,600
Federal funds	39,687,825	40,809,644	40,809,644	40,623,044	40,645,644	+957,819	-164,000	+22,600
Current year	(28,757,825)	(29,699,644)	(29,699,644)	(29,513,044)	(29,535,644)	(+777,819)	(-164,000)	(+22,600)
New advances, 1st quarter	(10,930,000)	(11,110,000)	(11,110,000)	(11,110,000)	(11,110,000)	(+180,000)	---	---
Trust funds	5,682,837	6,438,400	6,329,505	6,566,000	6,412,800	+729,963	+83,295	-153,200
Total, Title IV, Related Agencies	47,609,539	48,974,398	49,240,903	49,434,095	49,226,242	+1,616,703	-14,661	-207,853
Federal Funds	41,807,064	42,416,091	42,791,491	42,748,188	42,693,535	+886,471	-97,956	-54,653
Current Year	(30,477,064)	(31,306,091)	(31,281,491)	(31,238,188)	(31,183,535)	(+706,471)	(-97,956)	(-54,653)
FY 2007 Advance	(10,930,000)	(11,110,000)	(11,110,000)	(11,110,000)	(11,110,000)	(+180,000)	---	---
FY 2008 Advance	(400,000)	---	(400,000)	(400,000)	(400,000)	---	---	---
Trust Funds	5,802,475	6,558,307	6,449,412	6,685,907	6,532,707	+730,232	+83,295	-153,200

Title IV Footnotes:
1/ FY 2006 House jurisdiction change--account moved from former VA-HUD Appropriations.
2/ Current funded
3/ Requested funds for these activities are from previously appropriated funds
4/ Funds provided in P.L. 108-173, the 2003 Medicare Prescription Drug, Improvement & Modernization Act
5/ Available in fiscal years 2004 and 2005
6/ Funds required to continue implementing this Act are provided under the regular LAE account

SUMMARY

Federal Funds	488,978,653	582,509,460	588,233,397	598,769,967	588,270,213	+99,291,560	+36,816	-10,499,754
Current year	(391,980,962)	(486,762,534)	(492,050,271)	(502,586,841)	(492,087,087)	(+100,106,125)	(+36,816)	(-10,499,754)
2007 advance	(96,597,691)	(95,746,926)	(95,783,126)	(95,783,126)	(95,783,126)	(-814,565)	---	---
2008 advance	(400,000)	---	(400,000)	(400,000)	(400,000)	---	---	---
Trust Funds	12,366,339	13,612,965	13,408,876	13,636,967	13,403,088	+1,036,749	-5,788	-233,879
Grand Total	501,344,992	596,122,425	601,642,273	612,406,934	601,673,301	+100,328,309	+31,028	-10,733,633

LABOR-HEALTH and HUMAN SERVICES-EDUCATION AND RELATED AGENCIES
(Amounts in thousands)

	FY 2005 Comparable	FY 2006 Request	House	Senate	Conference	Conference vs. FY 2005 Comparable	Conference vs. FY 2006 House	Conference vs. FY 2006 Senate
RECAP								
Mandatory, total in bill	357,872,275	454,443,213	458,663,213	458,743,213	458,663,213	+100,790,938	---	-80,000
Less advances for subsequent years	-77,712,390	-76,897,825	-76,897,825	-76,897,825	-76,897,825	+814,565	---	---
Plus advances provided in prior years	74,061,975	77,712,390	77,712,390	77,712,390	77,712,390	+3,650,415	---	---
Total, mandatory, current year	354,221,860	455,257,778	459,477,778	459,557,778	459,477,778	+105,255,918	---	-80,000
Discretionary, total in bill	143,472,717	141,679,212	142,979,060	153,663,721	143,010,088	-462,629	+31,028	-10,653,633
Less advances for subsequent years	-19,285,301	-18,849,101	-19,285,301	-19,285,301	-19,285,301	---	---	---
Plus advances provided in prior years	19,241,277	19,285,301	19,285,301	19,285,301	19,285,301	+44,024	---	---
Subtotal, Discretionary, current year	143,428,693	142,115,412	142,979,060	153,663,721	143,010,088	-418,605	+31,028	-10,653,633
Scorekeeping adjustments:								
SSI User Fee Collection	-124,000	-119,000	-119,000	-119,000	-119,000	+5,000	---	---
SSI date shift	---	---	---	-3,360,000	---	---	---	+3,360,000
Vaccines for children legislative proposal	---	-100,000	---	---	---	---	---	---
Smallpox vaccine injury compensation (rescission)	-20,000	---	---	-10,000	-10,000	+10,000	-10,000	---
Medical facilities guarantee and loan fund (rescission)	-66,000	---	---	---	---	+66,000	---	---
Health professions student loan (rescission)	-19,000	-21,000	-15,912	-15,912	-26,500	-7,500	-10,588	-10,588
MMA Health Care infrastructure improvement program (P.L. 109-13) (rescission)	-58,000	---	---	---	---	+58,000	---	---
Adoption incentive (rescission)	---	---	---	---	-22,500	-22,500	-22,500	-22,500
Title V Chapter III (P.L. 109-13) (rescission)	-10,000	---	---	---	---	+10,000	---	---
H-1B (rescission)	-100,000	---	---	---	---	+100,000	---	---

LABOR-HEALTH and HUMAN SERVICES-EDUCATION AND RELATED AGENCIES
(Amounts in thousands)

	FY 2005 Comparable	FY 2006 Request	House	Senate	Conference	Conference vs. FY 2005 Comparable	Conference vs. FY 2006 House	Conference vs. FY 2006 Senate
Job Corps construction FY06 advance (rescission)..	---	-25,000	---	---	---	---	---	---
National Emergency Grant (healthcare premium) (rescission).....	---	-20,000	-20,000	-20,000	-20,000	-20,000	---	---
Workers compensation (NY 9-11) (rescission).....	---	-5,000	-5,000	-5,000	-5,000	-5,000	---	---
Workers compensation (9-11) (rescission).....	---	-120,000	-120,000	-120,000	-120,000	-120,000	---	---
Community College initiative (rescission).....	---	---	-125,000	---	-125,000	-125,000	---	-125,000
75 percent rule scoring.....	9,000	---	---	---	---	-9,000	---	---
Medicare eligible accruals (permanent,indefinite)	---	33,912	33,912	33,912	33,912	+33,912	---	---
ED drugs limitation.....	---	---	-95,000	-90,000	-90,000	-90,000	+5,000	---
CPB (FY 2006 Rescission).....	---	-10,000	---	---	---	---	---	---
Limitation rule for Power Mobility Devices.....	---	---	---	-1,000	8,000	+8,000	+8,000	+9,000
Limitation on HHS Consulting Services.....	---	---	---	-4,500	---	---	---	+4,500
Less emergency appropriations.....	-362,600	---	---	-8,414,100	---	+362,600	---	+8,414,100
Total, discretionary.....	142,678,093	141,729,324	142,513,060	141,538,121	142,514,000	-164,093	+940	+975,879
Adjustment to balance with 2005 enacted.....	-1,038	---	---	---	---	+1,038	---	---
Total, discretionary (FY 2005 enacted).....	142,677,055	141,729,324	142,513,060	141,538,121	142,514,000	-163,055	+940	+975,879
Grand total, current year (incl FY 2005 comparable)...	496,899,953	596,987,102	601,990,838	601,095,899	601,991,778	+105,091,825	+940	+895,879
Grand total, current year (incl FY 2005 enacted).....	496,898,915	596,987,102	601,990,838	601,095,899	601,991,778	+105,092,863	+940	+895,879

CONFERENCE TOTAL—WITH COMPARISONS

The total new budget (obligational) authority for the fiscal year 2006 recommended by the Committee of Conference, with comparisons to the fiscal year 2005 amount, the 2006 budget estimates, and the House and Senate bills for 2006 follow:

(In thousands of dollars)

New budget (obligational) authority, fiscal year 2005	$501,344,992
Budget estimates of new (obligational) authority, fiscal year 2006	596,122,425
House bill, fiscal year 2006	601,642,273
Senate bill, fiscal year 2006	612,406,934
Conference agreement, fiscal year 2006	601,673,301
Conference agreement compared with:	
New budget (obligational) authority, fiscal year 2005	+100,328,309
Budget estimates of new (obligational) authority, fiscal year 2006	+5,550,876
House bill, fiscal year 2006	+31,028
Senate bill, fiscal year 2006	−10,733,633

RALPH REGULA,
ERNEST ISTOOK, Jr.,
ROGER F. WICKER,
ANNE M. NORTHUP,
RANDY ''DUKE'' CUNNINGHAM,
KAY GRANGER,
JOHN E. PETERSON,
DON SHERWOOD,
DAVE WELDON,
JIM WALSH,
JERRY LEWIS,
Managers on the Part of the House.

ARLEN SPECTER,
THAD COCHRAN,
JUDD GREGG,
KAY BAILEY HUTCHISON,
LARRY E. CRAIG,
TED STEVENS,
MIKE DEWINE,
RICHARD SHELBY,
PETE V. DOMENICI,
Managers on the Part of the Senate.

PEAK OIL

The SPEAKER pro tempore (Mr. JINDAL). Under the Speaker's announced policy of January 4, 2005, the gentleman from Maryland (Mr. BARTLETT) is recognized for 60 minutes.

Mr. BARTLETT of Maryland. Mr. Speaker, I have in front of me a document called Peaking of World Oil Production, Impacts, Mitigation and Risk Management. As I look at the second page, it says this report was prepared as an account of work sponsored by an agency of the United States Government. That agency was the Department of Energy, and the organization that was funded to do this work was SAIC, a very prestigious, scientific organization.

Dr. Robert Hirsch was a project leader. He was supported by Roger Bezdek and Robert Wendling in this very important work. It was submitted in February of 2005.

What I would like to do this evening is to go through the salient points of this so-called Hirsch report. Remember, it was funded by the Department of Energy, and it was performed by a very prestigious scientific organization, SAIC.

I have here a quote from page four of this report. This is so important, I have highlighted a couple of phrases, but I would like to read these couple of statements here, because they are so important. The peaking of world oil production presents the United States and the world with an unprecedented risk management problem. What that means is that never in history has there been a risk management problem like this. It is unprecedented, they say.

As peaking is approached, liquid fuel prices and price volatility will increase dramatically and without timely mitigation. The economic, social and political costs will be unprecedented.

Mr. Speaker, what that means is that never in history has there been an occasion when economic, social and political costs will be this big. Viable, mitigation options exist on both the supply and demand sides, but to have substantial impact, they must be initiated more than a decade in advance of peaking.

Dealing with world oil production, peaking will be extremely complex, involve literally trillions of dollars. Now, around here, we talk a lot about billions of dollars, but seldom about trillions of dollars. This will cost trillions of dollars and require many years of intense effort.

Mr. Speaker, what are they talking about? What is this oil peaking that they are talking about that is going to present unprecedented risk-management problems, and have economic, social and political costs, which will be unprecedented? What we need to do to put in this in context to understand it is to go back about 60 years, and our next chart helps us do that?

This begins with the work of a Shell oil scientist by the name of M. King Hubbert. M. King Hubbert worked during the 1940s and 1950s. He was observing the exploitation and the exhaustion of oil fields. He noticed that each oil field followed what we call a bell curve, goes up steeper and steeper, finally reaches a peek, and then down the other side.

He saw this in field after field. He rationalized if he could add up all the fields in the United States and guess as to how many more we were going to find, he could then estimate when the United States would peak in oil production. He made that estimate in 1956, and he said that the United States would peak in oil production about 1970.

As it turned out, he was right on target. You can see here from the graph, this peak in 1970. The smooth curve here is his prediction. The more ragged curve, or the actual data points, and you see that right on target, it peaked in 1970.

The red curve here is the curve for the Soviet Union, now Russia. They kind of fell apart with their dissolution, and they did not reach their potential, so there is going to be a second kind of a much lower short peak here. Russia has already peaked in their oil production.

Mr. Speaker, more than half of all of the oil-producing countries in the world, some 25, I believe, have already peaked. Their peak oil production is already behind them. The next chart shows a schematic that helps us understand this, perhaps a little better.

This represents a 2 percent exponential growth in oil. Now, all the oil that was produced was used. For the first part of the curve the production of oil and the use of oil are the same thing. Obviously, you are not going to produce oil that you do not use.

If you need more oil, and it can be produced, your price indicators will mean that more oil is going to be produced. So for this part of the curve, we have used the oil as fast as we produced it.

At some point in time, it will peak. It peaked for the United States in 1970. M. King Hubbert said it would peak for the world about now. Actually, he said a few years earlier, but he could not have known of the Arab oil embargo and the world oil price hike spikes which sent the world into a recession, which reduced the demand for oil. That moved the peak a little forward. We believe, many observers believe, that we are peaking about now, or will shortly be peaking.

Mr. Speaker, I hope that the message that is in this document, peaking of world oil production, and the things that I am going to say, I hope they are wrong. Because if they are not wrong, we in United States and the world is in for a very rough ride. By the way, we can make this a very sharp peak or a very gradual one, by simply changing the scale on the abscissa and the ordinate. This represents a 2 percent increase in oil use.

It is 2 percent of what it was last year, so it keeps growing, it grows what we call exponentially. With a 2 percent growth, it doubles in 35 years. Since this point is half of that point on the ordinate scale, this represents 35 years.

□ 2100

So you see that some years before we actually reach peak, and we believe that we may be here at this point, but a few years before you reach peak, you actually are not producing as much as you would like to use. Just a very few years ago in 1998, I think, oil was under $10 a barrel, and now it was about $60 a barrel. So, clearly, there is not as much there as the world would like to use; and because there is not as much there, there is a higher demand for it, and so the price goes up.

We will be talking this evening about filling the gap. This is the gap we are talking about filling here. What are we going to do now that we have reached this point? There are two things we can do. One of them is simply reduce our

consumption of oil so that there is enough to go around, and the other is to try to find some other source of energy so we can fill this growing gap; and the further out we go, you will see the bigger the gap gets. We will be talking about that a little later.

The next chart is an interesting one that shows the relationship between the oil we found and the oil we used. This is the difference between the oil we found and the oil we used. You see this is about the year 1980. Up until about 1980, every year we found more oil than we used. So we were accumulating an excess. This much excess was accumulated. From about 1980 on, we did not find as much oil as we used; and so to have enough oil available, we had to now start pumping our reserves. And so since 1980 our reserves have been going down and down because we have never, I think, in any year since about 1980 found as much oil as we pumped.

The next chart shows these relationships in a somewhat different way that may be a little easier to understand. Here we have these bars and they represent, you see that was very similar to the previous chart, and this shows the actual discovery of oil. This does not subtract what we use from what we found because we have a second curve here, which is the use curve, and you will see this black curve here. That is the amount of oil that we have used.

Now, it is very obvious that you cannot pump oil that you have not found. So if you kind of round this curve out and you get a curve here that has an area under it, that is the amount of oil that we can use. The amount that we have used is under this curve here. And since about 1980 we have had to make up for what we did not find by borrowing from that which we had found. So you are going to have to borrow some of this and fill in this space here to get us to where we are now in 2005.

Where do we go from here? Well, where we go from here is going to be determined by how much of this oil that we found is still available and how much more oil we are going to find.

Now, the people who put this graph together guessed that the oil could keep going down because it has been going down for 20 years. See the slope down for about 20 years? They guessed it would keep on going down at that slope. So the amount of oil we can use in the future is going to be the difference between what we find, which they think is going to be less and less each year which I am sure it will be because it has been for the last two decades, and the amount of oil that we use, and that will be made up by the oil that is here.

So you can draw very many curves that do not have you falling off a cliff. And clearly the wells do not perform the way that you pump full bore and you get the last drop out and you do not get any the next day. It tapers off little by little as you come down what is called Hubbert's peak.

The next chart is from the Hirsch Report, and in this chart he has simplified Hubbert's peak. And for purposes of their presentation here, they have depicted Hubbert's peak as not being the bell curve that we looked at before, but as simply being a slope up and they slope down. And they will tell you in the report that they have simplified that because of the points that they want to make later.

The bottom of the chart here shows something very interesting. It shows our production of oil in our country peaking in 1970. After 1970, we have developed some really good techniques for improving the discovery of oil and the recovery of oil.

Mr. Speaker, really big increases in our technologies for both finding oil and for pumping it, enhanced recovery of oil, did not make any appreciable difference in the amount of oil that we were able to pump. This points to the fact that the geology really determines how much oil we are going to get in the enhanced recovery techniques, and the field exploration techniques do not make much difference.

Another thing that does not make much difference at all is price. We are falling down the slope here. Notice what happened to price. It went way up. That ought to have resulted, if you think the marketplace works, that ought to have resulted in a lot more oil production in our country. It did not.

You see, nothing really happened to the oil production when the price really spiked here. But what this graph does is to make the point that increased technologies and increased price will have little effect on the production of oil from a field that has already peaked and you are going down slope.

The next chart is an interesting one, and what this shows is kind of what was shown in the past one, perhaps in a more dramatic way. By 1980 we were already 10 years down the other side of what was called Hubbert's peak, and the Reagan administration noted that and they knew they needed to have more oil. Their solution to that was to incent our oil companies to go out and drill more, so they provided some tax incentives for that, and it really worked because this is the drill here you see. And it really spiked after 1980; they drilled a lot more wells.

But notice this relationship between the oil that you have found and the oil you are pumping; and in spite of all that drilling, we went negative. What that shows is if it is not there, you cannot drill it. No matter how many holes you drill, you will not get more oil if there is not more oil there to get.

The next chart is kind of a blow-up of the situation in our country since 1935 to roughly the present. This shows where we have gotten our oil from. It shows us peaking in 1970. Oil from Texas, the rest of the United States, the natural gas liquids, and then the big discovery of oil in Prudhoe Bay. We were already slipping down Hubbert's peak. There was a little blip there as we slipped down Hubbert's peak. But notice this source where we are getting 25 percent of our oil really did not stop us from slipping down Hubbert's peak.

Notice the yellow there, Mr. Speaker. That is the fabled Gulf of Mexico oil discovery. You may remember that. A number of years ago that was supposed to solve our problem. It was oil for the foreseeable future. That is all the contribution it made.

Now, we clearly have been using more oil since we peaked, and we have been getting it from overseas; and we now get nearly two-thirds of our oil from overseas because, Mr. Speaker, we have only about 2 percent of the known reserves of oil in the world. We use about 25 percent of the world's oil, and we import about two-thirds of what we use.

The next chart shows the estimate of a number of authorities on when peaking is going to occur. Here we have the dates, and this first block of dates are those between now and 2010. That is pretty soon. You see the individuals there. Several of those I know personally. Colin Campbell, I have talked with him on the phone from over in the British Isles. Matt Simmons is the personal energy adviser of the President, president and CEO of perhaps the largest energy investment bank in the world. Dr. Deffeyes is a professor at Princeton University who has written a book on this subject, ''The End of Oil,'' I think, ''The View From Hubbert's Peak'' is what he calls it. Then we have a few who think the peak is going to be between 2010 and 2015. And then there are three that say that it is going to be there at notice.

Mr. Speaker, there is no argument that there will be a peak except for the last one here, Lynch, who believes it will be a long plateau. He is not arguing that it will not peak, but he thinks it will not reach the top and fall off. It will be a long plateau.

I would like to note, Mr. Speaker, that the economists here tend to be those that think that peak will be sometime in the future. What economists do is simply predict the future from the past. They are very good at studying the past. And if, in fact, there are inexhaustible resources, it is very logical that you ought to be able to predict the future from the past. But if, in fact, there is a limited supply of oil, then you may not be able to predict the future from the past. But notice the big group of experts, and this is who they work for and what they are, and notice several of them are retired.

We find when a military person takes off their uniform, we sometimes get kind of different testimony from them than when they wear the uniform. These people do not have any company they are accountable to. They are retired. For people who are just retired, Mr. Speaker, you tend to get very honest testimony from them. So you know who they are and who they work for and they are very credible people and they are pretty much all saying that peaking is pretty soon.

The next chart shows how we use the oil that we get. The big blue on top here is transportation. That is where we use about 70 percent of it. The yellow is industrial. The purple down here is electric power, and then what we use in our homes, residential, and then commercial at the very bottom.

The important part of this is the transportation, important for two reasons. One is that it is the biggest chunk of it and, secondly, it is that use of oil that cannot be readily replaced by something else. In industry they can use energy from many other sources for much that they do; but for transportation, we are pretty much stuck with oil.

The next chart shows us some of the characteristics of the fuels that we use and this is talking about energy density, how many gigajoules you get per ton. Gigajoules is a technical term. It simply means BTUs or calories or heat or energy that you get from a given volume of this. We tend to think of it in gallons or barrels, 42 gallons in a barrel by the way.

Here you see that crude oil is here at 449, and then diesel automotive as you start to refine it you get higher and higher densities.

Now, as we run down Hubbert's peak and start running low on oil and still want to drive our cars and our planes and so forth, we will have to find a substitute. Notice that the substitutes here have very much less energy density. I would like to spend just a moment, Mr. Speaker, talking about energy density because it is really very important and presents a big challenge to us.

One barrel of oil, that is 42 gallons of oil, the refined product of which you can buy now for just a tenth of a penny under $2 at some stores now. So you can buy it for well less than $100. That will buy you the work output of 12 people working all year for you.

If you have some trouble getting your arms around that, Mr. Speaker, just imagine how far that gallon of gas or diesel fuel takes your pickup truck or your SUV or your car. By the way, that is still cheaper than water in the grocery store if you are buying it in the small bottles.

Now, you could pull your car or truck or SUV as far as that gallon of fuel takes you, how long would it take you to pull your truck there. Obviously, you cannot pull it, but you can use a come-along and guard rails and trees and so forth, and by and by you will get it there. But it would take you quite a while to take it the distance that that one gallon takes you.

Another little example of this energy density and the tremendous challenge we face of finding something that is equivalent to this: If you work all day real hard in your yard this weekend, I will get more work out of an electric motor with less than 25 cents worth of electricity.

□ 2115

That may be kind of humbling to recognize that in terms of fossil fuel energy we are worth less than 25 cents a day, but this incredible wealth that we found under the ground, how fast we have used it. How little concern we show for the future.

The next chart addresses the transportation challenge we have. Obviously, the oil will go further if we are using less of it, but what he says here is that we cannot conceive of any affordable, government-sponsored crash program to accelerate normal replacement schedules for our cars and trucks. The average car is on the road I think 16 years. That is the median. That does not mean it is the average because the last one is 18 years, that is the middle one, and the average light truck, about the same distance, 16 or 17 years. The average big truck, heavy truck, is on the road for 28 years.

So if you want to buy a Prius or an Insight or one of these hybrid cars now, we ought to be doing that. I am not discouraging us doing that. That will make a very small dent in oil use because the things that were bought just this year are going to be on the road 16 or 17 years for cars and light trucks and 28 years median for heavy trucks. So it will take a long time.

If you want to dramatically reduce oil use, you have got to get these gas hogs off the road and get some fuel efficient things on the road. What they are saying is they cannot conceive of any affordable here, and that is the key word here. Obviously, we could bribe all the people in the country to take their SUVs to the junkyard and give them enough money to get a new hybrid. That would not be affordable. That is the key word here.

What he is pointing out here is it is going take a long time to make this change from our present gas guzzling SUVs, big cars and trucks and so forth and go to these hybrids.

The next chart shows us the contribution that enhanced oil recovery can make. We have some really good techniques today, and some people will tell you do not worry. We are really good at getting oil out of the ground now, so do not worry about this peak. What this shows is it does not affect the peak. Indeed, if you think about it, it should not affect the peak, because up until this peak, the oil comes out of the ground easily. You do not need the enhanced recovery techniques to get it out because it comes out very easily anyhow. When you really need them is on the down slope, and this shows you get a little more oil out on the down slope.

The next chart shows a depiction that the authors use, and this is really a simplification. They will tell you that this should be a growth curve here, an exponential curve, but they are making it a wedge because it helps them to make their points. And this is a schematic one for any substitute that you want to have.

It takes awhile before you get anything out of it. You have got to build the plant and plan, and then you start producing some of whatever this is. The next chart will show us the variety of things that it is, and the longer you have, the more and more of it you produce a day, present this thing as a wedge.

The next chart shows us an addition of some of wedges that you might use to have more liquid fuels available.

Enhanced oil recovery, we looked at that. That will produce something.

Coal liquids. When I was a little boy, in our lamps we used coal oil. By and by that was substituted by kerosene, and Hitler ran his military in World War II on oil made from coal because he did not have any oil and we were not going to let him get any. So he had to make it from coal. They had a lot of coal.

Heavy oil. Heavy oil is what determines why it is heavy. It will most likely sink in water some of it. All the rest of oil floats on water, and some of it is what is called sour. When you see that sour crude, light sweet crude is the most valuable. Sour crude has a lot of sulfur in it. You have to take that sulfur out. You are really polluting the air.

Then gas to liquids, and then he shows something about efficient vehicles. It takes a while before you get this in the fleet, and notice in 15 years the trifling contribution that efficient vehicles have made.

The next chart is a composite here that makes a salient point that they make in their paper, and here they look at three different scenarios of when you start to address the problem and the consequences of that.

The first of these, you start your crash program when you peak out. You say, gee, we cannot get as much oil out of the ground today as we got yesterday. That will not literally be true. It will be this month compared to last month because day-to-day is probably not going to make that big a difference.

If you wait until you see peak oil, what they are saying here is that run as fast as you can. With mitigation, you are still going to have a big shortfall.

By the way, I would like to refer back to their simplification of the bell curve. They simply use a slope up and a slope down, and what they are saying here, when you reach peak oil, you would really like to keep on going and use more and more. This really, of course, is an exponential curve going up, but they show here for simplicity a straight line and what they are trying to do is fill the gap. I am going to come back to that in a couple of minutes, but I am not sure we ought to be trying to fill the gap.

The second curve here represents what happens if you anticipate it by 10 years, and notice that most of the people in that former chart thought you were going to have peak oil a lot sooner than 10 years from now, but if you have 10 years and start the mitigation, you are still going to have a shortfall.

To have no economic consequences, they say they are going to have to start 20 years ahead.

Now, almost nobody believes that we have 20 years ahead. So obviously, if we are trying to fill that gap, there is going to be some shortfall because it is either upon us or will shortly be upon us.

I would like to talk for just a moment about whether or not we ought to try to fill that gap. For two reasons I think that maybe we ought to be considering that that is not really a good idea.

One is there is a pretty widespread belief that the warm weather we are having and the more frequent and intense hurricanes, the melting of the icecaps and the glaciers may be due to global warming that may have resulted from an increase in greenhouse gases which are produced by burning these fossil fuels. Now, if that is true and you believe that is going to have a negative effect on our environment, our climate and so forth, which will ultimately affect us economically, then I am wondering why you would want to have more of this by trying to fill that gap.

Let me give you another maybe even better reason that you should not be thinking about filling the gap.

There is an old saying that if you are in a hole, stop digging. Now, a corollary to that would be, in this case, that if you are climbing a cliff, a hill, where you will come to a precipice and by and by fall off and have to uncomfortably go down the other side, the higher you climb, the further you have to fall. That is very germane to this because the more oil that we use, the more energy that we use, the higher we will have climbed up that cliff and the steeper will be the descent down the other side.

The next chart, and you should notice, Mr. Speaker, the page where you can find these on each one. This is from page 64 of their report, and let me read this because this is really significant and I suspect that not too many people know this.

World oil peaking is going to happen. That is a certainty. I think that everybody understands that oil cannot be forever. There is not an inexhaustible supply of oil. It is not going to last to forever. What does that mean?

They think that it means that we will shortly peak in oil production. I would like to emphasize that peaking does not mean that we are going to run out of oil. We will not run out of oil for a long time, maybe 100 years, but what we will have run out of is readily available, high quality oil that can be produced at the rate we would like to use it. It is oil peaking. It is not running out of oil.

A hundred years from now there will be some oil, some gas, some coal, that we can find in ever-decreasing amounts at ever-increasing cost. It will not be very much in 100 years, but there will still be some.

''World production of conventional oil will reach a maximum and decline thereafter. That maximum is called the peak.''

I would suggest, Mr. Speaker, that one can find a lot of information on this if you simply do a Google search for peak oil. Now, you get essentially the same information if you do a Google search for Hubbert's peak but peak oil will do. That is maybe easier to remember. You will find a lot of articles there relative to this.

''A number of competent forecasters,'' and we looked at that chart a few minutes ago, ''project peaking within a decade; others contend it will occur later. Prediction of the peaking is extremely difficult because of'' a number of things, ''geological complexities.''

Let me pause just a moment to talk a little bit about the geology here and why you do not find oil everywhere.

We believe that a very long time ago there were warm seas, and at that time, the world was warm up in northern Alaska and Siberia because there were warm seas there. In every sea there was life there that grew like algae on your pond. At the end of the season, it sank to the bottom, and then dirt was washed off of the adjoining hills and through a very long time that built up large deposits at the bottom of these warm seas.

Then the tectonic plates of the earth separated. As you know, Mr. Speaker, there are tectonic plates that ride on the molten core of the Earth, and then the crust of the Earth is above those. These separated somewhat so that the bottom of these ancient warm seas were submerged, covered by a lot of rock and dirt. They were warm enough to the molten core of the Earth that it was just the right amount of heat. They were under enough pressure, and with time in this pressure cooker, this organic material was converted to oil and gas. Gas is the volatile part of this oil.

Now, you do not only need that, Mr. Speaker, you need something else before you really have oil deposits and gas deposits. You need a dome of rock over top of this like a big umbrella that keeps the volatiles, the gas, from going up and escaping because, you see, if they can escape, you do not end up with the nice, light sweet crude oil that we value so much. You end up with something like the tar sands in the oil shales. It is a little bit like the asphalt roads you drive on.

Now, if you cook that stuff, it will flow, and it is pretty much what these tar sands in oil shales are, something like that. So they were a very unique series of events that occurred that provide the oil and the gas for us, and it is no argument that you should not find it, probably are not going to find it everywhere in the world.

By the way, when I was a little boy we lived near a coal mining town, and we got what was called Run-of-mine coal. In those days there was not a big mechanical thing on a coal face digging it off. It was a miner with a pick and his shovel and his wheelbarrow. He may have had a little cart and a mule inside the mine to help him in some of the bigger mines.

But that would come out of the mine, and we would buy it just as it came out, called Run-of-mine, just the way you mined it, some big lumps on down to dust. Some of those big lumps were so big I could not put them in the furnace. So there was a sledge hammer, and we would have to break the lump to put it in the furnace. I remember breaking some of those lumps and they would fall open and there would be a fern leaf. I remember the thoughts that I had, gee, how long ago did that thing grow. It was very obvious where coal came from. You can see the vegetation inside the coal.

''Geological complexities, measurement problems, pricing variations, demand elasticity,'' how much of it we are going to need, ''and political influences,'' are they really going to sell us the oil or not. ''Peaking will happen, but the timing is uncertain.'' But the fact that it will peak is not uncertain. It will peak.

''Oil peaking presents a unique challenge,'' they say. Then I emphasize this statement. ''The world has never faced a problem like this. Without massive mitigation more than a decade before the fact, the problem will be pervasive and will not be temporary. Previous energy transitions, wood to coal and coal to oil, were gradual and evolutionary; oil peaking will be abrupt and revolutionary.''

□ 2130

The next chart takes us back about 400 years in history. It would be nice to have one that took us back 5,000 years in history because that is about the extent of recorded history, about 5,000 years. But we go back here to the very beginning, a little bit before the beginning of the Industrial Revolution, and we notice that the Industrial Revolution began with wood and it ramped up, and we denuded largely the mountains of New England to make charcoal to take to England to make steel, and then we found coal. And the ordinate here is quadrillion BTUs. That was the amount of energy we got. Boy, did we get a lot more energy from coal than we did from wood. It is more dense. It is easier to get and haul large quantities of it. But notice what happened when we came to gas and oil. There was essentially an explosion in the amount of energy that we could produce. Notice up there at the top, Mr. Speaker, the recession of the 1970s produced by the Arab oil embargo.

There is a stunning statistic. Up until the Carter years, every decade, the world used as much oil as had been used in all of previous history. Now what that means is that when we had used half of all the oil that was there, we would have only one decade of oil remaining. Now, that slowed down after the Arab oil embargo. We got a lot more efficient. The refrigerator we

have today probably uses a third of the electricity it did then; so we really slowed down in our use of oil, or this chart curve would have kept on going up.

There is another curve we might put on here, Mr. Speaker, and that is the world's population. And it might not be too surprising that the increase in population pretty much paralleled the increase in available energy. We started out with 1 billion, more or less, before the Industrial Revolution. Now we have almost 7 billion people.

Mr. Speaker, in terms of 5,000 years of recorded history, the age of oil will be but a brief blip. We have been in the age of oil about 150 years. It was about 150 years ago we first found oil in any quantities and started to use it. In another 150 years we will essentially be through the age of oil. What will our world look like when we have exhausted the fossil fuels? And they will be exhausted.

One of the writers in writing about this says that our great grandchildren, in looking at history and what we did with these fossil fuels, will say how could the monsters have done that. How could they have found this incredibly valuable resource buried in the ground, these riches buried in the ground, and used them wantonly with no regard that they might be finite, that they would one day run out. Matt Savinar, who wrote one of the articles that people will find when they do the Google search for peak oil, Matt Savinar begins his article by saying: ''Dear reader, civilization as we know it is coming to an end soon.'' I pulled it off the Web and gave it to my wife, and she read that first paragraph and said, The guy is crazy; I am not going to read any more.

I said, Please read on and reserve judgment.

She read on and was genuinely frightened when she had finished his article. Matt Savinar may be audacious, and I think that the future may not be so bleak as he presents it, but I will tell the Members, Mr. Speaker, if we do not do something meaningful in terms of trying to mitigate the damage, it could be, it could be as bad as Matt Savinar presents it. He may be audacious, but he is not an idiot; and I would suggest that Members read his article. It is very useful.

The next chart shows something really interesting that we have been talking about this evening. This is where we are now. We have been running up this side of Hubbert's peak. This, by the way, is worldwide. The question is now, When will the world do what the United States did in 1970? When will the world reach peak oil? I had a course in statistics when I was working for my doctorate in school maybe 55 or 60 years ago, and what they have done here, we have a probability of 95 percent. That is most likely what we will find. And then we have a 50 percent probability that it could be higher or it could be lower and then a 5 percent probability or it could be higher or it could be lower, and somehow they mysteriously take this as the expected value. It could be low just as well as high. That is not the expected value. The value that the statistician would tell us to expect is a 95 percent value. And, by the way, that is pretty much what the experts tell us.

A couple of Congresses ago, I was Chair of the Energy Subcommittee on the Science Committee, and I wanted to determine the dimensions of this problem. So we had a hearing and invited in the world's experts on oil reserves, and there was pretty unanimous agreement. I was surprised. It was somewhere like from 970 to 1,040, about 1,000 gigabarrels of oil that remained. Now, we have pumped about the same amount. We have pumped about 1,000 gigabarrels. That is 1,000 billion barrels. That is 1 trillion barrels, and that sounds like a lot.

But if we divide that 1,000 gigabarrels by the 84 million barrels that we use a day, 21 in our country alone, 63 in the rest of the world, 84 total, if we divide that 84 million barrels a day into the 1 trillion barrels that the experts told us are still out there, we come to about 40 years' remaining oil. Remember up until the Carter years, when we used half of it, which is about what we have used, we would have only 10 years remaining; so we have really slowed down, fortunately. We are using it much more efficiently now than we did then.

But they make two assumptions for this chart. One is that it peaks in 2016 and that there is 3,000 gigabarrels. That is not what the experts say. The experts say that there will be a total of about 2,000 gigabarrels, 1,000 already pumped, another 1,000 to be pumped. If that is true, then we would start downhill from this point.

But if we have another 1,000 gigabarrels, notice with this exponential curve how little that pushes peak oil out. Not very far. What is it? About 2017, 2016, something like that is all that it pushes out. Here it is: 2016. And if we now assume that there is more than that, it pushes it out further. But notice what happens. Notice what happens. Notice how quickly we fall.

I made the point before I am not sure we want to fill the gap because the analogy of if you are in a hole, stop digging is if you are climbing a hill and you are going to fall off a cliff on the other side, the lower the hill, the less you will fall. And they make exactly that point here in these predictions.

These are predictions of the Energy Information Agency. These are economists working for the Department of Energy. They are not oil experts. They are economists, and they do what economists do. They predict the future from the past. And they really study the past and know it, and they think that if they know the past well, they can predict the future. But what they do not take into account is that oil is finite and their predictions would be exactly right if market forces controlled and if oil were limitless, but oil is clearly not limitless.

In the last chart that I want to spend a few minutes on, where do we go from here? From where will we get our liquid fuels? From where will we get our energy as we run down the other side of Hubbert's peak? We have here some finite resources. By ''finite'' we mean they are not forever. Some of them are pretty big if we can get the energy out. Tar sands and oil shales. Some will tell us do not worry about the future of energy because there is 1½ trillion barrels of oil in the oil sands of Canada alone. That is true. But, Mr. Speaker, there is also an incredible amount of energy in the tides.

I pick up two 5-gallon buckets of water, and they are pretty heavy; and then I note that the Moon lifts the whole ocean about 2 feet. That is an incredible amount of energy. But because there is that incredible amount of energy out there does not mean that I can harness it and use it effectively. The same thing is pretty much true of these tar sands. Yes, there is potentially a lot of energy there, but how effectively, efficiently can we get it out?

The Canadians are now producing oil maybe even less than $30 a barrel. They are selling for $60. That is a good deal, and they are producing a lot of it. But when we look at the energy that it takes to get it out, there are better techniques than the one they are using; but the technique they are using, they use more energy from natural gas than they get out of oil so that the energy profit ratio is less than nothing. The oil is sought on the market and brings a good price. The gas is up there and they do not need it and it is hard to ship. So from a dollar-and-cents perspective, it may make sense to use that gas, even more energy and gas to produce the oil than they get out of the oil. But ultimately, of course, as we move to a more energy-efficient world, we will not be able to do that.

I was out at a conference in Denver, Colorado, just this past weekend; and the Shell Oil scientist that was doing some of the tests in the oil shales of Colorado emphasized that his work was just experimental, that he could not extrapolate from what he had now done to the future. And what they have done is kind of interesting, Mr. Speaker.

They have taken a small patch of Colorado desert out there, high desert, and they have drilled a lot of holes in a circle and frozen, put pipes down there, and they froze in the ground. What they have done is to make a vessel out of frozen ground because they do not want what they are doing inside that big vessel to contaminate groundwater outside, and then they cook the oil.

I hear from 2 years to 4 years, for some period of time, they cook the oil inside that vessel. They keep putting hot water down there, steam down there, and they cook the oil. By the

way, they heat that with natural gas, which is why it takes so much energy. And then they pump on that. When they have heated it up, it will flow so they can pump it out. But this is pretty small. It is hard to scale up from that. And they put in one unit of energy from heat and they get out 3½ units of energy. That looks like a pretty good energy profit ratio, but it does not account for all the energy that goes in there: drilling the holes and refrigeration and the energy it took to make the equipment that they use and refining it when they get it out and so forth.

So we are not yet sure how positive that is going to be. It may be that we will use the energy from four barrels of oil and have one net plus.

By the way, that would not be all that bad because that is about the ratio in producing ethanol. We have to put in about three-fourths as much energy into the ethanol as we get out of it, about 750,000 BTUs of energy to get 1 million units of energy in producing ethanol; and that is for efficient production. Many of our ethanol production facilities now are producing ethanol, Dr. Pimental believes, with a negative energy profit ratio: the more fossil fuel energy goes in to producing it than we get out of it.

Coal: we have about 250 years of coal remaining in our country. That is the current use rate. If we increase the use only 2 percent exponentially, that 250 years shrinks to 85 years. For many uses like our car, we cannot use coal. We are going to have to use gas or a liquid, and we are going to have to take some energy to make that conversion. Now it shrinks to 50 years. So we have got about 50 years of effective coal remaining at only a 2 percent increase. We may need to increase its use much more than 2 percent. It is there. We need to husband it and use it wisely.

Nuclear: we produce 8 percent of our electricity in this country from nuclear. That is 20 percent of our electricity.

□ 2145

That can and maybe should grow. But the kind of plants we use, the light water reactor plants, cannot be expanded indefinitely because there is a limited supply of fissionable uranium in the world. I get wildly divergent estimates, from 30 years to 200 years. That is at current-use rates. As soon as you start exponentially increasing the rate of use, whatever that time is, it shrinks very rapidly.

That means if we really wanted to go big-scale nuclear, we need to go to breeder reactors. With breeder reactors, you borrow a lot of problems, like transporting the fuel for enrichment. You have weapons-grade plutonium produced, and you may in the future be making a choice between buying these problems and shivering in the dark because in an energy-deficient world, that may be the choice that you come to.

Nuclear fusion. Oh, how I hope we get there because then we are home-free. But planning to solve our energy problems in this country of the world with fusion is a bit like you or me planning to solve our personal economic problems by winning the lottery. It would be nice if it happened; it probably will not, and I certainly would not count on it.

And then we come to the truly renewable sources. About half of those, a little more than half comes from nuclear up here as compared to what is down here. Solar, wind, they now represent about a quarter of a percent of our total energy. A bit more than that of electricity, but about a quarter of a percent of our total electricity.

Geothermal, that is tapping into the molten core of the earth. Where we can do that, we ought to do it because that will last a very long time.

I mentioned ocean energy. Lots of energy there. The tides, the waves, thermal gradients in the ocean. There is a lot of potential energy there, but there is an old axiom that says energy to be effective must be concentrated. It is so diffuse in the ocean. We have been trying for a very long time to capture some of that energy, and it is very, very difficult.

And then we come to agricultural resources. A lot of people have high hopes for what we can get from agriculture. We can get energy from agriculture in two different ways: One by producing fuels like ethanol and methanol by fermenting the product; and the other is by burning the product.

There are limits to both of these. We now are barely able to feed the world. Tonight a fair number of people will go to bed hungry. We could free up more of this energy if we would be content to eat the soybeans and corn rather than the pig and the cow and the chicken eating the corn and the soybeans.

To take biomass from the soil, that is what makes topsoil different from subsoil is organic material, biomass. I am sure we can get some energy from that. But we have to be careful how much to tend to get from that.

Waste energy, instead of putting it in the landfill, burn it. There is a really good plant here in Montgomery County very near. I would be proud to have that next to my church. I cannot even see that it is burning trash because trash comes in inside a big container. It is inside before it is emptied, and it looks like a nice brick office building.

The last thing is hydrogen from renewables. Hydrogen is not an energy source. You cannot mine it or suck it out of the air. The only way you get hydrogen is to use energy from some other source like natural gas. This is where we get most of it or like splitting water with electrolysis. You will always use more energy in getting the hydrogen than you get out of hydrogen, or else you are going to have to repeal the second law of thermodynamics, and that is not going to happen. It is still a good idea because hydrogen burns very cleanly. You get only water. You can burn it in a fuel cell where you have at least twice the efficiency of reciprocating engine, but it is not a solution to our energy problem. Think of it as an energy carrier which is exactly what your battery is.

If you think of this as being a hydrogen battery as opposed to an electron battery that you have in your car, you will get it right as far as hydrogen is concerned.

There is a lot of talk about a hydrogen future. That is not going to happen in the next decade or two or even three. It is going to take a very long time to ramp up, and we will always have to have some bigger energy source from which we make the hydrogen because it will always be made with an energy deficit because we are not going to repeal the second law of thermodynamics.

Mr. Speaker, I want to submit for the RECORD this report because it is not available anywhere else for the public to review.

PEAKING OF WORLD OIL PRODUCTION: IMPACTS, MITIGATION, & RISK MANAGEMENT

(By Robert L. Hirsch, SAIC, Project Leader; Roger Bezdek, MISI; Robert Wendling, MISI)

February 2005

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EXECUTIVE SUMMARY

The peaking of world oil production presents the U.S. and the world with an unprecedented risk management problem. As peaking is approached, liquid fuel prices and price

volatility will increase dramatically, and, without timely mitigation, the economic, social, and political costs will be unprecedented. Viable mitigation options exist on both the supply and demand sides, but to have substantial impact, they must be initiated more than a decade in advance of peaking.

In 2003, the world consumed just under 80 million barrels per day (MM bpd) of oil. U.S. consumption was almost 20 MM bpd, two-thirds of which was in the transportation sector. The U.S. has a fleet of about 210 million automobiles and light trucks (vans, pick-ups, and SUVs). The average age of U.S. automobiles is nine years. Under normal conditions, replacement of only half the automobile fleet will require 10–15 years. The average age of light trucks is seven years.

Under normal conditions, replacement of one-half of the stock of light trucks will require 9–14 years. While significant improvements in fuel efficiency are possible in automobiles and light trucks, any affordable approach to upgrading will be inherently time-consuming, requiring more than a decade to achieve significant overall fuel efficiency improvement.

Besides further oil exploration, there are commercial options for increasing world oil supply and for the production of substitute liquid fuels: (1) Improved Oil Recovery (IOR) can marginally increase production from existing reservoirs; one of the largest of the IOR opportunities is Enhanced Oil Recovery (EaR), which can help moderate oil production declines from reservoirs that are past their peak production: (2) Heavy oil/oil sands represents a large resource of lower grade oils, now primarily produced in Canada and Venezuela; those resources are capable of significant production increases;. (3) Coal liquefaction is a well established technique for producing clean substitute fuels from the world's abundant coal reserves; and finally, (4) Clean substitute fuels can be produced from remotely located natural gas, but exploitation must compete with the world's growing demand for liquefied natural gas. However, world-scale contributions from these options will require 10–20 years of accelerated effort.

Dealing with world oil production peaking will be extremely complex, involve literally trillions of dollars and require many years of intense effort. To explore these complexities, three alternative mitigation scenarios were analyzed: Scenario I assumed that action is not initiated until peaking occurs. Scenario II assumed that action is initiated 10 years before peaking. Scenario III assumed action is initiated 20 years before peaking.

For this analysis estimates of the possible contributions of each mitigation option were developed, based on an assumed crash program rate of implementation.

Our approach was simplified in order to provide transparency and promote understanding. Our estimates are approximate, but the mitigation envelope that results is believed to be directionally indicative of the realities of such an enormous undertaking. The inescapable conclusion is that more than a decade will be required for the collective contributions to produce results that significantly impact world supply and demand for liquid fuels.

Important observations and conclusions from this study are as follows:

1. When world oil peaking will occur is not known with certainty. A fundamental problem in predicting oil peaking is the poor quality of and possible political biases in world oil reserves data. Some experts believe peaking may occur soon. This study indicates that ''soon'' is within 20 years.

2. The problems associated with world oil production peaking will not be temporary, and past ''energy crisis'' experience will provide relatively little guidance. The challenge of oil peaking deserves immediate, serious attention, if risks are to be fully understood and mitigation begun on a timely basis.

3. Oil peaking will create a severe liquid fuels problem for the transportation sector, not an ''energy crisis'' in the usual sense that term has been used.

4. Peaking will result in dramatically higher oil prices, which will cause protracted economic hardship in the United States and the world. However, the problems are not insoluble. Timely, aggressive mitigation initiatives addressing both the supply and the demand sides of the issue will be required.

5. In the developed nations, the problems will be especially serious. In the developing nations peaking problems have the potential to be much worse.

6. Mitigation will require a minimum of a decade of intense, expensive effort, because the scale of liquid fuels mitigation is inherently extremely large.

7. While greater end-use efficiency is essential, increased efficiency alone will be neither sufficient nor timely enough to solve the problem. Production of large amounts of substitute liquid fuels will be required. A number of commercial or near-commercial substitute fuel production technologies are currently available for deployment, so the production of vast amounts of substitute liquid fuels is feasible with existing technology.

8. Intervention by governments will be required, because the economic and social implications of oil peaking would otherwise be chaotic. The experiences of the 1970s and 1980s offer important guides as to government actions that are desirable and those that are undesirable, but the process will not be easy.

Mitigating the peaking of world conventional oil production presents a classic risk management problem: Mitigation initiated earlier than required may turn out to be premature, if peaking is long delayed. If peaking is imminent, failure to initiate timely mitigation could be extremely damaging.

Prudent risk management requires the planning and implementation of mitigation well before peaking. Early mitigation will almost certainly be less expensive than delayed mitigation. A unique aspect of the world oil peaking problem is that its timing is uncertain, because of inadequate and potentially biased reserves data from elsewhere around the world. In addition, the onset of peaking may be obscured by the volatile nature of oil prices. Since the potential economic impact of peaking is immense and the uncertainties relating to all facets of the problem are large, detailed quantitative studies to address the uncertainties and to explore mitigation strategies are a critical need.

The purpose of this analysis was to identify the critical issues surrounding the occurrence and mitigation of world oil production peaking. We simplified many of the complexities in an effort to provide a transparent analysis. Nevertheless, our study is neither simple nor brief. We recognize that when oil prices escalate dramatically, there will be demand and economic impacts that will alter our simplified assumptions. Consideration of those feedbacks will be a daunting task but one that should be undertaken.

Our study required that we make a number of assumptions and estimates. We well recognize that in-depth analyses may yield different numbers. Nevertheless, this analysis clearly demonstrates that the key to mitigation of world oil production peaking will be the construction of a large number of substitute fuel production facilities, coupled to significant increases in transportation fuel efficiency. The time required to mitigate world oil production peaking is measured on a decade time-scale. Related production facility size is large and capital intensive. How and when governments decide to address these challenges is yet to be determined.

Our focus on existing commercial and near-commercial mitigation technologies illustrates that a number of technologies are currently ready for immediate and extensive implementation. Our analysis was not meant to be limiting. We believe that future research will provide additional mitigation options, some possibly superior to those we considered. Indeed, it would be appropriate to greatly accelerate public and private oil peaking mitigation research. However, the reader must recognize that doing the research required to bring new technologies to commercial readiness takes time under the best of circumstances. Thereafter, more than a decade of intense implementation will be required for world scale impact, because of the inherently large scale of world oil consumption.

In summary, the problem of the peaking of world conventional oil production is unlike any yet faced by modern industrial society. The challenges and uncertainties need to be much better understood. Technologies exist to mitigate the problem. Timely, aggressive risk management will be essential.

I. Introduction

Oil is the lifeblood of modern civilization. It fuels the vast majority of the world's mechanized transportation equipment—Automobiles, trucks, airplanes, trains, ships, farm equipment, the military, etc. Oil is also the primary feedstock for many of the chemicals that are essential to modern life. This study deals with the upcoming physical shortage of world conventional oil—an event that has the potential to inflict disruptions and hardships on the economies of every country.

The earth's endowment of oil is finite and demand for oil continues to increase with time. Accordingly, geologists know that at some future date, conventional oil supply will no longer be capable of satisfying world demand. At that point world conventional oil production will have peaked and begin to decline.

A number of experts project that world production of conventional oil could occur in the relatively near future, as summarized in Table I–1. Such projections are fraught with uncertainties because of poor data, political and institutional self-interest, and other complicating factors. The bottom line is that no one knows with certainty when world oil production will reach a peak, but geologists have no doubt that it will happen.

TABLE I–1.—PREDICTIONS OF WORLD OIL PRODUCTION PEAKING

Projected date	Source of projection
2006–2007	Bakhitari
2007–2009	Simmons
After 2007	Skrebowski
Before 2009	Deffeyes
Before 2010	Goodstein
Around 2010	Campbell
After 2010	World Energy Council
2010–2020	Laherrere
2016	EIA (Nominal)
After 2020	CERA
2025 or later	Shell
No visible Peak	Lynch

Our aim in this study is to summarize the difficulties of oil production forecasting; identify the fundamentals that show why world oil production peaking is such a unique challenge; show why mitigation will take a decade or more of intense effort; examine the potential economic effects of oil peaking; describe what might be accomplished under three example mitigation scenarios; and stimulate serious discussion of

the problem, suggest more definitive studies, and engender interest in timely action to mitigate its impacts.

In Chapter II we describe the basics of oil production, the meaning of world conventional oil production peaking, the challenge of making accurate forecasts, and the effects that higher prices and advanced technology might have on oil production.

Because of the massive scale of oil use around the world, mitigation of oil shortages will be difficult, time consuming, and expensive. In Chapter III we describe the extensive and critical uses of U.S. oil and the long economic and mechanical lifetimes of existing liquid fuel consuming vehicles and equipment.

While it is impossible to predict the impact of world oil production peaking with any certainty, much can be learned from past oil disruptions, particularly the 1973 oil embargo and the 1979 Iranian oil shortage, as discussed in Chapter IV. In Chapter V we describe the developing shortages of U.S. natural gas, shortages that are occurring in spite of assurances of abundant supply provided just a few years ago. The parallels to world oil supply are disconcerting.

In Chapter VI we describe available mitigation options and related implementation issues. We limit our considerations to technologies that are near ready or currently commercially available for immediate deployment. Clearly, accelerated research and development holds promise for other options. However, the challenge related to extensive near-term oil shortages will require deployment of currently viable technologies, which is our focus.

Oil is a commodity found in over 90 countries, consumed in all countries, and traded on world markets. To illustrate and bracket the range of mitigation options, we developed three illustrative scenarios. Two assume action well in advance of the onset of world oil peaking—in one case, 20 years before peaking and in another case, 10 years in advance. Our third scenario assumes that no action is taken prior to the onset of peaking. Our findings illustrate the magnitude of the problem and the importance of prudent risk management.

Finally, we touch on possible market signals that might foretell the onset of peaking and possible wildcards that might change the timing of world conventional oil production peaking. In conclusion, we frame the challenge of an unknown date for peaking, its potentially extensive economic impacts, and available mitigation options as a matter of risk management and prudent response. The reader is asked to contemplate three major questions: What are the risks of heavy reliance on optimistic world oil production peaking projections? Must we wait for the onset of oil shortages before actions are taken? What can be done to ensure that prudent mitigation is initiated on a timely basis?

II. Peaking of World Oil Production

A. BACKGROUND

Oil was formed by geological processes millions of years ago and is typically found in underground reservoirs of dramatically different sizes, at varying depths, and with widely varying characteristics. The largest oil reservoirs are called ''Super Giants,'' many of which were discovered in the Middle East. Because of their size and other characteristics, Super Giant reservoirs are generally the easiest to find, the most economic to develop, and the longest lived. The last Super Giant oil reservoirs discovered worldwide were found in 1967 and 1968. Since then, smaller reservoirs of varying sizes have been discovered in what are called ''oil prone'' locations worldwide—oil is not found everywhere.

Geologists understand that oil is a finite resource in the earth's crust, and at some future date, world oil production will reach a maximum—a peak—after which production will decline. This logic follows from the well-established fact that the output of individual oil reservoirs rises after discovery, reaches a peak and declines thereafter. Oil reservoirs have lifetimes typically measured in decades, and peak production often occurs roughly a decade or so after discovery. It is important to recognize that oil production peaking is not ''running out.'' Peaking is a reservoir's maximum oil production rate, which typically occurs after roughly half of the recoverable oil in a reservoir has been produced. In many ways, what is likely to happen on a world scale is similar to what happens to individual reservoirs, because world production is the sum total of production from many different reservoirs.

Because oil is usually found thousands of feet below the surface and because oil reservoirs normally do not have an obvious surface signature, oil is very difficult to find. Advancing technology has greatly improved the discovery process and reduced exploration failures. Nevertheless, oil exploration is still inexact and expensive.

Once oil has been discovered via an exploratory well, full-scale production requires many more wells across the reservoir to provide multiple paths that facilitate the flow of oil to the surface. This multitude of wells also helps to define the total recoverable oil in a reservoir—its so-called ''reserves.''

B. OIL RESERVES

The concept of reserves is generally not well understood. ''Reserves'' is an estimate of the amount of oil in a reservoir that can be extracted at an assumed cost. Thus, a higher oil price outlook often means that more oil can be produced, but geology places an upper limit on price-dependent reserves growth; in well managed oil fields, it is often 10–20 percent more than what is available at lower prices.

Reserves estimates are revised periodically as a reservoir is developed and new information provides a basis for refinement. Reserves estimation is a matter of gauging how much extractable oil resides in complex rock formations that exist typically one to three miles below the surface of the ground, using inherently limited information. Reserves estimation is a bit like a blindfolded person trying to judge what the whole elephant looks like from touching it in just a few places. It is not like counting cars in a parking lot, where all the cars are in full view.

Specialists who estimate reserves use an array of methodologies and a great deal of judgment. Thus, different estimators might calculate different reserves from the same data. Sometimes politics or self-interest influences reserves estimates, e.g., an oil reservoir owner may want a higher estimate in order to attract outside investment or to influence other producers.

Reserves and production should not be confused. Reserves estimates are but one factor in estimating future oil production from a given reservoir. Other factors include production history, understanding of local geology, available technology, oil prices, etc. An oil field can have large estimated reserves, but if the field is past its maximum production, the remaining reserves will be produced at a declining rate. This concept is important because satisfying increasing oil demand not only requires continuing to produce older oil reservoirs with their declining production, it also requires finding new ones, capable of producing sufficient quantities of oil to both compensate for shrinking production from older fields and to provide the increases demanded by the market.

C. PRODUCTION PEAKING

World oil demand is expected to grow 50 percent by 2025. To meet that demand, ever-larger volumes of oil will have to be produced. Since oil production from individual reservoirs grows to a peak and then declines, new reservoirs must be continually discovered and brought into production to compensate for the depletion of older reservoirs. If large quantities of new oil are not discovered and brought into production somewhere in the world, then world oil production will no longer satisfy demand. That point is called the peaking of world conventional oil production.

When world oil production peaks, there will still be large reserves remaininq. Peaking means that the rate of world oil production cannot increase: it also means that production will thereafter decrease with time.

The peaking of world oil production has been a matter of speculation from the beginning of the modern oil era in the mid 1800s. In the early days, little was known about petroleum geology, so predictions of peaking were no more than guesses without basis. Over time, geological understanding improved dramatically and guessing gave way to more informed projections, although the knowledge base involves numerous uncertainties even today.

Past predictions typically fixed peaking in the succeeding 10–20 year period. Most such predictions were wrong, which does not negate that peaking will someday occur. Obviously, we cannot know if recent forecasts are wrong until predicted dates of peaking pass without incident.

With a history of failed forecasts, why revisit the issue now? The reasons are as follows:

1. Extensive drilling for oil and gas has provided a massive worldwide database; current geological knowledge is much more extensive than in years past, i.e., we have the knowledge to make much better estimates than previously.

2. Seismic and other exploration technologies have advanced dramatically in recent decades, greatly improving our ability to discover new oil reservoirs. Nevertheless, the oil reserves discovered per exploratory well began dropping worldwide over a decade ago. We are finding less and less oil in spite of vigorous efforts, suggesting that nature may not have much more to provide.

3. Many credible analysts have recently become much more pessimistic about the possibility of finding the huge new reserves needed to meet growing world demand.

4. Even the most optimistic forecasts suggest that world oil peaking will occur in less than 25 years.

5. The peaking of world oil production could create enormous economic disruption, as only glimpsed during the 1973 oil embargo and the 1979 Iranian oil cut-off.

Accordingly, there are compelling reasons for in-depth, unbiased reconsideration.

D. TYPES OF OIL

Oil is classified as ''Conventional'' and ''Unconventional.'' Conventional oil is typically the highest quality, lightest oil, which flows from underground reservoirs with comparative ease. Unconventional oils are heavy, often tar-like. They are not readily recovered since production typically requires a great deal of capital investment and supplemental energy in various forms. For that reason, most current world oil production is conventional oil. (Unconventional oil production will be discussed in Chapter VI).

E. OIL RESOURCES

Consider the world resource of conventional oil. In the past, higher prices led to increased estimates of conventional oil reserves worldwide. However, this price-reserves relationship has its limits, because oil

is found in discrete packages (reservoirs) as opposed to the varying concentrations characteristic of many minerals. Thus, at some price, world reserves of recoverable conventional oil will reach a maximum because of geological fundamentals. Beyond that point, insufficient additional conventional oil will be recoverable at any realistic price. This is a geological fact that is often misunderstood by people accustomed to dealing with hard minerals, whose geology is fundamentally different. This misunderstanding often clouds rational discussion of oil peaking.

Future world recoverable reserves are the sum of the oil remaining in existing reservoirs plus the reserves to be added by future oil discoveries. Future oil production will be the sum of production from older reservoirs in decline, newer reservoirs from which production is increasing, and yet-to-be discovered reservoirs.

Because oil prices have been relatively high for the past decade, oil companies have conducted extensive exploration over that period, but their results have been disappointing. If recent trends hold, there is little reason to expect that exploration success will dramatically improve in the future. This situation is evident in Figure 11–1, which shows the difference between annual world oil reserves additions minus annual consumption. The image is one of a world moving from a long period in which reserves additions were much greater than consumption, to an era in which annual additions are falling increasingly short of annual consumption. This is but one of a number of trends that suggest the world is fast approaching the inevitable peaking of conventional world oil production.

F. IMPACT OF HIGHER PRICES AND NEW TECHNOLOGY

Conventional oil has been the mainstay of modern civilization for more than a century, because it is most easily brought to the surface from deep underground reservoirs, and it is the most easily refined into finished fuels. The U.S. was endowed with huge reserves of petroleum, which underpinned U.S. economic growth in the early and mid twentieth century. However, U.S. oil resources, like those in the world, are finite, and growing U.S. demand resulted in the peaking of U.S. oil production in the Lower 48 states in the early 1970s. With relatively minor exceptions, U.S. Lower 48 oil production has been in continuing decline ever since. Because U.S. demand for petroleum products continued to increase, the U.S. became an oil importer. Today, the U.S. depends on foreign sources for almost 60 percent of its needs, and future U.S. imports are projected to rise to 70 percent of demand by 2025.

Over the past 50 years, exploration for and production of petroleum has been an increasingly more technological enterprise, benefiting from more sophisticated engineering capabilities, advanced geological understanding, improved instrumentation, greatly expanded computing power, more durable materials, etc. Today's technology allows oil reservoirs to be more readily discovered and better understood sooner than heretofore. Accordingly, reservoirs can be produced more rapidly, which provides significant economic advantages to the operators but also hastens peaking and depletion.

Some economists expect higher oil prices and improved technologies to continue to provide ever-increasing oil production for the foreseeable future. Most geologists disagree because they do not believe that there are many huge new oil reservoirs left to be found. Accordingly, geologists and other observers believe that supply will eventually fall short of growing world demand—and result in the peaking of world conventional oil production.

To gain some insight into the effects of higher oil prices and improved technology on oil production, let us briefly examine related impacts in the U.S. Lower 48 states. This region is a useful surrogate for the world, because it was one of the world's richest, most geologically varied, and most productive up until 1970, when production peaked and started into decline. While the U.S. is the best available surrogate, it should be remembered that the decline rate in US production was in part impacted by the availability of large volumes of relatively low cost oil from the Middle East.

The trend lines show a relatively symmetric, triangular pattern. For reference, four notable petroleum market events are noted in the figure: the 1973 OPEC oil embargo, the 1979 Iranian oil crisis, the 1986 oil price collapse, and the 1991 Iraq war.

In constant dollars, oil prices increased by roughly a factor of three in 1973–74 and another factor of two in 1979–80. The modest production up-ticks in the mid 1980s and early 1990s are likely responses to the 1973 and 1979 oil price spikes, both of which spurred a major increase in U.S exploration and production investments. The delays in production response are inherent to the implementation of large-scale oil field investments. The fact that the production up-ticks were moderate was due to the absence of attractive exploration and production opportunities, because of geological realities. Beyond oil price increases, the 1980s and 1990s were a golden age of oil field technology development, including practical 3–D seismic, economic horizontal drilling, and dramatically improved geological understanding. Nevertheless, Lower 48 production still trended downward, showing no pronounced response to either price or technology. In light of this experience, there is good reason to expect that an analogous situation will exist worldwide after world oil production peaks: Higher prices and improved technology are unlikely to yield dramatically higher conventional oil production.

G. PROJECTIONS OF THE PEAKING OF WORLD OIL PRODUCTION

Projections of future world oil production will be the sum total of (1) output from all of the world's then existing producing oil reservoirs, which will be in various stages of development, and (2) all the yet-to-be discovered reservoirs in their various states of development. This is an extremely complex summation problem, because of the variability and possible biases in publicly available data. In practice, estimators use various approximations to predict future world oil production. The remarkable complexity of the problem can easily lead to incorrect conclusions, either positive or negative.

Various individuals and groups have used available information and geological estimates to develop projections for when world oil production might peak. A sampling of recent projections is shown in Table II–1.

TABLE II–1.—PROJECTIONS OF THE PEAKING OF WORLD OIL PRODUCTION

Projected date	Source of projection	Background and reference
2006–2007	Bakhitari, A.M.S.	Iranian Oil Executive
2007–2009	Simmons, M.R.	Investment banker
After 2007	Skrebowski, C.	Petroleum journal Editor
Before 2009	Deffeyes, K.S.	Oil company geologist (ret.)
Before 2010	Goodstein, D.	Vice Provost, Cal Tech
Around 2010	Campbell, C.J.	Oil company geologist (ret.)
After 2010	World Energy Council	World Non-Government Org.
2010–2020	Laherrere, J.	Oil company geologist (ret.)
2016	EIA nominal case	DOE analysis/information
After 2020	CERA	Energy consultants
2025 or later	Shell	Major oil company
No visible peak	Lynch, M.C.	Energy economist

III. WHY THE TRANSITION WILL BE SO TIME CONSUMING

A. INTRODUCTION

Use of petroleum is pervasive throughout the U.S. economy. It is directly linked to all market sectors because all depend on oil-consuming capital stock. Oil price shocks and supply constraints can often be mitigated by temporary decreases in consumption; however, long term price increases resulting from oil peaking will cause more serious impacts. Here we examine historical oil usage patterns by market sector, provide a summary of current consumption patterns, identify the most important markets, examine the relationship between oil and capital stock, and provide estimates of the time and costs required to transition to more energy efficient technologies that can play a role in mitigating the adverse effects of world oil peaking.

B. HISTORICAL U.S. OIL CONSUMPTION PATTERNS

After the two oil price shocks and supply disruptions in 1973–74 and 1979, oil consumption in the U.S. decreased 13 percent, declining from nearly 35 quads in 1973 to 30 quads in 1983. However, overall consumption continued to grow after the 1983 low and has continuously increased over the last 20 years, reaching over 39 quads in 2003, as shown in Figure 111–1. Of particular note are changes in three U.S. market sectors: (1) Oil consumption in the residential sector declined from eight percent of total oil consumption in 1973 to four percent in 2003, a decrease of 50 percent; (2) Oil consumption in the commercial sector declined from five percent to two percent, decreasing 58 percent; and (3) Consumption in the electric power sector fell from 10 percent in 1973 to three percent in 2003, decreasing 70 percent. These three market sectors currently account for 1.3 quads of oil consumption annually, representing nine percent of U.S. oil demand in 2003.

Oil consumption in other market sectors did not decrease. A 140 percent growth in GDP over the 1973–2003 period made it difficult to decrease oil consumption in the industrial and transportation sectors. In particular, personal transportation grew significantly over the past three decades, and total vehicle miles traveled for cars and light trucks more than doubled over the period. From 1973 to 2003, consumption of oil in the industrial sector stayed relatively flat at just over nine quads, and the industrial sector's share of total U.S. consumption remained between 24 and 26 percent. In sharp contrast to all other sectors, U.S. oil consumption for transportation purposes has increased steadily every year, rising from just over 17 quads in 1973 to 26 quads in 2003. By 2003, the transportation sector accounted for two-thirds of the oil consumed in the U.S.

C. PETROLEUM IN THE CURRENT U.S. ECONOMY

The 39 quad consumption of oil in the U.S. in 2003 is equivalent to 19.7 million barrels of oil per day (MM bpd), including almost 13.1 MM bpd consumed by the transportation sector and 4.9 MM bpd by the industrial sector, as shown in Table III–1. This table also shows the petroleum fuel types consumed by each sector. Motor gasoline consumption accounted for 45 percent of U.S. daily petroleum consumption, nearly 9 MM bpd, almost all of which was used in autos and light

trucks. Distillate fuel oil was the second-most consumed oil product at almost 3.8 MM bpd (19 percent of consumption), and most was used as diesel fuel for medium and heavy trucks. Finally, the third most consumed oil product was liquefied petroleum gases, at 2.2 MM bpd equivalent (11 percent of total consumption), most of which was used in the industrial sector as feedstock by the chemicals industry. Only two other consuming areas exceeded the 1 MM bpd level: kerosene and jet fuel in the transportation sector, primarily for airplanes, and ''other petroleum'' by the industrial sector, primarily petroleum feedstocks used to produce non-fuel products in the petroleum and chemical industries.

TABLE III–1.—DETAILED CONSUMPTION OF PETROLEUM IN THE U.S. BY FUEL TYPE AND SECTOR—2003

[Thousand of barrels per day]

	Residential	Commercial	Industrial	Transportation	Electric Power	Total
Motor Gasoline		20	159	8,665		8,844
Distillate Fuel Oil	421	236	603	2,455	51	3,766
LPG	429	76	1,648	10		2,163
Kerosene/Jet Fuel	27	9	7	1,608		1,651
Residual		30	87	250	291	658
Asphalt & Road Oil			513			513
Petroleum Coke			398		61	459
Lubricants			78	73		151
Aviation Gas				18		18
Other Petroleum			1,435			1,435
Total	877	371	4,928	13,079	403	19,658

D. CAPITAL STOCK CHARACTERISTICS IN THE LARGEST CONSUMING SECTORS

Energy efficiency improvements and technological changes are typically incorporated into products and services slowly, and their rate of market penetration is based on customer preferences and costs. In the 1974–1983 period, oil prices ratcheted up to newer, higher levels, which led to significant energy efficiency improvements, energy fuel switching, and other more general technological changes. Some changes came about due to legislative mandates (corporate average fuel economy standards, CAFE) or subsidies (solar energy and energy efficiency tax credits), but many were the result of economic decisions to reduce long-term costs. Under a normal course of replacement based on historical trends, oil-consuming capital stock has been replaced in the U.S. over a period of 15 to 50 years and has cost consumers and businesses trillions of dollars, as discussed below.

Automobiles represent the largest single oil-consuming capital stock in the U.S. 130 million autos consume 4.9 MM bpd, or 25 percent of total consumption, as shown in Table III–2. Autos remain in the U.S. transportation fleet, or rolling stock, for a long time. While the financial-based current-cost, average age of autos is only 3.4 years, the average age of the stock is currently nine years.

Recent studies show that one half of the 1990-model year cars will remain on the road 17 years later in 2007. At normal replacement rates, consumers will spend an estimated $1.3 trillion (constant 2003 dollars) over the next 10–15 years just to replace one-half the stock of automobiles.

TABLE III–2.—U.S. CAPITAL STOCK PROFILES

	Autos	Light Trucks	Heavy Trucks	Air Carriers
Oil consumption (MM bpd)	4.9	3.6	3.0	1.1
Share of the U.S. total	25%	18%	16%	6%
Current cost of net capital stock (billion $)	$571 B	$435 B	$686 B	$110 B
Fleet size	130 MM	80 MM	7 MM	8,500
Number of annual purchases	8.5 MM	8.5 MM	500,000	400
Average age of stock (years)	9	7	9	13
Median lifetime (years)	17	16	28	22

A similar situation exists with light trucks (vans, pick-ups, and SUVs), which consume 3.6 MM bpd of oil, accounting for 18 percent of total oil consumption. Light trucks are depreciated on a faster schedule, and their financial-based current-cost average age is 2.9 years. However, the average physical age of the rolling stock is seven years, and the median lifetime of light trucks is 16 years. At current replacement rates, one-half of the 80 million light trucks will be replaced in the next 9–14 years at a cost of $1 trillion.

Seven million heavy trucks (including buses, highway trucks, and off-highway trucks) represent the third largest consumer of oil at 3.0 MM bpd, 16 percent of total consumption. The current-cost average age of heavy trucks is 5.0 years, but the median lifetime of this equipment is 28 years. The disparity in the average age and the median lifetime estimates indicate that a significant number of vehicles are 40–60 years old. At normal replacement levels, one-half of the heavy truck stock will be replaced by businesses in the next 15–20 years at a cost of $1.5 trillion.

The fourth-largest consumer of oil is the airlines, which consume the equivalent of 1.1 MM bpd, representing six percent of U.S. consumption. The 8,500 aircraft have a current-cost average age of 9.1 years, and a median lifetime of 22 years. Airline deregulation and the events of September 11, 2001, have had significant effects on the industry, its ownership, and recent business decisions. At recent rates, airlines will replace one-half of their stock over the next 15–20 years at a cost of $250 billion.

These four capital stock categories cover most transportation modes and represent 65 percent of the consumption of oil in the U.S. The three largest categories of autos, light trucks, and heavy trucks all utilize the internal combustion engine, whether gasoline- or diesel-burning. Clearly, advancements in energy efficiency and replacement in this capital stock (for instance, electric-hybrid engines) would help mitigate the economic impacts of rising oil prices caused by world oil peaking. However, as described, the normal replacement rates of this equipment will require 10–20 years and cost trillions of dollars. We cannot conceive of any affordable government-sponsored ''crash program'' to accelerate normal replacement schedules so as to incorporate higher energy efficiency technologies into the privately-owned transportation sector; significant improvements in energy efficiency will thus be inherently time-consuming (of the order of a decade or more).

When oil prices increase associated with oil peaking, consumers and businesses will attempt to reduce their exposure by substitution or by decreases in consumption. In the short run, there may be interest in the substitution of natural gas for oil in some applications, but the current outlook for natural gas availability and price is cloudy for a decade or more. An increase in demand for electricity in rail transportation would increase the need for more electric power plants. In the short run, much of the burden of adjustment will likely be borne by decreases in consumption from discretionary decisions, since 67 percent of personal automobile travel and nearly 50 percent of airplane travel are discretionary.

E. CONSUMPTION OUTSIDE THE U.S.

Oil consumption patterns differ in other countries. While two-thirds of U.S. oil use is in the transportation sector, worldwide that share is estimated about 55 percent. However, that difference is narrowing as world economic development is expanding transportation demands at an even faster pace. A portion of nontransportation oil consumption is switchable. As stated by EIA, ''Oil's importance in other end-use sectors is likely to decline where other fuels are competitive, such as natural gas, coal, and nuclear, in the electric sector, but currently there are no alternative energy sources that compete economically with oil in the transportation sector.'' Because sector-by-sector oil consumption data for many counties is unavailable, a detailed analysis of world consumption was beyond the scope of this report. Nevertheless, it is clear that transportation is the primary market for oil worldwide.

F. TRANSITION CONCLUSIONS

Any transition of liquid fueled, end-use equipment following oil peaking will be time consuming. The depreciated value of existing U.S. transportation capital stock is nearly $2 trillion and would normally require 25–30 years to replace. At that rate, significantly more energy efficient equipment will only be slowly phased into the marketplace as new capital stock gradually replaces existing stock. Oil peaking will likely accelerate replacement rates, but the transition will still require decades and cost trillions of dollars.

IV. LESSONS AND IMPLICATIONS FROM PREVIOUS OIL SUPPLY DISRUPTIONS

A. PREVIOUS OIL SUPPLY SHORTFALL AND DISRUPTIONS

There have been over a dozen global oil supply disruptions over the past half-century.

Briefly, disruptions ranged in duration from one to 44 months. Supply shortfalls were 0.3–4.6 MM bpd, and eight resulted in average gross supply shortfalls of at least 2 MM bpd. Percentage supply shortfalls varied from roughly one percent to nearly 14 percent of world production. The most traumatic disruption, 1973–74, was not the most severe, but it nevertheless lead to greatly increased oil prices and significant worldwide economic damage. The second most traumatic disruption, 1979, was also neither the longest nor the most severe.

For purposes of this study, the 1973–74 and 1979 disruptions are taken as the most relevant, because they are believed to offer the best insights into what might occur when world oil production peaks.

B. DIFFICULTIES IN DERIVING IMPLICATIONS FROM PAST EXPERIENCE

Over the past 30 years, most economic studies of the impact of oil supply disruptions assumed that the interruptions were temporary and that each situation would shortly return to ''normal'' Thus, the major focus of most studies was determination of the appropriate fiscal and monetary policies required to minimize negative economic impacts and the development of policies to help the economy and labor market adjust until the disruption ended. Few economists considered a situation where the oil supply shortfall may be long-lived (a decade or more).

Since 1970, most large oil price increases were eventually followed by oil price declines, and, since these cycles were expected to be repeated, it was generally felt that ''the problem will take care of itself as long at the government does nothing and does not interfere. The frequent and incorrect predictions of oil shortfalls have been often used to discredit future predictions of a longer-term problem and to discredit the need for appropriate long-term U.S. energy policies.

C. HOW OIL SUPPLY SHORTFALLS AFFECT THE GLOBAL ECONOMY

Oil prices playa key role in the global economy, since the major impact of an oil supply disruption is higher oil prices. Oil price increases transfer income from oil importing to oil exporting countries, and the net impact on world economic growth is negative. For oil importing countries, increased oil prices reduce national income because spending on oil rises, and there is less available to spend on other goods and services. Not surprisingly, the larger the oil price increase and the longer higher prices are sustained, the more severe is the macroeconomic impact.

Higher oil prices result in increased costs for the production of goods and services, as well as inflation, unemployment, reduced demand for products other than oil, and lower capital investment. Tax revenues decline and budget deficits increase, driving up interest rates. These effects will be greater the more abrupt and severe the oil price increase and will be exacerbated by the impact on consumer and business confidence.

Government policies cannot eliminate the adverse impacts of sudden, severe oil disruptions, but they can minimize them. On the other hand, contradictory monetary and fiscal policies to control inflation can exacerbate recessionary income and unemployment effects. (See Appendix II for further discussion of past government actions).

D. THE U.S. EXPERIENCE

Oil price increases have preceded most U.S. recessions since 1969, and virtually every serious oil price shock was followed by a recession. Thus, *while oil price spikes may not be necessary to trigger a recession in the U.S., they have proven to be sufficient over the past 30 years.*

E. THE EXPERIENCE OF OTHER COUNTRIES

1. The developed (OECD) economies

Estimates of the damage caused by past oil price disruptions vary substantially, but without a doubt, the effects were significant. Economic growth decreased in most oil importing countries following the disruptions of 1973–74 and 1979–80, and the impact of the first oil shock was accentuated by inappropriate policy responses. Despite a decline in the ratio of oil consumption to GDP over the past three decades, oil remains vital, and there is considerable empirical evidence regarding the effects of oil price shocks:

The loss suffered by the OECD countries in the 1974/–75 recession amounted to $350 billion (current dollars) / $1.1 trillion 2003 dollars, althouh part of this loss was related to factors other than oil price. The loss resulting from the 1979 oil disruption was about three percent of GDP ($350 billion in current dollars) in 1980 rising to 4.25 percent ($570 billion) in 1981, and accounted for much of the decline in economic growth and the increase in inflation and unemployment in the OECD in 1981–82. The effect of the 1990–91 oil price upsurge was more modest, because price increases were smaller; they did not persist; and oil intensity in OECD countries had declined. Although oil intensity and the share of oil in total imports have declined in recent years, OECD economies remain vulnerable to higher oil prices, because of the ''life blood'' nature of liquid fuel use.

2. Developing countries

Developing countries suffer more than the developed countries from oil price increases because they generally use energy less efficiently and because energy-intensive manufacturing accounts for a larger share of their GDP. On average, developing countries use more than twice as much oil to produce a unit of output as developed countries, and oil intensity is increasing in developing countries as commercial fuels replace traditional fuels and industrialization/urbanization continues.

The vulnerability of developing countries is exacerbated by their limited ability to switch to alternative fuels. In addition, an increase in oil import costs also can destabilize trade balances and increase inflation more in developing countries, where financial institutions and monetary authorities are often relatively unsophisticated. This problem is most pronounced for the poorest developing countries.

F. IMPLICATIONS

1. The world economy

A shortfall of oil supplies caused by world conventional oil production peaking will sharply increase oil prices and oil price volatility. As oil peaking is approached, relatively minor events will likely have more pronounced impacts on oil prices and futures markets.

Oil prices remain a key determinant of global economic performance, and world economic growth over the past 50 years has been negatively impacted in the wake of increased oil prices. The greater the supply shortfall, the higher the price increases; the longer the shortfall, the greater will be the adverse economic affects.

The long-run impact of sustained, significantly increased oil prices associated with oil peaking will be severe. Virtually certain are increases in inflation and unemployment, declines in the output of goods and services, and a degradation of living standards. Without timely mitigation, the long-run impact on the developed economies will almost certainly be extremely damaging, while many developing nationsly be even worse off.

The impact of oil price changes will likely be asymmetric. The negative economic effects of oil price increases are usually not offset by the economic stimulus resulting from a fall in oil prices. The increase in economic growth in oil exporting countries provided by higher oil prices has been less than the loss of economic growth in importing countries, and these effects will likely continue in the future.

2. The United States

For the U.S., each 50 percent sustained increase in the price of oil will lower real U.S. GDP by about 0.5 percent, and a doubling of oil prices would reduce GDP by a full percentage point. Depending on the U.S. economic growth rate at the time, this could be a sufficient negative impact to drive the country into recession. Thus, assuming an oil price in the $25 per barrel range—the 2002–2003 average, an increase of the price of oil to $50 per barrel would cost the economy a reduction in GDP of around $125 billion.

If the shortfall persisted or worsened (as is likely in the case of peaking), the economic impacts would be much greater. Oil supply disruptions over the past three decades have cost the U.S. economy about $4 trillion, so supply shortfalls associated with the approach of peaking could cost the U.S. as much as all of the oil supply disruptions since the early 1970s combined.

The effects of oil shortages on the U.S. are also likely to be asymmetric. Oil supply disruptions and oil price increases reduce economic activity, but oil price declines have a less beneficial impact. Oil shortfalls and price increases will cause larger responses in job destruction than job creation, and many more jobs may be lost in response to oil price increases than will be regained if oil prices were to decrease. These effects will be more pronounced when oil price volatility increases as peaking is approached. The repeated economic and job losses experienced during price spikes will not be replaced as prices decrease. As these cycles continue, the net economic and job losses will increase.

Sectoral shifts will likely be pronounced. Even moderate oil disruptions could cause shifts among sectors and industries of ten percent or more of the labor force. Continuing oil shortages will likely have disruptive inter- industry, and inter-regional effects, and the sectors that are (both directly and indirectly) oil-dependant could be severely impacted.

Monetary policy is more effective in controlling the inflationary effects of a supply disruption than in averting related recessionary effects. Thus, while appropriate monetary policy may be successful in lessening the inflationary impacts of oil price increases, it may do so at the cost of recession and increased unemployment. Monetary policies tend to be used to increase interest rates to control inflation, and it is the high interest rates that cause most of the economic damage. As peaking is approached, devising appropriate offsetting fiscal, monetary, and energy policies will become more difficult. Economically, the decade following peaking may resemble the 1970s, only worse, with dramatic increases in inflation, long-term recession, high unemployment, and declining living standards.

V. LEARNING FROM THE NATURAL GAS EXPERIENCE

A. INTRODUCTION

A dramatic example of the risks of over-reliance on geological resource projections is the experience with North American natural gas. Natural gas supplies roughly 20 percent of U.S. energy demand. It has been plentiful at real prices of roughly $2/Mcf for almost two decades. Over the past 10 years, natural gas has become the fuel of choice for new electric power generation plants and, at present, virtually all new electric power generation plants use natural gas.

Part of the attractiveness of natural gas was resource estimates for the U.S. and Canada that promised growing supply at reasonable prices for the foreseeable future. That optimism turns out to have been misplaced, and the U.S. is now experiencing supply constraints and high natural gas prices. Supply difficulties are almost certain for at least the remainder of the decade. The North American natural gas situation provides some useful lessons relevant to the peaking of conventional world oil production.

B. THE OPTIMISM

As recently as 2001, a number of credible groups were optimistic about the ready

availability of natural gas in North America. For example:

In 1999 the National Petroleum Council stated ''U.S. production is projected to increase from 19 trillion cubic feet (Tcf) in 1998 to 25 Tcf in 2010 and could approach 27 Tcf in 2015 . . . Imports from Canada are projected to increase from 3 Tcf in 1998 to almost 4 Tcf in 2010.''

In 2001 Cambridge Energy Research Associates (CERA) stated ''The rebound in North American gas supply has begun and is expected to be maintained at least through 2005. In total, we expect a combination of US lower–48 activity, growth in Canadian supply, and growth in LNG imports to add 8.95 Bcf per day of production by 2005.''

The U.S. Energy Department's Energy Information Administration (EIA) in 1999 projected that U.S. natural gas production would grow continuously from a level of 19.4 Tcf in 1998 to 27.1 Tcf in 2020.

C. TODAY'S PERSPECTIVES

The current natural gas supply outlook has changed dramatically. Among those that believe the situation has changed for the worse are the following:

CERA now finds that ''The North American natural gas market is set for the longest period of sustained high prices in its history, even adjusting for inflation. Disappointing drilling results . . . have caused CERA to revise the outlook for North American supply downward . . . The downward revisions represent additional disappointing supply news, painting a more constrained picture for continental supply. Gas production in the United States (excluding Alaska) now appears to be in permanent decline, and modest gains in Canadian supply will not overcome the US downturn.

Raymond James & Associates finds that ''Natural gas production continues to drop despite a 20 percent increase in U.S. drilling activity since April 2003. ''U.S. natural gas production is heading firmly downwards . . .''

''Lehman now expects full-year U.S. production to decline by 4% following a 6% decline in 2003. . . . Domestic production is forecast to fall to 41.0 billion cubic feet a day by 2008 from 46.8 in 2003 and 52.1 in 1998. After a sharp 12% fall in 2003, Canadian imports are seen dropping.''

The NPC now contends that ''Current higher gas prices are the result of a fundamental shift in the supply and demand balance. North America is moving to a period in its history in which it will no longer be self-reliant in meeting its growing natural gas needs; production from traditional U.S. and Canadian basins has plateaued.''

Canada has been a reliable U.S. source of natural gas imports for decades. However, the Canadian situation has recently changed for the worse. For example: ''Natural gas production in Alberta, the largest exporter to the huge U.S. market, slipped 2 percent last year despite record drilling and may have peaked in 2001, the Canadian province's energy regulator said on Thursday . . . Production peaked at 5.1 trillion cubic feet in 2001. . . . (EUB) forecast flat production in 2004 and an annual decline of 2.5 percent through at least 2013.''

D. U.S. NATURAL GAS PRICE HISTORY

EIA data show that U.S. natural gas prices were relatively stable in constant dollars from 1987 through 1998. However, beginning in 2000, prices began to escalate—they were roughly 50 percent higher in 2000 compared to 1998. Skipping over the recession years of 2001 and 2002, prices in late 2003 and early 2004 further increased roughly 25 percent over 2000.

While it is often inappropriate to extrapolate gas or oil prices into the future based on short term experience, a number of organizations are now projecting increased U.S. natural gas prices for a number of years. For example, CERA now expects natural gas prices to rise steadily through 2007.

E. LNG—DELAYED SALVATION

With North American natural gas production suddenly changed, hopes of meeting future demand have turned to imports of liquefied natural gas (LNG). The U.S. has four operating LNG terminals, and a number of proposals for new terminals have been advanced. Indeed, the Secretary of Energy and the Chairman of the Federal Reserve Board recently called for a massive buildup in LNG imports to meet growing U.S. natural gas demand.

But the construction of new terminals demands state and local approvals. Because of NIMBYism and fear of terrorism at LNG facilities, a number of the proposed terminals have been rejected. There are also objections from Mexico, which has been proposed as a host for LNG terminals to support west coast natural gas demands. In the Boston area there is an ongoing debate as to whether the nation's largest LNG terminal in Everett, Massachusetts, ought to be shut down, because of terrorist concerns. Decommissioning of that terminal would exacerbate an already tight national natural gas supply situation. Public fears about LNG safety were heightened by an explosion at an LNG liquefaction plant in Algeria that killed 27 people in January 2004. Alternatively, some are considering locating LNG terminals offshore with gas pipelined underwater to land; related costs will be higher, but safety would be enhanced.

F. THE U.S. CURRENT NATURAL GAS SITUATION

U.S. natural gas demand is increasing; North American natural gas production is declining or poised for decline as indicated in references 53, 54, and 55. The planned U.S. expansion of LNG imports is experiencing delays. U.S. natural gas supply shows every sign of deteriorating significantly before mitigation provides an adequate supply of low cost natural gas. Because of the time required to make major changes in the U.S. natural gas infrastructure and marketplace, forecasts of a decade of high prices and shortages are credible.

G. LESSONS LEARNED

A full discussion of the complex dimensions of the current U.S. natural gas situation is beyond the scope of this study; such an effort would require careful consideration of geology, reserves estimation, natural gas exploration and production, government land restrictions, storage, weather, futures markets, etc. Nevertheless, we believe that the foregoing provides a basis for the following observations: Like oil reserves estimation, natural gas reserves estimation is subject to enormous uncertainty. North American natural gas reserves estimates now appear to have been excessively optimistic and North American natural gas production is now almost certainly in decline. High prices do not a priori lead to greater production. Geology is ultimately the limiting factor, and geological realities are clearest after the fact.Even when urgent, nation-scale energy problems arise, business-as-usual mitigation activities can be dramatically delayed or stopped by state and local opposition and other factors.

If experts were so wrong on their assessment of North American natural gas, are we really comfortable risking that the optimists are correct on world conventional oil production, which involves similar geological and technological issues?

If higher prices did not bring forth vast new supplies of North American natural gas, are we really comfortable that higher oil prices will bring forth huge new oil reserves and production, when similar geology and technologies are involved?

VI. MITIGATION OPTIONS AND ISSUES

A. CONSERVATION

Practical mitigation of the problems associated with world oil peaking must include fuel efficiency technologies that could impact on a large scale. Technologies that may offer significant fuel efficiency improvements fall into two categories: retrofits, which could improve the efficiency of existing equipment, and displacement technologies, which could replace existing, less efficient oil consuming equipment. A comprehensive discussion of this subject is beyond the scope of this study, so we focus on what we believe to be the highest impact, existing technologies. Clearly, other technologies might contribute on a lesser scale.

From our prior discussion of current liquid fuel usage (Chapter III), it is clear that automobiles and light trucks (light duty vehicles or LDVs) represent the largest targets for consumption reduction. This should not be surprising: Auto and LDV fuel use is large, and fuel efficiency has not been a consumer priority for decades, largely due to the historically low cost of gasoline. An established but relatively little-used engine technology for LDVs in the U.S. is the diesel engine, which is up to 30 percent more efficient than comparable gasoline engines. Future U.S. use of diesels in LDVs has been problematic due to increasingly more stringent U.S. air emission requirements. European regulations are not as restrictive, so Europe has a high population of diesel LDVs—between 55 and 70 percent in some countries.

A new technology in early commercial deployment is the hybrid system, based on either gasoline or diesel engines and batteries. In all-around driving tests, gasoline hybrids have been found to be 40 percent more efficient in small cars and 80 percent more efficient in family sedans.

For retrofit application, neither diesel nor hybrid engines appear to have significant potential, so their use will likely be limited to new vehicles. Under business-as-usual market conditions, hybrids might reach roughly 10 percent on-the-road U.S. market share by 2015. That penetration rate is based on the fact that the technology has met many of the performance demands of a significant number of today's consumers and that gasoline hybrids use readily available fuel.

Government-mandated vehicle fuel efficiency requirements are virtually certain to be an element in the mitigation of world oil peaking. One result would almost certainly be the more rapid deployment of diesel and/or hybrid engines. Market penetration of these technologies cannot happen rapidly, because of the time and effort required for manufacturers to retool their factories for large-scale production and because of the slow turnover of existing stock. In addition, a shift from gasoline to diesel fuel would require a major refitting of refineries, which would take time.

Nation-scale retrofit of existing LDVs to provide improved fuel economy has not received much attention. One retrofit technology that might prove attractive for the existing LDV fleet is ''displacement on demand'' in which a number of cylinders in an engine are disabled when energy demand is low. The technology is now available on new cars, and fuel economy savings of roughly 20 percent have been claimed. The feasibility and cost of such retrofits are not known, so we consider this option to be speculative.

It is difficult to project what the fuel economy benefits of hybrid or diesel LDVs might be on a national scale, because consumer preferences will likely change once the public understands the potential impacts of the

peaking of world oil production. For example, the current emphasis on large vehicles and SUVs might well give way to preferences for smaller, much more fuel-efficient vehicles.

The fuel efficiency benefits that hybrids might provide for heavy-duty trucks and buses are likely smaller than for LDVs for a number of reasons, including the fact that there has long been a commercial demand for higher efficiency technologies in order to minimize fuel costs for these fleets.

Hybrids can also impact the medium duty truck fleet, which is now heavily populated with diesel engines. For example, road testing of diesel hybrids in FedEx trucks recently began, with fuel economy benefits of 33 percent claimed. On the other hand, there appears to be limits to the fuel economy benefits of hybrid engines in large vehicles; for example, the fuel savings in hybrid buses might only be in the 10 percent range.

On the distant horizon, innovations in aircraft design may result in large fuel economy improvements. For example, a 25 to 50 percent fuel efficiency improvement may be possible with a new, blended wing aircraft. Such benefits would require the purchase of entirely new equipment, requiring a decade or more for significant market penetration. Innovations for major liquid fuel savings for trains and ships may exist but are not widely publicized.

B. IMPROVED OIL RECOVERY

Management of an oil reservoir over its multi-decade life is influenced by a range of factors, including (1) actual and expected future oil prices; (2) production history, geology, and status of the reservoir; (3) cost and character of production-enhancing technologies; (4) timing of enhancements; (5) the financial condition of the operator; (6) political and environmental circumstances; (7) an operator's other investment opportunities, etc.

Improved Oil Recovery (IOR) is used to varying degrees on all oil reservoirs. IOR encompasses a variety of methods to increase oil production and to expand the volume of recoverable oil from reservoirs. Options include in-fill drilling, hydraulic fracturing, horizontal drilling, advanced reservoir characterization, enhanced oil recovery (EOR), and a myriad of other methods that can increase the flow and recovery of liquid hydrocarbons. IOR can also include many seemingly mundane efficiencies introduced in daily operations.

IOR technologies are adapted on a case-by-case basis. It is not possible to estimate what IOR techniques or processes might be applied to a specific reservoir without having detailed knowledge of that reservoir. Such knowledge is rarely in the public domain for the large conventional oil reservoirs in the world; if it were, then a more accurate estimate of the timing of world oil peaking would be possible.

A particularly notable opportunity to increase production from existing oil reservoirs is the use of enhanced oil recovery technology (EOR), also known as tertiary recovery. EOR is usually initiated after primary and secondary recovery have provided most of what they can provide. Primary production is the process by which oil naturally flows to the surface because oil is under pressure underground. Secondary recovery involves the injection of water into a reservoir to force additional oil to the surface.

EOR has been practiced since the 1950s in various conventional oil reservoirs, particularly in the United States. The process that likely has the largest worldwide potential is miscible flooding wherein carbon dioxide (CO_2), nitrogen or light hydrocarbons are injected into oil reservoirs where they act as solvents to move residual oil. Of the three options, CO_2 flooding has proven to be the most frequently useful. Indeed, naturally occurring, geologically sourced CO_2 has been produced in Colorado and shipped via pipeline to west Texas and New Mexico for decades for EOR. CO_2 flooding can increase oil recovery by 7–15 percent of original oil in place (OOIP). Because EOR is relatively expensive, it has not been widely deployed in the past. However, in a world dealing with peak conventional oil production and higher oil prices, it has significant potential.

Because of various cost considerations, enhanced oil recovery processes are typically not applied to a conventional oil reservoir until after oil production has peaked. Therefore, EOR is not likely to increase reservoir peak production. However, EOR can increase total recoverable conventional oil, and production from the reservoirs to which it is applied does not decline as rapidly as would otherwise be the case.

C. HEAVY OIL AND OIL SANDS

This category of unconventional oil includes a variety of viscous oils that are called heavy oil, bitumen, oil sands, and tar sands. These oils have potential to play a much larger role in satisfying the world's needs for liquid fuels in the future.

The largest deposits of these oils exist in Canada and Venezuela, with smaller resources in Russia, Europe and the U.S. While the size of the Canadian and Venezuela resources are enormous, 3–4 trillion barrels in total, the amount of oil estimated to be economically recoverable is of the order of 600 billion barrels. This relatively low fraction is in large part due to the extremely difficult task of extracting these oils.

Canadian oil sands production results in a range of products, only a part of which can be refined into finished fuels that can substitute for petroleum-based fuels. These high quality oil-sands-derived products are called synthetic crude oil (SCO). Other products from oil sands processing are Dilbit, a blend of diluent and bitumen, Synbit, a blend of synthetic crude oil and bitumen, and Syndilbit, a blend of Synbit and diluent. Current Canadian production is approximately 1 million bpd of which 600,000 bpd is synthetic crude oil and 400,000 bpd is lower grade bitumen.

The reasons why the production of unconventional oils has not been more extensive is as follows: (1) Production costs for unconventional oils are typically much higher than for conventional oil; (2) Significant quantities of energy are required to recover and transport unconventional oils; and (3) Unconventional oils are of lower quality and, therefore, are more expensive to refine into clean transportation fuels than conventional oils.

Canadian oil sands have been in commercial production for decades. During that time, production costs have been reduced considerably, but costs are still substantially higher than conventional oil production. Canadian oil sands production currently uses large amounts of natural gas for heating and processing. Canada recently recognized that it no longer has the large natural gas resources once thought, so oil sands producers are considering building coal or nuclear plants as substitute energy sources to replace natural gas. The overall efficiency of Canadian oil sands production is not publicly available but has been estimated to be less than 70 percent for total product, only a part of which is a high-quality substitute transport fuel.

In addition to needing a substitute for natural gas for processing oil sands, there are a number of other major challenges facing the expansion of Canadian oil sands production, including water and diluent availability, financial capital, and environmental issues, such as SO_X and NO_X emissions, waste water cleanup, and brine, coke, and sulfur disposition. In addition, because Canada is a signatory to the Kyoto Protocol and because oil sands production results in significant CO_2 emissions per barrel, there may be related constraints yet to be fully evaluated.

The current Canadian vision is to produce a total of about 5 MM bpd of products from oil sands by 2030. This is to include about 3 MM bpd of synthetic crude oil from which refined fuels can be produced, with the remainder being poorer quality bitumen that could be used for energy, power, and/or hydrogen and petrochemicals production. 5 MM bpd would represent a five-fold increase from current levels of production. Another estimate of future production states that if all proposed oil sands projects proceed on schedule, industry could produce 3.5 MM bpd by 2017, representing 2 MM bpd of synthetic crude and 1.5 MM bpd of unprocessed lower-grade bitumen. It should be noted that not everyone supports this expansion. For example, the executive director of the Sierra Club of Canada, calls tar sands''. . . the world's dirtiest source of oil.

Venezuela's extra-heavy crude oil and bitumen deposits are situated in the Orinoco Belt, located in Central Venezuela. There are currently a number of joint ventures between the Venezuelan oil company, PdVSA, and foreign partners to develop and produce this oil. In 2003, production was about 500,000 bpd of synthetic crude oil. That is expected to increase to 600,000 bpd by 2005. While the weather in tropical Venezuela is more conducive to oil production operations than the bitter winters of Alberta, Canada, the political climate in Venezuela has been particularly unsettled in recent years, which could impact future production.

In closing, it is also worth noting that the bitumen yield from oil sands surface mining operations is about 0.6 barrels per ton of mined material, excluding overburden removal. This is similar to the yield from a good quality oil shale, but is less than Fisher-Tropsch liquid yields from coal, which is about 2.6 barrels per ton of coal.

D. GAS-TO-LIQUIDS (GTL)

Very large reservoirs of natural gas exist around the world, many in locations isolated from gas-consuming markets. Significant quantities of this ''stranded gas'' have been liquefied and transported to various markets in refrigerated, pressurized ships in the form of liquefied natural gas (LNG). Japan, followed by Korea, Spain and the U.S. were the largest importers of LNG in 2003. LNG accounted for an important fraction of all traded gas volumes in 2003, and that fraction is projected to continue to grow considerably in the future.

Another method of bringing stranded natural gas to world markets is to disassociate the methane molecules, add steam, and convert the resultant mixture to high quality liquid fuels via the Fisher-Tropsch (F-T) process. As with coal liquefaction, F-T based GTL results in clean, finished fuels, ready for use in existing end-use equipment with only modest finishing and blending. This Gas-To-Liquids process has undergone significant development over the past decade. Shell now operates a 14,500 bpd GTL plant in Malaysia. A number of large, new commercial plants recently announced include three large units in Qatar—a 140,000 bpd Shell facility, a 160,000 bpd ConocoPhillips facility, and a 120,000 bpd Marathon Oil plant. Projects under development and consideration total roughly 1.7 MM bpd, but not all will come to fruition. Under business-as-usual conditions, 1.0 MM bpd may be produced by 2015, in line with a recent estimate

of 600,000 bpd of GTL diesel fuel by 2015—the remaining 400,000 bpd being gasolin and other products.

E. LIQUID FUELS FROM U.S. DOMESTIC RESOURCES

The U.S. has three types of natural resource from which substitute liquid fuels can be manufactured: coal, oil shale, and biomass. All have been shown capable of producing high quality liquid fuels that can supplement or substitute for the fuels ow produced from petroleum.

To derive liquid fuels from coal, the leading process involves gasification of the coal, removal of impurities from the resultant gas, and then synthesis of liquid fuels using tle Fisher-Tropsch process. Modern gasification technologies have been dramatically improved over the years, with the result that over 150 gasifiers are in commercial operation around the world, a number operating on coal. Gas cleanup technologies are well developed and utilized in refineries worldwide. F-T synthesis is also well developed and commercially practiced. A number of coal liquefaction plants were built and operated during World War II, and the Sasol Company in South Africa subsequently built a number of larger, more modern facilities. The U.S. has huge coal reserves that are now being utilized for the production of electricity; those resources could also provide feedstock for large-scale liquid fuel production. Lastly, coal liquids from gasification/F-T synthesis are of such high quality that they do not need to be refined. When co-producing electricity, coal liquefaction is a developed technology, currently believed capable of providing clean substitute fuels at $30–35 per barrel.

The U.S. is endowed with a vast resource of oil shale, located primarily in the western part of the Lower 48 states with lesser quantities in the mid Atlantic region. Processes for mining shale and retorting it at high temperatures were developed in intensively in the late 1970s and early 1980s. However, when oil prices decreased in the mid 1980s, all large-scale oil shale R&D was terminated.

The oil shale processing technologies that were pursued in the past required large volumes of water, which is now increasingly scarce in the western states. Also, air emissions regulations have become much stricter in the ensuing years, presenting additional challenges for shale mining and processing. Finally, it should be noted that the oil produced from shale retorting requires refining before it can be used as transportation fuels.

In recent years, Shell has been developing a new shale oil recovery process that uses in situ heating and avoids mining and massive materials handling. Little is known about the process and its economics, so its potential cannot now be evaluated. (See Appendix VI for notes on shale oil).

Biomass can be grown, collected and converted to substitute liquid fuels by a number of processes. Currently, biomass-to-ethanol is produced on a large scale to provide a gasoline additive. The market for ethanol derived from biomass is influenced by federal requirements and facilitated by generous federal and state tax subsidies. Research holds promise of more economical ethanol production from cellulosic (''woody'') biomass, but related processes are far from economical. Reducing the cost of growing, harvesting, and converting biomass crops will be necessary. In other parts of the world, biomass-to-liquid fuels might be more attractive, depending on a myriad of factors, including local labor costs. Related projections for large-scale production would be strictly speculative. In summary, there are no developed biomass-to-fuels technologies that are now near cost competitive. (See Appendix VI for notes on biomass).

F. FUEL SWITCHING TO ELECTRICITY

Electricity is only used to a limited extent in the transportation sector. Diesel fuels (mid-distillates) power most rail trains in the U.S.; only a modest fraction are electric powered. Other electric transportation is limited to special situations, such as forklifts, in-factory transporters, etc.

In the 1990s electric automobiles were introduced to the market, spurred by a California clean vehicle requirement. The effort was a failure because existing batteries did not provide the vehicle range and performance that customers demanded. In the future, electricity storage may improve enough to win consumer acceptance of electric automobiles. In addition, extremely high gasoline prices may cause some consumers to find electric automobiles more acceptable, especially for around-town use. Such a shift in public preferences is unpredictable, so electric vehicles cannot now be projected as a significant offset to future gasoline use.

A larger number of train routes could be outfitted for electric trains, but such a transition would likely be slow, because of the need to build additional electric power plants, transmission lines, and electric train cars. Since existing diesel locomotives use electric drive, their retrofit might be feasible. However, since diesel fuel use in trains is only roughly 0.3 MM bpd, electrification of trains would not have a major impact on U.S liquid fuel consumption.

There are no known near-commercial means for electrifying heavy trucks or aircraft, so related conversions are not now foreseeable.

G. OTHER FUEL SWITCHING

It is conceivable that consumers who now use mid-distillates and LPG (Liquefied Petroleum Gas) for heating could switch to natural gas or electricity, thereby freeing up liquid fuels for transportation. Analysis of this path is beyond the scope of this study, but it should be noted that these uses represent only a few percent of U.S. liquid fuel consumption. Such switching on a large scale would require the construction of compensating natural gas and/or electric power facilities and infrastructure, which would not happen quickly. In addition, freed-up liquids would likely require further refining to meet market and environmental requirements. Related refining would require refinery construction, which would also be time consuming.

H. HYDROGEN

Hydrogen has potential as a long-term alternative to petroleum-based liquid fuels in some transportation applications. Like electricity, hydrogen is an energy carrier; hydrogen production requires an energy source for its production. Energy sources for hydrogen production include natural gas, coal, nuclear power, and renewables. Hydrogen can be used in internal combustion engines, similar to those in current use, or via chemical reactions in fuel cells.

The Department of Energy is currently conducting a high profile program aimed at developing a ''hydrogen economy.'' DOE's primary emphasis is on hydrogen for light duty vehicle application (automobiles and light duty trucks). Recently, the National Research Council (NRC) completed a study that included an evaluation of the technical, economic and societal challenges associated with the development of a hydrogen economy. That study is the basis for the following highlights.

A lynchpin of the current DOE hydrogen program is fuel cells. In order for fuel cells to compete with existing petroleum-based internal combustion engines, particularly for light duty vehicles, the NRC concluded that fuel cells must improve by (1) a factor of 10–20 in cost, (2) a factor of five in lifetime, and (3) roughly a factor of two in efficiency. The NRC did not believe that such improvements could be achieved by technology development alone; instead, new concepts (breakthroughs) will be required. In other words, today's technologies do not appear practically viable.

Because of the need for unpredictable inventions in fuel cells, as well as viable means for on-board hydrogen storage, the introduction of commercial hydrogen vehicles cannot be predicted.

I. FACTORS THAT CAN CAUSE DELAY

It is extremely difficult, expensive, and time consuming to construct any type of major energy-related facility in the U.S. today. Even assuming the expenditure of substantial time and money, it is not certain that many proposed facilities will ever be constructed. The construction of transmission lines, interim and permanent nuclear waste disposal facilities, electric generation plants, waste incinerators, oil refineries, LNG terminals, waste recycling facilities, petrochemical plants, etc. is increasingly problematic.

What used to be termed the ''not-in-my-back-yard'' (NIMBY) principle has evolved into the ''build-absolutely-nothing-anywhere-near-anything'' (BANANA) principle, which is increasingly being applied to facilities of any type, including low-income housing, cellular phone towers, prisons, sports stadiums, water treatment facilities, airports, hazardous waste facilities, and even new fire houses. Construction of even a single, relatively innocuous, urgently needed facility can easily take more than a decade. For example, in 1999, King County, Washington, initiated the siting process for the Brightwater wastewater treatment plant, which it hopes to have operational in 2010.

The routine processes required for siting energy facilities can be daunting, expensive, and time consuming, and if a facility is at all controversial, which is almost invariably the case, opponents can often extend the permitting process until sponsors terminate their plans. For example, approval for new, small, distributed energy systems requires a minimum of 18 separate steps, requiring approval from four federal agencies, 11 state government agencies, and 14 local government agencies. Opponents of energy facilities routinely exercise their right to raise objections and offer alternatives. Intervenors in permitting processes may delay decisions and in some cases force outright cancellations, although cases do exist in which facilities have been sited quickly.

The implications for U.S. homeland-based mitigation of world oil peaking are troubling. To replace dwindling supplies of conventional oil, large numbers of expensive and environmentally intrusive substitute fuel production facilities will be required. Under current conditions, it could easily require more than a decade to construct a large coal liquefaction plant in the U.S. The prospects for constructing 25–50, with the first ones coming into operation within a three year time window are essentially nil. Absent change, the U.S. may end up on the path of least resistance, allowing only a few substitute fuels plants to be built on U.S. soil; in the process the U.S. would be adding substitute fuel imports to its increasing dependence on imports of conventional oil.

For the U.S. to attain a lower level of dependence on liquid fuel imports after the advent of world oil peaking, a major paradigm shift will be required in the current approach to the construction of capital-intensive energy facilities. Federal and state governments will have to adopt legislation allowing

the acceleration of the development of substitute fuels projects from current decade time-scales. During World War II, facilities of all types were constructed on a scale and schedules that would have previously been inconceivable. In the face of the 1973 energy crisis, the Alaska oil pipeline was approved and constructed in record time.

While world oil peaking poses many dangers for the U.S., it also offers substantial opportunities. The U.S. could emerge as the world's largest producer of substitute liquid fuels, if it were to undertake a massive program to construct substitute fuel production facilities on a timely basis. The nation is ideally positioned to do so because it has the world's largest coal reserves, and it could muster the required capital, technology, and labor to implement such a program. However, unless a process is developed to expedite plant construction, this opportunity could easily slip away. Other nations, such as China, India, Japan, Korea, and others also have the capabilities needed to construct and operate such plants. Under current conditions, other countries are able to bring such large energy projects on-line much more rapidly than the U.S. Such countries could conceivably even import U.S. coal, convert it to liquid fuels products, and then export finished product back to the U.S. and elsewhere.

The U.S. has well-developed coal mining, transportation, and shipping systems that move coal to the highest bidders, be they domestic or international. As recently as 1981, 14 percent of U.S. coal production was exported. While that number has declined in recent years, the U.S. could easily expand its current coal exports many fold to provide feedstock for coal liquefaction plants in other nations. Not only would the U.S. be dependent on foreign sources for conventional oil, which will continue to dwindle in volume after peaking, but it could also become dependent on foreign sources for substitute fuels derived from U.S. coal.

VII. A World Problem

Oil is essential to all countries. In 2002 daily consumption ranged from almost 20 million barrels in the U.S. to 20 barrels in the tiny South Pacific island of Niue, population 2,400.

Oil is produced in 123 countries. The top 20 producing countries provide over 83 percent of total world oil. Production by the largest producers is shown in Table VII–1. The table also lists the top 20 oil-consuming countries and their respective consumption. In total, the top 20 countries consume over 75 percent of the average daily production. Beyond these larger consumers, oil is also utilized in all the world's 194 remaining countries.

TABLE VII.1—TOP WORLD OIL PRODUCING AND CONSUMING COUNTRIES—2002

Rank	Country	MM bpd	Percent
	Producers		
1	United States	9.0	11.7
2	Saudi Arabia	8.7	11.3
3	Russia	7.7	10.0
4	Mexico	3.6	4.7
5	Iran	3.5	4.6
6	China	3.5	4.6
7	Norway	3.3	4.3
8	Canada	2.9	3.8
9	Venezuela	2.9	3.8
10	United Kingdom	2.6	3.3
11	United Arab Emirates	2.4	3.1
12	Nigeria	2.1	2.8
13	Iraq	2.0	2.7
14	Kuwait	2.0	2.6
15	Brazil	1.8	2.3
16	Algeria	1.6	2.0
17	Libya	1.4	1.8
18	Indonesia	1.4	1.8
19	Kazakhstan	0.9	1.2
20	Oman	0.9	1.2
	103 other countries	12.6	16.3
	Consumers		
1	United States	19.8	25.3
2	Japan	5.3	6.8
3	China	5.2	6.6
4	Germany	2.7	3.5
5	Russia	2.6	3.3
6	India	2.2	2.8
7	Korea, South	2.2	2.8
8	Brazil	2.2	2.8
9	Canada	2.1	2.7
10	France	2.0	2.5
11	Mexico	2.0	2.5
12	Italy	1.8	2.4
13	United Kingdom	1.7	2.2
14	Saudi Arabia	1.5	1.9
15	Spain	1.5	1.9
16	Iran	1.3	1.7
17	Indonesia	1.1	1.4
18	Taiwan	0.9	1.2
19	Netherlands	0.9	1.1
20	Australia	0.9	1.1
	194 other countries	18.4	23.5

VIII. Three Mitigation Scenarios

A. Introduction

Issues related to the peaking of world oil production are extremely complex, involve literally trillions of dollars and are very time-dependent. To explore these matters, we selected three mitigation scenarios for analysis: Scenario I assumes that action is not initiated until peaking occurs. Scenario II assumes that action is initiated 10 years before peaking. Scenario III assumes action is initiated 20 years before peaking.

Our approach is simplified in order to provide transparency and promote understanding. Our estimates are approximate, but the mitigation envelope that results is believed to be indicative of the realities of such an enormous undertaking.

B. Mitigation Options

Our focus is on large-scale, physical mitigation, as opposed to policy actions, e.g. tax credits, rationing, automobile speed restrictions, etc. We define physical mitigation as (1) implementation of technologies that can substantially reduce the consumption of liquid fuels (improved fuel efficiency) while still delivering comparable service and (2) the construction and operation of facilities that yield large quantities of liquid fuels.

C. Mitigation Phase-In

The pace that governments and industry chose to mitigate the negative impacts of the peaking of world oil production is to be determined. As a limiting case, we choose overnight go-ahead decision-making for all actions, i.e., crash programs. Our rationale is that in a sudden disaster situation, crash programs are most likely to be quickly implemented. Overnight go-ahead decision-making is most probable in our Scenario I, which assumes no action prior to the onset of peaking. By assuming overnight implementation in all three of our scenarios, we avoid the arduous and potentially arbitrary challenge of developing a more likely, real world decision-making sequence. This is obviously an optimistic assumption because government and corporate decision-making is never instantaneous.

D. The Use of Wedges

The model chosen to illustrate the possible effects of likely mitigation actions involves the use of ''delayed wedges'' to approximate the scale and pace of each action. The use of wedges was effectively utilized in a recent paper by Pacala and Socolow.

Our wedges are composed of two parts. The first is the preparation time needed prior to tangible market penetration. In the case of efficient transportation, this time is required to redesign vehicles and retool factories to produce more efficient vehicles. In the case of the production of substitute fuels, the delay is associated with planning and construction of relevant facilities.

After the preparation phase, our wedges then approximate the penetration of mitigation effects into the marketplace. This might be the growing sales of more fuel-efficient vehicles or the growing production of substitute fuels. We assume our wedges continue to expand for a few decades, which simplifies illustration but is increasingly less realistic over time because markets will adjust and impact rates will change.

Our aim is to approximate reality in a simple manner. Greater detail is beyond the scope of this study and would require in-depth analysis.

E. Criteria for Wedge Selection

Our criteria for selecting candidates for our energy saving and substitute oil production wedges were as follows:

1. The option must produce liquid fuels that can, as produced or as refined, substitute for liquid fuels currently in widespread use, e.g. gasoline, jet fuel, diesel, etc. The end products will thus be compatible with existing distribution systems and end-use equipment.

2. The option must be capable of liquid fuels savings or production on a massive scale—ultimately millions to tens of millions of barrels per day worldwide.

3. The option must include technology that is commercial or near commercial, which at a minimum requires that the process has been demonstrated at commercial scale. For production technologies, this means that at least one plant has operated at greater than 10,000 bpd for at least two years, and product prices from the process are less than $50/barrel in 2004 dollars. For fuels efficiency technologies, the technology must have at least entered the commercial market by 2004.

4. Substitute fuel production technologies must be inherently energy efficient, which we assume to mean that greater than 50 percent of process energy input is contained in the clean liquid fuels product.

5. The option must be environmentally clean by 2004 standards.

6. While domestic resources are of greatest interest to the U.S., the oil market is international, so substitute fuel feedstocks not abundantly available in the U.S. must also be considered, e.g. heavy oil/tar sands and gas-to-liquids.

7. Energy sources or energy efficiency technologies that produce or save electricity are not of interest in this context because commercial processes to convert electricity to clean hydrocarbon fuels do not currently exist.

F. Wedges Selected and Rejected

The combination of technologies, processes, and feedstocks that meet these criteria are as follows: 1. Fuel efficient transportation; 2. Heavy oil/Oil sands; 3. Coal liquefaction; 4. Enhanced oil recovery; 5. Gas-to-liquids.

In the end-use category, a dramatic increase in the efficiency of petroleum-based fuel equipment is one attractive option. As previously described, the imposition of CAFE requirements for automobiles in 1975 was one of the most effective of the government mandates initiated in response to the 1973–74 oil embargo. In recent years, fuel economy for automobiles has not been a high national priority in the U.S. Nevertheless, a new hybrid engine technology has been phasing into the automobile and truck markets. In a period of national oil emergency, hybrid technology could be massively implemented for new vehicle applications. Hybrid technologies offer fuel economy improvements of 40 percent or more for automobiles and light-medium trucks—no other engine technologies offer such large, near-term fuel economy benefits.

The fuels production options that we chose are heavy oil/tar sands, coal liquefaction,

improved oil recovery, and gas-to-liquids. Our rationale was as follows: 1. Enhanced Oil Recovery is applicable worldwide; 2. Heavy oil/tar sands is currently commercial in Canada and Venezuela; 3. Coal liquefaction is a well-developed, near-commercial technology; 4. Gas-To-Liquids is commercially applicable where natural gas is remote from markets.

We excluded a number of options for various reasons. While the U.S. has a huge resource of shale oil that could be processed into substitute liquid fuels, the technology to accomplish that task is not now ready for deployment. Because various shale oil processing prototypes were developed in years past and because shale oil processing is likely to be economically attractive, a concerted effort to develop shale oil technology could well lead to shale oil becoming a contributor in Scenarios II or III. However, that would require the initiation of a major R&D program in the near future.

Biomass options capable of producing liquid fuels were also excluded. Ethanol from biomass is currently utilized in the transportation market, not because it is commercially competitive, but because it is mandated and highly subsidized. Biodiesel fuel is a subject of considerable current interest but it too is not yet commercially viable. Again, a major R&D effort might change the biomass outlook, if initiated in the near future.

Over 45 percent of world oil consumption is for non-transportation uses. Fuel switching away from non-transportation uses of liquid fuels is likely to occur, mimicking shifts that have already taken place in the U.S. The time frame for such shifts is uncertain. For significant world scale impact, alternate large energy facilities would have to be constructed to provide the substitute energy, and that facility construction would require the kind of decade-scale time periods required for oil peaking mitigation.

Nuclear power, wind and photovoltaics produce electric power, which is not a near-term substitute fuel in transportation equipment that requires liquid fuels. In the many-decade future after oil peaking, it is conceivable that a massive shift from liquid fuels to electricity might occur in some applications. However, consideration of such changes would be speculative at this time.

It is possible that technology innovations resulting from aggressive future research may well change the outlook for various technologies in the future. Our focus on the currently viable is in no way intended to prejudice other future options. We have chosen not to add a wedge for undefined technologies that might result from accelerated research, because such a wedge would be purely speculative. No matter what the new technology(ies), implementation delay times and contribution growth rates will inherently be of the same order of magnitude of the technologies that we have considered, because of the inherent scale of all physical mitigation.

G. MODELING WORLD OIL SUPPLY/DEMAND

It is not possible to predict with certainty when world conventional oil peaking will occur or how rapidly production will decline after the peak. To develop our scenarios, we utilize the U.S. Lower 48 production pattern as a surrogate for the world. This assumption is justified on the basis that Lower 48 oil production represents what really happened in a large, complex oil province over the course of decades of modern oil production development.

Our horizontal axis is centered on the year of peaking (the date is not specified) and spans plus and minus two decades. For this study, our vertical axis is pegged at a peak world oil production of 100 MM bpd, which is 18 MM bpd above the current 82 MM bpd world production. If peaking were to occur soon, 100 MM bpd might be high by 20 percent. If peaking were to occur at 125 MM bpd at some future date, the 100 MM bpd assumption would be low by 20 percent. Since the estimates in our wedges are rough under any conditions, a 100 MM bpd peak represents a credible assumption for this kind of analysis. The selection of 100 MM bpd is not intended as a prediction of magnitude or timing; its use is for illustration purposes only.

Next is the important issue of the slopes of the production profile showing the rate of growth of production/demand before peaking and the subsequent decline in production. The World Energy Council stated: ''Oil demand is projected to increase at about 1.9 percent per year rising from about 75.7 million b/d in 2000 (actual) to 113–115 million b/d in 2020—an increase of about 37.5–39.5 million b/d.'' Recent trends indicate a 3+ percent world oil demand growth, driven in part by rapidly increasing oil consumption in China and India. However, a 3+ percent growth rate on a continuing basis seems excessive. On this basis, we assume a two percent demand growth before peaking, and we assume an intrinsic two percent long-run hypothetical, healthy economy demand after peaking. This extrapolation of demand after peaking provides a reference that facilitates calculation of supply shortfalls. The assumption has the benefit of simplicity, but it ignores the real-world feedback of oil price escalation on demand, which is sure to happen but the calculation thereof will be complicated and was beyond the scope of this study.

Estimating a decline rate after world oil production peaking is a difficult issue. While human activity dominates the demand for oil, the ''rocks'' (geology) will dominate the decline of world conventional oil production after peaking. Referring to U.S. Lower 48 production history, the decline after the 1970 peaking was roughly 1.7 percent per year, which we have chosen to round off to two percent per year as our estimated world conventional oil decline rate. It should be noted that other analysts have projected decline rates of 3–8%, which would make the mitigation problem much more difficult.

H. OUR WEDGES

In Appendix IV we develop the sizes of the wedges that we believe appropriate for our trends analysis. Once again, bear in mind that these are rough approximations aimed at illustrating the inherently large scale of mitigation.

I. THE THREE SCENARIOS

As noted, our three scenarios are benchmarked to the unknown date of peaking: Scenario I: Mitigation begins at the time of peaking; Scenario II: Mitigation starts 10 years before peaking; Scenario III: Mitigation starts 20 years before peaking.

Our mitigation choices then map onto our assumed world oil peaking pattern.

OBSERVATIONS AND CONCLUSIONS ON SCENARIOS

This exercise was conducted bottom-up; we estimated reasonable potential contributions from each viable option, summed them, and then applied them to our assumed world oil peaking pattern.

While our option contribution estimates are clearly approximate, in total they probably represent a realistic portrayal of what might be achieved with an array of physical mitigation options. Together, implementation of all of the specified options would provide 15–20 MM bpd impact, ten years after simultaneous initiation. Roughly 90 percent would result from substitute liquid fuel production and roughly ten percent would come from transportation fuel efficiency improvements.

Our results are congruent with the fundamentals of the problem: Waiting until world oil production peaks before taking crash program action leaves the world with a significant liquid fuel deficit for more than two decades. Initiating a mitigation crash program 10 years before world oil peaking helps considerably but still leaves a liquid fuels shortfall roughly a decade after the time that oil would have peaked. Initiating a mitigation crash program 20 years before peaking appears to offer the possibility of avoiding a world liquid fuels shortfall for the forecast period.

The obvious conclusion from this analysis is that with adequate, timely mitigation, the costs of peaking can be minimized. If mitigation were to be too little, too late, world supply/demand balance will be achieved through massive demand destruction (shortages), which would translate to significant economic hardship, as discussed earlier.

K. RISK MANAGEMENT

It is possible that peaking may not occur for several decades, but it is also possible that peaking may occur in the near future. We are thus faced with a daunting risk management problem:

On the one hand, mitigation initiated soon would be premature if peaking is still several decades away.

On the other hand, if peaking is imminent, failure to initiate mitigation quickly will have significant economic and social costs to the U.S. and the world.

The two risks are asymmetric: Mitigation actions initiated prematurely will be costly and could result in a poor use of resources. Late initiation of mitigation may result in severe consequences.

The world has never confronted a problem like this, and the failure to act on a timely basis could have debilitating impacts on the world economy. Risk minimization requires the implementation of mitigation measures well prior to peaking. Since it is uncertain when peaking will occur, the challenge is indeed significant.

IX. MARKET SIGNALS AS PEAKING IS APPROACHED

As world oil peaking is approached and demand for conventional oil begins to exceed supply, oil prices will rise steeply. As discussed in Chapter IV, related price increases are almost certain to have negative impacts on the U.S. and world economies. Another likely signal is substantially increased oil price volatility.

Oil prices have traditionally been volatile. Causes include political events, weather, labor strikes, infrastructure problems, and fears of terrorism. In an era where supply was adequate to meet demand and where there was excess production capacity in OPEC, those effects were relatively short-lived. However, as world oil peaking is approached, excess production capacity by definition will disappear, so that even minor supply disruptions will cause increased price volatility as traders, speculators, and other market participants react to supply/demand events. Simultaneously, oil storage inventories are likely to decrease, further eroding security of supply, aggravating price volatility, and further stimulating speculation.

While it is recognized that high oil prices will have adverse effects, the effects of increased price volatility may not be sufficiently appreciated. Higher oil price volatility can lead to reduction in investment in other parts of the economy, leading in turn to a long-term reduction in supply of various goods, higher prices, and further reduced macroeconomic activity. Increasing volatility has the potential to increase both economic disruption and transaction costs for both consumers and producers, adding to inflation and reducing economic growth rates.

The most relevant experience was during the 1970s and early 1980s, when oil prices increased roughly six-fold and oil price volatility was aggravated. Those reactions have often been dismissed as a ''panic response,'' but that experience may nevertheless be a good indicator of the oil price volatility to be expected when demand exceeds supply after oil peaking.

The factors that cause oil price escalation and volatility could be further exacerbated by terrorism. For example, in the summer of 2004, it was estimated that the threat of terrorism had added a premium of 25–33 percent to the price of a barrel of oil. As world oil peaking is approached, it is not difficult to imagine that the terrorism premium could increase even more.

In conclusion, oil peaking will not only lead to higher oil prices but also to increased oil price volatility. In the process, oil could become the price setter in the broader energy market, in which case other energy prices could well become increasingly volatile and unpredictable.

X. WILDCARDS

There are a number of factors that could conceivably impact the peaking of world oil production. Here is a list of possible upsides and downsides.

A. UPSIDES—THINGS THAT MIGHT EASE THE PROBLEM OF WORLD OIL PEAKING

The pessimists are wrong again and peaking does not occur for many decades.

Middle East oil reserves are much higher than publicly stated.

A number of new super-giant oil fields are found and brought into production, well before oil peaking might otherwise have occurred.

High world oil prices over a sustained period (a decade or more) induce a higher level of structural conservation and energy efficiency.

The U.S. and other nations decide to institute significantly more stringent fuel efficiency standards well before world oil peaking.

World economic and population growth slows and future demand is much less than anticipated.

China and India decide to institute vehicle efficiency standards and other energy efficiency requirements, reducing the rate of growth of their oil requirements.

Oil prices stay at a high enough level on a sustained basis so that industry begins construction of substitute fuels plants well before oil peaking.

Huge new reserves of natural gas are discovered, a portion of which is converted to liquid fuels.

Some kind of scientific breakthrough comes into commercial use, mitigating oil demand well before oil production peaks.

B. DOWNSIDES—THINGS THAT MIGHT EXACERBATE THE PROBLEM OF WORLD OIL PEAKING

World oil production peaking is occurring now or will happen soon.

Middle East reserves are much less than stated.

Terrorism stays at current levels or increases and concentrates on damaging oil production, transportation, refining and distribution.

Political instability in major oil producing countries results in unexpected, sustained world-scale oil shortages.

Market signals and terrorism delay the realization of peaking, delaying the initiation of mitigation.

Large-scale, sustained Middle East political instability hinders oil production.

Consumers demand even larger, less fuel-efficient cars and SUVs.

Expansion of energy production is hindered by increasing environmental challenges, creating shortages beyond just liquid fuels.

XI. SUMMARY AND CONCLUDING REMARKS

Our analysis leads to the following conclusions and final thoughts.

1. WORLD OIL PEAKING IS GOING TO HAPPEN

World production of conventional oil will reach a maximum and decline thereafter. That maximum is called the peak. A number of competent forecasters project peaking within a decade; others contend it will occur later. Prediction of the peaking is extremely difficult because of geological complexities, measurement problems, pricing variations, demand elasticity, and political influences. Peaking will happen, but the timing is uncertain.

2. OIL PEAKING COULD COST THE U.S. ECONOMY DEARLY

Over the past century the development of the U.S. economy and lifestyle has been fundamentally shaped by the availability of abundant, low-cost oil. Oil scarcity and several-fold oil price increases due to world oil production peaking could have dramatic impacts. The decade after the onset of world oil peaking may resemble the period after the 1973–74 oil embargo, and the economic loss to the United States could be measured on a trillion-dollar scale. Aggressive, appropriately timed fuel efficiency and substitute fuel production could provide substantial mitigation.

3. OIL PEAKING PRESENTS A UNIQUE CHALLENGE

The world has never faced a problem like this. Without massive mitigation more than a decade before the fact, the problem will be pervasive and will not be temporary. Previous energy transitions (wood to coal and coal to oil) were gradual and evolutionary; oil peaking will be abrupt and revolutionary.

4. THE PROBLEM IS LIQUID FUELS

Under business-as-usual conditions, world oil demand will continue to grow, increasing approximately two percent per year for the next few decades. This growth will be driven primarily by the transportation sector. The economic and physical lifetimes of existing transportation equipment are measured on decade time-scales. Since turnover rates are low, rapid changeover in transportation end-use equipment is inherently impossible.

Oil peaking represents a liquid fuels problem, not an ''energy crisis'' in the sense that term has been used. Motor vehicles, aircraft, trains, and ships simply have no ready alternative to liquid fuels. Non-hydrocarbon-based energy sources, such as solar, wind, photovoltaics, nuclear power, geothermal, fusion, etc. produce electricity, not liquid fuels, so their widespread use in transportation is at best decades away. Accordingly, mitigation of declining world oil production must be narrowly focused.

5. MITIGATION EFFORTS WILL REQUIRE SUBSTANTIAL TIME

Mitigation will require an intense effort over decades. This inescapable conclusion is based on the time required to replace vast numbers of liquid fuel consuming vehicles and the time required to build a substantial number of substitute fuel production facilities. Our scenarios analysis shows:

Waiting until world oil production peaks before taking crash program action would leave the world with a significant liquid fuel deficit for more than two decades.

Initiating a mitigation crash program 10 years before world oil peaking helps considerably but still leaves a liquid fuels shortfall roughly a decade after the time that oil would have peaked.

Initiating a mitigation crash program 20 years before peaking appears to offer the possibility of avoiding a world liquid fuels shortfall for the forecast period.

The obvious conclusion from this analysis is that with adequate, timely mitigation, the economic costs to the world can be minimized. If mitigation were to be too little, too late, world supply/demand balance will be achieved through massive demand destruction (shortages), which would translate to significant economic hardship.

There will be no quick fixes. Even crash programs will require more than a decade to yield substantial relief.

6. BOTH SUPPLY AND DEMAND WILL REQUIRE ATTENTION

Sustained high oil prices will stimulate some level of forced demand reduction. Stricter end-use efficiency requirements can further reduce embedded demand, but substantial, world-scale change will require a decade or more. Production of large amounts of substitute liquid fuels can and must be provided. A number of commercial or near-commercial substitute fuel production technologies are currently available, so the production of large amounts of substitute liquid fuels is technically and economically feasible, albeit time-consuming and expensive.

7. IT IS A MATTER OF RISK MANAGEMENT

The peaking of world conventional oil production presents a classic risk management problem: Mitigation efforts initiated earlier than required may turn out to be premature, if peaking is long delayed. On the other hand, if peaking is imminent, failure to initiate timely mitigation could be extremely damaging.

Prudent risk management requires the planning and implementation of mitigation well before peaking. Early mitigation will almost certainly be less expensive and less damaging to the world's economies than delayed mitigation.

8. GOVERNMENT INTERVENTION WILL BE REQUIRED

Intervention by governments will be required, because the economic and social implications of oil peaking would otherwise be chaotic. The experiences of the 1970s and 1980s offer important lessons and guidance as to government actions that might be more or less desirable. But the process will not be easy. Expediency may require major changes to existing administrative and regulatory procedures such as lengthy environmental reviews and lengthy public involvement.

9. ECONOMIC UPHEAVAL IS NOT INEVITABLE

Without mitigation, the peaking of world oil production will almost certainly cause major economic upheaval. However, given enough lead-time, the problems are soluble with existing technologies. New technologies are certain to help but on a longer time scale. Appropriately executed risk management could dramatically minimize the damages that might otherwise occur.

10. MORE INFORMATION IS NEEDED

The most effective action to combat the peaking of world oil production requires better understanding of a number of issues. Is it possible to have relatively clear signals as to when peaking might occur? It would be desirable to have potential mitigation actions better defined with respect to cost, potential capacity, timing, etc. Various risks and possible benefits of possible mitigation actions need to be examined. (See Appendix V for a list of possible follow-on studies).

The purpose of this analysis was to identify the critical issues surrounding the occurrence and mitigation of world oil production peaking. We simplified many of the complexities in an effort to provide a transparent analysis. Nevertheless, our study is neither simple nor brief. We recognize that when oil prices escalate dramatically, there will be demand and economic impacts that will alter our simplified analysis. Consideration of those feedbacks will be a daunting task but one that should be undertaken.

Our study required that we make a number of assumptions and estimates. We well recognize that in-depth analyses may yield different numbers. Nevertheless, this analysis clearly demonstrates that the key to mitigation of world oil production peaking will be the construction a large number of substitute fuel production facilities, coupled to significant increases in transportation fuel efficiency. The time required to mitigate world oil production peaking is measured on a decade time-scale, and related production facility size is large and capital intensive. How and when governments decide to address these challenges is yet to be determined.

Our focus on existing commercial and near-commercial mitigation technologies illustrates that a number of technologies are currently ready for immediate and extensive implementation. Our analysis was not meant to be limiting. We believe that future research will provide additional mitigation options, some possibly superior to those we considered. Indeed, it would be appropriate to greatly accelerate public and private oil peaking mitigation research. However, the reader must recognize that doing the research required to bring new technologies to commercial readiness takes time under the best of circumstances. Thereafter, more than a decade of intense implementation will be required for world scale impact, because of the inherently large scale of world oil consumption.

ACKNOWLEDGEMENTS

This work was sponsored by the National Energy Technology Laboratory of the Department of Energy, under Contracts No. DE–AM26–99FT40575, Task 21006W and Subcontract Agreement number 7010001197 with Energy and Environmental Solutions, LLC. The authors are indebted to NETL management for their encouragement and support.

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APPENDIX I. MOST MEANINGFUL EIA OIL PEAKING CASE

In the year 2000, EIA developed 12 scenarios for world oil production peaking using three U.S. Geological Survey (USGS) estimates of the world conventional oil resource base (Low, Expected, and High) and four annual world oil demand growth rates (0, 1, 2, and 3 percent per year). We believe the most likely of the EIA scenarios is the one based on the USGS expected ultimate world recoverable oil of 3.003 billion barrels coupled with 2% annual world oil demand escalation.

The difference between the two profiles is attributable to two assumed production decay rates following peak production. Both curves assume a 2 percent per year growth from the year 2000 until the peak. One scenario assumes a 2 percent decline after the world oil production peak, while the other assumes a steeper drop after the world oil production peak. Because the areas under both curves must equal the projected 3,003 billion barrels of recoverable conventional oil from the year 2000 forward, the rapid decay curve will inherently yield the later occurring, higher world oil production peak.

The EIA scenario that peaks in 2016 looks like the relatively symmetric U.S. Lower 48 production profile. The EIA scenario that peaks in 2037 not only differs dramatically from the U.S. experience, it differs from typical individual oil reservoir experience, which often displays a relatively symmetric production profile, not the sharp drop illustrated in the alternate EIA case. On this basis, we believe that the EIA 2016 peaking case appears much more credible than the 2037 peaking case. The associated 21-year difference between the two predicted production peaks clearly would have profound implications for the time available for mitigation.

It is worth noting that the USGS mean estimate for the remaining recoverable world oil resource is much higher than estimates made by other investigators, according to K.S. Deffeyes, retired Shell geologist and emeritus Princeton geology professor. Deffeyes also opined '' . . . in 2000 the USGS again released implausibly large estimates of world oil.'' A lower total reserves estimate would of course mean a world oil production peak earlier than 2016.

APPENDIX II. MORE HISTORICAL OIL CRISIS CONSIDERATIONS

Economists have debated whether the economic problems of the 1970s were due to the oil supply disruptions or to inappropriate fiscal, monetary, and energy policies implemented to deal with them. The consensus is that the disruptions would have caused economic problems irrespective of fiscal, monetary, and energy policies, but that price and allocation controls exacerbated the impacts in the U.S. during the 1970s. There is general consensus on the following:

Appropriate actions taken included CAFE, the 55 mph speed limit, reorganization of the Federal energy bureaucracy, greatly increased energy R&D, establishment of the Strategic Petroleum Reserve (SPR), energy efficiency standards and building codes, establishment of IEA and EIA, and burden sharing agreements among nations.

Inadvisable actions included price and allocation controls, excessive regulations, defacto gasoline rationing, ''excess profits'' taxes, policies targeting ''greedy energy companies,'' prohibitions on energy use, and subsidy programs.

Some actions that seemed to be inappropriate may have been desirable if the problem had not been short-lived. For example, synthetic fuel initiatives may have looked prescient had oil prices not collapsed in the mid 1980s.

Estimated costs to the U.S. of oil supply disruptions range from $25 billion to $75 billion per year, and the cumulative costs since 1973–74 total about $4 trillion. Nevertheless, except for several serious disruptions (and then only temporarily), oil prices have risen little in real terms over the past century.

Cost of living adjustment clauses imbedded in many contracts, labor agreements, and government programs (e.g., Social Security) are less visible but important inflation drivers. Price increases generated by oil supply disruptions automatically trigger successive inflationary adjustments throughout the economy, and these complicate monetary policies designed to counter the inflationary effects of the disruption.

The U.S. is currently less oil-dependent (in terms of oil/GDP ratios) than during the 1970s. However, the U.S. is now importing twice as much oil (in percentage terms) as 30 years ago and its transportation sector consumes a larger portion of total oil consumption. Further, by 2000 most of the energy saving trends resulting from the 1970s disruptions (increased energy efficiency and conservation, increased vehicle mpg, etc.) had been captured.

The primary effect of the 1973–74 disruption was oil price increases. The real price of oil peaked in 1981 and has never again reached similar levels.

At present, oil would have to be nearly $80 per barrel and gasoline would have to exceed $3 per gallon to equal real 1981 prices. Even then, however, energy would still be a less significant factor in the U.S. economy because average U.S. per capita incomes have doubled since 1981 and energy is a much smaller component of expenditures.

Nevertheless, over the past 50 years, oil prices have been extremely volatile—more volatile than virtually any other commodity.

APPENDIX III. LIKELY FUTURE OIL DEMAND

Petroleum consumption has been inexorably linked to population growth, industrial development, and economic growth for the past century. This relationship is expected to continue worldwide for the foreseeable future. While the U.S. consumes more oil than any other country—about 20 MM bpd, it represents only 26 percent of world production, compared to the 46 percent of world oil production the U.S. consumed in 1960. Western Europe currently consumes the second largest amount (18 percent) followed by Japan (7 percent), China (6 percent), and the FSU (5 percent), with over 150 other countries accounting for the remaining 38 percent of production.

Energy forecasting is difficult due to the numerous complex factors that influence energy supply and demand. Here we utilize the U.S. Energy Department's Energy Information Administration forecasts of future world oil requirements.

Table A–1 presents summary statistics for the EIA 2001–2025 forecast including 24-year country or country group projections for petroleum consumption, gross domestic product (GDP), and population.

TABLE A–1.—REFERENCE CASE PROJECTIONS, 2001–2025

[Average annual percentage change]

	Petroleum Consumption	GDP (Con. $)	Population
U.S.	1.5	3.0	0.8
W. Europe	0.5	2.0	0.1
China	4.0	6.1	0.5
FSU	2.1	4.2	−0.2
Japan	0.3	1.7	−0.1
Other	2.0	4.0	1.3
World	1.9	3.0	1.0

Oil consumption in China is expected to increase 4 percent a year, and by 2025 China is projected to be the second largest oil consuming country in the world, accounting for 11 percent of total world consumption. The second fastest growing market is projected to be the FSU countries, where petroleum consumption is forecast to increase an average of over 2 percent per year.

The remaining large consumers, including the U.S., Western Europe, and Japan are forecast to experience consumption growth over the 24-year period at or below the world average. The U.S. is forecast to increase oil consumption at a rate of 1.5 percent per year, and by 2025 the U.S. share of world oil consumption is forecast to decline to 23 percent (29.7 MM bpd), while Western Europe's share decreases to 13 percent (14.4 MM bpd). The many countries grouped as ''Other'' above, including India, Mexico, and Brazil, are expected to experience oil consumption growth rates 10 to 30 percent higher than the world average. By 2025, this group is forecast to account for 43 percent of world oil consumption.

In sum, in the EIA reference case, world oil consumption of 80 MM bpd in 2003 is projected to increase to 121 MM bpd in 2025, with the most rapid increases occurring in nations other than the U.S., Japan, or those in

Western Europe. Average annual world oil demand growth is projected as 1.9 percent over the period.

APPENDIX IV. RATIONALES FOR THE WEDGES

A. VEHICLE FUEL EFFICIENCY

The original U.S. Corporate Average Fuel Efficiency (CAFE) timetable, enacted in 1975, mandated a 53 percent increase in vehicle fuel efficiency, from 18 mpg to 27.5 mpg, over the seven years between 1978 and 1985. Average on-road vehicle fuel efficiency began to improve markedly in the early 1980s and continued to improve substantially every year through 1995. It showed little change between 1995 and 1999, and then began to decline gradually due to the shift to greater purchases of light trucks and SUVs. Between 1982 and 1995, average on-road vehicle fuel efficiency increased from about 14 mpg to 20 mpg. In other words, the first major U.S. oil disruption occurred in the fall of 1973; CAFE was not enacted until two years later; the increased mpg requirements did not begin until 1978, and were phased in through 1985; and significant increases in average on-road vehicle fuel efficiency did not occur until the mid- to late 1980s.

From the time world oil peaking occurs or is recognized, it may thus take as long as 15 years until strengthened vehicle fuel efficiency standards significantly increase average on-road fleet fuel efficiency. However, care must be exercised in making extrapolations. Most ''realistic'' enhanced vehicle fuel efficiency standards might not actually decrease future total gasoline consumed in the U.S. due to the anticipated continued increase in numbers of drivers and vehicles. Thus, a new CAFE mandate might decrease the rate at which future gasoline consumption increases, but not necessarily reduce total consumption. Only aggressive vehicle fuel efficiency standards legislation that ''pushes the envelope'' of fuel efficiency technologies over the next two decades (as determined, for example, in the study by the National Research Council of the National Academy of Sciences is likely to actually reduce total U.S. gasoline consumption.

Savings in the U.S. Assuming a crisis atmosphere, we hypothesize an aggressive vehicle fuel efficiency scenario, based on the NRC CAFE report and other studies that estimate the fuel efficiency gains possible from incremental technologies available or likely to be available within the next decade. We assume that legislation is enacted on the action date in each scenario. We further assume that vehicle fuel efficiency standards are increased 30 percent three years later—for cars from 27.5 mpg to 35.75 mpg and for light trucks from 20.7 mpg to 26.9—and then increased to 50 percent above the base eight years later—for cars from 27.5 mpg to 41.25 mpg and for light trucks from 20.7 mpg to 31 mpg; finally, we assume full implementation is assumed 12 years after the legislation is enacted. These assumptions ''push the envelope'' on the fuel efficiency gains possible from current or impending technologies.

On the basis of our assumptions, the U.S. would save 500 thousand barrels per day of liquid fuels 10 ten years after legislation is enacted; 1.5 million barrels per day of liquid fuels at year 15; and 3 million barrels per day of liquid fuels at year 20.

Worldwide Savings. The U.S. currently has about 25 percent of total world vehicle registrations, but consumes nearly 40 percent of the liquid fuels used in transportation worldwide. Since we could not find credible forecasts of the potential impacts of increased worldwide vehicle fuel efficiency standards, we assumed that the impact in the rest of the world of enhanced vehicle fuel efficiency standards will be about equal to that in the U.S. In total, the worldwide impact of increased vehicle fuel efficiency standards would thus yield a savings of 1 million barrels per day of liquid fuels 10 years after legislation is enacted; 3 million barrels per day 15 years after legislation is enacted; and 6 million barrels per day 20 years after legislation is enacted.

Increased vehicle fuel efficiency standards are a powerful way to reduce liquid fuels consumption. However, they required long lead-times to enact, implement, and become effective in the past. On the other hand, their importance and contributions continue to grow over time as older vehicles are retired. We note that a detailed study of these issues and opportunities would be of great value.

B. COAL LIQUIDS

High quality liquid fuels can be made from coal via direct liquefaction or via gasification followed by Fisher-Tropsch synthesis. A number of coal liquefaction plants were built and operated during World War II, and the Sasol Company in South Africa subsequently built a number of larger, more modern gasification based facilities.

While the first two Sasol coal liquids production plants were built under normal business conditions, the Sasol Three facility was designed and constructed on a crash basis in response to the Iranian revolution of 1978–79. The project was completed in just over three years after the decision to proceed. Sasol Three was essentially a duplicate of Sasol Two on the same site using a large cadre of experienced personnel. Sasol Three was brought ''up to speed almost immediately.''

The Sasol Three example represents the lower bound on what might be accomplished in a twenty-first century crash program to build coal liquefaction plants. This is because the South African government made a quick decision to replicate an existing plant on an existing, coal mine-mouth site without the delays associated with site selection, environmental reviews, public comment periods, etc. In addition, engineering and construction personnel were readily available, and there were a number of manufacturers capable of providing the required heavy process vessels, pumps, and other auxiliary equipment. While we have not done a survey of worldwide capabilities to perform similar tasks today, it is our belief that such capabilities are now in much shorter supply—a situation that will worsen dramatically with the advent of a worldwide crash program to build alternate fuels plants. We have therefore attempted to strike a balance between what we believe could be a somewhat slow startup of a worldwide coal liquefaction industry and a later speed up as experience is gained and new plants are built as essentially duplicates of previous plants.

Our coal liquefaction wedge thus assumes that the first coal liquefaction plants in a worldwide crash program would begin operation four years after a decision to proceed. We assume plant sizes of 100,000 bpd of finished, refined product, and we assume that five such plants could be brought into operation each year. We cannot predict where in the world these coal liquefaction plants might be built. Candidate countries with large coal reserves include the U.S. and the Former Soviet Union with the largest, followed in descending order by China, India and Australia. We note that a consortium of Chinese companies has recently signed a letter of intent with Sasol for feasibility studies on the construction of two new coal-to-liquids plants in China.

If U.S. siting and environmental reviews of new energy facilities were to continue to be as time consuming as they are today, few coal liquefaction plants would likely be built in the U.S. On the other hand, China has been quick to approve major new facilities, so coal liquefaction plants in that country might well be built expeditiously and economically. Because there is presently a large international trade in coal, it is not inconceivable that coal-poor countries might become the sites of many coal liquefaction plants using imported coal, possibly even from the U.S.

C. HEAVY OILS/OIL SANDS

As noted, significant heavy oil production currently exists in Canada and Venezuela. While their total resource is estimated to be 3–4 trillion barrels, recoverable oil reserves are estimated to be roughly 600 billion barrels. Such reserves could support a massive expansion in production of these unconventional oils.

In the case of Canadian oil sands, a number of factors would challenge a crash program expansion, such as the need for massive supplies of auxiliary energy, huge land and water requirements, environmental management, and the harsh climate in the region. In the case of Venezuela, large amounts of supplemental energy, inherently low well productivity and other factors will likely pose significant challenges.

We know of no comprehensive analysis of how fast the Canadian and Venezuelan heavy oil production might be accelerated in a world suddenly short of conventional oil. Recent statements by the World Energy Council (WEC) guided our wedge estimates:

''Unconventional oil is unlikely to fill the gap (associated with conventional oil peaking). Although the resource base is large and technological progress has been able to bring costs down to competitive levels, the dynamics do not suggest a rapid increase in supply but, rather, a long, slow growth over several decades.''

''(Extrapolating expectations of TOTAL Oil Company in the Orinoco, Venezuela) overall reserves today would be only ~60 Gb over 30 years, allowing at best 6 MM bpd of production in 2030 if the entire area were put into production.''

''Current estimates put the additional production of Canada (heavy oil) . . . at less than 2 MM bpd in 2015–2025.''

In line with the WEC, we assume the following for our Venezuelan Heavy Oils wedge:

1. Accelerated production might begin three years after a decision to proceed with a crash program. This delay is based on the fact that the country already has significant production underway. Starting from scratch would require much more time.

2. Under business-as-usual conditions assumed by the WEC, Venezuela would have production of 6 MM bpd in 2030—5.5 MM bpd beyond production of 0.5 MM bpd in 2003. If we assume this level of production is achieved 10 years after initiation of a crash program, rather than the roughly 25 years estimated by WEC, then roughly 5.5 MM bpd of incremental production might be achieved 13 years from a decision to accelerate.

3. In contrast to the WEC, we assume that Venezuelan production is not capped at 6 MM bpd but continues to expand for the period covered by our approximations. Note: We ignore the currently extremely unstable political environment in Venezuela and assume that scale-up timing is not hindered by local politics.

Our assumptions for Canadian oil sands are as follows:

1. Again, accelerated production might begin three years after a decision to proceed with a crash program, based in large part on the fact that the country already has significant production underway.

2. Current plans are for production of 3 MM bpd of synthetic crude oil from which refined fuels can be produced by 2030. This is above

current production of 0.6 MM bpd. If we assume this level of production is achieved 10 years after initiation of a crash program, rather than the roughly 25 years targeted by the Canadians, then roughly 2.5 MM bpd of incremental production might be achieved 13 years from a decision to accelerate.

3a. We know of no upper limit on Canadian oil sands production, so for purposes of this order-of-magnitude illustration, we do not assume one.

D. ENHANCED OIL RECOVERY

Because it is impossible to evaluate the worldwide impact of Improved Oil Recovery (IOR) techniques, we can only provide a rough estimate of what might be achieved. We focus on a major subset of IOR technologies—Enhanced Oil Recovery (EOR). While EOR can add significantly to reserves, it is normally not applied to a conventional oil reservoir until after production has peaked. As discussed earlier, the most widely applicable EOR process involves the injection of CO_2 into conventional oil reservoirs to dissolve and move residual oil. Because EOR processes require extensive planning, large capital expenditures, procurement of very large volumes of CO_2, and major equipment for large reservoirs, our simplified assumptions parallel those for our heavy oil and coal liquids wedges.

We assume that the massive application of EOR worldwide will not begin to show production enhancement until 5 years after the peaking of world oil production, paced primarily by the difficulties of procuring CO_2. We further assume that world oil production enhancement due to such a crash effort worldwide will increase world oil production by roughly 3 percent after 10 years. We translate the 3 percent to 3 MM bpd, based on our assumed world oil peaking level of roughly 100 MM bpd.

E. GAS-TO-LIQUIDS

Estimating how fast world Gas-To-Liquids (GTL) production might grow as a result of the peaking of world oil production is an extremely complex undertaking because of the need to consider the total world energy system, its likely growth by country, future energy economics, other resources that compete with natural gas, etc. In a crash program, GTL plants might be built in a number of counties that have large reserves of stranded gas. Once operational, GTL product could be moved to markets around the world by conventional oil product tankers.

Our estimates for a crash program of world GTL production are tempered by the conflicting world demand for Liquefied Natural Gas (LNG), whose export volumes are currently growing at a rapid pace. The tradeoffs involved in estimating the future LNG/GTL balance are complex, and a world crash program in GTL could yield higher or lower volumes than our estimates. Note also that seven countries currently account for almost 80 percent of the world gas export market, and it is not inconceivable that the recently formed Gas Exporting Countries Forum (GECF) might well evolve into a future OPEC-like cartel.

Again, we assume a startup delay of three years before crash program GTL plants might come into operation. Using a base case, business-as-usual production forecast of 1.0 MM bpd in 2015 from the current level of essentially zero, we assume that a crash program might yield the 1.0 MM bpd in 5 years.

F. SUM OF THE WEDGES

A summary of the estimates from the foregoing is presented in Table A–2.

TABLE A–2.—SUMMARY OF CONSUMPTION AND PRODUCTION WEDGE ESTIMATES

Category	Delay until first impact (years)	Impact 10 years later (MM bpd)
Vehicle Efficiency	3	3
Gas-To-Liquids	3	2
heavy Oils/Oil Sands	3	8
Coal Liquids	4	5
Enhanced Oil Recovery	5	3

APPENDIX V. NOTES ON SHALE OIL AND BIOMASS

A. OIL SHALE BY GILBERT MCGURL, NETL

Worldwide resources of oil shale comprise an estimated 2.6 trillion barrels, of which two trillion are located within the United States. The richest deposits, 1.5 trillion bbl with high concentrations of kerogen, lie in Colorado, Utah, and Wyoming. An additional 16 billion barrels of rich but physically different oil shale is found in Kentucky, Indiana, and Ohio. A recent estimate is that, from the Green River deposits, 130 billion barrels of oil may be produced. Technology development on oil shale 'retorting' reached a high point in the late 1970s, with the major oil companies leading the way. The oil price collapse of the 1980s, the dissolution of the synfuels program, and the termination of the Unocal project in 1991 led to the demise of oil shale production in the United States.

A recent study performed by the DOE Office of Naval Petroleum and Oil Shale Reserves advocates a research and development program with a production goal of two million barrels per day by 2020. Production would be initiated by 2011. Traditional technologies for mining and preparation of oil shale ores and for aboveground upgrading have been 'proven' at less-than-commercial scale. Newer Canadian technologies have been tested at demonstration projects in Australia. However, that project, the Stuart upgrading project, is currently suspended pending project re-design. Nonetheless, the same technology has been licensed by operators in Estonia. Technologies for in-situ recovery are newer and less developed. In 2000, Shell revived an oil shale project called ''Mahogany'' in Colorado. Shell aims to test its process until 2010. If successful, the in-situ method would leave heavier hydrocarbons in the shale while producing lighter hydrocarbons and using much less water than traditional methods.

Most Estonian processing of oil shale has been for boiler fuel for electricity production. Small liquids facilities have been operating at ''full capacity'' given recent market oil prices. There are no solid figures for cost in large-scale plants since none have been built. The aborted Australian project estimated $8.50/bbl in operating costs once a commercial plant had been built. The Estonians estimate a break-even point at $21 Brent price (app $23 WTI) and low capacity factor. At higher capacity factors, plants may operate profitably even with prices in the mid-teens.

Besides water use and production, environmental concerns include fine particulates and carbon dioxide emissions. Since the last US oil shale project ceased operation before the implementation of the 1990 Clean Air Act amendments, new emission-control equipment would need to be tested on US shales.

B. BIOFUELS BY PETER BALASH, NETL

Bioethanol is produced as a transportation fuel largely in only two countries. In 2003 the US produced about 2.8 billion gallons and Brazil produced 3.5 billion gallons. All of this ethanol is produced by conversion of starch to sugar and fermentation to ethanol. In the US ethanol represents about 1.4% of the BTU content (2.0% by volume) of gasoline used in transportation. Current costs for ethanol production in the US are said to be $0.90 per gallon, which is equivalent to a gasoline price of $1.35 per gallon. Because of recent increases in energy costs current costs will be somewhat higher. Grain ethanol provides only a modest net energy gain because of the energy required to produce it. USDA calculated a net energy gain of 34% for a modern corn to ethanol plant, but there is considerable controversy over the real efficiency of the process. Most of the energy used to produce ethanol comes from natural gas and electricity. The production of ethanol uses only about 5% of the corn crop in the US. Significant expansion is possible but at some point there might be an impact on food prices.

Cellulosic ethanol is currently being produced only in two rather small pilot plants but is capable of producing about 40% conversion of cellulosic biomass to ethanol while providing all the energy needed for the process and exporting a modest amount of energy as electricity. It is anticipated that successful research may reduce the cost of cellulosic ethanol to about $1.10 per gallon by 2010. If this occurs the potential ethanol to mitigate peaking is high. Using only waste biomass and grass grown on land currently in the conservation reserve could produce 50 billion gallons of ethanol which would be equivalent to 35 billion gallons of gasoline or 17% of current US consumption. This could be achieved without any impact on current food production and at prices only $0.35 per gallon higher than refinery prices for gasoline. Since ethanol has an RON of 130 and a MON of 96 it raises the octane of the gasoline to which it is added and has a premium value as a result.

APPENDIX VI: AREAS FOR FURTHER STUDY

1. ECONOMIC BENEFITS TO THE U.S. ASSOCIATED WITH AN AGGRESSIVE MITIGATION INITIATIVE

Important economic and jobs benefits could result from a concerted U.S. effort to develop substitute fuels plants based on U.S. coal and shale resources and scale up of EOR. The impacts might include hundreds of billions of dollars of investment, hundreds of thousands of jobs, a rejuvenation of various domestic industries, and increased tax revenues for the Federal, state, and local governments. The identification and analysis of such benefits require analysis.

In the short run, the U.S. would be hard-pressed to find adequate physical and human resources to plan, develop, construct, and operate the required facilities. Given that oil peaking is a world problem, it is virtually certain that at the same time the U.S. embarked on an aggressive mitigation program, other major initiatives would likely be undertaken elsewhere in the world. All would require similar types of capital, technology, and human resources, generating additional constraints and inflationary pressures on the U.S. program. Assessment of the impacts of these constraints on the feasibility, costs, and timing of a major U.S. mitigation program merits investigation.

2. OIL PEAKING RISK ANALYSIS: COST OF PREMATURE MITIGATION VERSUS WAITING

The date of world oil production peaking is unknowable, but it may occur in the not too distant future. Large-scale mitigation is needed more than a decade before the onset of peaking if economic hardship is to be avoided. If major efforts were initiated early and peaking was to occur decades later, there might be an unproductive use of resources. On the other hand, mitigation initiated at the time of peaking will not spare the world from a decade or more of devastating economic impacts. A careful analysis of the benefits/costs of early versus late mitigation could provide valuable insights.

3. U.S. NATURAL GAS PRODUCTION AS A PARADIGM FOR VIEWING WORLD OIL PEAKING

The history of U.S. natural gas production is cited as an example of the perils of over-optimistic resource forecasts. A detailed analysis of the North American natural gas history, status, and outlook might provide lessons useful in addressing world oil production peaking.

4. POTENTIAL FOR NON-TRANSPORTATION OIL FUEL-SWITCHING

World non-transportation liquid fuel usage is amenable to fuel switching, thereby freeing up liquids for transportation. If switching were to occur on a large-scale, it would likely take place gradually because other energy substitutes would have to be scaled up to meet the new demands associated with a major shift, e.g., electric power plants built, refineries expanded to produce a different product slate, etc. A detailed study would provide an understanding of how difficult, expensive, time-consuming and productive worldwide non-transportation fuel switching might be.

5. WORLD COAL-TO-LIQUIDS POTENTIAL

Sasol has operational coal-to-liquids (CTL) production plants and is under contract to study the construction of similar facilities in China. An analysis of worldwide large-scale CTL potential could yield a useful estimate of complexity, timing and potential.

6. WORLD HEAVY OIL/OIL SANDS POTENTIAL

Canada, Venezuela, and, to a lesser degree, other countries have potential to massively scale up their unconventional oil production. A better understanding of how quickly scale-up might be implemented, the related barriers, and ultimate potential would help in the understanding the potential contribution of these resources.

7. WORLD EOR POTENTIAL

An analysis of worldwide large-scale EOR potential could provide an estimate of complexity, timing and potential.

8. WORLD GTL POTENTIAL

An analysis of worldwide large-scale GTL potential could yield a useful estimate of complexity, timing and potential. In particular, the likely conflicts between GTL and LNG production could provide a quantitative estimate of likely future use of world stranded gas.

9. WORLD TRANSPORTATION FUEL EFFICIENCY IMPROVEMENT POTENTIAL

It is important that we have the best possible understanding of the U.S. and worldwide potential for the upgrading of transportation fuel efficiency, including possible timing, cost, and savings as a function of time. Excellent data is available on U.S. transportation fleets, but fleets elsewhere in the world are less well described. A careful study is needed.

10. IMPACTS OF OIL PRICES AND TECHNOLOGY ON U.S. LOWER 48 OIL PRODUCTION

Analysis of U.S. Lower 48 oil production since the 1970 peak strongly suggests that oil prices and advancing technology had little impact on the production decline. However, a number of institutional factors also impacted Lower 48 oil production, e.g., allowables (Texas Railroad Commission), price and allocation controls (1970s), free market pricing (since 1981), foreign opportunities for multi-national oil companies, etc. An in-depth understanding of these various influences might provide useful guidance for the future.

11. TECHNOLOGICAL OPTIONS FOR COAL LIQUEFACTION

Current world coal liquefaction R & D is focused on gasification of coal followed by the Fischer-Tropsch synthesis. Other coal-to-liquids processes have been proposed, some of which were tested at relatively large scale. It may be worthwhile to revisit the various options in light of today's technology and environmental requirements to determine if any of them might also have competitive potential.

12. PERFORMANCE OF OIL PROVINCES OUTSIDE OF THE U.S.

There is a strong rationale for using U.S Lower 48 oil production as a surrogate pattern for future world oil production peaking and decline. Other large oil province histories could also yield valuable insights and alternate patterns. Related analysis might provide an improved basis for modeling future world oil production.

13. HOW THE U.S. COULD AGAIN BECOME THE WORLD'S LARGEST OIL PRODUCER.

After the peaking of world conventional oil production, there will be a major world transition from the current world liquid fuel infrastructure. Over time, major conservation and energy switching initiatives will almost certainly be implemented, but the need for liquid fuels will not disappear for at least the remainder of this century because there are no known alternatives for a number of transportation applications. An analysis of the major factors required for the U.S. to return to a position of oil supremacy and oil independence would be enlightening.

14. MARKET SIGNALS IN ADVANCE OF PEAKING

Increases in oil prices and oil price volatility have been identified as two precursors of world oil peaking, but both are likely short-term signals. The identification and character of longer-term signals, if they exist, could be of significant value.

15. RISK OF REPEATING THE SYNTHETIC FUELS EXPERIENCE OF 1970S AND 1980S

One risk of embarking on aggressive oil peaking mitigation is that OPEC might undermine such efforts by dramatically increasing conventional oil production. This could only happen if excess capacity were to exist, which could happen if world oil peaking was many decades away. Were such a dramatic increase in OPEC production to occur, governments would be under pressure to terminate support for their mitigation programs. Related scenarios might worthy of study.

16. EFFECTS OF OIL PRICE SPIKES IN CAUSING U.S. RECESSIONS

Oil price spike have been followed by U.S. recessions, but they are not the only cause of recessions. A detailed study of the role of oil prices and other factors in causing recessions might be worth further study.

UNITED STATES-BAHRAIN FREE TRADE AGREEMENT—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 109–71)

The SPEAKER pro tempore (Mr. JINDAL) laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Ways and Means and ordered to be printed:

To the Congress of the United States:

I am pleased to transmit legislation and supporting documents to implement the United States-Bahrain Free Trade Agreement (the ''Agreement''). This Agreement enhances our bilateral relationship with a strategic friend and ally in the Middle East region and will promote economic growth and prosperity in both nations.

In negotiating this Agreement, my Administration was guided by the objectives set out in the Trade Act of 2002. The Agreement reflects my Administration's commitment to opening markets and expanding opportunities for American workers, farmers, ranchers, and businesses. The Agreement will open Bahrain's market for U.S. manufactured goods, agricultural products, and services. As soon as it enters into force, the Agreement will eliminate tariffs on all manufactured goods that the United States sells to Bahrain and immediately remove Bahrain's import duties on over 80 percent of U.S. agricultural products. The Agreement is also one of the most comprehensive ever negotiated to reduce barriers to trade in services and will create new opportunities for U.S. services firms.

The Agreement contains procedures that will facilitate cooperation between the United States and Bahrain on environmental and labor matters. The labor chapter of the Agreement reinforces Bahrain's recent legislative actions to expand democracy and improve the protection of worker rights, including trade union rights. Provisions in the Agreement requiring effective enforcement of environmental laws will contribute to high levels of environmental protection.

The approval of this Agreement will be another significant step towards creating a Middle East Free Trade Area by 2013. This Agreement offers the United States yet another opportunity to encourage economic reform in a moderate Muslim nation as we have done through our free trade agreements with Jordan and Morocco. Leaders in Bahrain are supporting the pursuit of social and economic reforms in the region, encouraging foreign investment connected to broad-based development, and providing better protection for women and workers. It is strongly in our national interest to embrace and encourage these reforms, and passing this legislation is a crucial step toward that end.

GEORGE W. BUSH.

THE WHITE HOUSE, *November 16, 2005.*

RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 9 o'clock and 51 minutes p.m.), the House stood in recess subject to the call of the Chair.

EXECUTIVE COMMUNICATIONS, ETC.

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

5227. A letter from the Administrator, Rural Business-Cooperative Service, Department of Agriculture, transmitting the Department's final rule — Business and Industry Guaranteed Loan Program Annual Renewel Fee (RIN: 0570-AA34) received October 6, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

5228. A letter from the Regulatory Analyst, Grain Inspection, Packers and Stockyards Administartion, Department of Agriculture, transmitting the Department's final rule — Review Inspection Requirements for Graded Commodities (RIN: 0580-AA89) received November 10, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

5229. A letter from the Administrator, AMS, Department of Agriculture, transmitting the Department's final rule — Marketing Order Regulating the Handling of Pears Grown in Oregon and Washington; Control Committee Rules and Regulation [Docket No. FV05-927-2] received November 9, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

5230. A letter from the Administrator, AMS, Department of Agriculture, transmitting the Department's final rule — Regulations Governing the California Clingstone Peach (Tree Removal) Diversion Program [Docket No. FV05-82-01-FR] (RIN: 0581-AC45) received November 9, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

5231. A letter from the Administrator, AMS, Department of Agriculture, transmitting the Department's final rule — Domestic Dates Produced or Packed in Riverside County, CA; Increased Assessment Rate [Docket No. FV05-987-1 FR] received November 9, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

5232. A letter from the Comptroller, Department of Defense, transmitting a report of a violation of the Antideficiency Act by the Department of the Air Force, Case Number 03-03, pursuant to 31 U.S.C. 1517(b); to the Committee on Appropriations.

5233. A letter from the Secretary, Department of Defense, transmitting notification that the Department anticipates it will be prepared to commence chemical agent destruction operations at the Pine Bluff Explosive Destruction System facility in Pine Bluff, Arkansas, pursuant to 50 U.S.C. 1512(4); to the Committee on Armed Services.

5234. A letter from the Counsel for Legislation and Regulations, Department of Housing and Urban Develpoment, transmitting the Department's final rule — Revisions to the Public Housing Operating Fund Program; Correction to Formula Implementation Date [Docket No. FR-4874-C-09] (RIN: 2577-AC51) received November 8, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

5235. A letter from the Deputy Executive Director, Pension Benefit Guaranty Corporation, transmitting the Corporation's final rule — Benefits Payable in Terminated Single-Employer Plans; Allocation of Assets in Single-Employer Plans; Interest Assumptions for Valuing and Paying Benefits — received November 8, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

5236. A letter from the Secretary, Department of Health and Human Services, transmitting the Department's report entitled, ''Congressionally Mandated Evaluation of the State Children's Health Insurance Program: Final Report to Congress'' in accordance with the Balanced Budget Refinement Act of 1999 (BBRA); to the Committee on Energy and Commerce.

5237. A letter from the Regulations Coordinator, CDC, Department of Health and Human Services, transmitting the Department's final rule — Possession, Use, and Transfer of Select Agents and Toxins — Reconstructed replication competent forms of the 1918 pandemic influenza virus containing any portion of the coding regions of all eight gene segments — received November 3, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5238. A letter from the Legal Advisor to the Bureau Chief, MB, Federal Communications Commission, transmitting the Commission's final rule — Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations. (Cimarron, Las Vegas and Pecos, New Mexico) [MB Docket No. 04-218; RM-10987; RM-11237] received October 27, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5239. A letter from the Legal Advisor to the Bureau Chief, MB, Federal Communications Commission, transmitting the Commission's final rule — Amendment of the Television Table of Allotments to Delete Noncommercial Reservation of Channel 39, 620-626 MHz, Phoenix, Arizona, and to Add Noncommercial Reservation on Channel 11, 198-204 MHz, Holbrook, Arizona [MB Docket No. 04-312; RM No. 11049] received October 27, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5240. A letter from the Legal Advisor to the Bureau Chief, MB, Federal Communications Commission, transmitting the Commission's final rule — Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations. (Barnesboro and Gallitzin, Pennsylvania) [MB Docket No. 05-103; RM-11205] received October 27, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5241. A letter from the Secretary of the Commission, Bureau of Consumer Protection, Federal Trade Commission, transmitting the Commission's final rule — Rule Concerning Disclosures Regarding Energy Consumption and Water Use of Certain Home Appliances and Other Products Required Under the Energy Policy and Conservation Act (''Appliance Labeling Rule'') — received November 8, 2005,pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5242. A letter from the Chairman, Holocaust Memorial Museum, transmitting the Museum's FY 2005 Report on Audit and Investigative Activities in accordance with the Inspector General Act of 1978; to the Committee on Government Reform.

5243. A letter from the Chairman, Merit Systems Protection Board, transmitting the Board's report entitled, ''Building a High-Quality Workforce: The Federal Career Intern Program.,'' pursuant to 5 U.S.C. 1204(a)(3); to the Committee on Government Reform.

5244. A letter from the Under Secretary for Oceans and Atmosphere, Department of Commerce, transmitting information regarding the activities of the Northwest Atlantic Fisheries Organization for 2004, pursuant to 16 U.S.C. 5601 et seq; to the Committee on Resources.

5245. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Exclusive Economic Zone Off Alaska; Reallocation of Pacific Cod in the Bering Sea and Aleutian Islands Management Area [Docket No. 041126332-5039-02; I.D. 100405D] received October 24, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

5246. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; End of the Pacific Whiting Primary Season for the Catcher/processor Sector [Docket No. 040830250-5109-04; I.D. 101805C] received November 8, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

5247. A letter from the Assistant Attorney General, Department of Justice, transmitting the Department's report detailing the progress and the status of compliance with privitization requirements, pursuant to Public Law 105–33 section 11201(c) (111 Stat. 734); to the Committee on the Judiciary.

5248. A letter from the Assistant Attorney General, Department of Justice, transmitting the Department's report entitled, ''Report to Congress on AMBER Alert, July 2005,'' pursuant to 42 U.S.C. 5791 Public Law 108–21, section 301(e); to the Committee on the Judiciary.

5249. A letter from the Director, Administrative Office of the United States Courts, transmitting the first annual report to Congress on victims' rights, pursuant to 18 U.S.C. 3771 Public Law 108–405, section 104(a); to the Committee on the Judiciary.

5250. A letter from the National Treasurer, American Ex-Prisoners of War, transmitting a copy of the Financial Statements with the Independent Auditors' report, for the year ended August 31, 2004, pursuant to 36 U.S.C. 1101 and 1103; to the Committee on the Judiciary.

5251. A letter from the Assistant Attorney General, Department of Justice, transmitting the annual report of the Office of Justice Programs for Fiscal Years 2003 and 2004, pursuant to 42 U.S.C. 3712(b); to the Committee on the Judiciary.

5252. A letter from the Controller, National Society Daughters of the American Revolution, transmitting the Audited Financial Statements of NSDAR for the Fiscal Year ending February 28, 2005, pursuant to 36 U.S.C. 1102; to the Committee on the Judiciary.

5253. A letter from the Deputy Executive Director, Reserve Officers Association, transmitting the Association's report of audit for the year ending March 31, 2005, pursuant to 36 U.S.C. 1101(41) and 1103; to the Committee on the Judiciary.

5254. A letter from the National President, Women's Army Corps Veterans' Association, transmitting the financial statement of Women's Army Corps Veterans Association for fiscal year ending June 30, 2005, pursuant to 36 U.S.C. 1103 and 1101(64); to the Committee on the Judiciary.

5255. A letter from the Deputy Assistant Secretary for Tax Analysis, Department of the Treasury, transmitting the Department's report entitled, ''Taxable REIT Subsidiaries: Analysis of the First Year's Returns, Tax Year 2001.,'' pursuant to Public Law 106–170, section 547; to the Committee on Ways and Means.

5256. A letter from the Director, Regulations and Rulings Division, Alcohol & Tobacco Tax & Trade Bureau, Department of the Treasury, transmitting the Department's final rule — Suspension of Special (Occupational) Tax (2004R-778P) [T.D. TTB-36] (RIN: 1513-AB04) received November 8, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

5257. A letter from the Secretary, Department of Health and Human Services, transmitting the Department's FY 2002 and FY 2003 Annual Report on the Child Support Enforcement Program in accordance with 452(a) of the Social Security Act; to the Committee on Ways and Means.

5258. A letter from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's

final rule — 2006 Limitations Adjusted As Provided in Section 415(d), etc. [Notice 2005-75] received November 8, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

5259. A letter from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Weighted Average Interest Rate Update [Notice 2005-72] received November 8, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

5260. A letter from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Low-Income Housing Credit Allocation and Certification; Revisions [TD 9228] (RIN: 1545-BE50) received November 8, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

5261. A letter from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Extension of Time for Filing Returns [TD 9229] (RIN: 1545-BE63) received November 8, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

5262. A letter from the Chair, IRS Oversight Board, transmitting a copy of the Board's 2005 annual report that discusses the IRS's performance over the past year; to the Committee on Ways and Means.

5263. A letter from the Secretary, Judicial Conference of the United States, transmitting a draft bill entitled, ''To amend the Internal Revenue Code of 1986 to make certain rules regarding sales of property to comply with conflict-of-interest requirements applicable to the federal judiciary, and for other purposes.''; to the Committee on Ways and Means.

5264. A letter from the Regulations Officer, Social Security Administration, transmitting the Administration's final rule — Deemed Duration of Marriage for Widows/Widowers and Removal of Restriction on Benefits to Children of Military Parents Overseas [Regulations Nos. 4 and 16] (RIN: 0960-AG23) received October 19, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

5265. A letter from the General Counsel, Department of Defense, transmitting the Department's requested legislative proposals as part of the National Defense Authorization Bill for Fiscal Year 2006; jointly to the Committees on Armed Services, Financial Services, and Ways and Means.

N O T I C E

Incomplete record of House proceedings.

Today's House proceedings will be continued in the next issue of the Record.

United States
of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE *109th* CONGRESS, FIRST SESSION

Vol. 151 WASHINGTON, WEDNESDAY, NOVEMBER 16, 2005 *No. 152*

Senate

The Senate met at 9:30 a.m. and was called to order by the President pro tempore (Mr. STEVENS).

PRAYER

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

Let us pray.

God of mercies, whose unfailing love and faithfulness cover our sins, make us today instruments of Your grace. Give us the wisdom to think before speaking and to say the right thing at the right time. May our actions so please You that even our enemies will live at peace with us.

Guide our lawmakers in their challenging work. Remind them that many counselors bring success. Help them also to remember that they can make plans but You determine their steps. Teach us all that it is better to be patient than powerful, and it is better to have self-control than to conquer a city. Guide us by Your light that we may reach the light that never fades.

We pray in Your holy Name. Amen.

PLEDGE OF ALLEGIANCE

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

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

RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, there will be a period for the transaction of morning business for up to 60 minutes with the first half of the time under the control of the majority leader or his designee and the second half of the time under the control of the Democratic leader or his designee.

Mr. REID. I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, today we will have a 1-hour period for morning business, which will follow the remarks of the two leaders. After morning business, the Senate will begin consideration of the pension security bill under the time agreement which was reached last night. Under that order, there will be 2 hours of general debate on the bill and substitute, with two additional amendments in order limited to 30 minutes each. We will finish that bill today with probably three rollcall votes. We will also vote on the adoption of the conference report to accompany the Commerce-Justice-Science appropriations bill that was debated yesterday. The vote on final passage will be stacked with the pension votes that we will have a little bit later this morning.

In addition, yesterday the Finance Committee reported the tax increase prevention bill. That is the tax reconciliation bill, and we will begin that measure today as well. Hopefully, we will be able to get to that bill as soon as possible in order to begin the clock running on the 20-hour statutory time agreement and, hopefully, we will be able to facilitate a very busy schedule this week by beginning that tax measure early this afternoon and using some of that time to get the clock started.

In addition, we have conference reports that will be coming over from the other side. We will continue to consider any of those available conference reports as they arrive from the House. I will be back to the floor to update Members on the schedule for the remainder of the week as these conference reports become available.

As I have mentioned, we have a lot of business to do today. Although we have made huge progress over the course of yesterday, much of which is seen on the floor, and we had a very successful day, there is much of which people do not see that is occurring in these conferences that are ongoing. We do have a lot to do. I know there are a lot of Members who are asking about their schedules, whether we will be out Friday, Saturday, Sunday, Monday, or Tuesday. Again, things are coming along nicely to be out at a reasonable time, but a lot depends on how efficiently we can work together. I am pleased with the progress that has been made over the last 48 hours.

ASBESTOS LITIGATION REFORM

Mr. FRIST. Mr. President, I have been working with my colleagues for 3 years to reform our asbestos litigation system. It is a system that today is unfair and unjust. Because of that, people suffer, jobs are lost, and bankruptcies occur. The day has come for us to fix it.

I am pleased to inform my colleagues that asbestos reform will be the first major legislation that we consider in late January when we return. In January, asbestos reform will be the first major legislation that we consider.

I commend my friend, Senator SPECTER, chairman of the Judiciary Committee. Rarely a day goes by that we

have a conversation that he does not mention the importance of this bill that he, working with the ranking member, Senator LEAHY, has spent so much time and focus on. I commend them for those tireless efforts to forge a bipartisan—and we do not hear that word very much around here—consensus.

I had hoped that the Senate would be able to bring the legislation to the floor some time in the last several weeks or months and that we could debate it and pass asbestos litigation reform this year. Unfortunately, as we all know, there have been a number of circumstances, with Katrina, the fact that we have indeed taken each of the appropriations bills across the floor individually, the Supreme Court nominations, all of which have slowed down our work on asbestos in terms of bringing it to the floor.

Now that wait is over. No more delay. After 4 hearings—10 including markups—2 years of intense negotiations, the Senate will finally resolve the asbestos litigation crisis that currently is clogging our Nation's courtrooms and threatening America's economic health. There is wide agreement that the current asbestos litigation system is disastrous. It is disastrous for everybody. It is disastrous for victims who suffer from asbestosis or mesothelioma. It is disastrous for an ever-widening circle of companies that it bankrupts. It is disastrous for the tens of thousands of jobs that are lost, and it is disastrous ultimately for the American people.

More than 700,000 individuals have filed claims with at least 8,400 defendant companies. More than 300,000 claims are currently pending. More than $70 billion has already been spent trying to resolve these claims that have bankrupted nearly 80 companies. It is time to fix the system. The system is out of control. It is time for commonsense reform.

According to the 2002 study by Nobel laureate Joseph Stiglitz, asbestos bankruptcies have cost nearly 60,000 jobs and $200 million in lost wages. That is wrong. Employees' retirement funds have shrunk by 25 percent. Meanwhile, the sickest victims of asbestos exposure are not getting their efficient compensation or their fair compensation. Instead, they are waiting in line behind thousands of claimants who are themselves unimpaired.

A recent RAND study put the number of unimpaired claimants at 60 percent—6–0 percent. Even if after years of waiting and an ill claimant finally does get a court settlement, that award is whittled down, gets smaller and smaller because of lawyer's fees and other expenses until it is less than half of the original sum that was awarded. It is too little too late for far too many people.

We do have a solution, and we will bring that to the floor. The $140 billion fund that is on the table will ensure that victims receive proper compensation without delay. Unlike the tort system, the $140 billion trust fund—and this is not taxpayer money—will provide certainty and fair relief. The money will go to the victims instead of to the trial lawyers.

Mesothelioma, just to give an example, is a devastating disease. In the mid-1980s I spent almost a year in England operating, doing thoracic surgery, chest surgery, lung surgery, at South Hampton Hospital in South Hampton, England. It was not unusual to see mesothelioma, which is an asbestos-related disease that encases the lung with thick fibrous plaques which restrict the expansion of the lung, and people end up suffocating to death.

Under this bill, a victim suffering from mesothelioma will get $1.1 million within months to help pay for medical expenses and the suffering. It will not be delayed 6 months, 1 year, or 2 years. The entire $1.1 million will go to the victim instead of half of it going to a system that is out of control.

A person suffering from asbestosis, which is a manifestation of asbestos exposure, will receive as much as $850,000 under this bill. The fund provides significant compensation because we recognize that these are serious illnesses. These are dire illnesses that can be caused by asbestos exposure. They are life threatening and life altering and the victims deserve that fair, just, and timely compensation which they are not getting today.

I commend both Chairman SPECTER, Senator LEAHY, and all of my colleagues on the Judiciary Committee for tackling asbestos reform. Again, we will bring that to the floor in late January. The committee is holding a hearing on asbestos on Thursday, tomorrow. I applaud them for moving forward on this bill to help people understand what is at stake.

I call upon my colleagues to work directly with Senator SPECTER and Senator LEAHY over the next few weeks so that this bill can be considered and approved expeditiously in January. I know there is bipartisan support for S. 852 in this Chamber. I understand that it will involve debate and amendment, and that is appropriate. Yet I am confident that by pulling together we can pass S. 852 and put the asbestos crisis where it belongs, and that is behind us.

I look forward to getting this done, and I look forward to continuing to deliver meaningful solutions to the American people.

I yield the floor.

The PRESIDENT pro tempore. The Democratic leader is recognized.

THE NOMINATION OF JUDGE ALITO

Mr. REID. Mr. President, 2 weeks ago the President nominated Judge Samuel A. Alito to serve on the Supreme Court of the United States. I congratulate Judge Alito on this high honor. I pledge that the Senate Democrats will help ensure a thorough and dignified confirmation process. While I approach the confirmation process with an open mind, even at this early stage I have a number of significant concerns I want to share with my colleagues.

First, the President's selection of Judge Alito was not at all the product of consultation with Senate Democrats, as envisioned by the Founding Fathers. On two prior occasions President Bush spoke with me. He invited Senator LEAHY and me to the White House to discuss the future of the Supreme Court. The President listened seriously to our views and appeared to understand that the job of filling judicial vacancies is a constitutional responsibility that he shares with the Senate.

But this time, instead of an invitation to the White House, I received nothing more than a pro forma telephone call from the President's Chief of Staff, telling me he had selected Judge Alito about an hour before he announced the nomination. In fact, the President did consult about the Alito nomination but with the wrong people. It wasn't with me and it wasn't with Senator LEAHY. According to widely recognized press reports, the White House consulted with conservative activists to make sure the President would not disappoint them with his selection. I think the term conservative activists is probably very broad, too broad; with some extremes—extreme on the right wing. Some of these extreme Web sites received word of the Alito nomination before any Senate Democrat was even consulted or informed.

Consultation is not just a courtesy; it is a way for the President to ensure that a candidate for a lifetime appointment to the Supreme Court receives broad bipartisan support in Congress. That was what our Founding Fathers talked about. That is why that provision is in the Constitution. The constitutional design commands a partnership in this endeavor, not mere notification of the coequal branch of Government.

The second reason I have early concerns about this nomination is that it represents an abandonment of the principle that the Supreme Court should be comprised of highly qualified individuals with diverse backgrounds, experiences, and heritages. It is so striking that President Bush has chosen a man to replace Justice Sandra Day O'Connor, the first of only two women ever appointed to the Supreme Court. Today, unlike 24 years ago, when Sandra Day O'Connor herself was nominated, more than half of the Nation's law students are women. There are countless qualified women on the bench, in elective office, in law firms, and serving as law school deans and law professors. I cannot believe the President searched this country and was unable to find a qualified female nominee. But maybe he was unable to find a qualified female nominee who happened to satisfy the extreme right wing of the Republican Party.

Meanwhile, for the third time the President has turned down the opportunity to make history by nominating the first Hispanic to the Supreme Court. How much longer must Hispanics wait before they see someone on the Nation's highest Court who shares their ethnic heritage and their shared experiences?

At the same time, the appointment of Judge Alito largely fails to diversify the Court in terms of professional experience. Judge Alito is a long-serving Federal appellate judge who would join eight other justices with that very same professional credential. While his prior service as a Federal prosecutor is commendable and worthwhile, he was essentially an appellate lawyer like a number of the sitting justices.

We have come a long way from the days when Senators, bar leaders, trial lawyers, leading professors and others with a wide range of life experiences were routinely appointed to the Supreme Court. If Judge Alito is confirmed, the range of professional diversity on the Court will extend all the way from those who served on the D.C. Circuit to those who served on the First, Third, Seventh, or Ninth Circuit before their promotions.

The third and most important basis for my early concern about the Alito nomination is the fact that he was nominated following the forced withdrawal of White House Counsel Harriet Miers. Harriet Miers received a raw deal from her critics. This woman had been the managing partner of a major American law firm, the first female president of the Dallas Bar Association—which, by the way, is larger than most State bar associations. She was the first female president of the Texas Bar Association. She had been one of the Nation's leaders in promoting opportunities for women lawyers and minority lawyers. She has been a champion of ensuring legal representation for the poor. She was a trial lawyer. The one-dimensional portrait her opponents painted of her was malicious and unfair.

Let's not sugarcoat the truth. The nomination of Harriet Miers was derailed by the overwhelming opposition of the extreme right wing. They campaigned against her, they ran paid advertising against her, and they finally succeeded in having the President cave in to these radical right wing activists. They succeeded in defeating her nomination even before this fine woman was afforded an opportunity to make her case to the Senate Judiciary Committee.

Earlier this year we heard Senator after Senator on the other side of the aisle, and conservative commentators across the airwaves, declare that every judicial nominee is entitled to an up-or-down vote. I have a question for those Senators, those commentators: When exactly will Harriet Miers receive her up-or-down vote?

The White House made a half-hearted effort to argue that the Miers nomination was withdrawn in the face of an impasse over what documents would be provided to the Senate. That is a pretext, a laughable cover story.

She was forced to withdraw by conservative activists who want to change the legal landscape of America. They decided she was inadequately radical or insufficiently aggressive for their purposes, so they gave her the boot. You don't have to take my word for it. Listen to the words of John Danforth, our former colleague, Senator from Missouri and, until recently, President Bush's Ambassador to the United Nations. He was asked on CNN recently who he thought were the winners in the Miers episode. I quote his answer:

> The big winner is the right wing of American politics. They have scored a big victory. This was a power play on their part. And they won it . . . they took on Harriet Miers for no explainable reason. It was really an outrage, in my opinion, that this happened.

Senator Danforth is himself a pro-life Republican and an ordained Episcopal priest, but listen to what he says about his fellow Republicans:

> I am very concerned about the ascendancy of the political right, particularly in the Republican Party. It's very obvious that nobody can do enough to please them. The President certainly can't. . . . They gave him a kick in the teeth. I think [the Republican Party has] been taken over by people I feel uncomfortable with and a lot of Republicans feel uncomfortable with . . . They want a political judge. They want a judicial activist.

Senator Danforth has revealed an important truth about today's Republican Party. His warnings are precisely why the Senate needs to take a long, hard look at the Alito nomination.

Even in the first 2 weeks of the confirmation process, a picture of Sam Alito is emerging that may explain why the extreme right wing is popping champagne corks. Earlier this week we learned of the 1985 memo in which Alito said, ''I am, and always have been a conservative.'' He also spoke proudly of his work on behalf of an extremely conservative agenda of the Reagan Justice Department.

We don't have to guess whether Judge Alito's description of himself in that memo would predict what kind of a judge he would be. For the past 15 years, Judge Alito has been one of the most conservative judges in the country—some would say extreme. For example, in civil rights cases he has often dissented to argue for higher barriers to recovery for people with claims of discrimination. In Bray v. Marriott Hotels, his colleagues said Title VII of the Civil Rights Act ''would be eviscerated'' if Judge Alito's approach were followed. In Nathanson v. Medical College of Pennsylvania, he dissented in a disability rights case where the majority said, ''few if any Rehabilitation Cases would survive'' if Judge Alito's views were the law. And in Sheridan v. DuPont, he was the only one of 11 judges on the court who would apply a higher standard of proof in sex discrimination cases.

In another area of law, Judge Alito has been quick to limit the authority of Congress, even when it is working to help people solve real problems. In Chittester v. Department of Community Development, he held that the Constitution did not allow a State employee to enforce the Family and Medical Leave Act. The Supreme Court effectively repudiated that view 3 years later in the Hibbs case from my own State of Nevada.

These are a few of Judge Alito's many judicial opinions which merit close review by the Senate. By all accounts, Sam Alito is a decent man, well liked by his colleagues. He has devoted his entire legal career to public service, and for that I admire him. Throughout the confirmation process I will work to ensure that Judge Alito is treated with civility and respect. But there is nothing disrespectful about an open and fair-minded review of a nominee's approach to the Constitution and his commitment to the core American values such as equality, privacy, fairness.

One final point. This nomination will be governed by the 200-year-old rules of the Senate. I was very dismayed to read an essay by the majority leader in the Chicago Tribune last week in which he threatened to change the rules of the Senate to ensure that Judge Alito would be confirmed. Think about that. My friend, the majority leader, wrote:

> If members of the Democratic minority persist in blocking a vote on Alito's nomination, the Senate will have no choice but to change the rules.

The majority leader's accusation is baseless. Democrats can hardly persist in an activity in which we are not engaged. No Democrat has even raised the issue of extended debate. At this early stage of the process, 2 months before committee hearings on this nomination will begin, it is silly to argue about the terms of floor debate. Earlier this year, the entire Senate breathed a sigh of relief when the so-called ''nuclear option'' was averted by an agreement of a bipartisan group of Senators. We don't know what is going to happen on this nomination. The majority leader should put his sword back in its sheath and let the Senate move forward on this nomination without idle threats. Let's not talk about changing the Senate rules illegally. Let's not start talking about blaming the Democrats for something in which they are not engaged.

I am confident the Senate Judiciary Committee, under the able leadership of the senior Senators from Pennsylvania and Vermont, will do a good job of illuminating Judge Alito's record and views. The rest of the Senate and the rest of our Nation will pay close attention.

THE ASBESTOS BILL

Mr. REID. Mr. President, I want to comment briefly on the statement of the distinguished majority leader this

morning that the first piece of legislation we will consider in January 2006, after we return from the winter recess, will be the asbestos bill. What a mistake. I know Senator SPECTER has worked hard on this issue. In fact, Senator SPECTER and his good friend and former school roommate Judge Becker, a judge from Pennsylvania, have worked together on this bill for countless hours. However, whatever that personal relationship and despite how long and hard they may have worked on this bill, is not acceptable in its current form. It is not even close.

All you have to do is look at a bipartisan letter that was sent to Senators FRIST and this Senator, Senator REID, two days ago, dated November 14, 2006. The letter was sent by both the chairman of the Budget Committee, JUDD GREGG of New Hampshire, and the ranking member, KENT CONRAD from North Dakota, and stresses that this asbestos bill is not ready for floor action.

They write:

. . . we are in the process of gathering data and evaluating available studies in order to provide Senate Members a better understanding of the likely budgetary implication of S. 852. . . .

There are potentially serious costs to Federal taxpayers in this legislation. S. 852 would create a national trust fund to compensate victims of asbestos exposures in lieu of those victims pursuing compensation through the tort system. The legislation was reported by the Senate Judiciary Committee on May 26, 2005. There remain, however, major unresolved questions about the budgetary impact of this bill. These include: the actual cost of the program; whether proposed funding will be sufficient to compensate all claims; clarity on the allocation of assessments to business and insurance entities, including the balance of those assessments and whether these assessments will generate adequate revenues to satisfy the program's costs; the amount that will be borrowed from the Federal Government under the bill's Federal borrowing authority. The legislation proposes a fund of $140 billion. CBO has advised that this amount could be sufficient to satisfy the program's claims and costs. CBO also cautioned, however that this amount could be insufficient, depending on a number of issues. . . .

Following the release of the CBO report, the Bates White economic consulting firm released a study demonstrating the fund could experience additional costs beyond the proposed amount between $161 billion and $421 billion.

Mr. President, $421 billion in additional costs. The letter concludes:

Because of the major adverse impact the legislation could have on the Federal budget deficit if there are funding shortfalls, we ask that at least until these issues are fully resolved, that the Senate not take any further action on the legislation.

Mr. President, this bill is not ripe for floor debate and will not be in January. This bill does not adequately address the needs of the dying victims who cannot wait for this trust fund to be established. The bill doesn't address the needs of victims if the trust fund runs out of money, which it clearly seems destined to do. The bill provides special benefits for victims at one asbestos site but ignores the needs of victims at another site. In another letter to Senators FRIST and this Senator, Senator REID, dated yesterday, November 15, 2005, from the Asbestos Victims Groups United, the victims write:

. . . [W]e write to express our continued and unified opposition to S. 852. We strongly believe that the bill is unfair to victims and is unworkable. . . . We believe it would be wholly irresponsible for Congress to proceed with consideration and passage of this legislation without accurate and complete information concerning the funding issue and the critical factors associated with it. Please do not allow the families who have lost so much to be victimized again.

This legislation will victimize asbestos victims and it will drive American companies out of business. I had a meeting not long ago with the only company in America that still makes wire. They said if this bill goes into effect they will go into bankruptcy. They are able to handle the situation now, but this bill demands that they contribute to a fund for which they have no responsibility. They are willing to take their lumps in the business world as they know them, but they will not be able to sustain themselves if they are told they have to contribute huge amounts of money to this fund.

Another company representative I have met said they spend $1 million a year on asbestos litigation, but if this bill goes into effect, they will go bankrupt because they can't afford the contributions they will be called on to make.

Let us not rush into asbestos legislation. Let us not do it fast; let us do it right. We owe it to the American taxpayers, to our American businesses and we certainly owe it to our asbestos victims to take the time to get it right.

The PRESIDING OFFICER (Mr. VITTER). The Senator from North Carolina is recognized.

Mr. REID. Mr. President, if I could, I am confident the Chair recognizes that I used leader time for my statement.

The PRESIDING OFFICER. The Senator is correct. The Chair is aware of that.

Mr. SCHUMER. Mr. President, a point of order.

The PRESIDING OFFICER. The Senator from North Carolina has the floor. She can yield time.

Mr. SCHUMER. I want to ask a question so I can establish the floor order.

The PRESIDING OFFICER. The next 30 minutes is controlled by the majority, followed by 30 minutes controlled by the minority.

The Senator from North Carolina.

CONTINUED PROGRESS IN IRAQ

Mrs. DOLE. Mr. President, we are today at war—in Iraq, Afghanistan, and so many other places in the world, with an enemy who knows no borders. The recent bombings in Amman, Jordan during a wedding celebration are a strong reminder that terrorists know no limits to their ambitions and the means by which they would achieve those ambitions, however violent and horrific.

Our dedicated American service men and women have answered a noble calling to defeat terrorism, taking the fight to the terrorists abroad, so that we do not have to fight them here at home. The central battleground in the war on terror is Iraq. It has been just 3 years since Iraq was liberated from the brutal regime of an evil dictator, and in that time, we have made tremendous progress. A constitutional democracy is taking hold, and the Middle East is moving towards greater stability. It is integral to the continued progress in this region and to the overall war on terror that we not allow the cowardly acts of insurgents to derail our efforts. America must stand firm with the Iraqis and see that this danger is defeated and freedom prevails.

Last January, the world watched as Iraqis voted for a new government. Rejecting intimidation and embracing the foundations of freedom, 8.5 million Iraqis went to the polls to vote in a free national election. Just last month, Iraqis returned to the polls once again for a referendum on a new constitution. This time, we saw significantly fewer insurgent attacks, with nearly 9.8 million Iraqis voting, and 79 percent supporting the approval of the new constitution. Iraqis have shown great courage by participating in the democratic process. They have walked for miles to the polls, stood in line for hours, and literally put their lives on the line to cast a vote for peace. Eighty-three-year-old Qadir Abdullah, seen here, made his way to the polls—on crutches. He said, ''I wish I were young. This is the first time in my life that I've voted freely in Iraq. When I was young, there were always wars and misery.'' After decades of tragedy, there is a new optimism, as shown by the willingness of Iraqis to step forward and vote for a brighter future. And the success of the referendum indeed is a powerful milestone on Iraq's road to democracy.

In another sign of progress toward democracy, the Sunnis, who in large measure refused to even participate in the January elections, turned out in great numbers to vote in the constitutional referendum, exercising their right to engage in the democratic process. And in recent weeks, three major Sunni political groups have united to participate in the December 15 elections, in which Iraqis will elect a new national assembly to pass legislation and implement the constitution.

And Iraq has seen tremendous progress toward freedom in the new public services, infrastructure, free press, economic activity, and legal institutions that are critical to the longterm success of this democracy.

Over 3,400 public schools have been built; Hundreds of water and sewage projects, 149 new health facilities, and over 250 fire and police stations have been completed.

Before the war, Iraq's media was tightly controlled by Saddam Hussein's

propaganda machine. The country had no commercial TV or radio stations, and no independent newspapers or magazines. Today, Iraq has a thriving, competitive, free press, with 44 commercial TV stations, 72 commercial radio stations, and more than 100 independent newspapers and magazines. Iraqis can now make up their own minds, based on varying viewpoints in a marketplace of ideas, about the future of their new democracy.

And another foundation of freedom is taking hold—Iraq is experiencing the beginnings of a competitive financial market, with a modernized Iraqi stock exchange.

And Iraqis are for the first time experiencing the rule of law at work in their legal system, with an independent judiciary free to judge cases on their merits, not under the orders of Saddam Hussein and his henchmen.

Ever more, Iraqis are seeing the insurgents for the thugs, thieves, and indiscriminate killers that they are. In just the past nine months, there has been an astonishing 500 percent increase in the number of tips regarding insurgents that Iraqi civilians are providing to security forces.

Iraq is the central battleground in the war on terror. And yet despite the evident progress, some want to cut and run. They claim that our troops have simply done all that they can do, and that the United States should set arbitrary timelines for withdrawing our forces. Mr. President, I strongly disagree and believe that setting such a timeline would only embolden the terrorists and send the message that the United States has lost its resolve in the war on terror. This is the wrong message. Any timeline for withdrawal must be driven by success—not artificially tied to a calendar.

This is not the first time in our history when cynics and skeptics have balked in the face of landmark challenges. A few years may have passed since I had the pleasure of serving President Ronald Reagan in his Cabinet, but I can still remember the naysayers attacking him for his fixed resolve in fighting the cold war. They questioned President Reagan's reasoning, they questioned his strategy, and they questioned America's chances of coming away victorious in a battle to free Russia and other countries from the grasp of communism. President Reagan rejected communism, he rejected the iron curtain, and he refused to concede that freedom would not prevail. While the Soviet Union was extending its influence and doctrine throughout the world, President Reagan, in the face of severe criticism, pursued a different vision. He knew that the enemy must be defeated, not tolerated. We now know he was right in his actions to bring an end to communism—millions were freed and that global threat no longer exists.

Today, naysayers are at it again. Their droning doubt is all too familiar. Much of this defeatist criticism is being leveled by the very same people who, having access to the same intelligence as the president, agreed that Iraq posed a real and immediate threat. And these very same people supported going into Iraq to fight the war on terror. Now they want to throw up their hands and walk away before the job is done.

No one ever said this would be easy, and mistakes have certainly been made. This is a war—and it is painful and horrific. Every life lost is one tragic loss too many. But we must ensure that their sacrifice was not in vain.

We must honor our fallen heroes, heroes like Major Jeffrey Toczylowski, by completing the job they set out to do. Major Toczylowski, seen here, was a Special Forces detachment commander assigned to the 10th Special Forces Group. Two weeks ago in Anbar province, he made the ultimate sacrifice for his country. In his last email home to his family and friends, he wrote how they should respond if he were to lose his life in battle: And I quote:

> Don't ever think that you are defending me by slamming the global war on terrorism or the U.S. goals in that war. As far as I am concerned, we can send guys like me to go after them, or we can wait for them, to come back to us again. I died, doing something I believed in and have no regrets, except that I couldn't do more.

What a powerful testament to the commitment of our service members fighting the war on terror.

Just yesterday, we debated an amendment to the Defense authorization bill that would have forced the administration to set an arbitrary date for the withdrawal of U.S. troops. I am pleased the Senate rejected this proposal. The Frist-Warner amendment we accepted—79–19—sent a message—a forward-looking message—that we expect the Iraqis to continue their progress—and the Congress, in its oversight, will continue to receive reports on the progress being made. The timeline we should focus on is December 15 the election of a parliamentary government. The establishment of a constitutional democracy, coupled with the continued training of Iraqi security forces—now exceeding 210,000 personnel—will in time allow the Iraqis to defend themselves, and the United States to bring our troop levels down.

Around the country, Iraqi forces are now overseeing 72 percent of security checkpoints and leading 43 percent of all combat patrols. Two Iraqi brigades have been assigned their own battle space in Baghdad in an area once a haven for insurgents.

Freedom and democracy in Iraq are the terrorists' worst nightmare. They know what is at stake and try desperately to derail our success. In a letter intercepted last month from Bin Laden's deputy Zawahiri to al-Qaida's leader in Iraq—the terror network's plan was exposed: to expel the Americans from Iraq, establish radical Islamist authority in the country, and extend the terrorists' jihad into neighboring countries and around the world. They seek to destroy our very way of life. We cannot cut and run—we know all too well what is at stake in this global war against terror. To our men and women in uniform who are protecting our freedom and our security, I say thank you and God bless you. You make us so very proud.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

FIGHTING THE WAR ON TERRORISM

Mr. THOMAS. Mr. President, I thank the Senator from North Carolina for her comments. Certainly I agree with what she has had to say.

Having spent the last weekend, as most of us did, celebrating various events on Veterans Day, I was very much impressed with what we did in my State of Wyoming where we had ceremonies at cemeteries, recognizing all that our veterans have done throughout the years for this country, and the sacrifices that were made by many people over many years to allow us to continue to have the freedoms which we have in our country.

I was particularly impressed by one of the events we had at a school where kids—junior high youngsters—sat there listening to the events that had gone by, and I think probably mostly unaware of the fact that there had been years of sacrifice by so many people to maintain and to protect the freedom of this country.

I think it is appropriate, as we look at all that has been done over the years, that we again focus on those who are now continuing to protect the freedoms of this country—those who are now in the Middle East doing the things we need to be done to ensure that in this country we have our freedom and that this freedom will be expanded to others. I think it is appropriate that we talk about this at this time. It is appropriate also that we continue to support our troops who are there doing these things for us.

One of the most difficult things that could happen in terms of our success and accomplishing our goals there would be to erode the support we have here—and that is not going to happen. We know we will support our troops doing the jobs they are doing.

The war on terror is being fought in Afghanistan and Iraq to fundamentally change the environment that has given rise to Islamic extremism and, of course, brought about, among other things, the terror attacks of 9/11. It is one to bring justice to not only the perpetrators of those horrific attacks but also to change the conditions in the Middle East that brought them about. That is the test. That is the job we must finish. The introduction of a stable democracy and freedom to that oppressed region of the world is the best way to address long term that program and problem.

The ongoing operations in Iraq and Afghanistan are necessary to neutralize and eliminate the elements that produced extreme terrorism. We have made great steps since the liberation in Iraq and Afghanistan from the brutal regimes of Saddam Hussein and the Taliban. Both countries, as we all know, have reached major milestones in recent months by dramatically electing their own governments. The Iraqi people turned out again in great numbers and voted for a new constitution; 79 percent of Iraqi voters accepted in that vote, including a Sunni minority. This is real progress.

On the 15th of December, Iraqis will go to the polls once again to vote on parliamentary elections. This is an unmistakable shift from tyranny and is being replaced with democracy.

The Iraqi troops and forces have shouldered a great deal of the security efforts, as they should. I was very impressed when I was in Iraq at the training taking place for the troops. I was impressed riding around in military vehicles when the little kids on the street waved and cheered when they would see U.S. forces. I am very impressed, also, at the normalcy, day to day, for most Iraqis. Unfortunately, we have insurgents and the terrorists who disturb citizens on a daily basis. However, the normalcy there is relatively calm, surprisingly so, on the streets of Baghdad.

There are a good many Iraqi army operation specialists and battalions in the regular military but also looking into the policing aspect. It is not in many cases a regular military operation as much as it is a security operation for insurgents. They are doing both of these things. I am impressed with that.

Thirty-six of the units are taking leave with their coalition partners in operating independently; 28 special police battalions are capable of these operations. More than 87,000 soldiers and sailors have been trained. That is a very good thing.

It is fair to say we are making significant progress in the war on terror and creating a stable and democratic Iraq and Afghanistan that will no longer be the breeding ground for aggression. President Bush's vision is clear. Our work in Iraq and Afghanistan is essential to our own security.

There has been great debate, discussion, and questions about why we are there. The fact is, we are there. The fact is, we had reason to be there. The fact is, all the folks who are now grumbling had the same information and helped make the decision at the time and agreed with the decision at the time. We need to complete our task.

By taking the fight to the enemy, we have protected America at home. We have to remember for years terrorists attacked the United States with little or no reaction from the United States. In 1993, terrorists bombed the World Trade Center, killing 6 people and wounding more than 1,000. In 1996, terrorists bombed the U.S. military living quarters at the Khobar Towers in Saudi Arabia, killing 19. In 1998, followers of Osama bin Laden attacked U.S. Embassies in Kenya, killing and wounding hundreds. In 2000, Osama bin Laden's followers attacked the USS Cole in the harbor of Yemen, killing 17 and wounding 39. Nearly 3,000 innocent Americans were killed September 11 before we resolved we were under attack.

In Afghanistan, United States and British forces joined the ally, anti-Taliban troops in the assault. We are fighting beside those partners over there and moving forward. We have a number of activities going on.

In September 2005, Afghanistan held the first parliamentary election in Afghanistan in more than 30 years. Five hundred eighty-three men and women previously regarded as third-class citizens campaigned for 25 of the available seats. Afghan women received ballots in September 2005. In a country of nearly 30 million voting age people, more than 12 million registered to vote. It is a substantial change.

In 2003, the forces we have talked about already in Iraq went on with votes. In June the Iraqi people assumed full sovereignty and moved forward and more than 8 million people voted.

This is where we are. We are making real progress. We have a goal. No one knows exactly what the date will be for accepting that goal. I don't think anyone ever knows a date in wars. We do have to describe more clearly our purpose. We are doing that. We have to understand more clearly we are making a good deal of progress.

The special inspector general's most recent report indicates service men and women completed work on 762 out of 834 schools. I was there, and we toured some of the schools. They had such a change, brought about largely by our troops. We put 5 out of 12 major airports back in place, 66 railroad stations, and so on.

A great deal of progress is being made. We have had a good many changes. In terms of the leadership that used to be all around Osama bin Laden, much of that is gone. Much of that leadership is no longer there. We are changing.

People understand the people of that country can defend and take care of themselves. We are moving in that direction.

Our fighting men and women continue to help in Iraq. We will continue to help. I remain concerned about the violence. I agree the cost is high. I agree clearly that as soon as we complete our task, we should do that and turn this over to the Iraqis. The important thing is they are prepared to begin to go ahead and operate their country for which we have helped provide the opportunity.

It is very important to complete the mission. I believe we are succeeding. The stakes are very high. I believe it is terribly important as Americans we understand what has happened is similar to what has happened through the years where people have given so much to be able to move and change the world so that our freedoms and other freedoms can exist, and we have the kind of world we all would like. The stakes are very high. Certainly, we want to continue to complete our task. It is important we do that. It is important we stay attached.

I have no problem asking for more information with regard to where we are. I am very opposed to the idea of insisting on the date set by the President. That is not reasonable in this situation. I am very proud and very pleased of what our folks are doing there. I am glad we are doing the job that needs to be done. There is real progress being made. We want to continue that progress.

I say, again, as many Members are saying, we have engaged in a very necessary activity. We are making real progress. It is terribly important we support the people who are there, that we support the completion of this task that we have set about of freedom for all.

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. COBURN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMERCE-STATE-JUSTICE APPROPRIATIONS

Mr. COBURN. Mr. President, I will spend a few minutes talking about the Commerce-Justice-State-Science appropriations bill and about my reasons for voting against it when it comes up today.

This year we added $538 billion to our debt as of September 30 for the last year. That translates into $1,783 for every man, woman, and child in this country. The cost of every project or program that we cannot afford will be borne with compounding interest by our children and our grandchildren. The American people choose every day to determine their financial priorities. It should be not too much for them to ask Congress to do the same thing.

There are multiple projects that are funded in this bill that should not be considered within the priorities of what we have. The first is, as we are fighting a war, we have a Katrina, Rita, and Wilma disaster, we have $538 billion that we could not pay for last year that we added to the debt, and we are going to put $680 million into a program at NASA to go to Mars? I believe Mars should wait. I don't believe we should be spending $680 million to go to Mars. I believe we should spend $680 million to help our neighbors and our friends in the hurricane-ravaged States.

We are going to spend $80 million for the Advanced Technology Program. Granted, that is less than what we spent before, but since 1990 the American taxpayers have given over three-quarters of a billion dollars to Fortune 500 companies for technology programs where they, in fact, could have financed those things themselves.

We are going to spend $1.5 million to study highly migratory sharks, $825,000 to study Hawaiian monk seals, and $235,000 to study yellow-finned tuna. We are going to spend $7 million on the Alaska Fisheries Marketing Board, which this year just spent $500,000 to paint an airplane to have a salmon on it.

The priorities are wrong. We need to readjust the priorities. I hope my colleagues will look at that and make the effort.

The other thing I think is critical with this bill and is underfunded——

The PRESIDING OFFICER. The Senator will be informed the majority's time has expired.

Mr. DURBIN. Mr. President, I am prepared to yield 2 minutes from the minority time to the Senator from Oklahoma.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COBURN. Mr. President, I thank the Senator from Illinois.

Byrne-JAG funding is cut in this bill. If there is anything we know that our sheriffs, our police departments, our drug courts, our drug rehabilitation programs need, it is help in terms of fighting the battle on drugs. I am very disappointed. The Senate passed $900 million for Byrne-JAG grants. It was paid for. It was offset when we passed it through the Senate. It came with full offsets to prioritize, to meet the needs of those people who are presently caught up in drugs.

In Oklahoma, we have had fantastic results with drug courts and drug rehabilitation. Eighty-one percent of the people who now come through these drug courts have a full-time job and never regress back to drugs. What we know is drug treatment works. What we know is drug courts work. It is time for us to reconsider our priorities.

I ask the Members of this body to reconsider this conference report in light of the lack of priorities that should be there.

With that, I yield the remainder of my time and thank the Senator from Illinois for his courtesy.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

IRAQ

Mr. DURBIN. Mr. President, this morning's newspapers across America have lead stories that I think are a grim reminder to us of the reality of life in Washington and the challenges we face. The lead stories in most newspapers across America relate to a vote on the Senate floor yesterday. I believe it was a historic vote. By a vote of 79 to 19, Republican and Democratic Senators said it is time for change in this administration's policy in Iraq.

Certainly, when you look at the statistics, it is understandable: Over 2,060 of our best and bravest soldiers have lost their lives in Iraq. Over 15,000 have been gravely wounded, some of them with injuries that will change their lives. And, of course, 25,000 or 30,000 innocent Iraqis—innocent Iraqis—have died during the course of this war.

This war has gone on for over 3 years, after the administration promised us, in the words of Secretary Rumsfeld, that he could not imagine we would be there for more than 6 months. It is now beyond 3 years; no end in sight.

The American people are frustrated, as they should be; frustrated by the fact that this administration made a case for the war in Iraq that was false. You can recall it, as I do, the President, the Vice President, the Secretary of Defense, Condoleezza Rice, even Secretary of State Powell, making statements about the existence of weapons of mass destruction in Iraq that were a threat to the Middle East and to the world that could easily fall into the hands of terrorists; statements over and over again about nuclear weapons, Condoleezza Rice talking about mushroom clouds that we could fear if we did not invade Iraq and stop Saddam Hussein; and, of course, linking our national tragedy of 9/11 with Saddam Hussein, saying that somehow he had connections with al-Qaida.

Well, it turned out all of those things were false—every single one of them—so false to the point where the President had to do something I do not think has ever been done in the history of this Nation. He had to apologize and recant a remark he made in his State of the Union Address about this yellow cake coming from Niger in Africa so the Iraqis could use it to make nuclear weapons. It turned out it was a phony. It was not true.

So we were drawn into a war under false pretenses. We all knew how terrible Saddam Hussein was, but we certainly came to understand that the specific reasons given for the invasion of Iraq turned out not to be true, one after the other. Weapons of mass destruction, nuclear weapons, connections with al-Qaida, yellow cake from Niger, so-called mobile biological weapons laboratories—all of these things turned out to be totally false.

It is understandable the American people are concerned about it because if you measure an abuse of power by a government, could there be an abuse of power any worse than misleading the people of a country into believing that a war is necessary?

That is, of course, why the Senate Democrats took to the floor just 2 weeks ago and demanded that the promised investigation of this administration for the potential misuse of intelligence be completed by the Senate Intelligence Committee. It has been over 20 months—20 months—since we were promised that this honest investigation would take place, and nothing has happened.

There have been small parts of it that have been addressed, but I think we all know what the story is. The Senate Intelligence Committee, under the control of the President's party, does not want to open that door and look inside. Well, why should we? Why should we reflect and dwell on the past? Some say: Let's look forward. But if we do not get to the heart of this issue, the truth of the matter, if we are not honest with the American people and straightforward as to what happened leading up to that invasion of Iraq, then I think we are derelict in our constitutional responsibilities.

This Congress is designed as one branch of Government to serve as oversight of the executive branch of Government. The failure of the Senate Intelligence Committee, for more than 20 months, to produce this intelligence analysis, which they promised, is proof positive they are dragging their feet, unwilling to accept the responsibility which they have publicly proclaimed.

So yesterday we passed on the floor, by a vote of 79 to 19, a clear statement to this administration that the policy in Iraq must change. No. 1, we said the year 2006 will not just be another year in Iraq, another year of casualties, another year of death, another year of our despondency over whether this is going to end well. It will be a year of significant transition. That is what the Democratic amendment said. That is what was adopted.

Secondly, we served notice on Iraqis that it is their responsibility, not the American responsibility, to secure their own country and to build a political coalition that can defeat the insurgency. I had hoped we would have even stronger language to say to the Iraqis: We are not here indefinitely. We want to bring our troops home. The Republican side watered down that language, but the message was still clear.

The third element is important as well. Accountability is essential. This administration must be held accountable for whether we were prepared not only for the invasion of Iraq but for what occurred afterwards. You know what happened afterwards. Secretary Rumsfeld visited with our troops, and a soldier came forward, held up his hand to ask a question, and said: Mr. Secretary of Defense Rumsfeld, why is it that we soldiers have to scavenge through junk piles to find pieces of armor to stick on these humvees to protect ourselves? A moment of great embarrassment for the Secretary, but I am glad that soldier had the courage to stand up and say what we already knew.

We were not prepared. We sent our troops into combat without the necessary humvee armor, without the necessary body armor, without the necessary protection for our helicopters. It was done, and in some respects too late

and too little. We lost American soldiers' lives and many were injured because we did not have the right equipment in place.

So now what we are saying is that this administration must be held accountable, to report to Congress every 90 days to tell us in Congress the progress that is being made in protecting our troops, in preparing the Iraqis to defend their own country, in moving that country toward stability, and in moving us to the point where American soldiers can start coming home. That was passed yesterday, 79 to 19.

As the President stood on Veterans Day and in an unprecedented political speech attacked his Democratic critics for saying they did not agree with his war policy, this Senate, on a bipartisan basis yesterday, 79 to 19, said to the President: Your policy in Iraq must change. We need to start looking to bring American soldiers home. And 2006 is the year to begin that process in earnest.

That is why it was a historic vote. Of course, as we look at the statements made in the lead-up to the invasion of Iraq, there is a recurring theme. It turns out that the major sources of intelligence that were passing through the administration and to the American people were passing across the desk of Vice President CHENEY.

Lieutenant Colonel Wilkerson, chief of staff to Secretary of State Colin Powell, referred to a cabal, a cabal led by Vice President CHENEY and Secretary of Defense Rumsfeld, a cabal which set the stage for the invasion of Iraq. The man speaking was not a partisan Democrat. He was the chief of staff to the Secretary of State in the Bush administration, Colin Powell. I think it makes clear that throughout the lead-up to the invasion of Iraq, our Vice President, RICHARD CHENEY, was making statements that did not reflect the truth of what was occurring in Iraq.

Repeatedly, he said Iraq had links to al-Qaida, and that was proven false. Repeatedly, he said Iraq was an imminent threat to the United States, and that was proven false. Repeatedly, Vice President CHENEY said Iraq was trying to acquire nuclear weapons, and that was proven false.

On ''Meet the Press,'' on March 16, 2003, the Vice President said: ''And we believe he [Saddam Hussein] has, in fact, reconstituted nuclear weapons.'' False.

In addition, there were statements made about whether Iraq was trying to acquire uranium from Africa, statements made by the Vice President which turned out to be false, and statements, of course, relative to aluminum tubes. I knew something about that debate because as a member of the Senate Intelligence Committee, I listened as the Department of Defense and the Department of Energy debated whether these aluminum tubes were really all about nuclear weapons. There was a real division within the administration, and I would walk outside the Senate Intelligence Committee room and hear statements made by the Vice President saying: There is no debate. It is all about nuclear weapons.

Now, I could not repeat what I had heard in the Senate Intelligence Committee. I was prohibited from saying it publicly. I knew what he said was false. It is one of the reasons I voted against that resolution to go to war in Iraq.

But again and again the Vice President was taking information, intelligence information, giving it to the American people selectively, making certain that it was always the strongest spin toward the immediate need for a war, and that is how we ended up in the position we are in today.

It is a lot easier to get into a war than it is to get out of one. And we have learned that with the cost in human lives and the cost to America's Treasury.

AMERICA'S ENERGY CRISIS

Mr. DURBIN. Mr. President, the second story on the front pages of this morning's newspapers relates to the energy crisis in America. You do not have to describe that to any American who has filled up their gas tank in the last several months. And in the weeks ahead, when you start paying your home heating bills, if you live in one of the colder parts of America, you will see the energy problems we are facing.

Of course, it reflects the fact we have no energy policy in this country. In the White House, with the President and Vice President, we have two men who have long careers with the energy industries and with oil companies, and the energy policy they are pushing reflects it.

What did we have in the so-called Energy bill signed by the President just in August of this year? A $9 billion subsidy to oil companies, a $9 billion subsidy to companies which are realizing record-breaking profits at this very moment.

Why in the world would we be sending subsidies, Federal taxpayers' dollars, to these oil companies at a moment in time when they are realizing the largest profits in history? I think every American knows why. When you go to the gas station to fill up your car or your truck, and you put that charge on your credit card, the money from your credit card is going directly to the boardrooms of these oil companies that are realizing more money than they ever have in history.

We wanted to know who wrote the administration's energy bill, and we could not find out. Neither the President nor the Vice President, who was leading the effort to create this energy policy, would tell the American people who was part of it.

This morning's front page story in the Washington Post tells us who was part of it. A document obtained by the Washington Post this week shows that officials from ExxonMobil, Conoco before its merger with Phillips, Shell Oil, and BP America met in the White House complex with Cheney aides who were developing the national energy policy, parts of which became law and parts of which are still being debated.

It comes as no surprise. We suspected as much. A lawsuit was filed to specifically determine whether the oil company executives wrote this Energy bill. That lawsuit was fought all the way to the Supreme Court, and the Supreme Court ruled that the White House didn't have to tell the American people who was involved. Now this memo tells us.

The reason it is important is that last week the executives of these oil companies came before Congress. You probably heard about the hearing before the Senate Commerce Committee. Senator Maria Cantwell of Washington insisted that these oil company executives be sworn in and testify under oath, as the tobacco company executives did a few years ago. But Senator STEVENS, chairman of the committee, refused to allow them to be sworn in. Why? So they couldn't be held accountable if they didn't tell the truth.

Unfortunately, some of the statements made in responses to questions by Senator LAUTENBERG raised serious questions as to whether those oil company executives were candid and forthcoming in terms of their involvement in this very bill, the Energy bill, which this memorandum tells us was prepared with the oil company executives. Once again, the special interests trumped America's families and consumers, businesses and farmers. The Energy bill was written with the Vice President's direction that rewarded oil companies at a time when we should have been sensitive to protecting American consumers. Unfortunately, it reflects what has been happening in this capital for too long.

LEWIS LIBBY INDICTMENT

Mr. DURBIN. The third issue is one which everyone is aware of; that is, the fact that for the first time in over a century, some high-level staffer in the White House has been indicted. Lewis ''Scooter'' Libby was indicted a few weeks ago, charged with perjury and obstruction of justice related to the Valerie Plame affair. Everyone is aware of it now. Joe Wilson, former Ambassador, sent to Africa to determine whether assertions by the administration about yellow cake uranium coming from Africa to Iraq were true, reached the conclusion they were not. When he published that conclusion, he was attacked in the press by Robert Novak in a column where Mr. Novak said two White House sources had told him that Joseph Wilson's wife Valerie Plame was a CIA agent.

In fact, she was an undercover agent whose identity was being protected. But the White House, in an effort to discredit its critics and to silence

them, attacked Joe Wilson's wife Valerie Plame and, in the process, disclosed the identity of a CIA agent. There is a question raised as to whether that violates the law. The fact that people work in covert activities and risk their lives for America is something we should never take for granted. The law is designed to protect them. But the White House decided, for political reasons and in order to protect against the disclosure that they were manufacturing intelligence to justify the war, they would attack Joseph Wilson's wife Valerie Plame. For that action and for the statements he made to the FBI and the grand jury, Mr. Libby was indicted. The investigation continues.

AHMED CHALABI

Mr. DURBIN. The last issue, which is one that is topical, relates to a man by the name of Ahmed Chalabi. What a fascinating man he is. Ahmed Chalabi is an Iraqi exile, now back in Iraq after the fall of Saddam Hussein. What an interesting history this man has.

In 1992, Ahmed Chalabi was convicted of bank fraud and embezzlement of over $230 million for a bank he was running in Jordan. To escape the sentence of 22 years in prison, he fled to London and then to the United States, and certainly that wasn't the last we heard of him. He created something called the Iraqi National Congress, which ingratiated itself with the Bush administration to the point where the Bush administration paid to Ahmed Chalabi's Iraqi National Congress $39 million. Then Mr. Chalabi gave us misleading information about the situation in Iraq, saying there were mobile biological weapons labs, which turned out to be false, information from a source named ''Curveball,'' of all things, one of most discredited sources of intelligence we have ever had who happened to be the brother of one of Chalabi's aides. It turned out that the information he was feeding us all along about Iraq, by and large, was false.

Mr. Chalabi was unrepentant when he was confronted with this. From the London Daily Telegraph, in an article on February 19, 2004, I quote:

> Mr. Chalabi, by far the most effective anti-Saddam lobbyist in Washington, shrugged off charges that he deliberately misled U.S. Intelligence. ''We are heroes in error,'' he told the Telegraph in Baghdad.

He goes on to say:

> As far as we're concerned, we've been entirely successful. That tyrant Saddam [Hussein] is gone and the Americans are in Baghdad. What was said before is not important. The Bush administration is looking for a scapegoat. We're ready to fall on our swords if he wants.

That was not the end of the story. Now that he has misled the Americans into invading Iraq, now that he has us in a position where our American forces are there, he is trying to build up his political fortunes. In May of last year, Iraqi security forces raided his home for documents, accusing him of passing American secrets to the Iranians and endangering American troops and security. He is currently under active investigation.

You might expect this man would be in hiding. He is not. He is in Washington. He is not being served with a subpoena. He is being served lunch. Do you know whom he has visited with in the last week, this man under active investigation? Vice President CHENEY is one; Secretary of State Condoleezza Rice; Secretary of Defense Donald Rumsfeld; the National Security Adviser, Stephen Hadley; the Treasury Secretary, John Snow. And he is under active investigation by the FBI for having sold American secrets to the Iranians.

I don't understand this. It seems to me that if this man is suspected of endangering our troops, he should be called in for questioning, if not more. Instead, he is being called in for a cup of coffee and a cookie. That is what this administration thinks is playing straight with Iraq.

The American people know better. I am glad yesterday, by a vote of 79 to 19, we told this administration their policies in Iraq have to change.

It is long overdue for the Vice President of the United States to hold a press conference and answer questions. It is long overdue for him to speak truth to the American people, to be candid about the misuse of intelligence leading to the invasion of Iraq, to be candid about his role in disclosing the identity of Valerie Plame to Lewis ''Scooter'' Libby, to be candid about his role in terms of meeting with oil company executives to create this Energy bill, and to be honest about his relationship with Ahmed Chalabi. The American people deserve straightforward, honest answers.

I yield the floor.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Mr. President, I ask unanimous consent to speak for 15 minutes to complete my statement.

Mr. ENZI. I object. We have the pension bill scheduled on a very tight time schedule.

Mr. SCHUMER. It is only an additional 3 or 4 minutes. We have 8½ left, so it would be an additional 5.

Mr. ENZI. OK.

The PRESIDING OFFICER. Without objection, it is so ordered.

SAMUEL ALITO

Mr. SCHUMER. Mr. President, 1 month ago, I expected to be on the Senate floor sometime about now engaged in a debate over the pros and cons of President Bush's nominee to the Supreme Court. Of course, I thought it would be Harriet Miers we would be debating. But that never occurred. As the Senate takes up the nomination of Harriet Miers' replacement, Judge Samuel Alito, we should all continually bear in mind how we got to this point because recent history goes a long way in explaining why the American people want us to examine every portion of Judge Alito's record with great care.

Harriet Miers' nomination was blocked by a cadre of conservative critics who lambasted her at every turn. Why? Because they were not satisfied that her judicial ideology matched their conservative extremism. They were not certain that her legal philosophy squared with their political agenda. In the end, Harriet Miers' nomination was blocked before she could explain her judicial philosophy, before she could have a full and fair hearing to answer the doubters, before she could have an up-or-down vote on the Senate floor. She was blocked by conservatives and Republicans, not Democrats. She was not given an up-or-down vote by many of the same people who are clamoring for an up-or-down vote on Samuel Alito.

The standards seem to change with the nominee. Many of the very people who denied Harriet Miers an up-or-down vote are now saying that there is an imperative to give Samuel Alito one. So before we even begin examining Judge Alito's record, a natural cause for concern is that he was picked to placate a group of vocal and hard-right activists who have been lobbying for him for many years. Many of those who now call for an up-or-down vote are the same ones who denied that vote to Harriet Miers.

Anyone who thinks that this nomination is a foregone conclusion is sadly mistaken. There are too many questions still to be answered, too many doubts still to be alleviated to say this nomination is a slam dunk. The most important thing we must look at is Judge Alito's judicial record. And at least on first perusal, there are reasons to be troubled. In case after case after case, Judge Alito gives the impression of applying meticulous legal reasoning, but each time he happens to reach the most conservative result. That is why he apparently dissented more than most judges in his circuit.

I met with Judge Alito. I found him to be bright and capable and down to earth. He has an impressive life story and history of accomplishment. And his family story is not unlike mine and that of millions of Americans whose families came to these shores in the last two generations and, due to this great system of ours, climbed the ladder of success. But this is about more than legal achievement. In case after case, Judge Alito seems to find a way to rule on the side of business over the consumer, on the side of employer over employee, and often against civil rights, against workers' rights, against women's rights.

Though any analysis is still preliminary—and, of course, we must all wait for the hearings because those will be the most important thing—a quick review of some cases reveals a troubling pattern and warrants tough questioning at Judge Alito's hearing.

Often he stands alone in his decisions, reaching conclusions that almost no other judge has reached or would reach. The machine gun case, Rybar, is very troubling. Judge Alito alone found that Congress could not regulate machine guns, even though the majority ruled that Congress could, even though every other circuit to consider the issue ruled the other way, and even though courts have held for the last 60 years that Congress has such power. Judge Alito was in that case and on that issue an outlier.

This is an issue about which there was and is broad consensus. He went out of his way to find a means to reject that law. When I met with Judge Alito, he cited three bases for his dissent. He said the most important was the lack of specific congressional findings that regulation of machine guns affects interstate commerce. I found this explanation, in all honesty, unpersuasive, to say the least. The effect on commerce is obvious. Congress has passed laws relating to machine guns since the 1930s. There has never been any doubt that their possession and sale affect commerce. Ninety percent of the crime guns in New York come from out of State. So of course it affects interstate commerce.

It seems as if, in certain cases, Judge Alito would want Congress to make a finding that the sky is blue before he will give Congress the ability to make laws. So this case raises questions. Will Judge Alito be unduly cramped in his reading of the Constitution? Will he engage in judicial activism to find ways to strike down laws that the American people want their elected representatives to pass and that the Constitution authorizes? It is too early to tell. But this merits serious and tough questioning at the hearing.

There are other cases similarly disturbing. On sex discrimination, Judge Alito was again alone in ruling against the plaintiff in a sex-discrimination suit. Not only was he alone on the original three-judge panel, he was alone when the case was reheard by the entire Third Circuit. He was alone against 11 of his fellow judges who criticized him for raising the bar much too high for a victim of discrimination. The Supreme Court declined to hear the case, so there are more questions. Will Judge Alito be too quick to dismiss victims of discrimination and not give them their day in court?

On title VII, Judge Alito again was alone on a panel in ruling that a civil rights plaintiff had to meet a higher burden to get a trial than the law already provided.

Here is what the majority found extremely troubling. They wrote that ''title VII would be eviscerated'' if they were to follow Judge Alito's analysis—eviscerated, which means victims of discrimination would have no recourse.

In other cases we find the same thing. In Chittester, about the Family and Medical Leave Act; in Doe v. Groody, about strip searches, he was on the other side of the conservative Michael Chertoff. In Riley v. Taylor, he was again alone and the majority criticized him for analysis that served to ''minimize the history of discrimination against black jurors and defendants.'' And, of course, Judge Alito was alone again in Planned Parenthood v. Casey.

These are just a few of Judge Alito's decisions that raise serious concerns and cry out for tough questioning.

While there is much more reading and reviewing to be done, it is not too early to wonder whether there is a troubling pattern in his record. Is there an overall consistency in his approach to law or just in the result? Does he practice judicial restraint always or only when it allows the right outcome? Does he use the guise of legal reasoning to turn the clock back, as he appeared to do in the machine gun case? How do we resolve some apparent contradictions?

For instance, sometimes Judge Alito goes out of his way to defer to the legislature, as when he wanted to uphold Pennsylvania's spousal notification law. But at other times he goes out of his way to strike down an act of the legislature, as when he wrote Congress could not ban machine guns.

Sometimes he reads the text narrowly, as when he struck down a school's anti-harrassment policy, but at other times he reads the text broadly, as when he condoned the strip search of a woman and her 10-year-old daughter, though there was no such language in the warrant.

The disclosures this week of his 1985 Justice Department job application only raise further concern and increase his burden to answer questions fully and forthrightly in the hearing.

In that application he wrote, among other things, that he was ''particularly proud'' of his work to advance the position that ''the Constitution does not protect the right to an abortion.''

That statement cannot be dismissed as a ''personal view'' that will not affect how Judge Alito will approach the legal issue. It is a flat statement of what Judge Alito, at least at one time, believed the Constitution, not his personal belief, said. That is not a personal view such as stating you are pro-choice or pro-life. It is decidedly a legal view which involved judicial philosophy and judicial reasoning. If confirmed, his belief about what the Constitution does and does not protect will have the power through his decisions to become the law of the land.

Because Judge Alito so firmly and specifically stated his personal and legal opinion about this controversial issue while in pursuit of a lesser position, he has an obligation to answer questions at his confirmation hearing for the highest judicial job in the land. He cannot, as previous nominees have done, say, I refuse to answer. Have his views changed? Is his mind made up? Was he exaggerating for a potential employer? And if he was, how should we view what he says to us in the committee as he seeks an even higher position? Is he bent on advancing a particular ideological position?

Past nominees have said they could not discuss these issues for fear of creating a perception of bias. Here, unfortunately, the application itself creates the perception of bias and it will be essential for Judge Alito to address the issue head-on.

In conclusion, every Supreme Court nominee has a high burden. For Judge Alito that burden is triply high: first, because he seems to have been picked to placate the extreme rightwing; second, because of his past statements suggesting a closed mind on certain controversial issues; and, finally, because he is replacing Justice O'Connor, for 25 years the pivotal swing seat on a divided Supreme Court.

I hope Judge Alito will be able to meet that burden.

I yield the floor.

Mr. HATCH. Mr. President, I rise to address the nomination of Samuel Alito to be an Associate Justice of the Supreme Court. Judicial nominees should be judged on their qualifications and their judicial philosophy. On the first point, there is no question that Judge Alito is qualified to sit on the Supreme Court of the United States.

In 1990, when the first President Bush nominated Judge Alito to the U.S. Court of Appeals for the Third Circuit, the American Bar Association unanimously gave him its highest ''well qualified'' rating. This body confirmed him at that time without dissent.

Regarding judicial philosophy, the most important principle is that judges are not politicians. When we hear someone talk only about the results of a judge's decisions, chances are they are applying a political rather than a judicial standard. This is what we heard today on this floor from my Democratic colleagues.

The description of Judge Alito's record by the Senator from New York, Mr. SCHUMER, was all about results. This is how he put it: In case after case, Judge Alito seems to find a way to rule on the side of business over the consumer; on the side of employer over employee; and often against civil rights, against workers' rights, against women's rights.

It would be tough to present a more distorted picture of what judges actually do. Judges do not decide for or against the rights of groups. Judges do not take the side of one group against another. To suggest, as the Senator from New York did, that Judge Alito is actually biased toward certain parties, that he intends to take a particular side, that he, in the Senator's words, seems to find a way to rule a certain way, is just beyond the pale.

Perhaps my Democratic colleagues could provide a list of the side that judges are supposed to take in this case or that. Perhaps they could give us a rundown of the groups whose rights judges are supposed to favor, regardless

of the facts. It might be something like a rate card or perhaps just a big piece of litmus paper. That would make this confirmation process a whole lot easier for all of us. Nominees could just check boxes and get a confirmation score.

Are you for big business or are you for the little guy? Are you for this or are you for that? The facts do not make any difference, no matter how right the big guy might be or the little guy might be.

Politicians take sides. Politicians promote political interests. Politicians pursue agendas. Judges are not politicians. Judges settle legal disputes between specific parties by applying the law to specific facts. Without talking about the facts and the law, it is impossible to properly evaluate judicial decisions.

It is not enough, as we heard this morning, to toss in words like ''troubling'' since all that means is that the person using that label does not like the result. It is not enough to observe that Judge Alito was alone in dissent or that the Supreme Court declined to review a particular decision. Those would be marks of distinction of judicial courage if the Senator from New York liked the result.

If such results-oriented litmus tests are appropriate, Judge Alito's long record contains results to fit every political taste.

Judge Alito has voted on the prochoice side in some of his abortion-related cases. He has voted for civil rights plaintiffs, against prosecutors, and even in favor of death row inmates desiring to file habeas corpus petitions. Imagine that. Judge Alito will likely get no credit from my liberal friends for these votes, but he should.

As I said, we must apply a judicial rather than a political standard to evaluate a judicial rather than a political record.

This morning, the minority leader, Senator REID, also spoke about the Alito nomination. I would like to respond to a few of his points. First, he said the nomination was not, as he put it, ''the product of consultation with Senate Democrats as envisioned by the Founding Fathers.''

America's Founders envisioned no such thing but actually advised against it. The Founders gave the power to nominate and appoint exclusively to the President. The Senate's role is to advise the President whether he should appoint someone he has already nominated, expressing that advice through an up-or-down vote.

Some of my Democratic colleagues are fond of taking jabs at President Bush by saying that this is the third nomination to replace Justice Sandra Day O'Connor. If that is true, then he should get credit for consulting with more than 70 Senators, more than any President has ever done regarding a Supreme Court nominee.

The idea that consultations for the same position must begin all over again when the first nominee is appointed elsewhere is absurd.

I hope this will be a fair, honest, and thorough process that results in an up-or-down confirmation vote. I applaud the minority leader for saying this morning that every judicial nominee is entitled to an up-or-down vote. In the 108th Congress, of course, he had a different attitude, leading filibusters against 10 different appeals court nominees, along with Senator Daschle.

While the minority leader, this morning, lamented the fact that Judge Alito is not Hispanic, one of the filibusters he led in 2003 targeted Miguel Estrada, a highly qualified nominee to the Federal appeals bench. Perhaps race only matters some of the time.

Until Democratic Senators began filibustering judicial nominees in 2003 with partisan, leader-led filibusters, it has been Senate tradition that judicial nominees reaching the floor received up-or-down votes. While I hope the minority leader will help us return to that tradition, and I believe he may, he may have a bit of a challenge on his hands.

Although the minority leader claimed this morning that not a single Democrat has talked about filibustering the Alito nomination, the Senator from California, Mrs. BOXER, told the Associated Press on November 1 that ''the filibuster is on the table.''

According to the Baltimore Sun on November 2, the Senator from Iowa, Mr. HARKIN, said ''I believe Democrats will filibuster this nominee.''

The Associated Press reported on November 3 that Democrats have, in fact, raised the possibility of a filibuster. Yes, Democrats are already talking filibuster, and I hope the minority leader meant what he said this morning and urges them to take a deep breath.

I urge my colleagues, the media, and the American people to apply the right standard to this and to all judicial nominations. It must be a judicial rather than a political standard when we decide these matters. It must examine the law and the facts of cases as well as the results, and it must be fair to this highly qualified and honorable nominee.

I have been kind of tough on my colleagues on the other side, but I believe everything I said is true. I believe it is time to get rid of the populism and start talking about what we can do to help America. One of the best things we can do is to confirm Judge Alito to the U.S. Supreme Court.

I yield the floor.

Mr. KENNEDY. Mr. President, many Members have serious reservations about the Alito nomination to the Supreme Court.

It is obvious that Judge Alito was chosen because the right wing of the Republican Party felt Harriet Miers did not meet their litmus test for Federal judges, a test of right-wing philosophy that was laid out in great detail by the Justice Department itself when Ed Meese was Attorney General in the 1980s. The right wing flexed its muscle and rebelled even when George Bush said, in effect: Trust me—she will be your kind of justice.

Well before Judge Alito was nominated, these core supporters of the President were aware of the President's dwindling public support, and knew he would be highly unlikely to cross them again. They were certain that Judge Alito passed their ideological test. They embraced him immediately, then moved in lock step with the White House to support and defend him.

The reasons for that immediate endorsement by the right are obvious. On key issues of equal rights, fairness, and access to justice, he has repeatedly found ways to keep people from vindicating their rights, obtaining remedies, and protecting themselves from government invasions of their privacy.

He supported a warrantless strip search of a 10-year-old girl, the elimination of black jurors despite a black defendant's objection, the dismissal of a case against an industrial polluter who had 150 water quality violations, the power of a state to intrude in personal medical decisions of women in Pennsylvania, and people who wanted to make machine guns in their homes.

On Tuesday, the Reagan Presidential Library made public his 1985 application for a promotion in the Meese Justice Department, in which he pledged his allegiance to the right wing views that Attorney General Meese stood for. In the application, he stated, ''I am and always have been . . . an adherent to'' these views.

He traced his views back to Barry Goldwater's 1964 campaign, which featured strong opposition to civil rights at a time when the growing national support for such rights had just accomplished the landmark Civil Rights Acts of 1964 banning racial discrimination in public accommodations.

As far back as college, he said, his view of constitutional law had been ''motivated in large part by disagreement with the Warren Court decisions,'' particularly the historic decisions supporting basic fairness in the criminal justice system, separation of church and state, and fair districting for legislative elections. In short, for all 20 years of his prior political activity, he had been a dedicated right wing advocate, especially on the major issues that led to the posting of the ''Impeach Earl Warren'' billboards on highways at the time.

We have also learned of his failure to recuse himself in a case involving the Vanguard mutual funds, in which he had a personal investment of hundreds of thousands of dollars.

A different justification was tried out each time his participation was challenged in recent weeks, even though he had specifically pledged to the Senate Judiciary Committee not to sit on ''any cases involving the Vanguard companies,'' regardless of whether he was technically required to recuse himself.

It appears that either the Judge or the White House is desperately running

new explanations up the flagpole to see if anyone salutes them.

When I saw him yesterday, he dismissed the blunt ideological commitments in his application to the Meese Justice Department as simply part of the job application process, and told me, in essence, that it shouldn't be taken seriously. But now he is applying for a job on the Supreme Court.

Should we take his assurances about ignoring ideology as a judge any more seriously now?

The American people have a right to better answers about the record of any nominee to the Nation's highest Court. Certainly, in the hearings to come, Senators will learn a great deal more about whether Judge Alito has the basic commitment to core constitutional rights essential to our Nation, and I look forward to those hearings.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there any further morning business? If not, morning business is closed.

PENSION SECURITY AND TRANSPARENCY ACT OF 2005

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to the consideration of S. 1783 which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1783) to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to reform the pension funding rules, and for other purposes.

The PRESIDING OFFICER. Under the previous order, the managers' amendment at the desk is agreed to. The bill will be considered original text for further amendment.

The amendment (No. 2581) was agreed to.

(The amendment is printed in today's RECORD under ''Text of Amendments.'')

Mr. ENZI. Mr. President, this is a very exciting day. We are here to the debate on the pensions bill. Every day hard-working Americans go to their jobs, they are confident we here in Washington are looking out for them and doing everything we can to assure that they will be able to retire some day and live the life they have always dreamed about. For our Nation's older workers and those who have already retired, there are few things more important to them than the health of their pension plan and the protection it provides. It involves younger workers, too.

I am glad we are at this point. This may be one of the biggest bills that has ever been covered with as little debate as we will have today. Part of the reason for that is how detailed it is and how many moving parts there are. I congratulate all of the people who have worked on this bill and worked cooperatively, both sides of the aisle. We have even had some conversations with the other end of the building in order to be able to get it to this point at this time.

I particularly have to commend Senator KENNEDY and his staff and my staff. August is normally a time when we are at recess and traveling our States, as I was and Senator KENNEDY was. It is normally a time our staff can catch up on things. It was not. It was a time they were heavily involved in negotiations to come up with the best possible package for protecting the retirement of the people of this country, and they worked virtually around the clock during the entire month of August. Senator KENNEDY and I were on the phone several times working out some of the big issues and trying to keep the focus on the direction it needed to go.

I also have to specifically congratulate Senator ISAKSON. He has been our coordinator with airlines on this whole thing, and had the airlines not had a crisis, I am not sure we would be here today debating pensions. It was enough of a focal point, enough of an impetus that it got us on the track of solving all of the pension issues, in all of the aspects, and I think we have a very complete reform package here.

Of course, I would be remiss if I did not mention Senator LOTT and Senator COLEMAN, who also were strong advocates on getting a solution for airlines so we would stop seeing the airlines go into bankruptcy over their pension problem. We have a team of them here today to add one more amendment that will make sure we will have airlines and to make sure that airline employees will have a solvent retirement package.

I also have to thank Senator DEWINE and Senator MIKULSKI, the chairman and ranking member of the Subcommittee on Pensions on Health, Education, Labor and Pensions. They held a number of hearings that set up the data so we would actually have information on which to base this pension reform. They have done a tremendous job, not just with the committee but also representing particularly people in manufacturing across this country who also have some very special problems at this point in time.

I would also mention Senators Stabenow and Senator LEVIN, who have a majority of those manufacturing workers. In fact, they probably represent more manufacturing workers than there are people in the whole State of Wyoming. But the team of people worked together and put together a bill for the Health, Education, Labor and Pensions Committee. Senator GRASSLEY and I, and the members of the Budget Committee, had an amendment in the budget bill that required that the HELP Committee and the Finance Committee merge a bill. I have to congratulate Senator GRASSLEY and Senator BAUCUS for their tremendous work with the Finance Committee to put together a separate bill that covered all the jurisdictional areas of the Finance Committee, and then their effort with us to merge a bill, which is the bill that is here today.

I have to tell you there were a lot of people betting that, first, neither committee would be able to report a bill out of committee and, secondly, that we would never be able to merge the two bills. It has a lot to do with Senator BAUCUS and Senator GRASSLEY and their staffs being extremely involved and working again in this detailed, ''many moving parts'' bill. That is the reason we are here today and have a rather comprehensive bill, and it is one that people have been scrutinizing and working on through all of the months of this year.

I think it is a tribute to all of the people who have worked on it that we have limited debate on S. 1783. Only two amendments are being offered, and then we will have a final vote. That is a lot of agreement for this body of 100 people who usually have a lot of disagreement.

I have some other comments, but I will make them later and allow people to get on with describing the actual workings of this bill to the point where we can do a final vote.

I yield to my neighbor from Montana.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, first, I thank my colleague, Senator ENZI from Wyoming, the chairman of the HELP Committee. As he has indicated, his committee, along with Senator KENNEDY, the ranking member of that committee, Senator GRASSLEY, chairman of the Finance Committee, and myself, the four of us worked together to be where we are today. Clearly we are where we are today because a lot of employees, a lot of retirees are very worried about their pension benefits. The essential way to help address that situation is to make sure these plans are more fully funded so as the promise is made, the promise is kept and, second, to make sure the backstop of the PBGC is also there when companies facing incredible pressures worldwide feel they have to no longer live up to their pension obligations and those obligations are passed on to the PBGC.

It is worldwide competitive pressures that big American companies and smaller American companies are facing as well as the Enron collapse which has forced us to take a good, hard look at this to try to find some good solutions. I thank Senator ENZI, Senator GRASSLEY, and Senator KENNEDY for their very good work.

It is important to say a little bit about this bill so Americans know what we are doing today. Millions of workers clearly have worked very hard over their lifetime. American workers, when they work, feel they are playing by the rules. They want to play by the rules and they want to do what is right. This bill, frankly, is about making sure that the retirement benefits

are there when people need them, more likely to be there than a lot of people think.

As we start the debate, let's remember why we are here. We are here to protect workers' pension benefits, plainly and simply. That is why we are here. This need was highlighted recently by cover stories in Time magazine and the New York Times Sunday magazine. Their titles were ''The Broken Promise''—that was Time magazine—and ''The End of Pensions'' in the New York Times magazine. I highly recommend all Members of this body read these articles. I read them both. They are very thorough and very perceptive in stating the problems and some of the solutions to the problems Americans face in having retirement benefits.

The Pension Benefit Guaranty Corporation, PBGC, was established to protect workers' pensions, but there are limits on PBGC's guarantees. Many participants have been promised benefits in excess of those guaranteed by the PBGC. When a company fails and the pension plan terminates with unfunded benefit promises, these workers and retirees pay severely for pension underfunding with part of their own hard-earned retirement benefits.

For example, the PBGC—and that is the outfit that takes over failed plans—has estimated that almost 7,000 United Airlines workers will lose 50 percent or more of the benefits they had earned under their pension plans. Another 28,000 United Airlines workers will lose between a quarter and half of their benefits. Clearly, as a result, promises to those employees are not being kept. We are here to try to help make sure those promises are better kept, and this bill will help move in that direction.

The most basic building block of pension funding is the interest rate used to determine the present value of benefits to be paid for the plan in the future. This bill provides a permanent replacement for the 30-year Treasury rate which has been used basically for this purpose—that is, determining the interest rate—under current law.

Under this legislation, we will change that. It is true Congress did pass a temporary substitute last year. This bill is to enact a permanent interest rate calculation. This bill would extend the current temporary interest rate—a corporate bond rate—for an additional year, and then begin phasing in a permanent solution known as a modified yield curve of interest rates. Using a yield curve to determine the value of future benefit payments is more accurate than using a single interest rate because the yield curve recognizes that you get a different interest rate on a 5-year loan than, say, on a 15-year loan, and that is relevant because clearly more people work longer than others, so their retirement is a different period of time.

This bill simplifies that yield curve by breaking it into three segments—retaining the improved accuracy of a yield-curve measurement, while making it easier to apply the rates.

There are other key changes to the funding rules.

Unfunded benefit liabilities would have to be paid off over a 7-year period. Ideally, every plan would be 100 percent funded every year, but with fluctuating asset values and interest rates, that is not practical.

Large companies could base cost calculations on their own mortality experience. Workers in some industries do not live as long as the general population. That affects the cost of providing lifetime pensions and should be reflected in an accurate measurement of funding obligations.

The increased utilization of early retirement subsidies that occurs when troubled companies start downsizing is reflected in a special at-risk liability calculation. This will ensure that companies begin funding for subsidized benefits before it is too late.

The at-risk calculation is not a penalty imposed on companies when they are down and out. It is a reflection of increased costs. Someone has to pay those costs. The question is who. Should other companies pay through increases in PBGC premiums? Should workers pay through lost retirement benefits? Or should we, as I believe, require the company that made the promise fund the promise?

Failure to recognize the real cost of benefits is one reason for the system's funding problems. Another is that current law actually would have penalized many employers if they had contributed more to their pension plans.

Employer after employer has told us that we need to allow companies to contribute and deduct more in good times to build a cushion for bad times. This bill does that. It allows companies to deduct contributions that would fund the plan up to 180 percent of the cost of benefits already earned and allows employers to maintain a prefunding account with these extra contributions, which is sort of a rainy day fund, to help them meet contribution requirements when cash is a little tighter.

Our goal is retirement security, assuring workers that benefits they had been promised will be paid. There are two sides to keeping that promise—funding what is promised by the company and also not promising more than a company can afford to pay.

This bill limits increases in a plan's benefit formula if the plan is less than 80 percent funded. If a plan is less than 60 percent funded, then no more benefits can be earned until funding improves. Employers would have to fund up collective bargaining plans to keep these limitations from kicking in.

To make sure poorly funded plans do not become even more unfunded, this bill limits the portion of a benefit that can be paid in a lump sum if a plan is less than 60 percent funded. Lump sum payment of pension benefits can drain plan assets and hurt other workers. No benefits would be forfeited. The difference would be paid as an annuity. Retirement benefits are the largest asset of many workers, and they deserve timely, complete information on the state of their investment. Under this bill, most workers and retirees will receive detailed funding information within 90 days after the end of the year. That is new.

There was a time when pension plans paid monthly benefits at normal retirement age, usually based on years of service and some average compensation. The benefits were heavily weighted to workers who spent their entire career with one company. But in today's competitive world, that is not likely to be the future. Today many companies have moved to cash balance plans or other hybrid arrangements that are structured more similar to 401(k) plans, defined contribution plans. Benefits are earned more evenly over a worker's career and are more portable—easier to move from one job to another—than the traditional pension benefit. There has been uncertainty surrounding these plans, and litigation is ongoing. If defined benefit plans are to be a viable, attractive option in the future—and there is a real question whether they can be, and we are trying to make sure we can be—we must bring some certainty to the rules governing these arrangements. That is cash balance and hybrids.

This bill lays down the rules for moving forward with these plans. It recognizes the legitimacy of the basic design. It also provides protections for older workers when a traditional plan that rewards a lifetime of hard work is converted to one of these hybrid arrangements that is designed for a more mobile workforce. I think we have done a good job of protecting participants without putting too onerous a burden on employers.

Let me emphasize that this is a prospective provision; it is not retroactive. We do not step into the legal quagmire that exists with regard to the past. I want to make it clear that this bill offers neither side an inference as to interpretation of existing rules.

Some of the provisions in this bill that provide participant protections were in a bill we introduced in the 107th Congress, a bill designed to help prevent another Enron.

We all remember Enron. Thousands of workers lost their jobs. Because their 401(k) accounts were heavily invested in company stock, these workers lost most of their retirement savings as well. In February 2002, ''60 Minutes'' did a segment called ''Who Killed Montana Power,'' about my own State's experience with employers behaving badly and havoc wreaked on employees and their savings. The story reported one worker had lost $350,000 in his 401(k) plan because of the crash of employer stock. He certainly was not alone.

This is not to say company stock is a bad investment. Sometimes it is a wonderful investment. So this bill does not prohibit investment in employer stock. It simply puts the choice where it should be—in the hands of participants who are building up their retirement savings.

To help make that decision, we give workers tools to make good decisions and understand the consequences of their actions. We require more frequent benefit statements, and we provide a safe harbor to make it easier for employers to make independent investment advice available to plan participants if they want independent investment advice.

This bill has a number of other provisions that will make it easier for a worker to move retirement plans from employer to employer or from an employer plan to an IRA. There are also provisions that make it easier to administer retirement programs.

All of us are fortunate to have the benefits of the Federal retirement system. We have good pensions. We have good retiree health benefits, and I might add the PBGC does nothing to health benefits. This legislation does nothing to health benefits. It is only pension benefits. Health benefits is something that has to be addressed clearly and solidly at a not-too-distant date.

Imagine, however, if the Government all of a sudden said: Sorry, we can't afford that retirement, all you folks in Federal Government; we are going to cut it back; you will have to learn to live on less. That would be a problem, and it is a problem for many Americans.

That is what many of America's older workers and retirees are facing. Our steel workers, our airline workers, and many others have had the rug pulled out from under them. It is no one's fault, certainly not theirs. America's companies are competing in a cutthroat world. It is important to remember that. They have problems too.

What we are trying to do today is ask everyone to be more responsible and strike the right balance. We need a system where companies put enough money aside to pay for what they promise. And we need a system where workers who carry out their part of the bargain do not have to worry that a pension was more dream than substance.

This is a tough challenge. The bill is not perfect. It is a compromise. But I believe it is a good bill and should become law. The retirement security of millions of workers deserves our attention. I urge my colleagues to support keeping promises, to support protecting workers' retirement benefits. I urge my colleagues to support the bill.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time? The Senator from Georgia.

AMENDMENT NO. 2582

(Purpose: To modify pension funding rules related to airlines, and for other purposes)

Mr. ISAKSON. Mr. President, I call up my amendment at the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Georgia [Mr. ISAKSON] proposes an amendment numbered 2582.

Mr. ISAKSON. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The amendment is printed in today's RECORD under ''Amendments Submitted.'')

Mr. ISAKSON. Mr. President, I ask unanimous consent that the following Senators be added to the amendment as cosponsors: Senators LOTT, COLEMAN, ROCKEFELLER, DEWINE, ALEXANDER, BENNETT, BURNS, HATCH, and CHAMBLISS.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ISAKSON. Mr. President, it is a privilege for me to introduce a Member of the Senate who has been instrumental in bringing this amendment to the floor, Senator COLEMAN from Minnesota. I yield him 4 minutes.

The PRESIDING OFFICER. The Senator is recognized for 4 minutes.

Mr. COLEMAN. Mr. President, it is a pleasure to work with the Senator from Georgia. I wish to talk about a piece of this amendment. Before I do, I thank Chairman ENZI and Ranking Member KENNEDY for the work they have done on this bill. I represent Minnesota, Big 10 football, big ground game, not fancy passes. The Senator from Wyoming is not a rabbit, not fast on his feet, but, boy, is he solid, steady, and consistent. This is a great bill.

There is a piece particularly important to the folks in my State and actually throughout the country. This is not just about my State. Pension reform provisions relating to the airline industry take the burdens off the taxpayers. That is what this is about.

Let me be clear, when airlines cannot meet their pension obligations, the Pension Benefit Guaranty Corporation, PBGC, is saddled with the responsibility. Who is the PBGC? It is the American taxpayer. That is who is saddled with the responsibility.

In my State alone, Northwest Airlines is struggling to meet its obligations and make good on their promises of pensions to its employees. Minnesota has almost 22,000 people who depend on Northwest Airlines pensions. As the Senator from Montana said a minute ago, this is about promises made and about promises being kept.

The Federal law defining underfunded defined pension benefit plans is seriously broken and must be fixed. A number of airlines have already terminated their defined benefit plans in bankruptcy and transferred them to PBGC. Other carriers may well suffer the same fate.

I am not going to go into detail as to why it happened—stock market declines, low interest rates, September 11, record oil prices—but as a result, the deficit reduction contribution rules kick in. They require that Northwest and other carriers make massive additional contributions to its defined benefit plans that they cannot afford.

It is difficult to overstate how profoundly these DRC rules have impacted the funding of pensions. It would be akin to telling homeowners with 30-year mortgages that if the value of their homes drop below 80 percent of the purchase price, for whatever reason, their loan will be accelerated such that the balance will become due in 3 to 5 years. This is a problem. Common sense is not in play. This amendment provides common sense to pension laws.

This amendment provides some protection to the taxpayers. This amendment provides protection to the employees. They should get what they have worked for. Promises made, promises kept.

Northwest has worked with the labor unions. They developed a proposal contained in this compromise bill allowing them to proceed in a way to stop adding to the underfunding of airline plans by requiring airlines and their affected unions to freeze their plans, ceasing future benefit accruals, and protect the PBGC by freezing the PBGC guarantee. It would fix the broken DRC rules by extending the term of the pension ''mortgage'' from its current 3-to-5-year amortization period to a longer amortization period.

Under this proposal, retirees and plan participants would receive the benefits they earned to the date of the freeze. Retirees would be protected. In addition, the PBGC will be in better shape financially since its liability will be capped, and each airline payment that an airline makes to the plan will reduce that liability.

The bottom line is this: Northwest and other airlines are not seeking a subsidy, they are not seeking a bailout from the Government. Just the opposite. They are asking for a responsible alternative to current law that lets them pay their pension liabilities versus shifting those obligations on to a Government agency.

It is the right thing to do. It is a fiscally responsible thing to do. It is the right thing to do for the employers and taxpayers. I urge my colleagues to support this amendment.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. ISAKSON. I yield myself 5 minutes.

Mr. President, I first thank Senator COLEMAN for his remarks and associate myself with those remarks. I particularly thank Chairman ENZI of the HELP Committee, as well as Senator KENNEDY. They have made sure that

this stayed alive during the course of this session.

I thank Senator GRASSLEY and Senator BAUCUS for the efforts they made on pensions and particularly thank Senator COLEMAN and Senator LOTT for their untiring efforts to bring this to reality today.

I wish to go back to one thing Mr. COLEMAN said briefly by acknowledging what brings us to this point in terms of airlines. In the past 5 years, there have been five things that have happened, none of which would be in control of the aviation industry: the decline of the stock market early in this decade, the tragic events of 9/11 which grounded American aviation, the unprecedented historically and continuously low interest rates, the hurricanes that hit the United States and shut down refineries and petroleum and closed major airline markets for transportation, and not the least of which is petroleum going to $70 a barrel and aviation fuel tripling in its cost.

If we take all of those and combine them with the constraints of the current formula on pensions, one can understand why the aviation industry has had the difficulties it has had and how employees of legacy airlines will lose their pension benefits unless we adopt reasonable and appropriate amendments such as the amendment we propose today.

Very simply, this amendment does a couple of things. One is for the aviation industry. It allows the amortization of the obligation over a 20-year period of time, an amount that is manageable, an amount that is doable, an amount that for all intents and purposes will ensure employees will get the pensions they have earned. Failure to adopt this amendment will almost guarantee that those employees of airlines such as Delta, Northwest, and others will not ultimately get the pension benefits they have earned. The major consequence of that will be the taxpayers of the United States of America, through their surrogate, the PBGC, the Pension Benefit Guaranty Corporation, will have the additional liability those pensions will thrust upon the PBGC.

In this amendment, we have met the challenges the aviation industry has before it. We have looked responsibly at the right formula and the way in which to calculate that formula to ensure the benefits are paid. We have addressed the concerns of the industry and its individual airlines, all of which have similar unique but some different problems.

In particular, what we do is give hope for the employees to get their benefits. We cap the liability of the PBGC, and we ensure that one of the most important elements of the U.S. economy, the aviation industry, is not forced by laws that are out of sync to unfund, defund, or jettison their pension plans for the employees who have made those airlines fly throughout their careers and throughout their history.

We have some time remaining on our allocation for the amendment, to which Senator LOTT was to speak but was called away. I reserve the remainder of our time on the amendment for Senator LOTT upon his return.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

The Senator from Maryland.

Ms. MIKULSKI. I ask unanimous consent to speak up to 10 minutes under the time controlled on the Democratic side.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Ms. MIKULSKI. I note that the distinguished chairman of the Finance Committee has come to the Chamber, and I know he is eager to speak on the bill and has many demanding responsibilities.

I compliment both Senators ENZI and KENNEDY, as well as Senators GRASSLEY and BAUCUS, on the outstanding job they have done in developing this legislation and putting two bills together. Pension reform is one of the most important issues facing the American people, and Congress must rise to the challenge of passing legislation. Reform is needed to protect workers' pensions, to protect good-guy businesses, and also to protect the American taxpayer, who often ends up being the safety net for so many pensions.

The bill before us today is generally a very good bill. Yes, I do see some yellow flashing lights about two provisions of the bill regarding the use of credit rating and something called smoothing. That is why Senator DEWINE and I had originally wanted to offer an amendment to avoid the unintended consequences that might push companies to drop their pension plans and leave workers in desperation.

In recent days, we have made a lot of progress. Senator DEWINE and I have had very constructive conversations with Senators GRASSLEY and BAUCUS. Senators ENZI and KENNEDY have been particularly helpful in brokering a resolution to some of the issues. The process seemed far less ominous when their wise heads and hands got involved in it. Their help was invaluable in ironing out some of the wrinkles. I believe we have a commitment to work together in conference to address our concerns because I truly believe that the Senate bill is in many ways a superior bill to those in the House. This is why I am eager to see this bill move ahead.

Throughout my career, everyone knows I have been fighting for the little guy. This is no different. Pensions are part of the American dream. People believe that if one works hard, they can get ahead, but also if they work hard, they are going to have a pension. A pension has to serve as one of three legs of an increasingly wobbly stool supporting older Americans in retirement. That is why we are so concerned about the fragility of so many pension plans in our own country.

We have worked from the beginning on a bipartisan basis. Senator DEWINE and I are the chair and ranking member of the Subcommittee on Retirement Security and Aging in the Health, Education, Labor, and Pensions Committee, of which Senator ENZI is the chair and Senator KENNEDY is ranking. We held a series of hearings, and they were outstanding. I wish the American people could have seen them. They were content rich, and they were also characterized by civility, particularly among members. The hearings demonstrated the need for comprehensive reform that addressed not just single-employer plans, but multi-employer plans and cash balance plans as well.

What I like about the bill is that we have a smart bill, we have a good bill, and we have a bipartisan bill. When we looked at it, part of our bipartisan framework was to let us do no harm either to the people who need pensions or to the people who provide the jobs and the business. We need to make sure workers do not lose their pensions. We had to look out for good-guy businesses that are doing everything they can to fund their pensions. We also had to protect the taxpayer and ensure that the Pension Benefit Guaranty Corporation was solvent. It must not be used as a dumping ground for those companies that want to walk away from their pensions even though there was no need to. I believe we accomplished so much in those principles: do no harm, protect the worker, protect good-guy businesses, and look out for our taxpayers.

When the HELP bill was merged into the finance bill, many improvements were made, but there were several provisions that, as I said, had yellow flashing lights. One is the issue of credit rating and the other is the issue of smoothing.

There are those within the HELP Committee—and my colleague, Senator DEWINE, and I count ourselves as two of them—who are concerned that a company's credit rating is being used as an indicator of its pension plan's health. Companies with bad credit ratings could be forced to put in extra payments, even if they had been responsible in making regular payments to their generally well-funded plans.

Credit rating is a blunt instrument. Data from Moody's, one of the Nation's leading credit rating companies, should help explain this. Moody's looked at companies that were sub-investment grade and followed them for a full 20 years. After these 20 years, a majority of the companies had not defaulted on their bonds. This tells us that the companies had not gone bankrupt.

Some people are worried that weak companies will go into bankruptcy and dump their pension plans. The facts say otherwise: a majority of companies in junk-bond status won't go bankrupt. Forcing struggling companies to make new draconian payments could end up pushing many companies to terminate their plans or enter bankruptcy. We have to take that into consideration.

This means in fact this language would bring about exactly what it is designed to protect against.

Auto manufacturers and tech companies, many of whom are just now regaining their financial stability, could be among those hit hardest by these provisions. We should encourage these viable businesses to continue making contributions to their plans, not push them into bankruptcy.

Such an unintended consequence could well cost many Americans their jobs and their pensions. Senator DEWINE and I wanted to make a targeted change to the bill to help prevent this, substituting the actual measure of a plan's health in place of credit ratings.

The other issue that concerned me is limitations on smoothing. Smoothing is the process of averaging estimates of assets and liabilities and is used because pensions are by nature long-term investments. Smoothing improves predictability and makes it easier for companies to plan their budgets around their pension contributions.

Under current law, companies can average estimates of assets and liabilities over 4 or 5 years to smooth fluctuations in the stock market and in interest rates. Senator DEWINE and I wanted to tighten this to 3 years, which is more restrictive than current law but more effective than the merged bill's one year. Numerous experts have said that one year is just not enough.

I also want to highlight a key transparency provision in the merged bill that requires companies to issue a snapshot, unsmoothed picture of their assets and liabilities each year to participants and the PBGC. This new disclosure addresses the criticism that smoothing can hide problems in plan funding for several years. Now, many problems should be apparent just 90 days after the end of the plan year.

Last Wednesday, the House Ways and Means committee passed Chairman THOMAS' bill. Like the HELP bill and like Chairman BOEHNER's bill, the Ways and Means Committee didn't include credit rating and allowed 3 years of smoothing.

I continue to feel strongly about the need to make changes to the legislation before us today. I also believe it is imperative to continue moving through the legislative process so we can pass this much needed reform. The Ways and Means Committee has acted, and we now know that the House of Representatives is sure to have a good position on these issues. There are too many other good provisions in this bill that we must pass.

I am not going to go into all the details of the bill. I note that the chairman of the Finance Committee wishes to speak. We want to move this legislation. I want to pass this bill so we can get to conference. We want to say to the House: They sometimes think the Senate is the body that talks more than it gets done. We challenge the House to pass this bill before they leave the way the Senate is going to do it and to do it the way we did it—working on a bipartisan basis.

I cannot say enough about the appreciation I have for Senator DEWINE of Ohio, who was the chairman of the subcommittee. We worked together, and we really looked out for those jobs that have a defined benefit plan, particularly in the older manufacturing corporations. It was a delight to work with him, and I look forward to that on many other issues.

Senator ENZI, with his accounting background, provided a steady hand and again has worked to create a culture and climate of civility that is becoming a hallmark of our committee. I have also appreciated working with Senators GRASSLEY and BAUCUS to achieve the melding of two very good bills. We thank them and we thank their staffs for their collegiality and consultation.

I look forward to voting for this bill. I look forward to being a conferee, and I look forward to bringing a bill back to the Senate not only that the Senate can be proud of but that people who need pensions can rely upon and that business does not fear. Government must be part of the solution rather than the problem.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from Wyoming.

Mr. ENZI. Mr. President, I thank the Senator from Maryland, Ms. MIKULSKI, for her tremendous work. She showed such tremendous concern for the workers and the companies, both of which are multiple in her State, and she did a great job of brokering for both to make sure the businesses would continue and the employees would get their pensions.

The Senator showed the depth of understanding that she already had and that she got from the hearings which were conducted. We appreciate the bipartisan way she has worked on this to get us to this point.

I yield to the Senator from Iowa.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, before I give my reasons to my colleagues for why they should support this legislation and why it came out of my committee, there are several thank-yous I would like to give, first to Senator BAUCUS because this is truly a bipartisan bill that came out of committee. In fact, I think it came out totally unanimous. Over a period of many months working with Senator BAUCUS, we were able to put something together to get that kind of bipartisan support.

Then later on, the HELP Committee reported a bill. There was extremely great cooperation between Senator ENZI and Senator KENNEDY with Senator BAUCUS and me. I do not say this tongue-in-cheek, I say it as a matter of fact: I think if one can get Senator ENZI and Senator GRASSLEY together on one side of the aisle and Senator BAUCUS and Senator KENNEDY together on the other side of the aisle, there ought to be something that ought to pass this body.

I also lend compliments and support for helping move this bill along to Senator MIKULSKI and Senator DEWINE because they had a very controversial amendment—they may not have thought it was controversial—and we were able to work out some understandings beyond the action on this floor to accomplish that. So we would not be here today doing this bill without Senator MIKULSKI and Senator DEWINE's cooperation. I thank the Senator from Maryland for that, and Senator DEWINE as well.

I am very pleased that the Senate now is turning their attention to what we call the Pension Security and Transparency Act, 2005. It is a bipartisan bill, and I support it. I think every Member of the Senate ought to be proud to support this bill and, of course, only a rollcall will show that.

This is a bill that is about one thing—improving the retirement security of all Americans. It will improve Americans' retirement years in many different ways. Much of the public focus on this legislation has been on the comprehensive pension funding reforms that are in the legislation. Those reforms are very important, but before I talk about those, I wish to spend a couple of minutes talking about other important provisions in the bill.

No. 1, the bill represents a completion of the post-Enron retirement plan reform that I have worked out with my good friend Senator BAUCUS, Democrat ranking member. We all remember that when Enron spiraled into bankruptcy and the value of that company's stock evaporated, Enron employees had 401(k) plans locked in Enron stock. They had no chance of diversifying their 401(k) portfolios, and they were blocked from selling Enron stock at the time top executives were cashing that stock out with big gains for them. This bill would say that Enron practice is unacceptable for any company in the future. Employees should not be forced to stuff their 401(k) plans with company stock. Diversification is the most fundamental principle of sound investment strategy. The bipartisan legislation before us today then guarantees that employees have the right to diversify their 401(k) accounts.

This bipartisan bill also seeks to increase savings by adopting new rules to promote automatic enrollment in 401(k) plans. Very often, I am afraid, the hardest dollar to save is that first dollar. Once people begin to save, it can become a habit that lasts a lifetime. Automatic enrollment means that saving that first dollar will be easier, less redtape, and it means that millions of Americans then will be saving many times more than what they save today. Obviously, every month we get statistics on savings that say Americans are almost, throughout the entire globe, the ones who save the least.

The bipartisan bill before us today also simplifies retirement plan rules, making it easier and less burdensome for employers to give retirement plans to their employees. These types of changes will be particularly helpful to small businesses, which are often discouraged from sponsoring a retirement plan because of the costs, administrative costs particularly, and the redtape burdens. The bipartisan bill before us today would allow small businesses to combine a defined benefit plan with a 401(k) plan, and they would do this into one simple plan called DB(k). This type of combined plan will give employees the best of both worlds at the same time.

Speaking of combining the best of both worlds, the bipartisan bill we are considering today provides long-needed clarifications that cash balance and other types of hybrid pension plans are not inherently age discriminatory. Hybrid pensions combine positive features of both the traditional pension plan and the defined contribution plans. These plans have long provided meaningful retirement benefits to employees. Today we will help to lift the cloud of legal uncertainty over these plans. At the same time, we also ensure that the rights of participants are protected and that the plans truly do meet the needs of today's mobile workforce by requiring faster vesting of employees' benefits in those particular plans.

Finally, then, I will refer to the pension funding changes in this bill, those things that really have gotten the most attention and maybe are somewhat controversial. This bill honors a promise that we made way back in 1974, before I came to Congress, when the law governing plans, called ERISA, was enacted. That promise was made that the pensions of rank-and-file employees should not depend on the financial solvency of their particular employer. ERISA, the law, says that it is OK for a nonqualified pension of senior management to be exposed to the company's risk of bankruptcy. But then when it comes to the rank-and-file employee, people who probably had as much to do with making the company as the manager, people who worked hard all their lives in hopes of a good retirement, and a pension being a part of that good retirement—those people's golden years should not be ruined because of their employer falling on hard times.

ERISA is meant to protect against that, and we are making some changes to make sure that ERISA does what it was originally intended to do in 1974, without using the taxpayer as a possible backstop. ERISA, I hope people believe, has worked pretty well for the last 30 years. But we found that in recent years there are times that the promise of ERISA is not honored. So, today, we are here to fulfill the promise and to let the American people know that if you have been promised a pension, we are going to make sure that you receive it.

The pension funding reform in this bill also stands for another bedrock American principle that if you make a promise, you are responsible for your own promise. We all know that most companies fund their pension plans in a very responsible manner. Unfortunately, there are a few—and it only takes a few bad apples to ruin the whole barrel of apples—but a few bad apples who have abused loopholes. Those are loopholes that are in the current rules to avoid funding pensions in a way that shows that they are responsible for their own promises.

Those few who have taken advantage of these loopholes have often, in the end, dumped their pension plans on the Pension Benefit Guarantee Corporation, the Government agency that was set up to provide the insurance; let's say in a sense like the Federal Deposit Insurance Corporation does, for savers in bank accounts. These companies have essentially said we cannot pay our bills. Someone else is going to have to pay them for us. That is the PBGC.

Unfortunately, the people they want to pay are other employers who have done the right thing and have guaranteed their employees the pensions they promised. They are able to deliver on those promises. Those employers who are honest and upright get stuck with the bill, in the form of higher premiums to the Pension Benefit Guarantee Corporation.

I think we would all agree that is not fair, and it is no way to run a pension system. Even more unfair is the concept of a taxpayer bailout of the PBGC. One thing that I am for in this legislation is the attempt to make sure this does not happen, that the taxpayers are not laid bare for this obligation that the corporation ought to pay, but that goes back to the irresponsible actions of a few bad apples who do not fund their pensions adequately. I do not want another savings and loan situation like we had in the late 1980s coming out of bad policy in the PBGC.

As we have watched the financial condition of this Government corporation deteriorate rapidly in recent years, the prospects of such a bailout become increasingly real—in other words, a taxpayer bailout, a savings-and-loan-type bailout that we do not want to let happen. In other words, we ought to show that we have learned a lesson, and hopefully this bill is a good step showing we have learned a lesson.

The bipartisan bill we have before us today will reverse the decline over time by improving pension funding and bringing additional premium revenues into the corporation, the Pension Benefit Guarantee Corporation. This bipartisan bill represents a huge leap forward for retirement security.

Let me say I am cognizant of the fact that we in Congress are saying that it is a huge leap forward. I think it ought to be known to all of my colleagues that the President and his staff, who were interested in this legislation, would say it is not good enough in this direction and maybe there are opportunities, hopefully along the way, for improvement.

I think, once again, in closing, I need to give thanks, as I have already given. I start with Senator BAUCUS for his dedication in this legislation. He has been a great partner to work with me to advance this bill to where it is now. I also thank Chairman ENZI and Senator KENNEDY. I think we have had a partnership working together as two committees on legislation because we share jurisdiction. I have to commend their dedication to important reforms that they put in their bill. They have been tireless in their efforts to get us to this point. I look forward to working closely with them and all my colleagues in the Senate as we continue to work towards the goal of getting this bipartisan legislation to the President for his signature.

I yield the floor.

Mr. ISAKSON. Mr. President, I would like to turn the wheel back on our time allotted to the Isakson amendment and yield that time to the Senator from Mississippi and, in so doing, repeat my acknowledgment of my thanks to Senators GRASSLEY, BAUCUS, ENZI, and KENNEDY for their cooperation in allowing this amendment of the aviation portion of the pension bill to come before the Senate today, and the distinguished Senator from Mississippi for his untiring effort to bring us to this point today.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. LOTT. I thank the distinguished Senator from Georgia yielding me that time. Might I inquire, what is the time remaining?

The PRESIDING OFFICER. The Senator has 7 minutes.

Mr. LOTT. Mr. President, first of all, I point out this is a classic example of how we can work together to get an agreement to move needed, necessary, balanced legislation. There have been a lot of glitches along the way, but there has been persistence by the Finance Committee and by the HELP Committee to report out the legislation, to have hearings, to listen to the arguments from the administration, from the private sector, from those who are experts in this field of the PBGC. I am very proud of the work that was done by the chairman of the Finance Committee, working hand in hand with the ranking member, Senator BAUCUS, to get the legislation passed and to allow an amendment in which I was very interested dealing with the airline pension situation. They could have said ''don't do it'' or ''we will do it later,'' but they allowed the process to work its way through.

Then, also, I have to give tremendous credit to the chairman of the HELP Committee, Senator ENZI. He did not give up on it. He was dogged and he was working on trying to get this unanimous consent agreement on how we consider this legislation, and our leadership on both sides of the aisle were

able to come together. There were a lot of people who had amendments they wanted. They had objections, there were holds here, holds there, yet here we are. So I hope we can look at this and see if we cannot do this again in the future.

There is no question we need reform in this area. There is real exposure across the board. American workers all over this country, and management, and the leadership in the administration or in the PBGC are very worried about where we are headed with these pensions. Are we going to keep our commitment to the workers and to the people involved in these pensions? We have an exposure, according to an article this morning in the newspaper, this PBGC organization, of approximately $26 billion.

Where are we heading in this regard? Part of the problem with regard to pensions is the requirements that the law places on them are inverted. If you get into difficulty, if you are losing altitude, your payments to the agency, PBGC, go up, making it more likely you are going to continue to plunge into the ground. Conversely, if you are doing well, you pay less. How did we ever allow the law to get into that shape? Reform clearly is needed. If we do not do it, and do it in the right way, more companies are going to go into bankruptcy and are going to wind up dumping their pensions. The people who earned these pensions or had agreements for their pensions are going to get less than they thought they would get or in some cases even less than they should be getting.

We can debate whether or not these pensions have been too inflated, but we have to transition. I personally think we have to get away from these defined benefit plans. We have to go to the defined contribution plans. But I think this legislation is a good compromise. We need it and we certainly should get it done before we complete this session of Congress.

I also congratulate Senator COLEMAN from Minnesota for working on the aviation provisions, and especially Senator ISAKSON, the great Senator from Georgia, for his efforts to stay behind this legislation and to offer the amendment that is going to be voted on before we complete the legislation.

The language in the bill says airlines that freeze their defined benefit plans can amortize any funding shortfalls over a 14-year period. That was a compromise agreement. The chairman had some concerns about what that number would be. The language we have from Senator ISAKSON is slightly broader than that, broader than the base bill.

It allows airlines that freeze their plans and airlines that prefund their plans 20 years over which to amortize their funding shortfalls. I think that is the right number. I would like to have seen it more than 14. I support this amendment. I must say that I know it is critical to some of our airlines that we have this language. I have worked on the language in the pension reform package on airlines. I have worked on supporting this amendment, and I have worked on checking the votes. I want the RECORD to show, in case there is a voice vote, that I believe there are probably over 80 votes in the Senate that would be for this amendment.

I want to make it clear for the future and for the RECORD and for the conference that this amendment is going to be handled in the way it is going to be handled because of the overwhelming support it has. We could have a lot more resistance to it by the leadership, but they continue to be reasonable in their handling of this legislation.

I support the Isakson amendment. I certainly believe it will be accepted by an overwhelming indication of support in the Senate, and that is the way it should be.

I believe, as a result of this legislation, that companies—particularly airline employees—the PBGC, and ultimately, most importantly, the U.S. taxpayer will be better off.

This bill is not perfect. It will probably be better as we go along through the conference, but it will never be perfect. But it is a major step forward and one we should be proud of. It is not the kind of thing you will read about in the local newspaper or, congratulations, you did a good job, unless you are the hub of an airline. It is not something you are going to read a lot about in most places in Wyoming. But this is the right thing to do, and the exposure is cataclysmic if we don't deal with it.

I am delighted to support the legislation and the Isakson amendment.

I yield any remaining time at this point. I thank the Senator for yielding.

Mr. ROCKEFELLER. Mr. President, I am very pleased to offer an amendment with my colleagues: Senator ISAKSON and Senator LOTT. Our amendment provides important pension relief to the airline industry, which has struggled financially as a result of the September 11 terrorist attacks and dramatically higher fuel costs. In the last few years, we have seen United Airlines and US Airways terminate their pension plans and turn over their liabilities to the Pension Benefit Guaranty Corporation. Our amendment is designed to avoid this unhappy outcome for airlines that are still struggling with large pension debts.

Throughout the work on this legislation, my goal has been to protect the employees and retirees who have worked hard to earn retirement benefits. Whenever underfunded pension plans are dumped on the PBGC, everyone loses. Employees and retirees lose benefits that they deserve. Companies struggle with sour employee relations. And the PBGC and ultimately, perhaps someday the taxpayers—gets stuck with a bill for the portion of the pensions that is guaranteed but not funded.

I am very appreciative of the cooperation that we have had from the bipartisan leadership of both the Finance Committee and the HELP Committee. The legislation we are considering today would allow struggling airlines to pay off old pension debts over a 14-year period using reasonable interest rate assumptions. Unfortunately, given the rising fuel costs and the need to attract bankruptcy financing, the relief provided in this bill is insufficient to help Delta Airlines. That is why the Isakson-Rockefeller-Lott amendment, which extends the repayment period to 20 years is so important. The amendment would also allow airlines, such as American and Continental, to benefit from relief without terminating their pension plans, as long as any new obligations were fully funded.

I am very pleased that this amendment has the support of Delta, Northwest, Continental, and American airlines. This amendment does not pick winners or losers within the airline industry. Rather, it focuses on maintaining defined benefit pension promises, and any airline that offers defined benefit plans would be able to benefit from this relief.

I understand the skepticism of Senators who are concerned that in spite of any relief Congress provides, airlines may still terminate their pension plans. I cannot say that this is an unreasonable fear.

However, the amendment we are offering would make it more difficult for airlines to dump their plans. Without sufficient funding relief, airlines may convince a bankruptcy court that the plans must be turned over to PBGC in order for the airline to emerge from bankruptcy. However, if the law requires reasonable-sized payments, stretched out over 20 years, an airline's argument that it cannot make such payments loses credibility.

As a West Virginian, I have seen the tragic consequences of underfunded plans. I am not interested in letting employers off the hook for pension promises they made to workers.

The point of this amendment is to make sure that employers fulfill their obligations. In light of the current financial situation of several airlines, it is unrealistic to expect them to maintain their pension plans under normal funding rules. The reality of the situation calls for reasonable funding relief in order to make sure that the companies continue to make substantial payments to their plans. Providing a 20-year period for airlines to repay their pension debts is the best way to protect workers' benefits and reduce unfunded liabilities covered by the PBGC.

For the sake of the airline employees who have earned a secure retirement and for the sake of the millions of workers who depend on a strong PBGC, I ask my colleagues to support the Isakson-Rockefeller-Lott amendment.

Mr. CHAMBLISS. Mr. President, I rise today in support of Senate amendment No. 2582 offered by my good friend Senator ISAKSON to S. 1783, the

Pension Security and Transparency Act of 2005.

The retirement security of millions of Americans participating in single employer defined benefit pension plans depends on employers keeping their pension promises. Unfortunately, in recent years those promises have not been kept. Defaults of pension plans in the airline, steel and auto-parts industries have raised concerns about the health of existing plans and the possibility of a taxpayer bailout of the Pension Benefit Guaranty Corporation, PBGC.

The current system does not ensure that pension plans are adequately funded. When under-funded plans terminate, as several have done recently, they place an increasing strain on the pension insurance system. As of September 30, 2005 the PBGC showed a deficit of $22.8 billion for pension plans sponsored by a single employer. While the PBGC will be able to pay benefits for years to come, the solvency of the pension insurance system is in jeopardy. It is estimated that the PBGC will run out of cash within the next 20 years.

The airline industry in particular has been faced with its own specific set of economic challenges. The attacks on September 11, 2001 coupled with a stock market decline and record oil prices have placed a significant burden on the airline industry, forcing them to make tough choices. The unfortunate reality of our current economic climate is that some businesses, particularly the airlines, are taking devastating financial losses as a result of unforeseen circumstances.

As many of my colleagues know, Delta Airlines is headquartered in my home State of Georgia. Delta has a longstanding history of service to airline passengers throughout the world and has been a great corporate citizen for the State of Georgia. Delta's some 31,000 employees, like many other hard-working Americans, have devoted years to working for companies like Delta. We need to ensure that they receive the pension benefits they were promised and deserve.

The Joint Committee on Taxation estimates that this amendment would raise $14 million over the period 2006–2010 and $30 million in Federal revenues over the period 2006–2015. Changing the amortization period for airline pension plans such as Delta's, from 14 years to 20 years would take the burden off the PBGC while ensuring that the thousands of workers employed by the airline industry would receive the benefits that they have earned.

This common sense amendment, of which I am a cosponsor, will not relieve the airlines of pension liability, nor will it prohibit airlines from meeting pension obligations sooner than 20 years. It discourages airlines from relying on the PBGC and the taxpayers' dollars by allowing them time to fulfill their pension obligations. This amendment complements the purpose of the overall pension reform bill by taking the necessary steps to ensure that American workers receive every penny they have earned, while holding companies accountable and simultaneously reducing the burden on the PBGC.

American workers deserve the security of knowing that their pensions will be there when they retire. I also want to help ensure the job security of the employees of great companies like Delta, while allowing passengers and our economy to benefit from the continued use of our airlines. As we continue this debate, I am committed to passing meaningful pension reform.

The PRESIDING OFFICER (Ms. MURKOWSKI). The Senator from Montana.

Mr. BAUCUS. Madam President, I understand the majority manager favors the Isakson amendment. I control time on this bill, as well as the Senator from Georgia. I support the amendment. Given all of that and the support on both sides, I am prepared to yield back the remainder of time we have on this amendment so we can then prepare to vote on the amendment.

The PRESIDING OFFICER. All time is yielded.

Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 2582) was agreed to.

Mr. BAUCUS. Madam President, I move to reconsider the vote.

Mr. ENZI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ENZI. Madam President, I yield to the Senator from Ohio.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. DEWINE. Madam President, first, let me congratulate my colleague from Georgia for this amendment, as well as my colleague from Mississippi.

I also commend the chairman of the Finance and the HELP Committees and ranking members Senators GRASSLEY, BAUCUS, ENZI, and KENNEDY for their hard work on the legislation that is before us today, for their hard work in forging the compromise pension reform bill.

While I appreciate all of the hard work that went into this legislation that is before us today, I would like to discuss some grave concerns that I have about this bill. Historically, a defined benefit pension has been the cornerstone of a worker's retirement, along with personal savings and Social Security. However, with the movement away from defined benefit plans and personal savings, many Americans are relying mainly on Social Security for their post-retirement income.

That is a very disturbing trend. This is an alarming trend. The defined benefit pension system is an important part of a worker's retirement, but unfortunately, an increasingly rare one. The number of defined benefit plans has decreased from over 114,000 in 1985 to just over 28,800 in 2004. Since 2001, almost a quarter of Fortune 500 companies have frozen or considered freezing their defined benefit plans.

As chairman of the Subcommittee on Retirement Security and Aging, along with my good friend and colleague from Maryland, Senator MIKULSKI, I chaired a hearing to examine the issue of PBGC funding and the effect that reforms to shore up the PBGC may have on the defined benefit system, which is the financial backbone of many workers' retirement. At that hearing, we heard testimony acknowledging the need to strengthen pension funding rules, but we were warned that going too far would force employers to leave the defined benefit system through freezes and terminations of plans, and in the worst case, could force a company into bankruptcy.

There is no question that something must be done to maintain the solvency of the PBGC. The agency has estimated that its deficit is $22.8 billion and CBO projects a much larger deficit than that over the next 10 years. A taxpayer bailout of the PBGC is a terrible option. But, I also do not believe it is a good option to drive companies out of the defined benefit system. It is important that we balance rules to improve funding of plans without going too far and forcing plan sponsors to abandon their plans or declare bankruptcy.

I believe that the bill that we passed out of the HELP Committee in September by an 18 to 2 vote struck such a balance. The Defined Benefit Security Act amended the funding rules so that companies would fully fund their plans, while at the same time increase the premiums that companies pay to the PBGC to better fund the pension insurance system.

Unfortunately, I believe the bill that we have before the Senate today is a step backwards from the HELP Committee bill. While I commend Chairmen ENZI and GRASSLEY and ranking members KENNEDY and BAUCUS for their efforts to reach a compromise on two very different bills, I am seriously concerned about the impact several of the provisions of the compromise bill will have on plan sponsors and participants. I am concerned about the impact it will have on job creation in the future and on job creation.

First, I am concerned about the 3-year transition to the new funding rules, including the new 100 percent funding standard. For many companies, this will require a significant increase in pension funding in a short amount of time. I also have concerns about decreasing the amortization period from 10 years to 7 years. My biggest concerns, however, are credit rating and smoothing. Senator MIKULSKI and I proposed an amendment that would replace S. 1783's provisions on credit rating and smoothing with the provisions of the HELP bill.

Using credit ratings to determine plan funding would result in a loss of jobs. It is a simple calculation. Using a company's credit rating will put additional pressures on a company

experiencing a downturn in their business cycle. They will have to put more money into their plans at the very time they cannot afford to do so. These are funds that could be used to modernize facilities or roll out new product lines—activities which could help a company actually pull out of a downturn.

The at-risk rules can increase a company's required pension contribution by hundreds of millions of dollars, and in some cases, by billions of dollars. Struggling companies experiencing a business downturn cannot absorb that type of additional burden. There is little doubt that if this legislation becomes law, far more struggling companies will be forced out of business as a result of their pension obligations. Their employees will lose some of their pension and their job. This is not in anyone's interest. This hurts the employees, the plan, the company, and the PBGC. We best protect the PBGC and retirees by helping struggling companies recover, so that they can contribute more when they are healthy.

I would also note that the proposed DeWine-Mikulski amendment would have increased the smoothing period for asset valuation and interest rates to three years from the twelve months included in S. 1783.

One of the clearest messages that we have received from the business community is that they need to be able to predict their funding obligations so that they can make necessary business plans. If they cannot predict those obligations with reasonable certainty, they will not maintain defined benefit plans.

This is not idle speculation. As I stated before, companies have been leaving the defined benefit plan system in droves and the reason given is the unpredictability of the funding obligations. So, what should we expect if this bill, in its current form, becomes law, dramatically limiting the smoothing rules and thus limiting predictability? We can expect an even faster exodus from the defined benefit plan system. That would be very sad news for the retirement security of millions of Americans.

In conclusion, while the changes that the DeWine-Mikulski amendment sought to make were not incorporated in the bill before us today, both Senator MIKULSKI and I will be conferees and have the opportunity to help shape the final bill in a way that can be beneficial for participants, plan sponsors and the PBGC. And, I look forward to working with my colleagues on the conference to work on these issues.

Quite frankly, what is at stake is the future of businesses—real companies. What is at stake are future jobs in our home States, whether it be Maryland, whether it be Ohio or the other States in the Union. What is at stake is job creation in the future. What is at stake is job retention now.

The issues that Senator MIKULSKI and I have brought before the American people and before the Senate will have to be addressed in conference because the issues are simply about jobs.

I thank the Chair. I yield the floor.

Mr. BAUCUS. Madam President, I see that the ranking member of the HELP Committee is now on the floor and also the Senator from Hawaii, Mr. AKAKA. I wonder if the Senator might allow the ranking member to speak, and then we could be at a point to bring up the amendment of the Senator from Hawaii.

Under the unanimous consent agreement, I believe we have about 30-some minutes remaining. I yield as much time as the Senator from Massachusetts desires. When the Senator finishes, I urge the Presiding Officer to recognize the Senator from Hawaii for an amendment which he has to offer.

Mr. KENNEDY. If the Senator will withhold, my friend is ready to go and make his presentation. After that presentation, if I could then have a chance perhaps to talk about the importance of this legislation, the history and development of it, that would be agreeable with me.

Mr. BAUCUS. Whatever works out for the two Senators.

Mr. KENNEDY. That is fine.

I thank the Senator from Montana for his typical courteousness, and I welcome the opportunity to hear the Senator from Hawaii.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. AKAKA. Madam President, I thank the Senator from Montana and the Senator from Massachusetts for providing this time for me.

AMENDMENT NO. 2583

Mr. AKAKA. Madam President, I call up my amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Hawaii, [Mr. AKAKA], for himself and Mr. SPECTER, proposes an amendment numbered 2583.

Mr. AKAKA. I ask unanimous consent the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To compute the actuarial value of monthly benefits in the form of a life annuity commencing at age 60 for certain airline pilots)

At the end of title IV, add the following:

SEC. 4___. AGE REQUIREMENT FOR EMPLOYERS.

(a) SINGLE-EMPLOYER PLAN BENEFITS GUARANTEED.—Section 4022(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1322(b)) is amended in the flush matter following paragraph (3), by adding at the end the following: ''If, at the time of termination of a plan under this title, regulations prescribed by the Federal Aviation Administration require an individual to separate from service as a commercial airline pilot after attaining any age before age 65, paragraph (3) shall be applied to an individual who is a participant in the plan by reason of such service by substituting such age for age 65.''.

(b) MULTIEMPLOYER PLAN BENEFITS GUARANTEED.—Section 4022B(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1322b(a)) is amended by adding at the end the following: ''If, at the time of termination of a plan under this title, regulations prescribed by the Federal Aviation Administration require an individual to separate from service as a commercial airline pilot after attaining any age before age 65, this subsection shall be applied to an individual who is a participant in the plan by reason of such service by substituting such age for age 65.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to benefits payable on or after the date of enactment of this Act.

Mr. AKAKA. Madam President, I rise today to offer my amendment to the pension bill to correct an injustice. I want to thank my cosponsors, Senators SPECTER, FEINSTEIN, SALAZAR, and INOUYE, for working with me on this amendment. I also want to thank the cosponsors of my stand-alone bill S. 685, which include Senators ISAKSON, KENNEDY, HARKIN, OBAMA, DURBIN, SALAZAR, and FEINSTEIN.

The Federal Aviation Administration, FAA, requires commercial airline pilots to retire when they reach the age of 60. Pilots are therefore denied the maximum pension benefit administered by the Pension Benefit Guaranty Corporation, PBGC, because they are required to retire before the age of 65. This significant reduction in benefits puts pilots in a difficult position. With drastically reduced pensions and a prohibition on reentering the piloting profession because of age, many pilots are subjected to undue hardship. For plans terminated in 2005, the maximum benefit for someone that retires at 65 is $45,614 a year. For those who retire at 60, the maximum is $29,649.

While I believe that Congress needs to address the issue of underfunded pension plans, I believe that it is also important for us to address this inequity. We must adopt this amendment to assist pilots whose companies have been or will be unable to continue their defined benefit pension plans. My amendment will slightly alter title IV of the Employee Retirement Income Security Act of 1974 to require the PBGC to take into account the fact that pilots are required to retire at the age of 60 when calculating their benefits.

If pilots want to work beyond the age 60, they must request a waiver from the FAA. It is my understanding that the FAA does not grant many of these waivers, and I have even heard from some pilots that the FAA has never granted these waivers. Therefore, most of the pilots, if not all, do not receive the maximum pension guarantee because they are forced to retire at age 60. Pilots already lose substantial amounts of their promised pensions when the PBGC takes over their pension plans, but this needless penalty makes the pension cuts even harder to adjust to after a termination.

This amendment would benefit US Airways and United Airlines pilots in

addition to other legacy carriers whose pensions were absorbed by the PBGC. In my home State of Hawaii, I have 91 United and US Airways pilots in the Air Line Pilots Association data base. I also have 305 active or retired Aloha Airlines pilots in Hawaii. Aloha Airlines recently filed to terminate its pension plan. Other States, such as North Carolina and Virginia have 1,064 and 1,014 United and US Airways pilots respectively. As I look at the financial difficulties confronting Delta Airlines and Northwest Airlines, I am troubled by the prospect of even more pilots losing their plans and being subjected to this unfair penalty.

I ask unanimous consent a letter of support from the Air Line Pilots Association be printed in the RECORD.

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

AIR LINE PILOTS ASSOCIATION, INTERNATIONAL
Washington, DC, September 28, 2005.

Hon. DANIEL K. AKAKA,
U.S. Senate,
Washington, DC.

DEAR SENATOR AKAKA: On behalf of the 64,000 members of the Air Line Pilots Association, I am writing to express our strong support for your legislation, S. 685, The Pilots Equitable Treatment Act, which would put airline pilots on an equal footing with non-pilots with respect to guaranteed benefits payable from the PBGC if a defined benefit pension plan is terminated. I also understand that you plan to offer the language of S. 685 as a floor amendment to pension overhaul legislation that is expected to be considered by the Senate in the next few days. We heartily support and endorse that action as well.

As you know, your legislation would change the PBGC rules so that airline pilots, who by FAA regulation must stop flying at age 60, are protected from having their pension benefits actuarially reduced by the PBGC if their defined benefit retirement plan is terminated. S. 685 is bold and innovative legislation that calls for pilots to receive benefit guarantees at age 60 that are calculated as though they already had reached age 65.

Your legislation will provide some measure of pension protection for those thousands of airline pilots who have already lost and/or will likely lose retirement benefits they had worked for and counted on for years. These employees who have given so much to their companies already deserve no less.

We greatly appreciate your leadership on this important matter, and pledge to work with you and your staff to assist in any way to secure inclusion of the language of S. 685 in pension reform legislation.

Sincerely,

DUANE E. WOERTH,
President.

Mr. AKAKA. I urge my colleagues to support the amendment so pilots are not unfairly penalized for having to retire early by FAA.

I call for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. KENNEDY. As I understand it, it has been the request of our leaders we give notification to our colleagues when we are likely to have a vote. It is agreeable with the Senator from Hawaii that we have this vote just prior to the time we have the final passage. I certainly yield to my friend and colleague.

Mr. ENZI. I understand this has been cleared on both sides. I ask unanimous consent when all time is used or yielded back on the amendments and the underlying bill, the measure be temporarily set aside; provided further that at 2:30 today the Senate proceed to a vote in relation to the Akaka amendment, to be followed by a vote on passage of the bill, as amended, to be followed by a vote on the adoption of the conference report to accompany the Commerce-Justice-State appropriations bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Massachusetts.

Mr. KENNEDY. Madam President, I yield such time as I might use.

At the outset, I thank our Senate leadership, Senator FRIST and Senator REID, for arranging the Senate schedule so we would have an opportunity to consider this extremely important legislation. I thank my colleague and friend, my chairman, Senator ENZI, for his commitment to getting good legislation passed at a very important time in the entire history of the evolution of the pension system in our country. This is a very important piece of legislation. His diligence, attention to detail, and persuasiveness has permitted the Senate to move this legislation forward in a timely way. I am very grateful to him for all of his good leadership.

I thank our friends on the Committee on Finance, Senator BAUCUS and Senator GRASSLEY. We have worked together at other times on the pension legislation. We did work closely together over a year ago and received the overwhelming support of the Senate in a bipartisan way. We worked very closely with the members of the Committee on Finance. As a result of both committees working, we have a stronger legislation. This is a bipartisan effort in a very important area of public policy. I am grateful to all who brought the Senate to where we are at this time.

Mr. KENNEDY. Madam President, the retirement security of millions of hard-working Americans is at risk. Millions of our fellow citizens have worked hard all of their lives, played by the rules. They have been dedicated and loyal workers only to find their promised pensions disappear when they retire. They worked faithfully, assuming their retirements would be their golden years. But then suddenly it all disappears. The pension plan is in financial trouble and their retirement dreams are being wiped away. This is exactly what has happened to millions of loyal American workers.

In the past 5 years, 700 pension plans have gone into crisis, and millions of workers have lost $8 billion in pension benefits that they had been promised. It is a crisis. We see it with our airline workers. We see it with our workers in manufacturing industries. We see it with our construction workers and sales clerks at the store and so many of our neighbors. It is a crisis, and this bill responds to it by saving their pensions.

Large numbers of Americans are increasingly concerned about their retirement security and rightfully so. Each leg of the three-legged stool of retirement—private pensions, private savings, and Social Security—is in jeopardy.

Many Americans find they are unable to save anything toward their retirement. In fact, the personal savings rate has now fallen below zero. Americans are spending more than they earn. It is no wonder when wages are stagnant and costs are soaring for basic necessities such as energy, housing, health care, and education.

The Bush administration continues to propose to privatize Social Security, which would put the reliability of future benefits in that landmark and highly successful program in jeopardy.

Many workers have no private pension at all. Only half of American private sector workers have a pension through their job. And 2.7 million fewer private sector workers have a pension today than in 2000. Listen to that: 2.7 million fewer private sector workers have a pension today than in 2000. Most workers who do have a pension today have only a 401(k) account as their pension, but many have nothing saved in these accounts. Even those who are saving do not have enough to live on in retirement. More than half of the workers approaching retirement have less than $43,000 in their 401(k), and workers who rely on these accounts face the constant risk of investments that perform poorly.

These problems make pensions with defined benefits more critical than ever because they are secure. They provide a known monthly benefit for life. They are ensured by the Federal Government. But they are becoming much rarer today, as businesses shift away from them.

In the early 1980s, almost 40 percent of American workers were covered by secure pensions. Today, that number is only 20 percent. Yet, while workers' pensions are being cut, executives' pensions are increasingly generous.

A recent study found that 25 percent of the CEOs of 500 large companies had been promised retirement benefits of more than $1 million a year. Why should Ken Lay of Enron or Bernie Ebbers of WorldCom walk away with millions of dollars in guaranteed pensions after driving their employees' pensions into the ground?

On this chart, we see this rather dramatic decline in terms of what is happening to workers, particularly in defined benefit programs. We find that the CEOs are being well taken care of. Here is Ken Lay. Enron required the employees to invest in the company

stock and then lied to the workers, lied about the state of the company's finances. As stock prices plunged on the news of the corporate mismanagement, employees were blocked from selling their stock. This is an area we have dealt with, I think, quite effectively in our reforms. And 11,000 employees lost $1 billion in retirement savings during that period of time. We have the example of the WorldCom CEO. Bernie Ebbers was given a $1.5 million-a-year pension. He was later convicted of accounting fraud. Thirty percent of the employees' 401(k) money was invested in the company stock. When WorldCom stock plunged in value, 93,000 workers and retirees with WorldCom 401(k) accounts lost hundreds of millions of dollars in their retirement savings.

These are issues that are enormously important. I think when we were getting started, in terms of the debate on pension reform, most Americans were wondering what the Congress was going to do about these issues. They were less aware of the fact that the defined benefit programs have been gradually in decline, the kind of pension program that provides the best kind of security to American workers. And they were not familiar with other factors: the drop in the savings accounts, the fact that so many of the 401(k)s have been buffeted around by the stock market and have not been enough to provide for a secure income.

But they are increasingly aware now. I think as the debate took place earlier this spring about the solvency of Social Security, people have focused on the solvency of Social Security and have also thought about their retirement. When they think about their retirement, obviously, they are concerned about their pensions.

But we have also seen that workers have lost dramatically over the period of these past several years. In the last 5 years, workers have lost $8 billion. That is $8 billion workers have lost in the last 5 years. For those pensions, workers give up an increase in their pay, they give up maybe a reduction in the amount of hours they have to work, they give up other kinds of benefits. That is in order to put something aside in terms of pensions they are allegedly going to be guaranteed at the time they finish working for their company. And still, we have seen that amount of money—$8 billion—that has been relied on by American workers effectively wiped out and disappeared. That is why the legislation we have is so important.

When a major pension plan fails, it places a strain on the entire system. The Pension Benefit Guaranty Corporation, which ensures these pension plans, has moved from a surplus in 2001 to a deficit of $23 billion today. Our pension insurance system protects the retirement earnings of over 43 million Americans, and we must do what it takes to see that it is there for the years to come.

These are serious problems that require immediate action by Congress. The pending bill adopts a broad approach, with stronger rules for funding, expanded disclosure, so workers are going to know the stability and the financial security they have with their pension. It includes other new protections for American workers: It strengthens the existing pension plans by requiring companies to fund their pensions that workers have earned. It takes steps to prevent future pension failures and recognizes that workers who are increasingly in charge of investing their own retirement savings need additional help—two very important points.

There is going to be the help and assistance, through the PBGC, to help companies, as they are looking at sort of more financial difficulty, to make sure these pensions are going to be safe and secure. A front-end warning system built into this legislation with flexibility for negotiations—that is very important. And information that is going to be made available to workers about their own retirement—that is enormously important.

The reforms in this bill allow troubled pension plans the leeway they need to get back on their feet. The current rules would require companies to pay large amounts into their troubled pension plans right away. That is unrealistic and could force many companies to drop their pension plans altogether. That would hurt workers. Our reforms allow companies to save their troubled plans by increasing payments gradually over a longer period of time. We provide a realistic payment schedule but strengthen the current rules for single-employer pension plans over time by requiring companies to fund 100 percent of their pension promises to workers. These workers have earned their pensions over a lifetime of hard work, foregoing raises and other benefits. Yet current law allows many companies to lag behind in paying for them. Our legislation solves this problem by requiring companies to pay more into their pensions in a fair and predictable way.

Our legislation also recognizes the power of public disclosure and the urgent need for more effective oversight of pension plans. Under current law, workers receive little financial information about their pensions, and what they do receive is often years out of date. They have earned these pensions, and they deserve to know whether these funds are there to pay them. That is very important and one of the most important changes to the current system: giving the notification to workers.

Our bill ensures that workers and retirees receive up-to-date information each year. The bill also provides incentives to keep pensions financially healthy by tying executive compensation to pension health. Executives should not be able to feather their own retirement nests while workers lose their nest eggs. Our legislation prohibits corporate executives from putting company funds into their own retirement trusts when the pensions of rank-and-file workers are underfunded. That is very important. It should be obvious. Justice demands it. But we will make sure that it is implemented.

Recent headlines show that many companies are using bankruptcy courts to abandon their pension plans. Hundreds of thousands of workers and retirees at companies such as United Airlines, US Airways, Bethlehem Steel, and LTV Steel are now without the pensions they worked so hard to earn.

The bill also contains specific provisions to save airline pensions by offering companies a specialized payment program. And I know that has been reviewed earlier in the debate.

In addition, our legislation addresses the needs of nearly 10 million workers and retirees who receive pensions through multiemployer plans. These are the workers who clean our office buildings and hotel rooms, sell us our groceries, build our homes and schools and highways and deliver goods across the country. Many of them are in industries where they have to move from job to job and would not be able to earn a pension at all without these multiemployer plans, since their employers, particularly small businesses, could not afford to offer a pension plan of their own.

The majority of these plans are in strong financial shape. But the recent economic downturn and weak stock market have put some of these plans in financial difficulties similar to those facing single-employer plans. We owe it to these employees to protect their pensions now, instead of acting only when they are about to fail.

Hybrid pension plans, including cash balance plans, have a growing role in our retirement system. They have a number of advantages. They provide secured, guaranteed pensions. They are attractive to younger workers and those such as parents caring for children. But older workers can lose out when their companies switch to these plans because they lose a large portion of the benefits they were promised. Our legislation requires companies that are going to switch to these plans to protect the benefits that workers have already earned. That is enormously important.

I want to highlight another very important area and that is the legislation also includes very important provisions from the Women's Pension Protection Act that I introduced with Senator SNOWE. Retirement security is essential for all Americans, but too often we fail to meet the needs of women on this basic issue. Women live longer than men, but they continue to earn far less in wages over their lifetimes. They are also much less likely to earn a pension. These factors translate into seriously inadequate retirement income for vast numbers of women.

The realities of this injustice are grim. According to the most recent data, only 28 percent of women age 65

and over are receiving private pension income, and for those who do, the average is only $3,800 per year, compared to $8,100 for men. Minority women are in even more desperate straits. Only 20 percent of African-American women and 9 percent of Hispanic women receive a pension. These disparities are a major reason why nearly one in five elderly single women lives in poverty.

Our legislation gives them much greater retirement security. Widows will receive more generous survivor benefits. Divorced women will have a greater ability to receive a share of their former husband's pension after divorce. These are long-overdue improvements in the private pension system so retirement savings programs will be more responsive to the realities of women's lives and careers.

American workers and their families rightly expect Congress to protect their hard-earned pensions. This legislation is an important start to meeting this challenge. Madam President, I note the Senator from Pennsylvania is in the Chamber. I want to quickly review this legislation, again.

On this chart is effectively a description—I know the writing is small for those who are watching—but this is really the backbone of this legislation. It requires companies to fund their promises. It helps prevent future pension failures. I have outlined, very briefly, in my comments how that is done—by greater flexibility and negotiation. It gives workers timely and accurate information on pension plan finances. That does not exist today. Well, it exists but not in an efficient or effective manner. Many times it takes months or even years to get that timely information. This legislation will provide it in a timely and accurate way, which is enormously important for workers.

It protects the workers and businesses in multiemployer pensions. We have the single pensions, as we mentioned, and now also in the multiemployer pensions they face different issues. But we have strengthened and provided and followed a number of recommendations that were made from the business community and the worker community to strengthen those programs.

It protects older workers in cash balance plan conversions. I have outlined the advantages of cash balance plans to younger workers, but to older workers it can work disadvantageously. This legislation provides a very important way of protecting those who have been reliant on existing programs rather than a cash balance plan. That is enormously important. Otherwise there could be some significant injustice.

It gives workers access to independent investment advice to avoid the kind of Ken Lay situation where they had the requirement of investing in the corporation and were refused, when the company was going south, the ability to sell employer stock, and the workers took a bath. That was true in my State with Polaroid, a similar kind of situation and a tragic situation that involved abuse of the pension system at a time when a number of the executive branch did exceedingly well. We are giving access to independent investment advice, and workers can make their judgments. These are what we call the Bingaman proposals. They have been worked out in a bipartisan way and have solid support in the Senate.

It adopts the post-Enron worker pension protections. It stops corporate executives from lining their pockets when workers' pensions suffer. This is to deal with the issue I mentioned briefly before, where the corporate executives can make out while the workers are losing.

It provides greater retirement security for widows and former spouses. This is enormously important because of the injustice with regard to women and the pension system, which is extraordinary. Senator SNOWE and I have been working for a number of years to try to address that. I am grateful to our chairman, Mr. ENZI, for reviewing these matters in great detail and including these provisions. This is enormously important.

This is an important piece of legislation. It doesn't solve all of the problems, but it will certainly do a great deal in terms of ensuring workers in the future of the security of their pensions. We are very hopeful, with the strong bipartisan support we have been able to develop in the Senate, that we can carry these very important protections for workers, for companies, for women, for the single employer pensions, for multiemployer pensions, through and have them enacted into law.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. ENZI. Madam President, I thank the Senator from Massachusetts for his comments and the outstanding way he summarized the principles we have been working on. It is a very good job, considering that this is a 730-page bill. He got into significant details. It has been the details that have been holding it up for literally years. You notice that nobody is speaking in opposition to this bill, so that means the bipartisan effort has paid off.

I yield 10 minutes to the Senator from Pennsylvania.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. Madam President, I thank the chairman of the HELP Committee, as well as the ranking member, for the excellent work they have done on this legislation and for the tremendous cooperation they have shown me, as well as Senator BAUCUS, and my chairman Senator GRASSLEY, on the issue of multiemployer pensions, which has been my area of focus on this legislation. It is a very important issue—and I will lay out here—it is critically important that we make sure these plans survive. Because unlike the single-employer plans, the backstop, the insurance for a plan that gets dumped into the PBGC is actually less than one-third of what a single-employer plan would be. It is even more important for us to have healthy multiemployer plans from the standpoint of the beneficiary than it is to have healthy single-employer plans.

Again, I thank the chairmen and ranking members of both committees. They have made the case—I have listened to some of the debate—that the need for reform in both these areas is clear. I come from the State of Pennsylvania, which unfortunately has seen its share of plans being dissolved and thrown into the Pension Benefit Guaranty Corporation. We have a lot of steel companies. We have an airline that has done that. We have, unfortunately, tens of thousands of retirees who are now receiving their benefits through the PBGC and who were promised more generous benefits under their contracts with the steel companies and the airline, who are now living, in many cases, very much hand to mouth. We need to do a better job for future workers and retirees. We need to address this problem in a climate where increasingly we are seeing concern about not only the dumping of these plans onto the PBGC, and the transfer of defined benefit plans to defined contribution plans, we are increasingly seeing that trend in a lot of industries. I believe there is a place for defined benefit plans and that we need to have a structure in place to make sure they are adequately funded and safe for pensioners to rely upon as they enter into their retirement years.

Again, I don't want to repeat all that has been said about the state of play of how bad the system is as far as the deficits and the problems with the single-employer plans. I want to focus on the multiemployer plans because that is an area on which I have been active in trying to make sure it was included in this bill and that many of the reforms I put in place in the legislation I introduced with Senator STABENOW a few weeks ago were included in the mark. Again, I thank the chairmen of both committees and the ranking members for working with us to see that happen.

The importance of making sure multiemployer plans are safe is because the maximum guarantee for a multiemployer participant with 30 years of service is less than $13,000 a year. That means if you worked for the IBEW and you were a tradesman, an electrician, and you built some of the greatest buildings in Philadelphia, for example, if the IBEW pension plan goes belly up, the maximum benefit you would receive would be less than $13,000 a year. That is a horrific end for many people from the standpoint of what they would otherwise have been promised under their plan. Contrast that with a retiree covered by a single employer plan with the same record. They are

looking at about $45,000 and in some cases up over $100,000. So the fallback, if these plans should fail, is substantially lower in the multiemployer world. That is why it is vitally important that we have remedies and things to improve the overall picture. There are plans that are in bad shape. We have plans that are funded as low as 50 percent. One plan is $20 billion underfunded. We have problems out there. The consequences if a single-employer plan failing pale in comparison to the devastation to pensioners if multiemployer plans fail.

I have worked hard with a coalition to try to put together a piece of legislation that I mentioned before, S. 1825. Senator STABENOW has worked hard on this issue. Many of the reforms we put in place are included in this mark. We worked together with a coalition of management and labor and met over a period of months to come up with a bipartisan and cooperative agreement between those who are on opposite sides of the bargaining table. We have had everybody here—from the building trades, the Teamsters, the food and commercial workers union, the IAM, to the grocery manufacturers, a whole host of grocery chains, as well as freight companies, UPS, contractors, et cetera—and have worked together over a period of months to come up with a bill that, as Chairman ENZI mentioned, has strong bipartisan support because we were able to negotiate. We haven't gotten everything, candidly, we wanted in this legislation.

I ask unanimous consent to print in the RECORD the list of folks supporting this multiemployer bill.

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

Senator Santorum worked with the Multiemployer Pension Plan Coalition to develop S. 1825, the Multi-Employer Plan Funding and Deduction Reform Act of 2005. The coalition members are:

Albertsons; American Federation of Musicians; American Federation of Television and Radio Artists; American Trucking Associations; Associated General Contractors of America; Bechtel Construction Company; The Building and Construction Trades Department, AFL-CIO; Carhaul; Food Marketing Institute; Finishing Contractors Association; International Association of Machinists; International Brotherhood of Teamsters; International Council of Employers of Bricklayers & Allied Craftworkers; Kroger; Mechanical Contractors Association of America; Motion Picture Association of America; Motor Freight Carriers; National Electrical Contractors Association; National Coordinating Committee for Multiemployer Plans; Recording Industry Association of America; Safeway; Sheet Metal & Air Conditioning Contrators' National Association; Supervalu; NEA/The Association of Union Constructors; United Food & Commercial Workers Union; UPS; U.S. Chamber of Commerce; and Yellow Roadway Corporation.

Mr. SANTORUM. I have worked with my constituents. I have had I don't know how many meetings with members of labor unions across Pennsylvania to talk about this issue and get their input as to how we can deal with the problem of multiemployer plans to make sure we improve their solvency and increase the reliability of those plans for our pensioners. It was an unprecedented effort. I thank Jen Vesey from my staff for the work she has done. I thank in particular the folks from the Pennsylvania building trades and Teamsters who have been terrific in trying to work through some of these very tough issues to get a consensus bill that I am hopeful we can not only pass here in the Senate, obviously in the next hour or two, but also to get something passed permanently by the end of the year.

One of the key concepts folks were concerned about was the concept of an early warning system for multiemployer plans. Under current law, too often we don't know about economic conditions of these plans until they are facing extreme financial pressure. As we have said, sometimes the remedies are too late to solve the problem, and we end up with the situation of people not having sufficient retirement. In this bill, we do address this problem. However, I have heard from labor and management representatives of the multiemployer plans. They have expressed concerns about the approach to this taken in S. 1783.

It is important that we keep in mind in a multiemployer world, these pension plans typically operate in tandem with health plans. There is a concern the dollars that otherwise could go to maintain important health benefits may be unnecessarily diverted to pensions because of overly stringent performance benchmarks. I have heard about those benchmarks. I have heard about those concerns. We will continue to work on this. It is important that we continue to work toward a solution that imposes discipline, which is what this legislation does, without imposing undue burdens on the plans, particularly how they might affect health benefits.

I am pleased my colleagues have accepted most of the changes we proposed and certainly remain committed to working on these important issues to strengthen multiemployer pensions to protect these folks.

This is an important piece of legislation. This is a great victory for working men and women across the country that the Senate is about to act on. As we head into the holidays, where you want to feel good about your financial security, if we are able to get this accomplished by the end of this year, we will provide a whole host of people across America a better feeling about not just their holiday plans but the security of future holidays after they have finished their working years.

The PRESIDING OFFICER. The time of the Senator has expired.

The Senator from Wyoming.

Mr. ENZI. Madam President, I thank the Senator from Pennsylvania for his diligent effort, particularly in the multiemployer area. He checked with us and gave suggestions several times a month during the process when we were putting together the HELP bill. That was extremely helpful, particularly since he was also on the Finance Committee which had some jurisdiction in this area. His coordination between the two committees was invaluable. His tenaciousness and base of knowledge on that issue were particularly helpful. I thank him for his efforts.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Madam President, I want to mention in particular my colleague and friend on this side of the aisle, Senator BARBARA MIKULSKI, who is ranking member on the Retirement and Aging Subcommittee on the HELP Committee and has attended all of the hearings in the subcommittee and in our full committee and has been a tireless advocate on this issue. I have learned a great deal from her. I am enormously grateful to her for all of her efforts. She has been a great ally.

I also thank my friend TOM HARKIN. This is one in a range of issues in which he has been involved and about which he cares deeply.

He is enormously knowledgeable about it, and he was very committed in terms of the defined benefit programs and how we can strengthen those, concerned about the relationship between the cash balance and the defined benefit programs, whether there is going to be fairness to workers, and he made a great contribution to the development of our legislation.

JEFF BINGAMAN had reforms and worked those out in a bipartisan way.

As we are coming into the final moments, I want to make a few comments.

This legislation is strongly bipartisan. We don't have final legislation over in the House of Representatives. I hope our colleagues and friends in the House of Representatives would at least take some inspiration from what we have been able to achieve over here working in a bipartisan way under Republican Chairs to come up with a product which is going to move through the Senate at 2:30 or 3 o'clock this afternoon, which will make a major difference in terms of protecting workers and also be sensitive to some of the economic challenges. We have not had a finished product over in the House, and I am concerned it has been rather fractured over there in terms of the nature of the debate and discussion.

I hope the leadership over there will take a page from the Enzi and Grassley book about how to work their committees in ways to develop bipartisanship on the committees and also between those committees as it is enormously important.

Finally, Mr. President, why this is important: We see that our Social Security bedrock of retirement now is being reviewed; some believe under attack. We have private pensions. Only 50 percent of our workers have pension

coverage at work. Only 21 percent have a secure defined benefit. So it is a three-legged stool: Social Security, pensions, and then private savings, and the private savings count, as shown on this chart in terms of the current savings, negative six-tenths of 1 percent of income—a decline in savings. They have virtually dried up. The reason for that is because, as shown by this chart, of the increased costs of gasoline, health insurance, housing, and college.

People just cannot afford to save. They have to provide for their families in these areas. And when it comes to the very end of the day it is the squeeze on that pension retirement. Living in the richest country of the world, in our democracy, being able to retire with a sense of dignity is certainly a value all of us hold dear. We are in real danger of losing that very important value. This legislation is a very important downpayment to make sure that value is going to be there for millions of our fellow Americans.

I am enormously grateful to the staff: Rohit Kumar with Senator FRIST; Bob Greenawalt, Senator REID; Jon O'Neill, Senator GRASSLEY; Judy Miller, Senator BAUCUS; Stu Sirkin, Finance Committee; Katherine McGuire, Ilyse Schuman, Greg Dean, Diann Howland, and David Thompson, Senator ENZI; Karla Carpenter, Senator DEWINE; Ellen-Marie Whelan and Ben Olinsky, Senator MIKULSKI; and Michael Myers, Holly Fechner, Portia Wu, and Terri Holloway from my staff. As always they have done a terrific job.

I also want to thank particularly Jim Fransen and Stacy Kern from the Senate Legislative Counsel's office, who worked day and night to draft this bill. And thanks also to Carolyn Smith, Patricia McDermott, Nikole Flax, and Allison Wielobob of the Joint Committee on Taxation.

I yield the floor, Mr. President. I see my colleagues here, and I understand we are going into morning business. If not, I am glad to yield time to them.

ORDER OF PROCEDURE

Mrs. CLINTON. Mr. President, I ask unanimous consent to speak for such time as I may consume remaining for the Democratic side on the pension bill, and then for an additional 20 minutes as if in morning business.

The PRESIDING OFFICER (Mr. THUNE). Is there objection?

Mr. ENZI. Reserving the right to object, we still have some time remaining on the bill, and there is a vote at 2:30. I guess I did not understand exactly the time being requested. It sounded like 35 minutes.

Mrs. CLINTON. I think we will be finished by 1:30.

Mr. ENZI. Then I would ask the remainder of the time until 2:30 go to this side of the aisle.

Mr. STEVENS. I object. Mr. President, reserving the right to object, I seek time before the vote to raise a point of personal privilege concerning a comment made about me in the Chamber today. I desire 5 minutes but before the vote.

Mr. ENZI. I was reserving in that time time for the Senator from Alaska to speak.

Mr. STEVENS. If that is agreed to, I won't object to the time until that time being allocated to the Senator from New York.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it so ordered.

Mrs. CLINTON. I thank the Chair. And I thank the managers of the pension bill.

HURRICANE KATRINA COMMISSION

Mr. President, I come to the floor today to discuss a topic that many on the other side of the aisle, as well as in the administration, hope will just go away as we near the end of this session—the creation of an independent bipartisan commission to examine the State, local, and Federal response to Hurricane Katrina. We all know that nearly 3 months ago Katrina struck Louisiana, Mississippi, and Alabama, wreaking havoc on cities along the coast and most especially in New Orleans and the surrounding parishes. Thousands of residents had to flee, and thousands more saw that the levees were breached and cataclysmic flooding wiped out the city's infrastructure causing extensive damage far beyond the boundaries of New Orleans. Along the gulf coast the hurricane force winds destroyed so many of the communities that had been there for years.

Americans were horrified by the images on television of this catastrophe unfolding before our very eyes. It was followed by an equally catastrophic failure of Government in its uncoordinated, failed response.

I remember my own visit to Houston in the days immediately following the hurricane where I met with people who had fled Louisiana and Mississippi for shelter in Texas. They were desperately searching for lost relatives and to try to regain some semblance of order in their lives.

Mr. President, our response at all levels of Government was nothing short of shameful, and the victims of Hurricane Katrina, as well as all Americans, deserve to know why that response was such a colossal failure. Who was in charge? Was it the President, the Director of Homeland Security, the FEMA Administrator?

Why were Government assets not more readily available or prepositioned better? Why was there no plan to deal with an event that had been predicted for years? What went wrong at the Federal, State, and local levels? Why were declarations delayed?

But even more important than the answers to these questions is what do we need to do to fix it so this never happens again in our country? Who is in charge now? What more must be done to fix the problems that plague our national system of disaster, response, and recovery?

On September 11 we lost nearly 3,000 people, and the families of those left behind demanded to know what went wrong. Thanks to their dedication, we finally convinced the President and Congress to establish the 9/11 Commission. It was the right thing to do because over 218 years ago the signers of the Constitution pledged themselves on behalf of all Americans to provide for the common defense. So when we hear things such as the fact there was only one FEMA employee in the entire city of New Orleans from August 27 through 30, we see e-mails from the FEMA Director that he was distracted with his wardrobe when people were drowning in their own homes, waiting for rescue from the roofs of those homes, and the national response plan that is supposed to guide our national response was basically totally ignored, we have to ask ourselves how could we be so unprepared especially after September 11?

Because I believe the victims of Hurricane Katrina and, indeed, all Americans deserve answers to these questions and a way forward that merits the confidence and trust of the American people, I introduced legislation cosponsored by my friend and colleague from Colorado to establish a Katrina commission, modeled after the 9/11 Commission, intended to be nonpartisan, independent, designed to study the Federal, State, and local response to Hurricane Katrina.

We have 17 cosponsors of this legislation, and I am, frankly, outraged we cannot get an up-or-down vote on it. The cameras may have left the area of destruction but the devastation and the devastated lives remain. We owe it to the thousands of people who are still displaced, who lost loved ones, who are still finding bodies in homes that people are returning to, to understand what went wrong, what needs to be fixed, and where the responsibility really resides. Over 80 percent of the American people believe a Katrina commission is the right and necessary thing to do. Yet the Republican leadership of the Congress is afraid to allow an up-or-down vote. Why? Because they know what I know—that a lot of Republicans will vote for this. They were equally dismayed. They saw the same television pictures. They worry about what might happen next with an earthquake, a forest fire, massive tornadoes like just whipped through the central-southern part of our country. But even more significantly, the reason this is important is because of the potential of a terrorist attack that could happen again. And I have to say it appeared that our Federal response based on Katrina is nowhere near ready. We cannot accept the status quo. We must fix FEMA and the Department of Homeland Security.

My friend from Colorado is a cosponsor of that legislation, and I ask him does he believe a Katrina commission is still needed?

The PRESIDING OFFICER. The Senator from Colorado.

Mr. SALAZAR. I thank my colleague from New York for her leadership on this very important issue for our Nation. I deeply share her belief that a

Katrina commission is, in fact, needed and that we ought not to wait.

The headline on the New Orleans Times Picayune editorial page this Sunday was ''Forgotten Already.'' ''Forgotten Already.'' It is about how Washington has already forgotten that Katrina is still an ongoing crisis. It is a shame that Washington has such a short attention span.

In the days following the storm, Congress moved quickly to pass a $70 billion hurricane relief effort. We held hearings and we grilled the officials from FEMA. However, because the storm waters have receded, many politicians in Washington feel they can roll their sleeves back down and declare the job is done, the mission is accomplished.

That is not the case. Tell the 1,154 children who are missing or who are looking for their parents that our job in Katrina is done. Tell the 129,000 Louisiana residents, 129,000 Louisiana residents who still do not have electricity, that the Federal Government task is done. Tell the 196,000 Katrina evacuees who are currently unemployed, who do not have jobs, that our mission is accomplished.

Our job is far from done. We need to do much more to ensure that the individuals and communities along the gulf coast recover, and we have to do a lot more to plug the homeland security vulnerabilities that Hurricane Katrina exposed.

What Senator CLINTON's legislation would do is establish a Hurricane Katrina commission, similar to the 9/11 Commission. The commission would investigate what went wrong in the Government's response to Katrina and what steps we need to take to make things better.

I remember a number of years ago meeting with President Bush and then-Homeland Security Adviser Ridge at the White House shortly after 9/11 with attorneys general from States around the country. At that time, the President was opposed to the creation of a department of homeland security. Later, the President relented, taking the position that in the post-9/11 world, a department of homeland security was necessary for us as a nation to make homeland security a greater priority to protect America.

A few years later, I came to Washington as a U.S. Senator to help on that agenda. I want to make protecting our Nation and our homeland a greater priority. Yet 4 years after 9/11, Katrina slapped the Nation with reality. We are not prepared to protect our homeland, even when we have days of warning that American citizens are in the path of the gravest danger. That reality is a shame on the efforts of the last 4 years, but it would be an even greater shame for our Nation not to learn from our failure in the preparation and response to Katrina. We need to learn from those lessons.

My colleague's proposed bipartisan commission would help us make sure we prevent failures in homeland security in the future. Therefore, I am proud to stand here with Senator CLINTON and 16 other cosponsors in demanding accountability from the Federal Government. I am proud to stand with them for a stronger America.

The PRESIDING OFFICER. The Senator from New York.

Mrs. CLINTON. Mr. President, I thank my friend for his support. He knows a lot about what he is speaking of today. He was an attorney general. He had law enforcement responsibilities. He knew how essential it was to coordinate services throughout the State of Colorado. I am very grateful for his support and his eloquence on behalf of this bipartisan commission and his vigilance in working toward the establishment of a Katrina commission.

I have said before that I agree that our established congressional committees should conduct their own oversight roles, but an independent commission is absolutely necessary to get this right.

The Katrina commission would be made up of individuals with the expertise and credentials to do the work; namely, people who have experience with emergency preparedness, mitigation, and cataclysmic planning. The commission would build upon previous investigations and issues we know exist. For example, on 9/11, one of the problems our emergency response system faced was the lack of interoperable communications; namely, the police radios couldn't talk to the fire department radios, couldn't talk with people coming from other parts of New York or even outside New York to be helpful at the site of Ground Zero where the Towers collapsed. Yet 4 years later, we find people responding to Katrina faced the same problems. We have not yet solved the problem of interoperable communications.

How long are we going to let this go on? When the 9/11 Commission issued its report, the majority leader applauded the Commission for its tremendous act of public service and patriotism and looked forward to a time when we could work together to ensure America grew stronger and better prepared. Let's ask ourselves, Are we stronger today and better prepared?

Although I applaud my colleagues on both sides of the aisle who are conducting the committee hearings into what happened, I do not believe this disaster has the attention or the right mix of people investigating it that will give us both answers and a roadmap for the future.

Some of the statistics are frightening. FEMA ordered over 125,000 trailers or mobile homes to provide housing for an estimated 600,000 people. Media reports indicate that as of the beginning of November, hundreds of thousands of people are still in hotel rooms, relatives' rooms, shelters, and even in tents. Now we hear FEMA is going to move these people out of their hotels as of December 1. Where are they going to be moving them? What is going to happen to them? I think these are questions that add to the urgency of such an investigation. There are thousands of churches and other faith-based institutions, as well as nonprofits, that have yet to hear from FEMA as to whether they will get any help in continuing the assistance they are providing.

I cannot help but agree with the Senator from Colorado, who pointed out that we went through this after 9/11. He spoke about his meeting with the President. He spoke about the resistance to a department of homeland security, to any kind of investigation.

This Katrina commission will eventually be put into operation. It will have to be because people are not getting the answers they need. I hope we will come to a realization that this Katrina commission, an independent commission, is the way to proceed.

UNANIMOUS CONSENT REQUEST—S. 1748

Mrs. CLINTON. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 220, S. 1748, a bill to establish the Katrina commission investigation, that the bill be read a third time and passed, and that the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mrs. CLINTON. Mr. President, there we have it. We are once again hearing objections. The status quo wins the day. FEMA will not change. The Department of Homeland Security will not change. We will never get to the bottom of what happened and what we need to do to fix the obvious flaws unless we have this independent commission.

I ask my friend from Colorado if he agrees that the only way we will get the answers we need is through an independent commission.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. SALAZAR. Mr. President, I agree with my friend and colleague from New York. The Republican leadership should allow this Senate to have a vote on whether we establish an independent Katrina commission. This ought not be a partisan issue. This is not about Republicans and Democrats and Independents. This is not about assigning blame. It is about learning from our mistakes and building a stronger Nation.

I hope that President Bush, Senator FRIST, and Speaker HASTERT will join us and move forward in developing this independent Katrina commission so we can make our homeland even more secure, because what Katrina taught us, without a doubt, is that we as a nation are not prepared. Every day we go without this commission is a day lost. It puts us a day further from finding answers for the victims of Hurricane

Katrina, a day further from identifying the gaps in homeland security, a day further from a safer America.

I want to say that I, too, have been involved as an attorney general looking at difficult issues that have occurred in my State. I walked through the carnage of Columbine High School, the bloodiest school shooting in America. And so many years later, the answers we sought about why that happened and how it could have been prevented, how we could have improved on interoperable communications, those lessons have not yet been placed on the table.

I daresay that without the efforts of the 9/11 Commission, the lessons learned from that most horrific attack on America on 9/11 would not have been learned. In the same way, as we move forward to determine whether we have a Department of Homeland Security that is up to the job of protecting Americans, protecting the homeland, protecting our citizens, it is a major mistake on the part of the United States of America not to undertake this independent review which has been presented in a bill by my colleague from New York.

I thank Senator CLINTON again for her advocacy for this legislation. I vow to work with her and to try again and again with my colleagues on both sides of the aisle. I do not believe we can adjourn this Congress without finishing the job on a Katrina commission.

Mr. STEVENS. Mr. President, will the Senator yield?

Mrs. CLINTON. May I finish, Mr. President?

Mr. STEVENS. I misunderstood the time sequence, and the Parliamentarian tells me the Senator has until 2:30 p.m.?

Mrs. CLINTON. No, 1:30 p.m.

Mr. STEVENS. I remove my previous objection. The Senator should continue to have her time until 1:30.

The PRESIDING OFFICER. The Senator from New York.

Mrs. CLINTON. Mr. President, I thank my colleague from Alaska. I will wrap this up.

I wish to serve notice to my colleagues in the Senate that my good friend from Colorado and I will be back again and again and again, as we were with the 9/11 Commission. He was not in the Senate at that time. He was serving his people in Colorado from a position of trust and responsibility as attorney general, but he watched from afar, understood the tragedy that befell us, and, like so many of us who are given the public trust of public office, wanted answers. He came to this body to help find those answers.

When Katrina struck and it became so apparent that we were not yet prepared, the Senator from Colorado was among the very first to say we need those answers and we need them yesterday because no place is prepared, no place is ready if the Federal Government is not in a position to provide the assistance and the assets and the support that is needed in the face of a large manmade or natural disaster.

We will be back again and again, as we were with the 9/11 Commission, until this commission is established. It is the right thing to do. The country deserves to have it and, most of all, the people along the gulf coast deserve the answers and deserve to know what did occur to them, what could have been prevented, and then the rest of us should act on that information to make sure our Nation is prepared in the future.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, how much time remains for the minority at this time?

The PRESIDING OFFICER. Four minutes.

Mr. STEVENS. Mr. President, if no one seeks that time, I ask that I be permitted to start the majority time at this time.

The PRESIDING OFFICER. Is there objection?

Mr. BAUCUS. No objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Alaska.

POINT OF PERSONAL PRIVILEGE

Mr. STEVENS. Mr. President, I have sought the floor now to speak on what I consider to be a matter of personal privilege. It has been brought to my attention that the Senator from Illinois unfairly maligned my character in direct violation of rule XIX of the Standing Rules of the Senate.

Rule XIX states:

No Senator in debate shall, directly or indirectly, by any form of words impute to another Senator or to other Senators any conduct or motive unworthy or unbecoming a Senator.

The Senator from Illinois apparently takes exception to the fact that witnesses who appeared voluntarily before the joint hearing of the Senate Commerce and Energy Committees last week were not sworn in. I would like to set the record straight about the events of that day.

The request by Senator CANTWELL to swear in the witnesses was delivered to my office at 8:10 a.m. on the morning of the hearing. It was leaked to the press before it was ever delivered to me. As a matter of fact, the Seattle press that morning had reported that I had already rejected the request before I had even received it or read it.

While I have accomplished many things in my 37 years in the Senate, the ability to see into the future or read into the minds of other Members is not one of them. Had the Senator from Illinois read the transcript of that hearing, he would have a better understanding of why I took the actions I did as the chairman opening that hearing.

I made this opening statement:

I remind the witnesses as well as the Members of these committees, Federal law makes it a crime to provide false testimony. Specifically section 1001 of title 18 provides in pertinent part: ''Whoever in any matter within the jurisdiction of the legislative branch of the Government of the United States knowingly or willfully makes any material false, fictitious, or fraudulent statement or representation shall be fined under this title or be imprisoned not more than 5 years, or both.''

I continued my statement at that time:

Having reviewed the rules of the Senate and the rules of the Commerce and Energy Committees and the relevant provisions of title II of United States Code, there is nothing in the standing rules of our committee rules or in the Senate which requires witnesses to be sworn. The statute has the position that everyone appearing before the Congress is in fact under oath. These witnesses accepted an invitation to appear before our committees voluntarily. They are aware that making false statements and testimony is a violation of Federal law whether or not an oath has been administered. I shall not administer an oath today.

Earlier, Senator DURBIN of Illinois came to the Chamber and said—and I quote from the RECORD that has been provided to me:

You probably heard about the hearing before the Senate Commerce Committee. Senator Maria Cantwell of Washington insisted these oil company executives be sworn in, testify under oath, just as the third base company executives were a few years ago. But Senator Stevens, the chairman of the committee, refused to allow them to be sworn in. Why? So they couldn't be held accountable if they didn't tell the truth.

Mr. President, I believe Senator DURBIN's comments are a direct violation of rule XIX. I did not swear in witnesses who appeared before our committee because they are required to tell the truth under law.

Those are the rules of the Senate, the rules of our committees. To suggest I did not administer an oath to these witnesses to help them lie to Members of Congress is false, inexcusable, and in violation of rule XIX, the longstanding practice of Senatorial courtesy, and I expect an apology from the Senator from Illinois.

What is the status of the time now in terms of control of time?

The PRESIDING OFFICER. The time until 2:30 is controlled by the majority.

Mr. STEVENS. Mr. President, under the conditions that if the Senator from Montana would yield to our colleagues on this side if they come to make a statement on the bill, I yield to the Senator from Montana.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Montana is recognized.

COMMERCE-JUSTICE-SCIENCE CONFERENCE REPORT

Mr. BAUCUS. Mr. President, first, I thank my friend from Alaska for his courtesy in working out this accommodation.

I rise to speak on the Commerce-Justice-Science appropriations bill conference report that might be coming before us later on this day for a vote.

I must say I am outraged. This bill makes further cuts to critical programs that help local law enforcement

fight methamphetamine nationwide. These cuts—and they are dramatic—have a particularly damaging impact on my State of Montana. Why? Because we are a rural State. We have very limited resources.

When I ask Montana law enforcement officers what is the No. 1 law enforcement problem they are facing, an open-ended question, they all come back with the same answer: methamphetamine. That is the biggest problem Montana law enforcement officers have.

The Byrne grant program and similar programs support most of the proactive drug enforcement in the 56 counties of my State, and I dare say that is true for a majority of States in this Nation.

Why is Byrne grant money so important? Again, it is because we are spread so thin across a vast area in Montana, a small population with an international border. An adequately funded Byrne program, particularly when combined with a high-intensity drug trafficking area, or HIDTA program, is essential. These programs are critical to help us maintain our seven multijurisdictional regional drug task forces, which have been a huge boon to successful efforts in Montana to fight methamphetamine.

Let me give an example. In eastern Montana, we have what is called the Eastern Montana Drug Task Force that is based in Miles City, MT. We also have the Tri-Agency Drug Task Force in Havre that is near the Canadian border. We have a third drug task force in our State, and that is the Big Money Drug Task Force based outside of Wolf Point. They all rely entirely on Byrne funding. These task forces also happen to cover some of the most open, most rural areas in my State where meth enforcement is particularly challenging.

This Commerce report that is soon to be before us guts the Federal Government's commitment to State and local law enforcement. It funds the Byrne grant program at just $416 million for this next fiscal year. That $416 million may sound like a lot of money, but it represents a nearly 35-percent cut over current year funding. We are cutting this law enforcement program by 35 percent.

Is that bad? That is terrible. But it is even worse because that 35-percent cut is on top of a 26-percent cut in funding in reallocation of local law enforcement resources that occurred in 2005. First we had a 26-percent cut last year. Now this is a 35-percent cut on top of the 26-percent cut.

This bill cuts the Community Oriented Policing Services, otherwise known as COPS. That is cut by one-third and provides no funding for communities to hire additional police officers.

According to the president of the Montana Association of Chiefs of Police, COPS funding is necessary to maintain an adequate number of police in the field to protect our communities. One law enforcement officer back home told me that without COPS funding, the number of crimes, especially violent crimes, begins to rise again. Currently, there is no other alternative to the COPS Program. He tells me that the COPS Program is one of those programs that works, one of those programs that is directly responsible for protecting our communities and for getting officers out on the street to protect us all. COPS works. We all know the COPS Program has worked, particularly for us in rural States.

So I ask, where are our priorities? The Senate did its job. We sent over a bill to the House that contained nearly $900 million for the Byrne program, yet somehow we will end up later today with a conference report that funds this program at close to a paltry $348 million. We had $900 million. The conference report comes back at $348 million.

Where were our Senate conferees? Why did they not stand up for the Senate version? Why did they not stand up for the Senate?

The Montana Narcotics Officers Association has told me that if the House version of the CJS bill is passed, this would gut Montana's meth enforcement abilities, especially in rural areas. They told me this would result in an elimination or a dramatic reduction in services provided by Montana's regional drug task forces.

The 26-percent cut in Byrne funding in this last fiscal year resulted in nearly a 50-percent cut in Byrne funding for the entire State of Montana, and that is because of a block grant allocation which has that result.

I frankly cannot believe we are being asked to support a conference report that has cut law enforcement, especially in the areas to fight methamphetamine enforcement, as much as we are asked to.

I am also very disappointed that this conference did something else which I think is a very bad idea. What did they do? They did not accept the Senate-passed combat meth bill. What was that? That bill would put certain methamphetamine ingredients behind pharmacy counters nationwide. We all know that the precursors of methamphetamine over the counter in drugstores are a big inducement for meth manufacturers to take these ingredients and go to local labs out in rural areas and make methamphetamine. It only makes sense that these methamphetamine precursors not be sold over the counter but only sold by prescription or at least behind the counter so there is much more control over the purchase of those ingredients. We passed that in the Senate. What did the conference do? No, they did not adopt it.

Let us look at what this conference report says with respect to rural States that are trying to fight methamphetamine. I might say it is not just rural States; it is most States trying to fight methamphetamine.

First, it did not take up and agree to the combat meth bill. The precursor provisions are not in here anymore. Willy-nilly, they are out of there. It also dramatically cut the Byrne grant money, which is so important.

I made a good part of my job in the Senate devoted to fighting methamphetamine. I have gone to a lot of these drug task force meetings. I go to many assemblies in Montana with high school and middle school students. I put on these programs that show how bad methamphetamine is. I have law enforcement officers there during these sessions with middle school and high school students. I have counselors there. We go over what has to be done to fight methamphetamine.

Again, a reminder, methamphetamine is the No. 1 law enforcement problem in the State of Montana, and I am sure that is true in a lot of other States as well.

I ask for a show of hands at these assemblies. These are schoolwide assemblies. I ask: How many of you here know of somebody who is on meth or recently on meth? Fifty to 70 percent of the students' hands go up. It is such an outrage. We talk about pandemics with the Asian flu. I might say we certainly have an epidemic with methamphetamine. In a certain sense it may be a pandemic. It is a huge problem.

If we are going to fight it—and I hear in my State of Montana, and I am sure the Presiding Officer hears the same thing in his home State of South Dakota—we need to have dollars out in the field to fight methamphetamine. There are all kinds of ways to attack this problem, but certainly dollars out in the field on the law enforcement side are absolutely critical. It is essential, and they are not in this bill.

We need a lot more prevention efforts. That is clear. We need more counseling efforts. That is clear. We need drug counseling and other ways to get people off of methamphetamine. We also need the law enforcement there to catch the bad guys who are doing it.

In a certain sense, this conference report is a huge victory for the druggies. It is a huge victory for those who are peddling methamphetamine in America because they know if there is much less law enforcement, if the dollars are not there to stop them, they have an open field. They are not dumb. The big drug manufacturers and peddlers are not stupid. They know where they can go. They know where there is law enforcement and where there is not.

When I talk to local drug task forces in my State, it is so clear to me how desperately they need these dollars. They beg me for these dollars. That is why I have offered amendments in this body to provide funding to fight methamphetamine.

We passed legislation in the Senate. We have been doing our job. But for the Senate conferees to come back with a conference report which allows all of these antimethamphetamine efforts to

be gutted and to be diluted and cut back and ask us to vote for that conference report I think is an outrage. For that reason, I strongly oppose this conference report. It is a bad idea. It is going to allow more methamphetamine in our country, one of the biggest problems this country has.

This is a victory for the drug dealers. It is a big victory for drug dealers. They know where they can deal drugs. They know where there is law enforcement and where there is not. When we start to cut back money—not status quo but cut back law enforcement dollars—that is going to be a huge problem. I very much hope this Congress finds a way to redress this imbalance, to deal with this problem so we can adequately fight methamphetamine.

I have all kinds of PSAs running in Montana, public service ads, against methamphetamine. I have been working in schools to get rid of methamphetamine. There are other people in Montana who are paying a lot of dollars out of their own pockets, with very effective antimethamphetamine ads. Part of the solution is to make sure we have adequate law enforcement. I strongly urge my colleagues to not agree to this conference report until this problem is solved.

I ask unanimous consent that a letter from the National Sheriffs' Association be printed in the RECORD.

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

NATIONAL SHERIFFS' ASSOCIATION,
Alexandria, VA, November 10, 2005.

Hon. THAD COCHRAN,
Chairman, Committee on Appropriations, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: On behalf of the National Sheriffs' Association (NSA) and our 23,000 members, I am writing to express our extreme disappointment and concern over the lack of funding for the Edward Byrne Memorial Justice Assistance Grants Program (JAG) in H.R 2862, the Science, State, Justice, Commerce and Related Agencies Appropriations Bill.

The JAG program, which was formed by consolidating the Edward Byrne Memorial Grant program and the Local Law Enforcement Block Grant program, is one of the primary Federal assistance programs for State, tribal and local law enforcement agencies. State and local law enforcement agencies, including the 3,087 sheriffs' offices across the country, rely heavily on JAG funds for critical operational activities. JAG funds support many of our counter-drug activities, particularly drug task forces. Without these funds, our sheriffs will not be able to sustain the task forces or even fight the war on drugs!

Local law enforcement agencies from all across the country are already out-manned and out-gunned by the drug cartels and street gangs in our communities. Over the last several years we have been forced to deal with the loss of personnel, because of budget cuts to the COPS program. Now the COPS Universal Hiring Program has been zeroed out by Congress, thus abandoning an effective program, and the JAG Funds are being cut as well. These cuts will put an end to any progress that has been made and destroy any hope we might have of winning the war on drugs or ridding our communities of methamphetamine!

For more than a decade, the resources provided under the JAG program have allowed law enforcement agencies to expand their capabilities and make great strides in reducing the incidence of crime in communities across the nation. It is our belief that the lack of Federal support for local law enforcement will surely result in increased crime and drug abuse!

The conference agreement would provide just $416 million for the Byrne Memorial Justice Assistance Grants, of which only $321 million is available for local law enforcement assistance. This represents a cut of more than $217 million or 34 percent, from FY 2005 levels. We find this level of funding to be unacceptable and believe that Congress is failing to adequately recognize the mission of law enforcement!

Cuts of this magnitude seriously inhibit law enforcement's abilities and endanger the safety and well being of our communities! In order to keep communities safe from crime and free of drugs, law enforcement agencies must be given the resources they need! The FY06 SSJC appropriations bill does not provide for those resources.

At a time where law enforcement and securing the homeland should be of the highest priority, Congress has chosen to completely dismiss them as a priority! With the rise of terrorism, and the fact that methamphetamine use and abuse has risen to epidemic proportions, Congress should embrace law enforcement, support the JAG program and COPS Hiring Program, and increase their funding, not cut their funding!

Sincerely,

THOMAS N. FAUST,
Executive Director and Retired Sheriff, Arlington County, VA.

Mr. ISAKSON. Mr. President, I ask unanimous consent that Senators CARPER, SALAZAR, and NELSON be added as cosponsors to the Isakson amendment on the pension bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ISAKSON. I yield the floor.

Mr. ENZI. Mr. President, I yield 10 minutes to the Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas is recognized for 10 minutes.

Mrs. HUTCHISON. Mr. President, I thank the distinguished chairman. I appreciate very much the chairman bringing this pension reform bill to the floor. As a Senator from a State that has several major airlines, three headquartered in my home State of Texas, I know this is very important for them. It has been worked on for a long time. I appreciate the efforts of the distinguished chairman in this regard.

JUDGE ALITO

I also want to take this opportunity to answer some of the things that have been said in the Chamber today, particularly about Judge Alito, who is the President's nominee for the Supreme Court of the United States.

It has been implied in the Chamber today that maybe he doesn't deserve an up-or-down vote. After all, Harriet Miers didn't get one.

I am the perfect person to say I think Harriet Miers should have gotten one. I do believe Harriet Miers was qualified for the Supreme Court. If she had been allowed to open her mouth and say what she believed and talk about her experience, she would have been confirmed, and she would have been a superb Justice.

However, Harriet Miers didn't get an up-or-down vote because she withdrew her nomination. She withdrew it voluntarily. It was her decision. I was sorry she did. I didn't want her to make that decision. But to imply that all of a sudden now we have a new standard, that Judge Alito doesn't deserve an up-or-down vote, is absolutely wrong and it must be refuted. Judge Alito does deserve an up-or-down vote just as every nominee for the Supreme Court of the United States who has gone through the committee and come out deserves an up-or-down vote. The idea that seems to be creeping in here is that, maybe for the first time in the history of the United States, there might be a filibuster, a partisan filibuster of a judge, a nominee to be Justice for the Supreme Court of the United States. That would be a terrible thing for the United States of America, for the President, and for the Senate of the United States. It would be wrong for everyone concerned. It would set a precedent that I believe would cause partisanship in this body to escalate to a degree that we do not want to see happen.

Partisanship has already escalated in the Senate. I am sorry that it has. But I think there are many instances where we work in a bipartisan way in the Senate, and we accomplish a great deal when we do. So I think the idea of throwing a bombshell into the Senate and breaking all tradition and all precedent and filibustering on a partisan basis a nominee for the Supreme Court who is reported out of committee is wrong, and I hope the hints of that happening are wrong. I hope they are put to bed. I hope we will give this judge his due.

This man is qualified for the Supreme Court of the United States by any standard. He has an academic record that is excellent. He has years of experience as a circuit court judge. He is very well regarded as a circuit court judge. His opinions are reasoned. He has even gone against what are his stated personal beliefs in order to adhere to precedent and give great respect to the law of the land. He is everything we are looking for in a Supreme Court nominee.

When he has his hearings and he has the chance to answer the questions of the Judiciary Committee and he is then voted out of that committee, even a suggestion that he doesn't deserve an up-or-down vote is outrageous. I hope we can stamp out those little feelers, say this was a misunderstanding, that Judge Alito most certainly is a nominee deserving of an up-or-down vote in the Senate if he is, in fact, voted out of the committee.

AMENDMENTS TO THE IRAQ RESOLUTION

I also want to take this opportunity to discuss an amendment that was agreed to yesterday by the Senate regarding the Iraq resolution. There has

been a statement on the floor today saying that this was a rebuff of the President's policies. The rebuff was to the amendment that was put forward that would set a timetable for a withdrawal, that would call on the President to say on a date certain we are going to withdraw troops from Iraq.

I have been one in the past who has said we should have a game plan. We should have an exit strategy. I have said that when we were in Bosnia. I said it as we are in Iraq. I said it about Afghanistan. It is a legitimate role for the U.S. Congress to say: Mr. President, give us an update on where we are and give us what we can expect to see. That is exactly what happened. It was not unusual.

When we are in a conflict overseas with our troops on the ground, it is not unusual that the Congress would ask for a report on the status of the conflict. Most certainly it is fair to ask for a report. The President welcomed that because he knows the role of Congress, just as we do. Those who would characterize that as a rebuff are wrong. The President knows how tough this situation is. All of us do. Every one of us grieves when we lose one American life. But I will say I could not be more proud than I am of our Armed Forces, our men and women who are fighting for our freedom today as we speak in this Chamber, because those with boots on the ground know that if we set a time prematurely when we would exit, we would embolden the enemy they are facing today. We would say to the enemy: Have at it. No matter what happens, we are out of here on a date certain.

Don't you think that puts the lives of those troops who are on the ground right now in jeopardy? The idea that we would do something like that is appalling. The Senate didn't do it. The Senate voted down an amendment. The Senate rebuffed that amendment because it was wrong. Instead, we did what is the role of the Senate to do, and that is we asked the President for a status report. We asked the President for the game plan for the future. Of course, the President is going to do that. He has been doing that. We have had briefs on the situation in Iraq and briefs on what the next step is ever since we went in to Iraq.

Of course it is the right of Congress and the role of Congress to ask for this. The President understands that and actually said he was very pleased that the Congress did that and that he would, of course, do that type of report as he has been doing on a regular basis in various ways, through the Secretary of Defense, through the Joint Chiefs, the Chairman, and the Ambassador to Iraq from the United States. We have had reports from all of these people on the status. We have seen the votes that have been taken in Iraq. We have seen the progress.

I think it is important that we set the record straight. On this floor this morning, I think there have been some statements that needed to be refuted, and that is what I have attempted to do.

I thank the chairman of the committee for allowing me this time and thank him for bringing this pension bill to the floor. It is a very important bill. It will mean a lot to the employees in my State and the employees throughout our country in airlines that are struggling right now. This is an industry we need to protect.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. I yield myself such time as I might consume. I thank the Senator from Texas for coming to the Chamber and making the comments on pensions, and I appreciate all the work she has done, particularly in the airline area. I don't think there is a single airline that doesn't fly into Texas. I appreciate all the concern she has shown over all the various issues. There are certainly a lot of them in this 730-page bill.

I also thank her for the comments on the other topics because, while the time today was supposed to be for debating the pension bill, I guess the disadvantage of having one that is as bipartisan as this and as much concern to all the employees and businesses of this country is that we didn't have that much opposition today. So people came in with other topics.

I want to address one of those that came up that disturbs me a little bit, and that is the comments about a Katrina Commission.

The Katrina disaster and the others that followed it were bigger than anything we had ever had in this country. I have to tell you that I think there is enough blame to go around on it. If people want to point fingers, it goes the whole circle. The biggest problem with it was we had never seen that many displaced people in one single disaster. There were a million people displaced in that disaster, and 200,000 was the previous record—not that those are the kinds of records we like to keep.

A couple of weeks before Katrina, there was a tornado in Wright, WY, 38 miles south of my hometown. I happened to be there at the time. I spent a lot of time in Wright seeing how the recovery went and seeing what FEMA did. I didn't have much of an idea what FEMA is supposed to do. It was kind of astounding to me. They are the group who comes in after the disaster. They are not the prevention group. They are the after-disaster folks. They come in and register all of the victims of the disaster. Then they help those victims get coordination to find every source of help they possibly can.

This disaster was a lot different than any of the ones before. A lot of times, when there is a disaster in one town and people are displaced from that town, they can move to their friends and relatives in the next town. But in this one, not only did their town get wiped out but the towns of their friends and neighbors and relations got wiped out as well; and so did the next town and the next town. They wound up moving to completely different States.

You can't see those boundaries of States when you drive down the road. There is usually a sign that says ''Welcome to Wyoming'' or Louisiana, whatever State it is. There isn't any physical line that is drawn, but in everybody's mind there is a tremendous mental barrier of crossing a State line and being in unfamiliar territory.

That happened in this instance, and States are saying those are residents of another State that we are supposed to take care of; people from another State are saying, I am not real comfortable being here, but I am here. What can you do to help me? It was even hard to locate people.

The size of the disaster was tremendous. I think I am in a position to complain about anybody complaining about how it all went because I am from the committee that proposed legislation and actually moved it through the Senate floor. I think the only legislation that has dealt with the Katrina disaster is student displacement, which we had in the deficit reduction bill. We have a health package we are working on, and we hope to be able to move it as well.

There are unprecedented problems with this. We have the opportunity for some unprecedented solutions. They are not the best solutions, but they are the best we can come up with on short notice.

Rather than trying to figure out whose fault it was, I think the whole country has a big problem with this ''whose fault it is.'' We have gotten to the point where, if we fall down, we wonder who caused that and who should pay. We want some kind of retribution for it. What we are doing with that is eliminating some personal responsibility. Everybody has to watch out for themselves and their neighbor and help get ready particularly for events they can see coming. I think people are going to be a lot more responsible on that in the future because of some of the things that happened. But to try to place blame doesn't do much except build divides. We are trying to bring people together.

That is what the pension bill is working to do—bring people together so they can have a secure future, so they can know what is going to happen with their savings and their pensions and how it all comes together. This bill does do that.

It is extremely complicated, with many moving parts. It is hard to have unanimous agreement on anything, but this is pretty close to that. It is because it solves a huge problem. Here again we could talk about what the blame is for the problem.

I actually want to talk a little bit about how we got to the point where there was a problem with pensions. I am not going to go into some of the

things mentioned before about how the negotiations went and drove up the amount of benefits people were receiving. Instead, I want to talk a little bit more about the core problem we have; that is, after September 11, 2001, the economy went in a little different direction than we had anticipated—in fact, drastically different than anticipated.

Two things happened at the same time: Both the interest rates and the stock market went down. Usually, when interest rates go down, the stock market goes up and people take their money out of the low-interest mechanisms and put it into the stock market which grows faster because there is more money coming in there, which is driving up the price of the stock. But after 2001, both the interest rates and stocks went down. There was no possibility of taking the money from the pension and hedging it anywhere, of moving it so they would have more income. So the income dropped drastically and investments dropped drastically. That put the companies in a position where those who had fully funded plans no longer had fully funded plans. It wasn't because they stopped putting money in or taking money out. It was because it didn't grow at the rate that had been anticipated before. That created a lot of problems. That is not to say there weren't some problems, but primarily the problem came from the stock market and the interest rates dropping at the same time. The good news is that interest rates, as far as pension plans—and some senior citizens' savings and other people's savings—the good news is the interest rate has been going up. That has not been a help to the stock market, but that has been a help to those people who have money in savings accounts. It has been a help to pensions because the annual statement that just came out by the PBGC for their fiscal year 2005 financial results show they actually had a net gain of almost $.5 billion for last year. That isn't because the PBGC was better. That is because firms were able to generate more revenue for their pension funds. There are a lot of things at work in this.

Another thing that was mentioned this morning that I want to clear up a little was a relationship people draw—the relationship between the Pension Benefit Guaranty Corporation and the savings-and-loan debacle. We have two different ways of paying out here. They are dramatically different. For one thing, when people have money that is ensured by the FDIC and a bank fails, people take their money now. It is an immediate crisis—to the total value of their ensured deposits. With the Pension Benefit Guaranty Corporation, they are guaranteeing that people will get a portion with a cap of what they have coming in pension at the time they would have received it. It is long term. It isn't an immediate disbursal of whatever money they have in that account. It is a disbursal over time at the rate at which they would have received the pension, which would be the rest of their lifetime, as opposed to an immediate withdrawal like savings and loans.

We have another problem that is coming up here shortly. That is when the stock market and the interest rates both went down, they created a crisis. It was not a crisis of bad management as much as this difficulty with the stock market. Recognizing that crisis, we passed some legislation. But it was temporary legislation to allow for some recovery of the economy and the market and that sort of thing, to get things back in balance. That temporary piece of legislation runs out December 31 of this year. We need to have in place something that will continue to encourage the companies to put more into their pension funds, to add to the solvency of their pension funds, to bring them up to the level they are supposed to be, without putting them out of business. We need something that will fill in for these temporary rules that are running out, something that does the job, I hope, better.

We have had some time to review the whole situation and come up with this bipartisan solution.

One of the difficulties during this discussion was over an item called ''credit rating.'' There is a provision in the bill that calls for companies to have to put in considerably more money once they get a bad credit rating. I am counting on that being something we work on in conference committee. We all operated on a principle, and the principle we operated on was we want to know when a company is having difficulty, and we want to know it early. We want to have them make sure their pension for their employees is protected at the time the business starts to go bad.

That was the principle from the White House, that was the principle of the HELP Committee, that was the principle of the Finance Committee, and we tried to arrange a way to do that.

One of the things on the surface that looked like a good idea was credit rating. When they get a bad credit rating, it forces them to bring more solvency into their fund. The idea is once they get a bad credit rating, they cannot put more money in the fund. They are in a very bad situation when they are listed as a junk bond situation already. In fact, one of the difficulties with the credit rating is it is not done by people in the company or people in the Government. It is done by some other experts who look at what they have access to and make decisions about the company. Sometimes they probably get it extremely right, and sometimes they can get it wrong. But that doesn't matter. What matters is if a company gets rated at a junk bond status, they can virtually never get out of that. Why can't they get out of it? One reason is the person who analyzed the thing and who may have replaced a new employee is a little bit reluctant to sign his name to say this company is OK. It is the ''protect yourself'' kind of attitude. So you don't let them out of the junk bond status, which forces them to make the payments perhaps longer than they ought to have to at that rate, and in fact keeps them in junk bond status. It is a kind of cart-and-the-horse sort of situation—they keep getting one in front of the other and impeding the progress toward what we don't want.

What I am hoping we can do in the conference committee is to find another way that is not the credit rating way but a way that the company will realize and start to correct on this point where they were starting to go downhill, and then also be able to know when they have recovered so we don't force them into bankruptcy. We are asking people for solutions, and we have had a number of them suggested.

Again, I thank Senator DEWINE for his efforts in this area. Senator DEWINE and some of the folks—particularly some manufacturing companies that are involved in this kind of a situation, where some of them even have 100-percent funded plans, but they are in junk bond status. Consequently, even though their funds have a lot of funds, they get different requirements that will escalate the problem and not provide a solution.

That is one of the things particularly I am expecting we will take a look at when we get in conference committee. I think there is a way for all of us to come up with a solution that will work and meet that basic principle of locating companies when they begin to have trouble and make sure that as much solvency is put into the pension plans as possible.

I also will mention that in the deficit reduction bill we passed last week, there was a section that dealt with pensions. I want to reassure everybody that there is the clause in the deficit reduction bill that says if we pass the full pension bill—that means the House and the Senate actually conferring and coming to an agreement and getting a full pension bill signed—that what is in there will modify the pension.

Under deficit reduction, our hands were kind of tied on the options we have to meet the requirements of reconciliation. Under those requirements, all we could do was raise rates to the company. We had to do that considerably higher than we would have had to, had we some of the tools which we have under the full pension bill.

Now, there may still have to be some numbers tweaked on that to meet the requirement that we set for ourselves. We set in the budget a requirement we need to have a $6.6 billion deficit reduction on the Pension Benefit Guaranty Corporation. We needed to reduce potential outlays by the corporation so that it would be solvent or moved toward solvency.

I mentioned this tale that there is on pensions so there was not a need to

come up with $22 billion this year. It can be done over a period of years. In that deficit reduction bill, there is a paragraph that says if we pass a full bill, the full bill takes precedence over the deficit reduction package, so it will not be nearly as much of an increase for the company using that as if we went with the deficit reduction.

I thank everyone for the cooperation we had on the deficit reduction part and in coming up with that.

I want to add my words to Senators Kennedy and Mikulski as they challenge the House to get their bill done. Getting our bill done by itself does not complete the process. It requires that the Senate and the House pass a bill that is the same which means they have to hurry and pass one; we have to conference it and, hopefully, have this done when we come back shortly in December. If not, very quickly after the first of the year. As I mentioned, December 31st is the expiration of the previous formulas.

I need to thank and commend a few people. This has been a lot more complicated and a lot more difficult than the discussion today might seem to indicate. The reason we have had as little discussion and as little opposition today is because people put in a lot of hours to understand what was going on and focusing on principles so we could arrive at a solution for pensions. I commend the work of the staff on this bill. Particularly, I commend my HELP Committee staff. Katherine McGuire is the director of the committee and did an outstanding job of juggling multiple interests and bills. Somebody suggested that we were not a committee, we were a bill factory. If you look at the work that has come out of the committee under Katherine's direction and the cooperation of both sides—near unanimous consent on almost every bill—we have had a very productive year. This bill is one of those indications.

When the President listed his top 10 priorities, my committee had 21 of them. That is largely because in the HELP area he listed one priority, and that turned out to be 16 bills in my committee. We are progressing through those, as well. We are hoping to be able to come up with lower cost health care but with better quality and access. That is a major challenge of this country. We have had double-digit inflation on health care for years. I have a lot of faith in the committee and in staff in what we have been able to do so far.

I also commend Diann Howland and David Thompson. These are my two experts in this area of pensions. I mention that one of them had a lot of experience on the Committee on Finance staff and one of them had a lot of experience on the HELP Committee staff. It was fortuitous we brought these people together with this expertise and have them on the same side working to both come up with the ideas and merge the bill. They probably have, combined, about 20 years' worth of experience on this bill alone.

I congratulate Gregg Dean, who brings the banking knowledge to the debate, and Amy Angelier, who brings the budget expertise to it. Ilyse Schuman does an outstanding job with the legal work we have to do on the bill. I also commend Portia Wu, Holly Fechner, and Terry Holloway of Senator KENNEDY's staff; John O'Neill of Senator GRASSLEY's Committee on Finance staff; Judy Miller and Stuart Sirkin from Senator BAUCUS's staff. We all owe our thanks to Jim Fransen and Stacy Kern of the Legislative Counsel's Office, who drafted numerous versions of this bill and all of its predecessors. A very special thank you is owed to the staff of the Joint Committee on Taxation for their advice and guidance. The staff of the Joint Tax includes Carolyn Smith, Patricia McDermott, Nikole Flax, and Allison Wielobob. Last, but not least, I thank Karla Carpenter of Senator DEWINE's subcommittee for her diligence and Ellen-Marie Whelan and Ben Olinsky of Senator MIKULSKI's staff for all of their hard work. That subcommittee did an absolutely marvelous job.

The way we have our subcommittees set up is pretty much along the lines of the title of our bill. We have some spectacular subcommittee chairmen and ranking members who are out there working on projects. That is the only reason we are able to produce as many bills with as much bipartisanship as we have done.

I also thank Glee Smith, Mike Quiello, and Ed Egee of Senator ISAKSON's staff for their fine work on this airline amendment.

We are about at the point where we will vote on the amendment. I express my opposition to the amendment because I don't think it is fair to the other people who would be getting pensions. I appreciate Senator AKAKA's tremendous effort to try and find a solution for pilots. But as we find the solution, we have to be sure we are finding the solution for everyone. I ask Members to vote against that amendment and for the pension bill as a whole.

I have some remaining time, and I am happy to yield some to the Senator from Massachusetts, who has been absolutely wonderful to work with on this issue. He has tremendous institutional memory on this and has worked on parts of this problem for years. There were numerous times I went to him and asked: What would you do in this situation? And he told me. I think we found that the shortest distance between two points is a straight answer. We have been able to come up with some answers together and I appreciate that cooperation.

I yield to the Senator from Massachusetts.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. I know we will be voting soon. This is a reflection of a legislative process working and working well. We have been fortunate in our committee with Senator ENZI, at the beginning of this whole process, examining the pension issues which have not been dealt with seriously since 1994, at the time of the GATT agreements. So much has changed since then.

We had an openness and a process that has worked through the Committee on Finance in a similar kind of way, Republicans and Democrats working alike. And now, in a short period of time, we are going to pass legislation this evening that is going to give millions and millions of Americans and hundreds of thousands of companies a real sense of hope about their retirement future.

I certainly hope the House of Representatives recognizes the strong bipartisan support we have had for this proposal and follow a similar path.

Finally, we know that workers have enormous insecurity today. They are concerned about the increased costs of gasoline, their health care costs, their job security, the education security of their children, and the security of their retirement. This legislation is focused on retirement security. We all believe in a strong Social Security Program and we all believe in savings. But we all know those savings are down and Social Security is going to need focus and attention over the next years.

This legislation is the backbone to providing help and assistance and assurances to workers about the safety of their retirement programs. It provides innovative and creative ways to deal with the challenges women have presented in terms of the workplace, a much greater sense of equity, much greater protection and information for workers so they can make the appropriate decisions, help and assistance so the good companies can meet their responsibilities to their workers.

We are very much in debt to all of those on our committees—the Senator has mentioned them—and Senators MIKULSKI, HARKIN, and BINGAMAN on the HELP Committee, and our Republican colleagues. I again thank our chairman of this committee. It is a very important piece of legislation that will make a big difference. I thank him and I thank the chairman of the Committee on Finance, Senator GRASSLEY, and my friend, Senator BAUCUS, as well. We have been able to work together.

It is difficult enough around here to get people in your own party to agree on something, I find, and then to get both parties to agree and then two committees to agree on something is remarkable.

All Members understood the importance to American families in this country. They are being challenged about their retirement security. It brought out the best in the membership. I strongly support this legislation. I thank my chairman for all he has done.

To review quickly, this requires the companies to fund all of their pensions. It gives the workers timely and accurate information on the pension plan.

It protects older workers in cash balance plan conversions. That is enormously important. It gives independent investment advice so workers can have information to make solid judgments. It guards against the exploitations we have seen in too many instances, where the CEO's have looked after themselves and failed to look after workers. And it does provide the retirement security for widows and former spouses, which is enormously important. Senator SNOWE, myself, and others have been working on that issue for years.

This is a balanced, well-formulated program that is addressed to meet the needs. I urge my colleagues to support it.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. I yield myself a couple of minutes. I thank Senator KENNEDY for his outstanding charts and summary of what we are about to do. I thank Senator BAUCUS for the outstanding work he has done in dealing with this issue this morning and on the Committee on Finance. I thank Senator GRASSLEY. It has been great teamwork to get to this point. I am looking forward to the vote we have in about 2 minutes.

I yield a minute to Senator BAUCUS and then a minute to Senator AKAKA so he can summarize his amendment.

Mr. BAUCUS. Mr. President, I reinforce a theme that has been in the Senate, working together in bipartisanship. I have thought I am one of the luckiest Senators here because the chairman is Senator GRASSLEY, a great Senator to work with. We work very closely together. That is not rhetoric. That is true. That is accurate.

The same is also true with Senator ENZI, the chairman of the HELP Committee, and Senator KENNEDY. They work very closely together. Not only do they work well together, here are two committees working well together.

A lot of Americans think there is a lot of partisanship in Washington. There is. There is too much. But there are also pockets of cooperation. We are witnessing today one of those pockets, one of those times when we are working together. I take my hat off to the chairman of the HELP Committee, the chairman of the Committee on Finance, Senator KENNEDY, and the staffs. This is an effort to solve a problem in a nonpartisan way.

I thank the chairman.

The PRESIDING OFFICER. The Senator from Hawaii.

AMENDMENT NO. 2583

Mr. AKAKA. Mr. President, my amendment corrects a wrong. Pilots have their promised pensions significantly reduced when the PBGC takes it over. The FAA mandates that the commercial pilots retire at 60. We must take the steps necessary to ensure that the PBGC will have resources to be able to help pilots whose retirement security has been threatened due to the pension takeover and prevented from continuing their careers. This penalty combined with the FAA mandate produce an overly harsh result that hurts pilots and their families when they lose their pension plans.

My legislation only affects pilots. Pilot plans have been some of the largest pension plan terminations in history. Again, the FAA mandates that they retire at 60 and the PBGC's early retirement penalty occurs because they cannot continue to fly past age 60 commercially. My amendment will bring about much needed relief for United Airlines, US Airways, Aloha Airlines, TWA, Eastern Airlines, and Braniff pilots. It is important to note that pilots are the only private sector employees required to retire at the age of 60. I urge my colleagues to support my amendment.

I thank my cosponsors, Senators SPECTER, FEINSTEIN, SALAZAR, and INOUYE, for working with me on this amendment.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. Mr. President, I allot myself some time in opposition to the amendment. I appreciate Senator AKAKA proposing the amendment, but I have to rise in opposition to it for a number of reasons. The biggest reason is the amendment changes how the Pension Benefit Guaranty Corporation calculates benefits for any one class of workers, which would be airline pilots. It is unfortunate that so many airlines have gone into chapter 11 bankruptcy and so many pilots have seen reductions in their pensions. Flight attendants and ground workers also deserve our attention, not just pilots. This carveout for pilots, who are some of the most highly paid professionals in our country, is unfair to other workers who also retire early but happen to have devoted their work lives to other positions in the industry.

Pilots are not the only workers who have expectations of subsidized early retirements. Many machinists, steelworkers, and autoworkers have early retirement benefits which are reduced under the ERISA guarantees. A retiree from any one of these industries has the same complaint as a pilot when his or her company goes bankrupt and dumps its pension plan on the Pension Benefit Guaranty Corporation. The steelworker or the auto parts maker has less notice that a problem could arise if the company went broke. Pilots know, when they start their careers, that they will not work past age 60 and pilots can plan accordingly.

The shortfall confronting pilots of bankrupt companies is not the result of a change in law. The limit on the PBGC guarantee has been on the books for years. Commercial airline pilots who are universally unionized have negotiated over these benefits with their airlines. The fact they retire at age 60 is factored into the structure of their plans. Pilots know they will likely stop flying before reaching normal retirement age of 65. That is why they negotiate rich retirement benefits on top of their high salaries.

It is too harsh to suggest that they in any way assumed the risk that their plans would fail, but it is well known that pilots are some of the most cautious and savvy investors. Risk is something they always anticipate.

On the merits, therefore, the Akaka amendment is unfair to other similarly situated workers and overlooks the fact that they have been before the parties for many years.

But, more important, this amendment at this time is kind of the ultimate non sequitur. This amendment on this legislation just does not follow. It does not fit. The Akaka amendment actually increases the deficit of the Pension Benefit Guaranty Corporation on a bill designed to save the agency from insolvency.

The PBGC estimates that if this provision were applied just to the United Airlines pilots plan, the unfunded guaranteed benefits in the plan would increase by more than $400 million. Additionally, if United pilots would cost $400 million, the cost to the PBGC for all pilots plans would probably exceed $1 billion. Ultimately, the cost is not borne by the PBGC, nor is it borne by the U.S. taxpayers. I hope my colleagues are well aware by now that the full faith and credit of the United States does not stand behind the PBGC. The additional $1 billion in new debt that the Akaka amendment would impose on the PBGC would be borne by all the other companies that sponsor and fund defined benefit pension plans. In this bill, we are already increasing the burden on those companies by about $4 billion through new premiums. Adding another $1 billion in debt is unfair and irresponsible, so I urge my colleagues to oppose the Akaka amendment.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Wyoming.

Mr. ENZI. Mr. President, I ask unanimous consent for 30 seconds.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Wyoming is recognized.

Mr. ENZI. Mr. President, I made a grave error. I mentioned the tremendous juggling job that Katherine McGuire, my committee director, has done, but I failed to mention Michael Myers, who is the staff director for Senator KENNEDY, who has been part of the juggling act on all of these bills as well, and has done a fantastic job. I apologize for that grave oversight and do want to thank him for his efforts.

I yield the floor and yield back any time.

The PRESIDING OFFICER. Under the previous order, the hour of 2:30 having arrived, the vote occurs on the Akaka amendment, on which the yeas and nays have been ordered.

The question is on agreeing to the amendment.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from New Jersey (Mr. CORZINE) is necessarily absent.

The PRESIDING OFFICER (Mr. MARTINEZ). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 58, nays 41, as follows:

[Rollcall Vote No. 327 Leg.]

YEAS—58

Akaka	Dorgan	Lugar
Bayh	Durbin	Mikulski
Bennett	Feingold	Murray
Biden	Feinstein	Nelson (FL)
Bingaman	Harkin	Nelson (NE)
Bond	Hatch	Obama
Boxer	Hutchison	Pryor
Burr	Inouye	Reed
Byrd	Isakson	Reid
Cantwell	Jeffords	Salazar
Carper	Johnson	Santorum
Chafee	Kennedy	Sarbanes
Chambliss	Kerry	Schumer
Clinton	Kohl	Specter
Coleman	Landrieu	Stabenow
Conrad	Lautenberg	Talent
Dayton	Leahy	Warner
DeWine	Levin	Wyden
Dodd	Lieberman	
Dole	Lincoln	

NAYS—41

Alexander	Domenici	Murkowski
Allard	Ensign	Roberts
Allen	Enzi	Rockefeller
Baucus	Frist	Sessions
Brownback	Graham	Shelby
Bunning	Grassley	Smith
Burns	Gregg	Snowe
Coburn	Hagel	Stevens
Cochran	Inhofe	Sununu
Collins	Kyl	Thomas
Cornyn	Lott	Thune
Craig	Martinez	Vitter
Crapo	McCain	Voinovich
DeMint	McConnell	

NOT VOTING—1

Corzine

The amendment (No. 2583) was agreed to.

Mr. AKAKA. Mr. President, I move to reconsider the vote.

Mr. BINGAMAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BURR. Mr. Chairman, the proposed Treasury regulation ''safe harbor'' in the Pension Security and Transparency Act of 2005 states:

The accrued benefit determined under this subparagraph shall be determined under regulations prescribed by the Secretary which are consistent with the purposes of this paragraph and which may require a plan to provide a credit of additional amounts or increases in additional account balances in amounts substantially equivalent to the benefits that would be required to be provided to meet the requirements of subparagraphs (B) or (C).

Mr. Chairman, am I correct in my understanding that the intention of this provision authorizing Treasury regulations is that the Secretary be given the widest latitude possible to approve cash balance conversions falling within the spirit of the conversion requirements?

Mr. GRASSLEY. The gentleman from North Carolina is correct in his understanding of the provision, that Congress intends for Treasury to have wide latitude and flexibility in determining which plans could qualify for safe harbor protection.

Mr. BURR. Mr. Chairman, do you agree that the provision is intended to allow Treasury to consider for purposes of the regulatory safe harbor cash balance plan conversions that are announced 5 or more years in advance, allow employees to continue to accrue benefits under the old formula until the conversion date and thereafter provide full protection for previously accrued benefits as well as the opportunity to ''grow into'' early retirement subsidies under the old formula; and that provide full cash balance plan accruals after conversion without wear away?

Mr. GRASSLEY. The cash balance plan conversion described by the distinguished gentleman would indeed be within the scope of the authority intended for the regulatory safe harbor.

Mr. BURR. I thank the distinguished chairman for this important clarification and for his hard work in developing this important legislation.

Mr. HARKIN. Mr. President, I appreciate that this is a tough, complex bill. I know that the HELP and Finance Committees have worked hard to make this a bipartisan measure and worked to include important provisions to help multiemployer pensions alongside single employer pensions, and I appreciate those efforts. There are some very useful provisions, here, that will help employers to fund pension plans predictably and fully—and to do so when times are good, so we can avoid crash landings when times are bad.

I rise to address the provisions in the bill on an issue very close to my heart: protecting workers in conversions to cash balance plans. I am pleased that we were able to reach a general consensus in this legislation on the cash balance issue. Of course, this compromise is not 100 percent of what I wanted, nor is it 100 percent of what my colleagues on the other side of this issue may have desired. But it is a solid bipartisan compromise. I am coming to the floor, today, to state why I strongly support the provisions in the bill before us, and to explain why I will do everything in my power to oppose any effort to weaken this legislation by giving retroactive approval to cash balance plans that have already been adopted, no matter how badly workers were treated in the conversion.

This is not a hypothetical conversation. Unfortunately, over the last decade, literally millions of employees have seen their traditional defined benefit plans converted into cash balance plans. And, in the process, many have seen their benefits significantly eroded. This erosion of benefits falls primarily on the backs of older workers, who can have their benefits reduced by many thousands of dollars.

The HELP-Finance compromise measure would fix this problem by requiring that, in the future, all cash balance plans must have a strong basic structure that provides some predictable level of wage replacement for workers, and by prohibiting companies from ''wearing-away'' or eroding the value of the benefits of their older workers, including early retirement benefits. Furthermore, the HELP-Finance compromise recognizes the problem workers face when they find the pension plan they had long counted on has suddenly been turned on its head, and gives people a grace period to continue to accrue benefits in the old plan while they make decisions for the future.

I should back up here, and describe this very complicated issue. In the early 1990s, a groundswell of companies started changing from traditional defined-benefit pension plans to ''cash balance'' pension plans. A cash balance pension is a hybrid between a defined benefit and defined contribution plan. Like a defined benefit plan, it is insured by the Pension Benefit Guarantee Corporation, and an employer automatically contributes some percent of an employee's pay to a hypothetical guaranteed account for the worker. This account then earns interest. Most defined benefit plans, however, calculate your benefit at retirement as some percent of your final average pay multiplied by the number of years you worked for the company.

Cash balance plans are different: in a cash balance plan an employer contributes a certain percentage of your paycheck to an account and then credits that account with interest. In that regard, a cash balance plan looks a lot more like your typical 401(k) plan, since you have a hypothetical account that you can watch grow over time.

As I noted earlier, during the 1990s, many companies began moving away from traditional defined benefit plans, and toward cash balance plans, for a variety of reasons. Many companies said cash balance plans would be easier for benefits managers to calculate, and easier for workers to understand. We were told the plans would better serve our Nation's new, more mobile workforce.

Unfortunately, many workers found there was often a different motivation for the conversions: to cut benefits. Older, retiring workers covered by these conversions learned, too late, that their retirement benefit was far less than they had expected.

The pension conversions eroded the benefits employees thought they had already earned. One way to erode benefits was to base benefits on a career average instead of highest years of pay average. It throws pay from when an employee was younger and earning less money into the average used for the pension. The motivation here is obvious. This will reduce the benefits that workers can expect to get toward the end of their lives. Then, it will ''wear away'' the benefits that workers already earned.

What is wear-away? Right now, under pension law, an employer cannot take away money an employee has already earned. If I leave a company tomorrow, I'll get the full value of everything it

promised me up to that point. But in a cash balance conversion, as some employers have done the shift from a defined benefit plan to a cash balance plan, they have set up the new account balance at a lower level than the worker had previously accrued or earned in the old defined benefit account. Wear away happens when no new pension funds are added to what was already accrued till the value of the old pension is worn away to reach the level it would have been under the new cash balance plan. The effect? An older worker effectively earns nothing towards their pension for years, while younger workers do.

The length of time it takes for an employee to make up what has been lost is a long time because the wear-away is so significant. Here is a helpful chart from the GAO. This chart shows in the first column, a hypothetical 45-year-old's early retirement subsidy. It is frozen, because the plan is converted. Now, look where she started out under the cash balance formula. It takes her all these years to finally catch up to what she had in the first place. All I am saying is that she should start out in the new plan at the same place she left off in the old plan. Her 30-year-old coworker is getting money added to his account. Why shouldn't she?

The other problem in converting from a traditional plan to a cash balance plan is a complete reversal of the plan formula—so people lose a big chunk of their expected benefits. This is how benefits are accrued under a cash balance plan versus a regular plan. Can you honestly look at these rates of accrual and say that no one thought that there might be a problem for older workers who get caught in the middle, here, and get the downside of both plans? They get the front end of a back-loaded plan, and the back end of a front-loaded plan. Maybe these CFOs are just really bad at math—went to Wharton Business School, but still can't add. I don't know.

Employers are claiming that these are great plans for workers. Sure, they are better than plan termination. But, they turn traditional pensions on their head, taking benefits from older workers and redirecting them to younger folks. Then they say these plans are so terrific for younger workers, but in reality 40 percent of people in these plans never see any benefit at all because they didn't even work at a company long enough to vest.

This is, was, and always will be age discrimination. And it is something that Congress has never before acted to approve. After these injustices were exposed in 1999, I introduced legislation to ban wear-away. While it did not pass, it raised the profile of this problem. That September, the Treasury Department stopped issuing letters of determination stating that these plans meet some basic IRS standards out of concern over how workers were losing out in conversions.

In 2000, the Senate unanimously passed my sense of the Senate resolution saying that it is unfair for older workers to see the benefits they have worked for eroded or worn-away in cash balance conversions. That sense of the Senate state that: ''For a number of years after a conversion, the cash balance or other hybrid benefit formula may result in a period of ''wear away'' during which older and longer-service participants earn no additional benefits.''

It said: ''Federal law should continue to prohibit pension plan participants from being discriminated against on the basis of age in the provision of pension benefits.''

The Senate agreed, in 2000, that: ''It is the sense of the Senate that the levels in this resolution assume that pension plan participants whose plans are changed to cause older or longer-service workers to earn less retirement income, including conversions to ''cash balance plans,'' should receive additional protection than what is currently provided, and Congress should act this year to address this important issue. In particular, at a minimum: (1) all pension plan participants should receive adequate, accurate, and timely notice of any change to a plan that will cause participants to earn less retirement income in the future; and (2) pension plans that are changed to a cash balance or other hybrid formula should not be permitted to ''wear away'' participants'' benefits in such a manner that older and longer-service participants earn no additional pension benefits for a period of time after the change.

In 2003, the House and Senate both passed an amendment to the Treasury-Transportation Appropriations measure to block Treasury from promulgating a proposed rule that would have blessed these plans, because they left room for age discrimination. That provision was changed in conference to instead direct Treasury to propose legislation that would help workers caught up in these conversions, and Treasury did so. Treasury sent up a bill that said you can convert to a cash balance plan, but only if you don't wear away currently accrued benefits, and only if you allow people to accrue benefits in the old plan for 5 years after the conversion. Now this legislation did not go quite as far as my bill, but it did firmly state that wear away is unacceptable. It also acknowledged that these conversions result in a serious loss of expected benefits, and some transition period is necessary to help older workers.

Prior to Treasury Secretary John Snow's confirmation vote, Senator DURBIN and I asked him to come to the Senate and talk with us about his intentions on cash balance. He said that fairness and equity would guide the rule of law, and that he would work to protect the workers. After all, when he was CEO of CSX railroad, he put in a cash balance plan. But he gave everyone who worked there a choice between the old and new plans.

His proposed legislation was much fairer to workers than the regulation that had been proposed during the gap between Secretary O'Neill's tenure and Mr. Snow's nomination.

The HELP-Finance bill continues to uphold the principle that has long been supported here in Congress: Cash balance conversions should only be allowed if they are done right, without allowing companies to gouge older workers.

The bipartisan compromise in this bill guarantees this by prohibiting wear-away in future conversions. It requires employers to give older workers a grace period during which they can continue to accrue benefits in the old plan. It says that, because cash balance plans weren't in fact as portable as advertised, we need to make them vest faster so that they actually do provide the benefits to younger workers that have been advertised.

This compromise is very similar to the legislation proposed by the Treasury Department that I outlined above. It is the exact same language as the Frist-Grassley-Baucus-Lott amendment in the Finance Committee's pension markup. It is an excellent example of finding common ground, which is exactly what we should do on this issue. This is not a partisan issue. Retirement security matters to everyone. Keeping promises to workers is critical to our workplace climate. Likewise, it is important for workers to be loyal to their employers. Preserving this tradition is critical to maintaining a skilled, productive workforce.

Turning to another issue, I am pleased that the managers of this bill have decided not to accept any proposals that would amend the fiduciary standards in ERISA to allow pensions to invest in riskier investments, and engender conflicts of interest for pension fund managers. These proposals will expose the retirement income of millions of pension plan participants and beneficiaries to the risk of loss from self-dealing, conflicts of interest and other abuses that have been prevented by ERISA for the last 30 years. Under current regulations, if 25 percent or more of a hedge fund's assets come from employee benefit plans, including private-sector, public-sector and foreign benefit plans, the investment manager must comply with ERISA. The hedge fund industry would like to weaken that standard greatly by no longer counting public and foreign plan assets and increasing the threshold to at least 50 percent—and as much as 75 percent in some cases.

Part of the reason Congress enacted ERISA in the first place were numerous findings by Congress of pension fund mismanagement. We put fiduciary standards in place to prevent exactly these kinds of conflicts of interests and dangerous financial dealings. I can't understand why at a time when we clearly need to tighten those standards how anyone could work to loosen them.

For too long, pension funds have been seen as a cash cow for CFOs to play

with to help bolster the bottom line. Questionable enough when times are good, these methods can be disastrous when investment schemes don't pan out.

I would like to call my colleagues' attention to an excellent article in Congressional Quarterly from September 3, 2005. This article really lays out the basis for much of the so called ''perfect storm'' we are facing today with pension funding. For the past few years, there have been numerous reports about money evaporating from pension plans. According to those reports, pension funds were being depleted through no fault of those who managed them, but simply because liabilities were increasing exponentially because of the sinking 30-year Treasury rate and the drop in the stock market.

What these stories left out, however, is the fact that decisions made by pension managers contributed significantly to the problem. Beginning in the early 1990s, stocks began to make up a much bigger share of plan assets than they ever had in the past. Stocks went from making up 44 percent of pension plan investments in 1980 to 62 percent in 2004.

Why the shift? According to Bradley Belt at PBGC, interest rates in the 90s were generating 25 percent to 30 percent returns to plans—in other words, investing in stocks were generating so much revenue that on paper, these plans no longer looked like a cost to the company, but instead appeared to be generating profits.

But as we all know, what goes up must often come down. This gamble with the pension security of millions of Americans resulted in massive losses when stocks fell. The PBGC is now in crisis in large measure because of these investment decisions—which is why we are here on the floor trying to figure out how to shore it up.

Why do I bring this all up? Some of my colleagues are talking about making it even easier to invest in even riskier investment vehicles. The irony of pushing a proposal backed by the hedge funds onto a bill to rescue a drowning PBGC and revive a struggling defined benefit pension system is beyond comprehension.

This is absolutely not the time to weaken requirements on pension asset investments. It's no secret that we are in the position we are in because of lax standards in the past. Loosening them in the future will be absolutely disastrous.

Mr. ALLARD. Mr. President, today, I come to the floor of the Senate to briefly state my thoughts about a component of the bill under consideration, the Pension Security and Transparency Act of 2005. I commend both the Senate Finance and HELP Committees for their hard work, and tireless efforts to work towards a bill that we all can support.

A variety of Colorado companies, including Arch Coal, IBM, Gates Rubber, and Qwest Communications, have been carefully following the debate on pension reform. These companies are significant employers in Colorado, and they contribute to the State's economy in countless measures. Many companies, including these, have been affected by the recent court decision Cooper v. IBM, and in turn I have been paying particular attention to the development and treatment of so-called hybrid pension plans. Hybrid pension plans, a combination of a defined benefit and defined contribution, were ruled illegal by one judge, saying that they were discriminatory based on age, since younger workers had more time to accrue more value in their pension than older workers. Since the court decision, IBM and many other companies with similar hybrid plans have been trying to interpret the court's ruling, and the future direction of their pension plans. These companies are trying to do the right thing for their workers. Currently, they are caught in a situation that does not give them any clear guidance or direction on how to help their employees.

As this bill is currently written, it does not provide the necessary validation for the 1,700 existing hybrid pension plans and their 9 million participants and opens the door for more litigation for more companies. If new conversion mandates are put into place, many of these employers may be forced to leave the defined pension system altogether, possibly reducing retirement security for workers. As everyone knows, the defined benefit system is a voluntary system. When companies first started offering defined benefit plans for workers it was an excellent benefit for workers and for their companies. However, now many companies are forced to give up offering defined benefit and the hybrid pension plans because of the legal uncertainty.

While I commend Chairman GRASSLEY and Chairman ENZI for working with their committees and reaching a compromise, I cannot help but point out that this issue is not completely addressed in S. 1783. My hope is that once this bill reaches the conference committee, hybrid pension plans will be a point of focus. I would be happy to work with my colleagues on this issue. It is important to Colorado, and important to many other companies nationwide.

Mr. REED. Mr. President, the Senate is undertaking a long awaited debate on the need to strengthen the private pension system. It is imperative that current and future retirees are assured that they will receive the pension benefits they have been promised so they are able to enjoy a secure retirement.

I am deeply concerned about the growing economic insecurity of today's workers. Despite recent economic growth, a healthy jobs recovery has yet to take hold, wages are failing to keep pace with inflation, income inequality is growing, employer-provided health insurance coverage is falling, and private pensions are in jeopardy. Indeed, strong productivity growth has translated into higher profits for businesses, but not more take home pay for average workers. The stagnation of earnings in the face of soaring prices for gasoline, home heating, food, and health care is squeezing the take home pay of workers.

Any wage gains we have seen seem to be concentrated at the top of the earnings distribution, while the largest losses are at the bottom. Over the past 4 years, average household income has fallen for all income groups except a small slice at the very top of the distribution. Those developments stand in sharp contrast to what happened in the 1990s, when wage and income gains were strong for all income and earnings groups.

At the same time that earnings are stagnating, the average worker's retirement prospects are more uncertain than ever. Twenty years ago, most workers with a pension plan could expect to receive a defined benefit based on years of service and salary. Today, defined contribution plans—which shift most of the investment risk and responsibility onto workers—have become the dominant form of pension coverage. As a result of this increased risk and responsibility, average workers may end up with inadequate retirement savings.

Despite the shift away from traditional pensions, defined benefit plans remain a critical source of retirement support, with 44 million workers and retirees relying on such plans as a source of stable retirement income. However, as we have seen by the recent pension terminations in the airline industry, the real risk of defined benefit plan defaults further exacerbates workers' uncertainty and concern about their retirement prospects.

The Pension Benefit Guarantee Corporation estimates that total underfunding in PBGC-insured pension plans is about $450 billion, more than $100 billion of which is in plans sponsored by financially weak companies and at reasonable risk of default.

And what of the status of PBGC itself, which serves as a backstop to the defined benefit pension system? At the end of 2005, the PBGC reported a cumulative deficit of $22.8 billion in its single-employer program. That figure is a slight improvement from a year earlier, when the shortfall was $23.3 billion which is the largest deficit in the program's 30-year history, and a sharp deterioration from only a few years ago when the single-employer program was in surplus. The deficit is expected to get worse in 2006, as PBGC will account for additional liabilities that it has taken over for the new fiscal year resulting from a number of major airlines and manufacturing companies who have defaulted on their pension obligations.

While the PBGC has sufficient assets to pay benefit obligations for a number of years, without changes in funding, the agency will eventually run out of

money. The Congressional Budget Office estimates that PBGC's cumulative deficit will increase to $87 billion over the next 10 years, and suggests that there is a significant likelihood that all of PBGC's assets will be exhausted within the next 20 years.

The increased number of pension defaults means lost benefits for participants whose earned benefits exceed the statutory maximum benefit guarantee; premium increases for healthy plan sponsors remaining in the system; and ultimately the risk of a taxpayer bailout of the PBGC.

Clearly, the private pension funding system needs reform and the bill before us today, S. 1783, the Pension Security and Transparency Act of 2005, is movement in the right direction. I know that Chairman ENZI, Ranking Member KENNEDY, Chairman GRASSLEY, Ranking Member BAUCUS, and their staffs worked long hours to get to this point.

The bill tightens the funding rules to ensure that defined benefit plans are adequately funded. Limiting the use of credit balances to prevent companies with unfunded plans from avoiding plan contributions and requiring an accurate accounting of each plan's true financial condition are important steps.

But we must also avoid imposing unnecessarily burdensome funding requirements on plan sponsors that are playing by the rules. An asset valuation approach that doesn't allow for short-term fluctuations in the stock market will only exacerbate the inherent volatility in pension plan funding and increase funding burdens during economic downturns when companies can least afford them.

The bill also requires truth-in-funding disclosures for companies with underfunded pension plans so participants and other stakeholders can learn the true financial condition of their pension plans, as well as the potential loss of benefits if the plan terminates. This is an especially important safeguard for workers whose pension benefits exceed the PBGC's maximum benefit guarantee limit.

In order for the PBGC to remain a viable insurance program that continues to protect workers and retirees, its current funding gap must be closed. Recognizing this, the bill increases PBGC premiums to $30, while ensuring that companies whose plans pose the greatest insurance risk actually pay the additional premium for that risk.

S. 1783 would also prohibit companies from funding nonqualified plans under certain circumstances, including bankruptcy, significant underfunding of regular pension plans, or the termination of an underfunded regular pension plan. This is a positive development in addressing inequities of what has become a two-tiered pension system. Too often, the executives of those companies that default on their pension obligations escape with padded executive retirement packages while the average worker is left holding the bag. Companies that underfund or default on their regular pension obligations should be prohibited from funding and paying out benefits from special executive pension plans.

Finally, as new types of defined benefit plans evolve, we must ensure that older workers are protected and don't lose the benefits they have been promised.

The Pension Security and Transparency Act makes positive strides toward ensuring that workers will receive the full pension benefits they have earned. While the bill reflects difficult compromises, it is important that we act now to preserve the financial health of defined benefit pensions. I urge my colleagues to not stop here. We must continue work to improve our pensions system to ensure that Americans who work their entire lives have the financial security they deserve and worked so hard for when they retire.

Mr. GREGG. Mr. President, we must get serious as a Congress and a nation about across-the-board retirement reform. It is time every American worker has a sense of ownership over his or her retirement income and the promises that have been made.

To do so requires valid information about the security of his or her future retirement income, and current and relevant information to be able to make smart choices when options are available.

Beneficiaries must be timely notified when their retirement income is in jeopardy; workers must be assured that the law doesn't allow and even encourage hollow promises. Employers and union leaders should be prohibited from offering rank-and-file members benefit increases that cannot be paid for, particularly when a company is below investment grade.

The law must place a tangible price on all plan underfunding to limit the moral hazard of shifting risk to beneficiaries, the PBGC, and other companies paying premiums. Accounting schemes that paper-over massive funding shortfalls must be outlawed, and interest rate policies should be straightforward to administer and consistent with each plan's liability payout schedule.

Continuing the underlying 30-year-old pension law is not an option. It is a law without transparency where union bosses and irresponsible management are allowed to go into back rooms and make promises they know cannot be kept.

If we continue the status quo, we will move ever closer to the precipice of the slippery slope to a taxpayer bailout of the pension insurance system.

Those who make and then break their promises have now pushed us to the edge of a raid on the U.S. Treasury.

The Budget Committee held a hearing back in June where we heard testimony from the Congressional Budget Office, CBO, and the administration that confirmed the Nation is already in the midst of a retirement crisis. I am not speaking of the crisis in Social Security but of private pension plans and the program that insures benefits when sponsors default on their promises.

Since then, the CBO has prepared two additional reports analyzing the current state of health of defined benefit pension plans and the Pension Benefit Guaranty Corporation the Government insurance agency that insures them. Employer groups, think tanks, and the financial press have also widely reported on the poor health of America's single employer defined benefit pension system. The consensus is indisputable that we have a crisis on our hands on our watch if you will.

The PBGC already has a serious deficit and a cash crisis looming with a clock that will toll 20 or 30 years sooner than what we expect in the Social Security system. While many criticized the PBGC over the last year as being overly pessimistic in projecting a $23 billion deficit, we learned just yesterday with their year end reporting that not only was the PBGC surprisingly accurate—posting a deficit of $22.8 billion, if recent events that occurred right after the end of the fiscal year had been included, the deficit in the single-employer program would have been posted at $25.7 billion—a 10 percent increase.

Furthermore, because accounting standards require the PBGC to disclose additional information on the change in its net position, we learned that PBGC's exposure to losses from plans sponsored by weak employers has risen to $108 billion from $96 billion just a year ago—that is an increase of 13 percent in a year when sponsors would have had us believe things are not as bad as they seem.

Just last year, there were 120 defaults requiring the PBGC to assume responsibility for pension benefits of an additional 232,000 workers and retirees. In just 3 short years, the PBGC has taken on more workers' retirement responsibilities than the previous 27 years combined.

We are obviously in a crisis and something must be done. Unfortunately, the bill before us today is only a very modest and incomplete step toward addressing the issue.

With regard to the PBGC's health, modification to premium levels fall $1.7 billion short over 5 years from what was reported just last month by the HELP Committee in meeting its budget reconciliation instruction, comparatively lowering the level of resources available to the PBGC to take on the responsibilities of plan defaults.

With regard to the health of pension plans themselves, the administration has analyzed the funding rules in the bill and reports that its provisions do not improve the underlying funding requirements for plan sponsors over current law.

With regard to innovative retirement programs offered by employers, I continue to have serious reservations about the measure before us today and

its failure to provide comprehensive clarification of the law applicable to cash balance and hybrid pension plans.

The Congress should be able to enact legislation stating unequivocally that providing interest on employees' pensions is an important benefit protection and is not and never has been age discriminatory, and that Federal law does not and never has required any type of pension plan to pay out lump sum benefits that are much larger for younger employees than for identically situated older employees.

At best, the bill half heartedly recognizes these principles only as to the future and then only subject to numerous qualifications and benefit mandates—apparently trying to dance around the concerns of some who would try to repeal laws of mathematics, specifically the effect of compound interest.

The failure to acknowledge the legitimate status of plans already in place leaves companies that provided generous pension benefits to their employees, many of them with favorable determination letters from the IRS, facing hundred of billions of dollars in potential liabilities and continues a legal landscape for frivolous lawsuits and attempts by the plaintiff bar to extract unreasonable settlement agreements.

The numerous qualifications and benefit mandates in the bill applying to hybrid plans are more likely to discourage employers from continuing innovative pension plans. Indeed, the only parties that clearly benefit from these provisions as currently drafted are trial lawyers who will gladly file frivolous lawsuits and extract settlement agreements with no basis in underlying Federal law.

On the plus, side, the bill does improve transparency and more-timely notification to participants regarding their retirement plan's health—a significant step in moving toward making more information public and allowing the marketplace to more reliably take into account funding decisions of plan sponsors.

Fortunately PBGC payments are generally not made on a lump sum basis unlike withdrawals on a savings & loan. Nevertheless, the pension insurance fund will first run short on cash in just under 5 years. It will take roughly another 15 years to liquidate its remaining assets to pay claims but then all its resources are gone.

If Congress allows shortcomings in current law to remain, more defined benefit pension plan terminations will happen, and millions of workers will receive only a fraction of the retirement they were promised.

Consider that in 1986 there were over 170,000 defined benefit pension plans. That number has dropped to roughly 56,000. Just since 1999, 7,500 defined benefit plans were terminated—a drop of 19 percent in just 3 years. Continuing a broken system and the uncertainty about promising opportunities to preserve creative defined benefit approaches to retirement plans such as cash balance plans will only increase this trend.

Specifically, absent stronger funding rules, clarifying the legitimacy of innovative plans, improved transparency and increased premiums, employers will have little incentive to restore faltering pension plans to financial stability, and the PBGC deficit will continue to grow, posing an ever greater risk that taxpayers will be asked to step in and bail out the private defined benefit system long before social security goes in the red.

To be very clear, we are very close to the slippery slope of no return from a default crisis of a magnitude that cannot be handled alone by premium increases on employers to shore up the PBGC.

I am disappointed that the measure we have before us today does not solve the defined benefit pension crisis and at best only postpones a political fight about the advisability of a taxpayer bailout of pension promises made by American companies to American workers. But we must move the legislative process forward.

If Congress doesn't act, the PBGC will need to charge even higher premiums for companies that remain in the system, significant economic losses affecting beneficiaries and investors will result, and pressure for a taxpayer bailout will be seen as a commonplace solution to the crisis, resulting in the likely demise of defined benefit pension plans altogether.

While I commend the chairman and ranking member for a significant amount of hard work and progress on these challenging issues, there are still important areas that I believe require a great deal of work. I strongly encourage the chairman to ensure that the shortcomings in this bill that I have identified today be corrected as it moves through the remainder of the legislative process.

An incomplete fix to these issues will have a devastating effect on companies, current workers, and retirees. I understand that this bill is a work in progress and my concerns will continue to be addressed as this legislation proceeds through the legislative process. For the retirement security of millions of American workers and taxpayers, I hope so.

Mr. KERRY. Mr. President, today we are debating the Pension Security and Transparency Act of 2005 which is the culmination of the efforts of the Finance Committee and Health, Education, Labor, and Pensions Committee to improve the funding of both single and multiemployer defined benefit plans. I commend Senators GRASSLEY, BAUCUS, ENZI, and KENNEDY for their efforts in reaching bipartisan compromise legislation. We all agree that defined benefit plans are underfunded and that this issue needs to be addressed.

At the end of fiscal year 2005, the Pension Benefit Guarantee Corporation had $22.8 billion in underfunding in its single employer program. The PBGC's liabilities for fiscal year 2006 are expected to be much higher. If other liabilities that the PBGC assumed after the end of the fiscal year were counted, the 2005 deficit would have been $25.7 billion.

We cannot allow the underfunding of pensions to continue. This legislation takes the right approach by striking the appropriate balance. We want to protect employees, but we do not want to make defined benefit plans so restrictive that employers will not offer them.

The focus of the Pension Security and Transparency Act is to improve the funding of pension plans and to provide more disclosure, but this legislation does address other important pension issues. The Senate Finance Committee has reported out pension legislation in past Congresses that was not addressed by the full Senate. The first reiteration of Senate Finance pension legislation focused on defined contribution issues that arose in light of the collapse of Enron. Along with Senator SNOWE, I introduced legislation which strengthened defined contribution plans by requiring diversification and disclosure. Many of the provisions from this bill were incorporated into the Finance bill.

Even though the collapse of Enron is behind us, the lessons learned remain. It is important for defined contribution plans to be required to allow workers to diversify their contributions out of employer stock. The rank and file employees of Enron do not want anyone else to have the same experience that they had. These provisions are overdue.

Other lessons can be learned from the Enron debacle. Back in 2001, we were all repulsed by the stories of corporate greed and how executives crafted elaborate schemes to falsify the true financial status of the companies. Enron reminded us about the problems with excessive executive compensation.

Unfortunately, excessive executive compensation remains an issue today. Due to the work of the Finance Committee on executive compensation an end has been put to some abusive practices, but some still remain. One in particular that I find troubling is the funding of nonqualified deferred executive compensation prior to the funding of the corporation's pension plan.

In recent years, a number of large companies set aside millions of dollars to fund the pensions of top executives, but they do not bother to fund their pension plans. Companies that chose to do this were not violating laws by doing so, but this legislation will change this. Under this legislation, for the first time the funding of nonqualified deferred executive compensation will be linked to the funding of pension plans.

Executives of financially weak companies will no longer be able to take care of themselves. We repeatedly hear about executives that negotiate deferred compensation to ensure that

they have a lucrative nest egg, even if the company is struggling or about to go bankrupt. We cannot stand for this any longer.

This legislation includes a provision which I worked to have included in the Finance Committee bill. Financially weak companies will no longer be able to fund executive compensation unless their pension plan is 80 percent funded. Initially, the Finance Committee restricted the funding of deferred executive compensation for companies with plans that are funded at 60 percent or less. I thought 60 percent was too low because a plan is already in trouble at this point. In addition, no benefit increases will be allowed if a plan is funded at 80 percent or less. There is no valid reason why deferred executive compensation should be funded if a pension plan is funded at a level at which benefit increases are restricted.

Employers have a responsibility to fund pension plans. They should not make promises to their employees and fail to keep them, while they are taking care of their own retirement.

The bill before us today does the right thing by restricting the funding of deferred executive compensation for financially weak companies that have pension plans funded at 80 percent or less and for all companies that have pension plans funded at 60 percent or less.

In June, the PGBC released data on the underfunding of pension plans with more than $50 million in unfunded pension liabilities. This data shows that these plans have an average underfunded ratio of 69 percent. Back in 2000, the average funding ratio was 82.8 percent.

While pension funding has been on the decline, deferred executive compensation is increasing. We need to send a message to corporate executives that they need to fund the pension plans of their workers before they reward themselves with extremely generous benefits for life. I see this not as punitive, but as meeting our responsibility to demand better performance from the executives who can do the most to put pension funding on track. Ultimately, this proposal will protect the taxpayer.

The Pension Security and Transparency Act of 2005 includes provisions which make slight modifications to the funding rules for interstate bus companies. I worked to have these provisions included in the Finance Committee bill. These provisions address a unique situation in which the average age of the participant of the plan is much older than participants in other plans. Congress has addressed this issue before on a temporary basis and the provision in the chairman's modifications would make this relief permanent. It will help retirees in my home state of Massachusetts, and it is an equitable outcome.

Not only does this legislation address single employer plans, it strengthens multiemployer plans. The Pension Security and Transparency Act of 2005 includes important provisions which strengthen the funding rules for multiemployer pension plans. Multiemployer pension plans play a vital role in our pension system. Multiemployer pension plans are collectively bargained arrangements between a labor union and a group of employers in a particular trade or industry. These plans provide a way for workers in industries where job changes are frequent to save for retirement. Pension coverage continues when an employee changes jobs if the new employer is with a participating employer.

The Pension Security and Transparency Act would require troubled plans to improve their finance condition and severely underfunded pension plans would be required to adopt a ten-year rehabilitation plan. This legislation requires the Secretary of the Treasury, and the Executive Director of the Pension Benefit Guaranty Corporation to issue a study on the state of multiemployer funding in five years.

I proposed an amendment which was added to the bill. This provision requires the study to look at the effects that the new funding rules have on small employers and other issues that they face, including the impact of withdrawal liability. Employers that wish to discontinue their cosponsorship of a multi employer plan are required to pay a withdrawl liability, which represents the sponsors' pro rata share of the plan's underfunded liabilities.

Recently, I heard from a small business owner in Massachusetts who contributes to a multiemployer plan and he explained how his withdrawal liability has increased rapidly over the last five years. Some of this is due to corrections in the stock market, but part of it is due to a decrease in companies paying into plans. This small business described withdrawal liability as a ''vicious death spiral''—as more companies go out of business or otherwise withdraw from the pension fund, withdrawal for the remaining employers rise.

This provision would require the impact of withdrawal liability on the financial status of small employers to be studied. In addition, the study would look at the role of the multi employer pension plan system in helping small employers to offer pension benefits.

The multiemployer pension system serves an important role in our pension system and we do not want to make these plans a burden for small businesses. If withdrawal liability continues its vicious spiral, it will be difficult for multi employer plans to attract new employers and existing employers could be faced with a situation in which their withdrawal liability exceeds their assets.

In addition, the Pension Security and Transparency Act would incorporate provisions from the Save More for Retirement Act of 2005 which I have cosponsored. These provisions will encourage workers to participate in retirement plans by providing innovative incentives for employers to modify their existing plans to add provisions that will increase savings. Employers will be able to automatically enroll their employees in 401(k)s upon being hired unless the employee notifies the employer that he or she does not want to participate. Studies have shown that this simple change will dramatically increase participation rates. This is a simple improvement that should increase our drastically low national savings rate.

We might not all agree with every single provision in this bill, but overall it reflects a balanced approach to a problem that needs to be addressed. Plans need to be adequately funded. The rules cannot be draconian and lead to the termination of pension plans by employers.

Pensions are a central part of our retirement system and we need to ensure continued participation by employers. Retirement is based on three components: personal savings, employer provided pensions, and Social Security. All three components are necessary for a sound retirement system that is able to provide for most of America's retired workers.

Our current pension laws are inadequate. Employers have not properly funded their pension plans, workers have been promised more than their pension plans can possibly 3 deliver, and the PBGC can not be expected to cover the difference. At the same time, the financial burden of employer-provided pensions is real, and it threatens some of our major companies and the jobs they provide today.

This issue is not going away. The PBGC estimates that its shortfall could approach $100 billion dollars based on the underfunding of plans which have been classified as reasonably possible of termination.

We should avoid a subsidy or bailout with general revenues. The PBGC operates with no taxpayer assistance today and it was designed to be financially independent of the Federal Government. We should maintain that.

Passing the Pension Security and Transparency Act of 2005 is a step in the right direction to preserving our defined benefit pension system.

Mr. ROBERTS. Mr. President, I commend my colleagues on both sides of the aisle for crafting this comprehensive pension reform measure to strengthen the defined benefit pension system and ensure the solvency of the Pension Benefit Guaranty Corporation.

One provision that I am pleased we were able to find bipartisan agreement on and include in S. 1783 is language that recognizes the special nature of multiple-employer defined benefit plans. These multiple-employer plans are sponsored by rural electric, rural telephone, and agriculture-related cooperatives. Nationwide, more than 1,700 cooperatives participate in a multiple-employer plan, providing benefits for over 109,000 workers and retirees. In

Kansas, more than 160 cooperatives will benefit from the multiple-employer provisions in this bill.

These cooperatives are not-for-profit, and provide at-cost services to their consumer owners. Multiple-employer defined benefit plans allow cooperatives to pool experience and expenses by maintaining a single plan as opposed to single-employer defined benefit plans that cover just one company's employees.

For companies that sponsor a single-employer plan, if that company goes out of business, the pension plan terminates, and if underfunded, creates risk to the PBGC. Multiple-employer cooperative plans are different because the pension plan continues to operate even if some cooperatives go out of business. Most importantly, no liabilities shift to the PBGC. These cooperative plans are ongoing plans that can outlive many of their participating employers, and are treated as such under this bill.

The Health, Education, Labor and Pensions Committee, of which I am a member, and the Finance Committee, both recognized the special nature of multiple-employer plans, and their lack of risk to the PBGC, in their respective pension bills. During consideration of the HELP Committee's pension bill, the Defined Benefit Security Act, an amendment I offered to clarify the treatment of multiple-employer cooperatives was approved by unanimous consent. The Finance Committee adopted a different approach to recognize the unique nature of multiple-employer plans.

As the committees worked to bring a bill to the Senate floor, I, along with several of my colleagues, shared our concerns about the need to include multiple-employer cooperative language in a final bill in a letter to the chairmen and ranking members of the HELP and Finance Committees.

While different from the provisions of both the HELP and Finance Committee bills, the multiple-employer provisions in S. 1783 achieve their goal. S. 1783 provides a 10-year delayed effective date for these rural cooperative plans, continues to exempt these plans from the bill's at-risk rules, and provides special funding and premium rules during this 10-year period. With regard to funding, these plans will use the four year weighted average of the third segment rate of the corporate bond yield curve created in this bill. For purposes of the premium rules, these plans will use a spot version of the third segment rate.

Mr. President, I urge the inclusion of the multiple-employer rural cooperative provisions contained in S. 1783 when a final pension reform bill is sent to the President for his signature. These provisions have bipartisan support, recognize the special nature of rural cooperatives, and provide an important benefit for over 109,000 employees and retirees across the country.

I ask unanimous consent to print the letter to which I referred in the RECORD.

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

U.S. SENATE,
Washington, DC, September 23, 2005.

Hon. MICHAEL B. ENZI, Chairman,
Hon. EDWARD M. KENNEDY, Ranking Member,
Committee on Health, Education, Labor, and Pensions, Russell Senate Office Building, Washington, DC.
Hon. CHARLES GRASSLEY, Chairman,
Hon. MAX BAUCUS, Ranking Member,
Committee on Finance, Dirksen Senate Office Building, Washington, DC.

DEAR CHAIRMAN ENZI, CHAIRMAN GRASSLEY, SENATOR KENNEDY AND SENATOR BAUCUS: We write to urge you to continue recognizing the special nature of rural cooperative ''multiple-employer'' defined benefit plans sponsored by the National Rural Electric Cooperative Association, the National Telecommunications Cooperative Association and the United Benefits Group (agriculture-related cooperatives), as you work toward an agreement on comprehensive pension reform. By design, these rural cooperative plans are different because they would continue to operate even if some cooperatives go out of business. Most importantly, no liabilities shift to the Pension Benefit Guarantee Corporation (PBGC).

Both the Health, Education, Labor and Pensions Committee and the Finance Committee have recognized the special nature of ''multiple-employer'' defined benefit plans of these rural cooperatives. We believe that any bill sent to the floor for consideration should include both Committees' provisions.

These rural cooperatives are not-for-profit, and provide at-cost services to their consumer-owners. Their defined-benefit plans permit them to pool experience and expenses by maintaining a single plan for hundreds of employers, as opposed to single-employer plans that cover only one company's employees. We have concerns that unless these specific cooperative provisions are included, these entities may be forced to either reduce benefits to their employees or pass along substantially increased costs to their member-owners.

For companies that sponsor a single-employer plan, if that company goes out of business, the pension plan terminates, and if underfunded, creates risk to the PBGC. Again, these rural cooperative plans are different because the pension plan continues to operate even if some were to go out of business, and no liabilities shift to the PBGC. In fact, none of the liabilities of these rural cooperative ''multiple-employer'' plans have ever been shifted to the PBGC.

These rural cooperative plans are ongoing plans that can outlive many of their participating employers, and they should be treated as such under any bill that goes to the floor. Again, we urge you to include both Committees' provisions in any bill sent to the floor to recognize the special nature of rural cooperative plans, their ongoing nature, and their lack of risk to the PBGC.

Thank you for your consideration of this request.

Sincerely,

Pat Roberts, Lamar Alexander, Johnny Isakson, Gordon Smith, Craig Thomas, Tom Harkin, Jeff Bingaman, Ron Wyden, Tim Johnson, John Thune.

Mr. LEVIN. Mr. President, the issues addressed in this pension bill are complex. We are treading into a swamp of technical terms and complicated plans. But the core issues are simple matters of fairness. Will retirees receive the benefits they were promised? And will the companies who are trying to do right by their workers be encouraged rather than unfairly penalized?

About half of all private sector workers participate in one of two general types of employer-sponsored retirement plans: a defined-contribution plan or a defined-benefit plan.

Defined-contribution plans, such as a 401(k) plan, are much like individual savings accounts into which employers and employees contribute. These funds are then usually invested into stocks and bonds with the hope that the investment will grow as the worker approaches retirement. When the worker does retire, the balance of the account is available for him or her to withdraw.

Defined-benefit pensions, by contrast, guarantee an employee a certain amount of retirement benefits, typically based on years of service and salary level. To pay these promised benefits, the employer sets aside money in a combined pension fund, which is then invested. The employer decides how that fund is invested and retains control over the funds until dispersed to the retirees.

It is this second category, defined-benefit pensions, that are facing a crisis today. Due to swings in the stock market, complex funding rules, changes in the business climate, or unforeseen developments, companies' defined-benefit pension plans are underfunded. Some companies have declared bankruptcy to get out of their pension obligations, and there is reason to worry that this disturbing trend will continue.

When a company sloughs off its pension obligations in bankruptcy, the Federal pension insurance agency, the Pension Benefit Guaranty Corporation PBGC, steps in to ensure retirees receive benefits, up to a maximum of about $46,000 per year for employees who retire at age 65. The PBGC is self-funded through insurance premiums and fees paid by companies with defined-benefit plans. With the PBGC taking on more companies' pension obligations, however, there is less money coming into the PBGC and more money going out. The PBGC announced just yesterday that it is running a deficit of $22.8 billion.

Ultimately, if the long-term health of the PBGC continues to decline, many people are concerned that only a taxpayer-financed bailout would allow retirees to receive the benefits they were promised.

We need to strengthen the defined-benefit system so that that does not happen. We must encourage the recovery, rather than the termination, of underfunded and vulnerable pension plans. If we can shore up these plans without doing undue harm to the companies, the concerns about PBGC's fiscal problems will be addressed.

To do so, companies should be required to adequately back up the promises they have made to their workers. And changes in Federal pension policy should help them. For example, we need to reduce uncertainties for employers making a good faith effort to

meet their obligations. We also need to ensure that we do not give incentives to employers who offer hybrid pension plans to either jettison their retirement plans entirely or offer only defined-contribution plans.

In this way, I believe it is possible to improve retirement security while also reducing the long-term exposure of the PBGC.

However, I have serious concerns that the bill before us today will do some significant harm in the effort to do positive things.

One provision of particular concern would require the pension plans of companies with plans that are less than 93 percent funded who also have declining credit ratings to be considered ''at-risk.'' Once considered ''at-risk,'' companies must use different actuarial assumptions that require them to sock away significantly more money into their pension trusts. That provision alone could require companies to put unnecessarily high amounts of additional dollars into their pension plans. These are dollars that could otherwise be used to boost research and development or doing other activities that could create jobs.

Another provision of concern deals with an actuarial method known as ''smoothing.'' Under current law, how much money companies have to put into their plans is determined by using a 4-year weighted average of the values of pension assets and/or liabilities. It is generally recognized that 4-year smoothing has led plans to become underfunded by masking the diminished current fair market value of a plan's assets.

The original bill from the Health, Education, Labor, and Pensions Committee would have shortened smoothing to 3 years. The House Ways and Means Committee and House Education and Workforce Committee bills also allow 3 years. The HELP/Finance Committee compromise, however, takes a 12-month average. Three years is a fair approach that would tighten current law but still allow some necessary cushion against volatility for employers; twelve months would significantly increase the volatility and unpredictability for employers. This shorter time frame would unwisely add significant volatility for companies when they are determining how much money they need to set aside for the pension plans.

For months, Senators MIKULSKI and DEWINE have been urging an amendment that would have addressed these two problems. The amendment they wanted to offer, which I co-sponsored, would have adopted the HELP Committee's 3-year position on smoothing. Their amendment also would have replaced the use of credit ratings in determining whether a company has to abide by ''at-risk'' funding requirements and would instead measure ''at-risk'' by how well-funded the pension plan is.

I am disappointed that we were not able to vote on the DeWine-Mikulski amendment. I am hopeful, however, that these problems with the Senate bill will be adequately addressed in conference. I hope the conferees will come back with what the House committees adopted on those issues.

I am also concerned about the overall effect that the bill will have on the defined-benefit plan system. Some of the actuarial changes that may be appropriate on their own may become problematic when packaged together. The changes required by this bill would require companies to fund their long-term pension obligations somewhat too quickly, and would make the amounts of their required contributions fluctuate unpredictably. The short-term financial impact might push companies with underfunded plans to terminate the plans, rather than working to bring their funding levels up. A survey of chief investment officers for large pension plans found that 60 percent thought significant and rapid changes, such as those in the House or Senate bills, would lead to benefit reductions or plan termination.

I also hope that in the final conference report the Senate's position on credit balances prevails over the unwise House provision. The House bill would penalize companies that prefunded their plans, by making additional, non-required contributions, to subtract these prefunded amounts from the calculations of their plans' assets. This change would trigger unfair financial penalties for the companies and would deter future prefunding, which we should encourage, not discourage.

On a positive note, I am pleased that this bill will give airlines extra time to fund their plans. In the wake of Northwest and Delta airlines declaring bankruptcy, Congress must help companies do the right thing and keep their plans when they emerge from bankruptcy, rather than turning their obligations over to the PBGC.

Also, I am pleased that Senator STABENOW's work to address problems with the multiemployer pension plan system is reflected in this bill. These multiemployer plans provide millions of employees of small firms with the opportunity to be covered by a defined benefit plan.

Finally, I am pleased that this bill protects older workers in cash balance plan conversions, and that it gives guidance regarding some of the uncertainties surrounding hybrid plans. Legal questions surrounding hybrids like cash balance and pension equity plans should not stand in the way of companies offering the best pension plans that they can.

Pension reform is a critical issue for Michigan. Michigan's manufacturing workers have always planned for the future by forgoing some short-term wages in order to provide for themselves and their families when they are no longer working. Likewise, those in other industries, including employees of Northwest Airlines, also rely on defined-benefit pension plans.

The retirement security of Michigan workers and workers across the country would be significantly weakened if we drive guaranteed benefit pension plans out of business, and that is what I am concerned that this bill could do. I will vote no on this bill, because on balance it does not ensure that companies striving to do the right thing are not unfairly penalized and because workers in those companies must also receive the retirement benefits they were promised. I truly hope the final bill reported by the conference committee will repair the defects I have identified.

Mr. ENZI. Mr. President, the calculation of lump sum distributions has been hotly debated. Some have been worried that the bill would short-change participants in their lump-sum distributions. That is not the case. In fact, this bill has been very careful to avoid the problems that occurred after the enactment of the pension reforms on the GATT in 1994.

Under S. 1783, it is intended that plans may use different assumptions—that is, interest rates and or mortality tables—to determine lump sum distribution amounts so long as the plan provides that a participant's lump sum distribution amount is no less than the present value determined in accordance with the requirements of the bill.

Mr. BURR. Mr. President, I rise today to speak on the pension reform legislation we have been working on for months. Many have said that the policy goal of any major reform to the current pension system is to ensure that the defined benefit system remains a viable option for companies and that employers keep the retirement promises they have made to their employees. In these discussions, one often hears about the proposed new rules and mandates concerning funding rules or asset and liability valuations. Given that the pension statute has not received a major overhaul since the 1970s, new rules are certainly necessary to ensure that past and present employees and the American taxpayer are protected from financial loss.

Nevertheless, what is often left unsaid in our discussions is the fact that the defined benefit system is a voluntary, not a mandatory, system. While rules and mandates exist for companies that choose to participate in the defined benefit system, no such rules or mandates exist requiring companies to participate. Thus, if strengthening the defined benefit system is the basic premise behind this proposed legislation, it is critical that we ask ourselves if the proposed rules and mandates might have the unintended consequence of driving companies out of the voluntary defined benefit system once and for all.

Alternatives to the voluntary defined benefit system do exist. For many companies and employees, they are good alternatives, such as the defined contribution system and its 401(k)s. However, the personal savings rate of

Americans remains one of the lowest among the industrialized nations, and the average balances in 401(k) accounts are quite modest. There is no question that without defined benefit plans, fewer Americans would be able to retire comfortably. Further, the disappearance of defined benefit plans, including hybrid defined benefit plans, could very well result in increased pressure on Federal entitlement and income maintenance programs, not to mention an increase in old-age poverty.

Given these troubling facts, the value of defined benefit plans to many American families is clear. Sadly, we have seen a decline in defined benefit plan sponsorship, and these are perilous times for the defined benefit system. Employers are leaving the system for many reasons. Among these are uncertainty about how future pension liabilities will be measured, new pension funding rules that are complicated and unpredictable, the worry over new and more onerous pension funding and premium requirements, upcoming changes to the pension accounting rules, and, of course, legal questions regarding hybrid pension plans.

I appreciate the efforts of my Senate colleagues to craft meaningful defined benefit pension reform legislation. The proposed legislation, however, will have the unintended consequence of driving away company after company from the defined benefit system and further exacerbate the looming deficit of the Pension Benefit Guarantee Corporation, PBGC, thereby passing an unnecessary financial risk on to the American taxpayer. Rather than strengthening the defined benefit system, this proposed legislation contains elements that could negatively affect the retirement security of the current 44 million participants in defined benefit plans. Further, workers coming behind them are at risk if the legislation is not done in a way that encourages plan sponsors to stay in the voluntary defined benefit plan system. I wish to highlight a few of the provisions contained in the proposed legislation I believe will lead employers to opt out of the voluntary defined benefit system.

To plan business investment and operations, employers must be able to anticipate required pension contributions several years into the future. Required contributions cannot be too volatile; otherwise, they will be too difficult to accommodate in cash flow operations of the business. To determine the amount of money an employer must contribute to its pension plan, assets in the plan are compared to the liabilities of the plan. Under the bill, plans would determine the amount of their funding liability using an interest rate averaged over only a 12-month period and asset values also averaged over just a 12-month period. This will make it very difficult for businesses to plan and will force them to set aside assets in the event they are needed for liabilities due to spikes in interest rates. The alternative is to force companies to shift assets out of the equity markets and into fixed income markets which could hike costs and discourage plan sponsorship. This is bad policy.

The proposed legislation also sets a new target liability—100 percent of liabilities promised under the plan. This is a significant increase from the current law target—90 percent. If companies must meet this new target too quickly, sharp upticks in contributions may be required for many companies that are currently considered well-funded. Because the new interest rates will adjust liabilities for some companies, companies that are currently at their maximum funding level could be facing very large contributions. Since obligations are due over a very long period in many instances, these contributions will be unnecessary. Pensions could be frozen, other benefits could be frozen, costs of goods and services could increase, and jobs could be lost as a result. The 3-year phase-in of the new target is insufficient to avoid harmful consequences to American workers and the economy.

Another very troubling provision of the proposed legislation relates to credit ratings. A company's credit rating, determined by private ratings agencies and not the Federal Government, should not determine a pension plan's liability. The credit rating of a company does not determine the funded status of a plan. A company can have a below investment grade credit rating and pose absolutely no risk to the PBGC. It serves no policy goal to impose new liabilities on a company because it is financially weak. That will simply make it more difficult for a company to recover, leading to potentially lower credit ratings, and could result in death-spirals and plan terminations that the legislation seeks to avoid. Furthermore, the credit rating provision would introduce a whole new concept—credit rating of private companies by the Government. If an at-risk liability is to be imposed, it should be based solely on the funded status of the plan.

A final concern I wish to raise relates to one of the most urgent crises in retirement security—clarifying the outstanding issues regarding hybrid pension plans. Hybrid defined benefit pension plans such as cash balance and pension equity plans were developed to meet the needs of our highly mobile workforce by combining the features of both traditional defined benefit plans and defined contribution plans, such as 401(k) and other individual account plans. Traditional defined benefit plans are most effective for employees with long careers with only one employer. Yet, according to the Bureau of Labor Statistics, very few employees are spending a full career with just one company. Today's workers need a pension benefit that is portable and that will produce meaningful benefits, even if they don't stay with one employer for their entire career. In light of these facts, nearly 30 percent of the Nation's largest companies with defined benefit plans have moved to a cash balance or other hybrid plan design. As of 2003, the PBGC reported that there are estimated to be between 1,200 and 1,500 of these plans providing benefits to around 8 million Americans and their families.

Employees know that cash balance and other hybrid plans contain many of the positive features of traditional defined benefit plans such as the safety of an employer-funded, PBGC-insured benefit where the company bears the risk of the investment, while at the same time providing defined contribution plan features such as individual account balances, portability, and a more even benefit accrual pattern. Many people who criticize hybrid plans do not realize that they are defined benefit plans, and as such, they provide a tremendous benefit to Americans, helping them achieve better retirement security.

Hybrid plans also provide greater benefits than traditional pensions for the majority of employees. This is because hybrid plans accrue benefits ratably, rather than toward the end of a long career, which is typical in a traditional pension plan design. For the minority of workers for whom a conversion from a traditional defined benefit plan to a hybrid plan design may result in future benefits that could be less generous than under the old plan, employers have employed a variety of transition assistance techniques to boost their benefit formulas. And of course, benefits earned by employees for service they have already put in are fully protected under the law.

Despite the value that hybrid plans provide to workers, current legal risks threaten their continued existence. One court case has placed all hybrid pension plans, both cash balance and pension equity plans, into doubt. Three other courts have found to the contrary, that hybrid pension plans do not violate the age act and are permissible under law. Yet it is this one single decision on which opponents of the hybrid pension plan hang their arguments. To preserve the retirement security of millions of Americans, it is essential that Congress comprehensively clarify for existing and future plans that the design of hybrid plans is not age discriminatory.

In *Cooper* v. *IBM*—274 F. Supp. 2d 1010, S.D. Ill. 2003—a District Court judge held, in the face of legal authority to the contrary, that cash balance and pension equity plans are age discriminatory. This decision was based on the fact that younger workers have more time to earn compound interest on their pension benefit than older workers. Compound interest is a feature of all defined contribution plans and of all savings plans. The logic behind declaring compound interest age discriminatory in defined benefit plans is seriously faulty and would nullify many longstanding defined benefit pension plan designs, including contributory defined benefit plans common in

the Federal, State, and local government sectors.

As a result of the Cooper decision, every hybrid pension plan sponsor today finds itself in potential financial and legal jeopardy. It is a pity that we have come to this state. I say this because policymakers should be working to create an environment that promotes hybrid plans—not subjects them to greater risk. I had hoped that Congress would have responded to the Cooper case by providing legislative certainty and clarity for hybrid pension plans, both retrospectively and prospectively, to prevent widespread abandonment of these programs by employers.

I do not want my colleagues to think that I have not heard the critics of hybrid plans. I have. However, I believe that the majority of the criticisms of the plans are unfair. Let me review some of these criticisms and rebut them.

Some critics of hybrid plans have claimed that the plans are discriminatory on the basis of age. It is true that there has been one single court case that found that compound interest is age discriminatory in the hybrid plan context. As I said, three other courts have found to the contrary, yet critics give credence to this odd case. Hybrid plans provide the same or greater wage and interest credits for older participants than for young participants. Because older workers under these plans are treated the same as or better than similarly situated younger workers, the plans cannot possibly be in violation of the Age Discrimination in Employment Act, ADEA.

Others have criticized the ''wear away'' or benefit plateau that occurs in some hybrid plans. This has generated numerous questions and concerns through the congressional review of the hybrid plan issue. It is important to understand that parallel rules in ERISA and the Internal Revenue Code protect all benefits that an employee has already earned for service, to date. Thus, despite assertions to the contrary, existing benefits are not reduced in a hybrid conversion. ''Wear away'' is the term used for the benefit plateau effect that some employees can experience in conjunction with a cash balance conversion.

Still others criticize hybrid plan conversions because they frequently eliminate an early retirement subsidy, although they do so only prospectively. Some have complained about allowing employers to eliminate any benefits in their retirement plans. My own feeling is that employers must be able to maintain their flexibility to eliminate early retirement subsidies, but only on a prospective basis, as is the case under current law.

Early retirement subsidies are a better alternative to layoffs in many workplaces and they can help a company to manage its workforce. On the other hand, if an employer's right to eliminate early retirement subsidies on a prospective basis is not protected, no employer would ever adopt such an early retirement program in the first place. It makes no sense for employers to encourage highly productive workers to take retirement in their fifties by paying a premium for them to leave the workforce. While current law protects any subsidy that employees have already earned for their service to date, it allows employers to remove those incentives from their plans going forward.

The conclusion that all hybrid plan designs are inherently age discriminatory also raises the question why the Internal Revenue Service, IRS, issued determination letters for many years specifically permitting the hybrid designs and why it issued proposed regulations providing that the cash balance plan design is not inherently age discriminatory. The Cooper decision completely ignored this regulatory history. Of even more interest is that the Cooper decision disregarded the legislative history of the pension age discrimination laws adopted in 1986. That conference report made it clear that intent of Congress was limited to prohibiting the practice of ceasing pension accruals once participants reached normal retirement age, i.e. the so-called post-65 pension accrual.

The Cooper decision emboldened cash balance critics to demand an appropriations rider that prohibited the Treasury Department from finalizing its age regulations addressing hybrid plan designs and conversions. At that time, Congress directed the Treasury Department to publish a legislative proposal regarding conversions from traditional to cash balance plans. In the legislative history, the conference report did state that ''[t]he purpose of this prohibition is not to call into question the validity of hybrid plan designs (cash balance and pension equity). The purpose of the prohibition is to preserve the status quo with respect to conversions through the entirety of fiscal year 2004 while the applicable committees of jurisdiction review the Treasury Department's legislative proposals.''

While the Cooper case is a rogue decision, there is significant authority to the contrary concluding that hybrid plans are age-appropriate. Unfortunately, the Cooper case has led to what are called copycat lawsuits both in the Southern District of Illinois and elsewhere in the Nation. The Cooper case has also had a chilling effect on the plan sponsor community. Concerns over potential damages from these cases are causing CEOs and CFOs to have very sober discussions regarding the future of their plans. There seems to be a slow, but steady, domino effect of freezing hybrid pension plans as a result of concerns over potential liability from fallout of the Cooper case. This is occurring despite a general belief that the Cooper case could be overturned on appeal. I fear that if Congress fails to bless the hybrid pension plan design in short order, these voluntary plans could all become frozen.

If we can conclude that the design of these plans is consistent with the ADEA, but the conversions to hybrid plans raise questions, why can't we legislate in this area to simply bless the hybrid plan design? Clarifying only the legality of prospective plans does not address any of these problems; it does nothing to eliminate the potential for devastating suits directed at the prior operation of hybrid plans. Retroactive legislation is needed because the consequences of inaction or prospective-only legislation could be disastrous. If retroactive legislation is not adopted and the Cooper case is decided adversely on appeal, the liabilities of hybrid plans would triple if companies are forced to pay the enormous windfalls created under Cooper. This would impose such enormous costs on employers that large numbers of them would have no choice but to eliminate future benefits in their defined benefit plans. Many companies will not be able to absorb those additional liabilities, causing business declines and bankruptcies, as well as widespread damage to the economy.

Many have ignored the taxpayer interest in the outcome of retroactivity legislation. As we contemplate the precarious state of the PBGC, it is important to consider the potential impact of failing to provide retroactive relief on that troubled agency's solvency. Conservative estimates of the national liability attributable to the Cooper theory of age discrimination are well in excess of $100 billion. Many employers would undoubtedly be forced into distress plan terminations by this liability, shifting the liability to the PBGC. Other employers would simply terminate their plans, resulting in a precipitous contraction of the PBGC's premium base. The PBGC reports that for 2004, 24.6 percent of the participants in covered single employer plans are in hybrid plans; this means that such plans generate almost a quarter of the single-employer flat-rate premiums. Both developments would make a taxpayer bailout of PBGC far more likely.

I must also raise an additional issue regarding the hybrid pension plan provisions of the bill before us. As you know, it is the cash balance pension design that has been at the center of the congressional discussion about the need to provide legislative clarity for hybrid plans. Yet, another leading variety of hybrid plan, called the pension equity plan, is in equal need of congressional attention. In a pension equity plan, employers provide credits for each year of employee service and these credits are multiplied by an employee's final pay to produce a lump sum figure. Typically, the benefit credits given to employees increase with age and/or years of service, making this design an attractive one for older and long-service workers. Dozens of large employers around the country offer pension equity plans, including a

number of very large employers in my state.

Pension equity plan sponsors and participants face the same risks and are in need of the same legislative clarification as cash balance plans—that their basic design is not, in fact, illegal and does, in fact, satisfy our age discrimination rules. To achieve this objective, the legislative provision clarifying the age discrimination rules for hybrid plans must specifically reference pension equity plans in the statutory language. The legislation before us does not do this. Rather, it leaves the issue of whether pension equity plans receive the same beneficial clarification as cash balance plans up to the Treasury Department in later administrative guidance. This will simply prolong the legal uncertainty that is driving many employers to consider ending their pension equity plans altogether. I believe this must be remedied—that we must give pension equity plans the same explicit statutory treatment as cash balance plans. I hope that, along with applying the clarification of the hybrid designs to existing plans under current law, we can explicitly address pension equity plans as we move toward conference on this pension bill.

I likewise hope that we can make several other refinements to the bill's hybrid provisions so that these provisions more appropriately address some of the unique issues surrounding pension equity plans. For example, the bill currently has a requirement that hybrid plans pay certain minimum interest rates. Yet, unlike in cash balance plans, the benefits in pension equity plans grow with pay increases, as traditional defined benefit plans do, rather than with interest, so this requirement really does not make sense in the pension equity context. In addition, conversions to pension equity plans are typically handled differently than conversions to cash balance plans, and this needs to be acknowledged in the legislation. Finally, just as there are unique differences between cash-balance and pension equity hybrid plans that we must acknowledge, we must also recognize and support unique differences among cash-balance and pension equity plans respectively. No two plans are identical, nor should they be. Congress should not be so overly prescriptive in the rules for hybrid pension plans that it prohibits sponsors from adding unique features that may better serve their employees in retirement. I hope that during the conference on this bill, for example, we can recognize that there are cash balance plans that have returns based on equity indices. Such plans may provide returns that do not fall within the interest rate corridor established in this bill because their returns may be greater or lesser than required under this bill for the plan to be considered a qualified cash balance plan. While I do believe it is good policy for these plans to have a principal protection feature, to ensure workers are guaranteed upon retirement to receive the investment credits they have earned, I also believe that we should not discourage plans which provide participants the opportunity to receive higher returns that are attainable through the equity markets.

I would like to finish my statement by thanking the chairmen and ranking members for their work on the prospective hybrid language. While the bill does not address existing plans, serious discussions have begun to do so. It is imperative that these discussions continue so that we can clarify the validity of the hybrid pension designs, both cash-balance and pension equity, under current law.

Hybrid defined benefit plans play an invaluable role in delivering retirement security to millions of Americans and their families. To prevent total abandonment of hybrid plans by employers and the resulting harm to employees, I hope Congress will quickly provide legislative certainty and clarity for existing cash balance and other hybrid pension plans such as pension equity plans. Waiting for the Cooper case to be resolved on appeal is not the answer; as time goes by, more companies are reacting to the current uncertainty and potential liability by freezing or terminating their plans. At the same time, more and more companies are being dragged into copycat litigation. The losers in this terrible failure to act are my constituents in North Carolina and workers across America who will lose the opportunity to be covered by an employer-provided pension plan. Failure to resolve the status of hybrid defined benefit plans comprehensively is a betrayal of employers who are trying to do the right thing by their employees and the millions of workers who are counting on a pension for their retirement.

Mr. LIEBERMAN. Mr. President, I rise to express my support for S. 1783, the Pension Security and Transparency Act. This bill will make much needed reforms to our pension security system. It takes important steps to address the deteriorating financial condition of the Pension Benefit Guarantee Corporation, PBGC, to ultimately protect the defined benefit plans of millions of American workers. My purpose in coming to the floor today is to make note of a number of provisions in this bill that I believe are particularly important to our system of retirement security, and I am pleased that this bill incorporates these provisions.

First, the bill includes measures to encourage companies to implement so-called auto-enroll 401(k) plans. In plain English, this will accomplish a relatively simple, but tremendously effective change to ensure that more Americans are saving for their retirement. Currently, under most retirement plans, employees must take affirmative steps to join a company's 401(k) plan. Under an automatic enrollment system, new employees would automatically be included in an employer's 401(k) plan, and would have to take affirmative steps to withdraw from the plan. In essence, the choice of whether to participate in a retirement plan is still entirely with the worker, however, the default would be participation in the plan: workers could ''opt out'', rather than having to ''opt in'' to be covered.

Many studies have indicated that automatic enrollment is remarkably effective in raising participation rates among eligible workers, particularly for lower income workers. One study, for example, found that automatic enrollment increased participation from 13 percent to 80 percent for workers making under $20,000 a year. The fact is that without automatic enrollment, many workers don't take advantage of the savings opportunities available through 401(k)s. Sometimes it is because of inertia, or because of the more immediate demands of work and family, or because the options appear intimidating and confusing. The automatic 401(k) is a relatively simple concept that has the power to enhance retirement savings for millions of American workers. Earlier this year, I joined Senator BINGAMAN in introducing S. 875, the Save More for Retirement Act, to encourage such auto-enrollment plans. Our bill also included provisions to encourage plans to add a feature whereby employees' contributions would automatically increase each year until certain thresholds were met. We sought to address the concern that many who do participate in company plans don't take full advantage of the savings opportunities and therefore may be ill-prepared for retirement. I am pleased that the bill before us includes both the automatic enrollment and automatic increase provisions.

I am also pleased that the bill includes a number of provisions often referred to as the ''post-Enron'' measures. We on the Governmental Affairs Committee heard devastating testimony of how thousands of Enron workers saw their retirements savings plummet over the course of weeks. The bill today seeks to address these concerns by ensuring that workers do not have all their eggs in one basket. It encourages diversification of pension investments from employer stock. It also calls for workers and retirees to get regular statements showing the market value of pension investments. In addition, it encourages employers to provide workers with access to unbiased investment advice as to how to invest their pension retirement accounts.

There are many much needed reforms in this bill to ensure that defined benefit plans are adequately funded and that the PBGC remains solvent. It is not perfect, but it represents an effective compromise on a complex matter. I anticipate that additional modifications will be made in conference. I rise here today, however, to make note of these particular provisions that I believe will encourage and protect retirement savings for millions of Americans.

Mr. BOND. Mr. President, thank you for giving me the opportunity to speak on the floor today. First, I thank Chairmen GRASSLEY and ENZI and Ranking Members BAUCUS and KENNEDY in crafting this important legislation. The pension issues we take up today are notoriously complex and could have a significant financial impact on both American families and American businesses. The leaders of the committees have done an impressive job in bringing us to this point, and I congratulate them on their efforts.

One of the issues we address in this legislation is the validity of the so-called hybrid plans. Hybrid plans whether cash balance or pension equity—are a modern form of defined benefit plan that combines the best features of defined contribution plans, such as 401(k)s, with the best features of traditional defined benefit programs. Hybrid plans keep defined benefit plans relevant for workers in our contemporary, mobile economy. Indeed, these hybrid plans have been popular with both employers and employees, and today an estimated 8.5 million workers are earning secure retirement benefits through these plans.

For the past several years, these hybrid plans have been called into question. These turn of events came about when one of our Federal district court judges determined in the infamous Cooper v. IBM decision that the hybrid plan designs are illegal because they pay compound interest. Somehow, this judge believes that it is age discriminatory for employers to pay interest on their employees' pensions. I, for one, have found his position hard to fathom. The judge reached this conclusion despite the fact that the Internal Revenue Service had approved interest-paying hybrid plans for 15 years and despite the fact that every other court addressing the issue found that these plans satisfy the age discrimination rules.

In classic fashion in our litigation-happy society, this lone and misguided court decision has spawned a string of copy-cat class action suits. In these suits, plaintiffs assert hundreds of millions—even billions—of dollars in ''damages'' (over and above the benefits they have earned under the plan—to ''correct'' compound interest.

So, the issue we need to address in the legislation before us is to make clear that this lone judge got it wrong and that the IRS and all those other judges got it right. Compound interest in a defined benefit pension is not illegal, and the hybrid plan designs satisfy our age discrimination rules.

The legislation before us makes this important clarification but unfortunately only with respect to the future. While addressing the hybrid issue prospectively is constructive and must be done, failing to clarify the legal regime for the more than 1,500 or so existing hybrid plans and their 8.5 million or so participants will have a number of seriously adverse consequences.

First, employers will continue to face the threat of truly business-busting litigation, which will drain resources from productive use and hamper their competitiveness. Ironically, despite the good efforts of our Senate committee leaders to insert ''no inference'' language in this bill, judges may read the legislation's prospective-only approach as suggesting the illegality of current plans, thereby worsening the litigation risk faced by employers.

Second, in light of the unresolved threat to current hybrid plans, employers are increasingly likely to abandon their pension plans, denying additional retirement benefits to millions of American families and leaving new hires at these companies with no pensions whatsoever.

Third, as the healthy companies that sponsor hybrid plans leave the pension system, they will aggravate the financial troubles of the Pension Benefit Guaranty Corporation, PBGC. Indeed, hybrid plan sponsors today pay 25 percent of the per participant premiums received by the PBGC. So, unfortunately, while this legislation is designed to shore up the PBGC, we have left unaddressed one of the central threats to that agency's solvency.

In addition, while clarifying the age discrimination rules for hybrid plans prospectively and retroactively, it is my hope that the future conferees of this legislation will considering making a specific reference to pension equity plans—a type of hybrid plan other than cash balance plans—in the statutory language. The reason for this need is that the Cooper v. IBM decision deemed not only cash balance plans to be illegal, but pension equity plans as well.

The legislation before us does not address pension equity plans, specifically. Rather, it leaves the issue of whether pension equity plans receive the same beneficial clarification as cash balance plans up to the Treasury Department in later administrative guidance. This will simply prolong the legal uncertainty that is driving many employers to consider ending their pension equity plans altogether. This leading variety of hybrid plan—the pension equity plan—is in equal need of the same congressional attention as cash balance plans. I urge the future conferees to address this accordingly and to be mindful that the conversion process in pension equity plans is typically different than that of cash balance plans.

Mr. President, it is my sincere hope that as this important bill moves through the legislative process we can address the hybrid design issue in a comprehensive way. We must do so in order to remedy the significant harms to workers and employers that will result if we only address the issue prospectively. In addition, we must give equal consideration to both cash balance and pension equity plans as two legal regimes of hybrid plans. I look forward to working with Chairmen GRASSLEY and ENZI, Ranking Members BAUCUS and KENNEDY, and the future conferees on this bill to ensure a solution that will enhance rather than endanger the retirement security of American families.

Mrs. CLINTON. Mr. President, I would like to begin by expressing my gratitude to Senate Health, Education, Labor and Pensions Committee Chairman ENZI and the HELP Committee's ranking member, Senator KENNEDY, for working together, and with our colleagues on the Senate Finance Committee, to address the wide spectrum of pension issues in the bipartisan bill that is before the Senate today. Their tremendous hard work and conscientious approach to this legislation—and that of their staffs—is commendable. They have had to balance many factors.

Enhancing the retirement security of Americans is one of my priorities in the Senate. Retirement security is, simply put, one of the most important challenges facing our Nation. Single-employer and multiemployer pension plans play an essential role in providing retirement security for so many New Yorkers and millions of Americans around the Nation.

For a variety of reasons, we have recently seen defined benefit plan terminations that have jeopardized the retirement security of many Americans and placed additional burdens on the defined benefit system. I have heard from New Yorkers who are gravely concerned that they will not see the benefits they worked so hard to earn.

A recent report by the Government Accountability Office, GAO, highlights some of the deeply troubling trends facing the defined benefit pension system. GAO notes that ''the nation's private defined benefit, DB, pension system, a key contributor to the financial security of millions of American workers and their families, is in long-term decline.'' The GAO report describes a sharp drop in the number of single-employer DB plans in recent years, down to less than 35,000 in 2002 from more than 95,000 25 years ago. According to the GAO, the same period of time has seen ''the number of active participants in such plans dropping from 27.3 percent of all national private wage and salary workers in 1980, to about 15 percent in 2002.''

In addition, the GAO report notes that ''structural problems in industries like airlines, steel, and auto parts have led to large bankrupt firms terminating their DB plans, with thousands of workers losing some of their benefits and saddling the Pension Benefit Guaranty Corporation, PBGC, with billions of dollars in unfunded benefit guarantees.'' Moreover, the PBGC reported in 2004 that the ''rapid decline'' in the net financial position of its single-employer program from 2000 to 2004 ''resulted from several very large losses (primarily from steel and airline industry plans), lower interest rates that raised the value of PBGC's liabilities and declining stock prices.''

A look at the finances of the PBGC provides a snapshot of the aftermath of these trends. According to the PBGC, in 2004 it insured more than 34 million single-employer plan participants and more than 9.8 million multiemployer plan participants. The PBGC reported that its single-employer program swung from a surplus of $9.7 billion in 2000 to a $23.3 billion deficit in 2004, and that its multiemployer program showed a deficit of $236 million in 2004. Yesterday, the PBGC reported its financial results for fiscal year 2005. According to the PBGC, the single-employer program deficit as of September 30, 2005, was $22.8 billion, and the multiemployer program deficit had grown to $335 million. While at this time it appears the PBGC will be able to pay benefits for some time to come, it is incumbent upon us, as elected representatives, to take meaningful steps to address these challenges to the survival of the defined benefit system and the dangers these challenges pose for workers, retirees, and their families who are depending upon the viability of that system.

A central goal of that effort should be ensuring that employers offering single-employer pension plans keep pension promises and have incentives to remain in the defined benefit system to provide good pensions to their employees. Additional goals include protecting older, longer term employees from unfair changes in their pension plan, enhancing financial transparency, and shoring up the PBGC. It is also important to work to maintain and strengthen the multiemployer pension system.

The Pension Security and Transparency Act of 2005 takes important steps towards these goals, including: transitioning to a full funding target; offering incentives for companies to contribute more in good times to help plans get through economically challenging times; tools for the government to use in an effort to help preserve pension plans facing financial challenges; rules intended to help airlines preserve their pension plans; reforms intended to improve multiemployer plan funding; prospective-only rules for cash balance pension plan conversions, with protections for older and longer serving workers; and enhanced disclosure of pension plan finances.

In addition, the defined contribution autoenrollment provisions included in the bill are an important first step in ensuring that employees start saving today. It has widespread support among employers and employees, and is a commonsense provision that I will work to ensure is included in the final conference agreement.

As is usually the case with new legislation of this scope, I believe there is room for improvement and refinement, particularly with respect to ''at risk'' plan funding. I hope that in conference the legislation may be brought in line with the approach to ''at risk'' funding taken in the legislation approved by the Senate HELP Committee in September. We should support efforts of companies that are acting responsibly to preserve their defined benefit pension plans and fund them adequately, in the face of financial distress or cyclical downturns, and we should strive to avoid actions that may, however unintentionally, have the opposite effect of that intended.

Working men and women are counting on the security provided by the benefits they earn through their pensions. Some of the most important decisions of their lives depend on these benefits being there for them when they need them. I am glad that the Senate is acting today on comprehensive pension reform legislation and addressing a wide variety of challenges facing the defined benefit pension system. I will continue to work with my colleagues to enact legislation designed to maintain and strengthen the defined benefit pension system for generations to come.

Mr. KYL. Mr. President, today the Senate is considering long-delayed legislation to reform our defined benefit pension system. While reforms are certainly needed, I must say that I am disappointed with how watered down this legislation has become since we passed it out of the Finance Committee earlier this year.

Obviously, the current system is in dire straits, with the Pension Benefit Guarantee Corporation, the Federal corporation that insures traditional pension plans, running a $22.8 billion deficit for fiscal year 2005. Moreover, the PBGC said that if events that occurred just after the fiscal year's end had occurred a few weeks earlier, the deficit would have been $25.7 billion. If the Government is going to continue to operate a pension-plan insurance program, we must make sure that employers fulfill their pension promises appropriately so that taxpayers are not asked to bail out the PBGC.

This legislation makes a first step toward requiring more realistic funding of pension promises, and it tries to assess more accurately which companies are in such financial difficulty that they are likely to declare bankruptcy and shed their pension plans as part of their reorganization, leaving it to the PBGC to cover their remaining obligations. While I believe the provisions approved by the Finance Committee were stronger and more responsible, I understand that compromises had to be made as the Finance bill was combined with the bill reported out by the Health, Education, Labor, and Pensions Committee. I hope these provisions will be retained and reinvigorated when this legislation is reconciled with the House pension-reform bill.

My primary concern about this legislation has to do with the special provisions for legacy airlines. The bill reported out of the Finance Committee allows certain airlines to freeze their existing defined benefit pension plans so that no new participants can be added and benefits will not increase in any way. Then it allows these companies an additional 14 years to pay off what they owe on these frozen plans. I agree that it makes sense to allow the airlines to freeze their pension plans so that their liabilities do not get any worse. Further, if giving the airlines extra time to pay their obligations will keep them from shifting the debts to the PBGC, then I believe we are acting responsibly to protect the American taxpayers. I must say, however, that this special treatment is unfair to those airlines that have been responsible about funding their pension liabilities or that have different, and more affordable, retirement savings plans for their employees.

Nor is that all we are apparently going to do to provide special relief for the legacy airlines. On the floor, an amendment will be offered, and will likely pass, that will lengthen the amortization period for the so-called ''hard-freeze'' provision to 20 years and to provide separate funding relief to certain other legacy airlines that will not be taking advantage of the ''hard freeze.'' This separate funding relief will allow these particular airlines an extended period to pay their pension obligations, but will not require the airlines to freeze completely their pension plans. Rather, this so-called ''soft-freeze'' would not allow new participants, but would allow benefit accruals if the company funds those accruals. This is terrible policy; if the airlines have the resources to fund benefit accruals, they should fund their existing obligations on a timely basis instead of taking on new obligations. Congress should not grant any company the ability to amortize its obligations over a longer period of time without requiring it to freeze its pension plan completely. Further, increasing the 14-year ''hard freeze'' to 20 years is overly generous and provides a one-size-fits-all plan for two legacy airlines that have very different financial situations. I am pleased that Chairman GRASSLEY will oppose this amendment.

Finally, with respect to the Akaka amendment, I opposed this measure because it would exacerbate the already terrible fiscal problems facing the PBGC. Unfortunately, Federal regulations dictate that individuals age 60 and older may not serve as airline pilots. I am one of 20 Members of this Chamber who have cosponsored Senator INHOFE's bill to remove this blanket prohibition, a stricture which I have concluded cannot be justified as a safety measure. I am heartened that the Senate Commerce Committee will have the opportunity at their next markup to rectify the inequitable treatment of older pilots the right way—by removing the arbitrary mandatory retirement age. Unfortunately, the Akaka amendment would proceed the wrong way—by swelling the PBGC's deficits by raising the ceiling on allowable benefits.

Overall, this legislation moves forward the process of reforming our badly broken defined benefit pension-plan funding system, and for that reason I will support it even though I am very opposed to its special funding relief for certain legacy airlines. I hope, as the conference committee meets to work out a final version, that the conferees will work for the best possible funding requirements for all companies that participate in the system; that they will keep some kind of a benchmark to identify struggling companies; and that they will keep the legacy airline relief as responsible as possible. We must remember that the American taxpayer will be asked to bail out the PBGC if the system, which is supposed to be self-funding, cannot sustain itself. And a taxpayer bailout is an outcome that I know none of us wants to happen.

Mr. HATCH. Mr. President, I rise today in support of the pension reform bill we are now considering. This bill is the product of a great deal of work by members of both the Committee on Finance and the Committee on Health, Education, Labor, and Pensions. As a member of both of these committees, I congratulate the chairmen and ranking Democratic members for their leadership and hard work. It is not often that Senate committees share jurisdiction of an issue the way that the Finance and HELP Committees share the jurisdiction of pensions. Bringing the bill to this point required an unusual procedure where the separate bills approved by the two committees, which were quite different in many respects, were combined into one bill for floor consideration.

The resulting bill, which is before us today, is complex, controversial, and imperfect. It is also very much needed. Traditional pension plans, also known as defined benefit pension plans, are facing a crisis today. The number of defined benefit pensions is in decline. In 1980, around 40 percent of private sector jobs offered pensions to their employees. Today, only 20 percent do.

Since 1985, the number of defined benefit plans backed by the PBGC has declined from 114,500 to fewer than 32,000. Clearly, our economy, and the retirement options for our workforce, are undergoing rapid evolution. This is due to a number of complex factors, but prominent among them is the high expense of starting and maintaining these plans, and the uncertainty and volatility of funding them. The rules governing defined benefit pension plans are among the most complex of all U.S. laws.

Another factor in the debate about pensions is that the American workforce is changing in a fundamental way. No longer is the idea of going to work for one employer and remaining with that company for one's entire career considered the norm. Increasingly, workers are mobile and find themselves changing companies and even careers several times over the course of their work lives. For these workers, the traditional pension plan is not necessarily the ideal. For many such workers, and for most companies in younger industries, hybrid pension plans are more beneficial.

Unfortunately, these hybrid pension plans are under a legal and a legislative cloud today. So what could be a pretty good answer in today's world to the problems of cost, complexity, and inflexibility of a defined benefit plan has been practically halted by legal challenges and by political controversy over how to best clarify the status of hybrid plans.

One of the biggest concerns, however, is that the Pension Benefit Guarantee Corporation (PBGC) is under increasing financial strain as more and more companies with defined benefit plans have defaulted on their pension obligations and left this agency to carry the load. Just yesterday, the PBGC released in its annual report that it had only $56.5 billion in assets to cover $79.2 billion in liabilities. In addition, the report showed the PBGC's exposure to losses from pension plans sponsored by financially weak employers rose to $108 billion from $96 billion the year before.

When I earlier said this pension bill is complex, controversial, and imperfect, it is because, to be effective, the bill must walk the very narrow path between two important public policy objectives. On the one hand, we need to ensure that when an employer establishes a pension plan, and makes inherent promises to its workers, it provides the funds necessary to secure those commitments. Failure to do so does great harm to the millions of employees and their families who depend on those pensions for a secure retirement. It also does harm to our economy, and it puts the PBGC, and possibly the American taxpayer, at great risk.

On the other hand, we must not forget that employers have no legal obligation to offer such pension plans to their employees. These benefits are voluntary, and they must stay so. The Congress has an obligation to ensure that the pension laws provide rational and sensible rules that encourage employers to offer these benefits to their employees. This means they should be understandable, predictable, and easy to administer. If we place unreasonable or overly aggressive requirements on employers, many or most will simply terminate their pension plans, leaving employees without the benefits they might have had.

I believe we must be careful to ensure that pension plans that are currently fully funded and are sponsored by strong employers are not weakened inadvertently by the reforms in this legislation. However, this is not as easy to accomplish at it may sound.

I believe the bill before us goes a long way toward accomplishing the goals of strengthening the pension system, shoring up the PBGC, and not discouraging employers from staying in the system. However, it has certain provisions that, in my view, may not lead us in the direction we need to go. I hope that as the bill goes to conference that it can be further improved.

More specifically, I remain concerned about the provision in the bill that would require certain plan sponsors with credit ratings that have fallen below investment grade to fund their plans faster than they would otherwise have to do. While this provision has improved from its first version in the Finance Committee, I believe it is still too onerous.

I am also very concerned about the impact of this bill on the struggling airline industry. We simply must provide relief to the airlines in funding their pension obligations or many will have to turn their obligations over to the PBGC. Therefore, I am supporting the amendment of the Senator from Georgia, Mr. ISAKSON, and I hope our colleagues will also support it.

There is much to be said in favor of this combined bill. I am very pleased to see that many of the defined contribution provisions that the Finance Committee has long worked on getting enacted have made their way into this bill. I am also glad that certain protections were added for the multiple employer pensions plans that are very important to many of the electrical and telephone cooperatives that are common in many rural States, including my home State of Utah.

I am also pleased to see that the managers' substitute amendment also includes a provision on which I have been working for several years now with the chairman and ranking Democrat of the Finance Committee. This provision, which is important to many associations around the Nation, including the Utah Auto Dealers Association, ensures that they will not unfairly have to give up their health plans, upon which many employers and their families now rely.

And I am happy that we have finally included language that makes it much easier for firms to enroll automatically new employees into a firm's 401(k) plans. One thing we know about human behavior is that inertia is a powerful force—change of any sort can be difficult for even the best of us. The beauty of automatic enrollment is that it uses this inertia to our advantage. The firms that have used automatic enrollment thus far have reported vastly higher savings rates, and employees have been quite pleased with the result.

While nearly everyone on both sides of the aisle supports making automatic enrollment easier for firms, we differ on just how much easier we should make it. There have been a number of proposals that would have made it much easier for firms that offer automatic enrollment of new employees to meet the convoluted pension distribution requirements that deter many smaller firms from even offering 401(k) plans. Unfortunately, the version currently embodied in this bill does not, in

my view, adequately address this problem. Still, half a loaf is better than none, and I welcome anything that clears the way for firms to offer automatic enrollment.

I would like to take another couple of minutes to address more fully the issue of hybrid pension plans, which combine elements of defined benefit and defined contribution plans. I think that corporate America is recognizing the importance of these plans. At the same time, there is a cloud of legal uncertainty hanging over them. My hope is that we address this uncertainty in the conference.

Although the defined benefit pension system has helped generations of Americans achieve retirement security, we have witnessed a decline in these plans during the last several years, as I mentioned. While the modern workforce remains interested in the security of employer funding and Federal insurance guarantees, it also demands portability and a greater level of control regarding retirement benefits. Given these diverse criteria it is easy to see why so-called hybrid pension plans have become so popular. These cash-balance and pension equity plans, in which over 9 million Americans currently participate, incorporate the attractive features of a defined contribution plan while offering much of the security associated with traditional defined benefit plans.

Hybrid pension plans are nothing new. In 1991 the Treasury issued regulations that described a safe harbor testing method for cash balance pension plans under nondiscrimination rules. Five years later, the IRS issued Notice 96–8 describing the structure and operation of cash balance pension plans as well as citing the previous safe harbor rule. This notice and prior regulation stood as the official authority from Treasury and IRS on how a cash balance pension plan should be designed and operated. Many plan sponsors even received favorable determination letters from the IRS that their converted cash balance pension plans met all requirements to be qualified to preferred tax treatment under the Internal Revenue Code, including all relevant nondiscrimination requirements. More recently, in 2002 the Treasury issued proposed regulations that clearly established hybrid pension plans and plan conversions as nondiscriminatory against older workers. Most employers who made these plan conversions did so as part of a good-faith effort to protect the retirement security of their employees.

Although many courts have ruled that these plans do not discriminate based on age, they continue to come under attack. The bill we are currently considering does a good job of establishing the principles for evaluating whether post-effective date conversions of a traditional defined benefit pension plan to a hybrid pension plan are permissible. However, the bill does not clarify that employers who previously adopted hybrid pension plans in good faith, based on generally accepted legal principles and in reliance on guidance issued by the Internal Revenue Service, should not be disadvantaged compared to employers who adopt hybrid pension plans in the future.

If Congress does not clarify the legality of pre-effective date hybrid pension plans and plan conversions, it is likely that these plans will be abandoned in favor of programs that shift investment risk for retirement savings back to participants, such as 401(k) plans. The uncertain climate for hybrid pension plans has already had a profound adverse effect on defined benefit plan formation and continuation. I hope that in conference we can consider some moderate and fair retroactive provisions in order to give some legal clarity to these plans.

This bill should not be considered the final word on this issue. It represents good progress, and I am encouraged that those who had placed holds on its consideration have agreed to release them. By approving this legislation, we can move into conference where I believe we can improve the bill even further.

Again, I thank those who have worked so hard on this legislation, and I urge my colleagues to join me in supporting it today.

Mr. SMITH. Mr. President, I would like to commend Chairman GRASSLEY and Senator BAUCUS on their leadership in passing the Pension Security and Transparency Act of 2005. It accomplishes a great deal in reinforcing the security and financial viability of the defined benefit pension system. Americans have worked very hard to earn their pension benefits, and this bill does a lot to ensure that their retirements will be secure.

A number of important reforms will also improve the defined contribution system. In particular, I am proud that a number of these defined contribution reforms were taken from the retirement package that Senator CONRAD and I introduced earlier this year.

S. 1783 included a key piece of our legislation promoting automatic enrollment in 401(k) plans. Automatic enrollment has been shown to increase participation rates in these retirement plans significantly—especially among low and moderate income individuals.

S. 1783 also clarifies the fiduciary rules with respect to defined contribution plans and annuities. Today, very few employers offer annuity distribution options in their defined contribution plans partly due to confusion surrounding the appropriate fiduciary standard. I believe we need to provide retirees with the option to turn a portion of a lump sum into a guaranteed stream of income so that we can ensure they do not outlive their savings as they enter the increasingly long retirement phase of their lives.

On this front, I believe that there is much more we can do to encourage individuals to provide themselves with a guaranteed stream of income for life by providing tax incentives for annuitization.

In particular, we need to provide incentives for retirees without employer provided retirement plans to save. Because many workers benefited from employer provided retirement plans, they may have little saved for retirement. Aside from Social Security, almost one-half of all Americans have only their personal savings to fall back on in retirement. Therefore, I believe we must offer additional encouragement for these retirees to choose retirement income that is guaranteed to last as long as they live, and will not decrease based on their investment results.

I look forward to working with my colleagues to ensure that all Americans have a secure retirement.

Mr. ROCKEFELLER. Mr. President, I am very pleased that the Senate is finally taking action on much needed pension reforms. As the Senate does its work today, there are more than 44 million Americans working hard to earn traditional pension benefits. Steelworkers, coal miners, flight attendants, autoworkers, carpenters, grocery store employees—workers of every description are putting in long hours, in part, because they have been promised that when they retire, they will continue to receive some income from their employers.

Traditional, defined benefit pension plans have been an important part of workers' compensation for generations. Guaranteed retirement income protects workers from the risks of the stock market. And with a steady monthly check, retirees know they cannot outlive their income. We owe it to all of those workers to be sure that the pension benefits they are earning today will be there for them in the future.

Unfortunately, our pension system has failed too many people already. And in West Virginia, sadly, we understand all too well what happens when pension benefits are not paid as promised. Last year, more than 11,000 West Virginians received a pension check from the Pension Benefit Guaranty Corporation, because their employer had terminated their pension plan.

There are another 313,000 West Virginians still participating in traditional pension plans. We have an obligation to fix the pension system so that those workers and retirees will receive what they have been promised. Companies must be encouraged to continue to promise these valuable benefits, but we cannot accept empty promises. Companies must adequately fund the retirement benefits workers earn.

I believe that, on balance, the bill before the Senate today strengthens the retirement system. This legislation requires companies to better fund pension benefits. It provides workers more information about the status of their retirement plan, and it improves the financial position of the PBGC, which

will continue to play an important role as Federal safety net for failed pension plans.

The bill also makes some important improvements to the defined contribution pension system. As Enron collapsed, many employees lost all of their retirement savings because they had heavily invested in their company's stock. I am pleased that Congress is finally acting to better protect employees by giving them more information about their investment options and more rights to diversify those investments.

I am also pleased that the legislation includes a provision to enable the UMWA's Construction Workers Pension Plan to excess assets to cover health care costs for retirees, just as many single-employer private pension plans already do. The Construction Workers Pension Plan currently has more than twice the assets needed to cover pension benefits, while retirees have been forced to pay large premiums for health coverage. With this change, the resources set aside to benefit retired construction workers can be used to best advantage—including helping to cover health care costs.

Yet while I believe there are many positive provisions in this bill, it is not a perfect bill. The bill calls for very difficult compromises. Companies are concerned that the funding rules will be difficult to live by. Workers are concerned that benefits may be limited if employers do not adequately fund the pension plans. I appreciate these concerns. And I am interested in improving this bill.

I had hoped to have the opportunity to support an amendment by Senators DEWINE and MIKULSKI to ease some of the funding requirements imposed on struggling employers. Without fundamentally upsetting the balance struck in this bill, the amendment would have made pension plans easier to maintain. Because a company's credit rating is an imperfect indicator of whether the pension plan is sound, I do not believe that we should impose strict new funding requirements on companies with lower credit ratings. I believe that the managers of this legislation have already crafted so many important improvements to the funding rules that the payments associated with low credit ratings are not necessary to guarantee appropriate pension contributions. Rather, the credit ratings rules may limit employers' willingness to offer such benefits.

The reforms contained in this legislation will dramatically improve the health of the Nation's pension system. Improved pension funding rules are necessary to protect the many workers who have been promised pension benefits, and to shore up the Federal pension insurer. As the final legislation is worked out with the House, I will be working with my colleagues to improve this bill even further.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The question is on passage of the bill.

Mr. ENZI. Mr. President, I ask unanimous consent that the next two votes be limited to 10 minutes each.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The question is on passage of the bill.

Mr. ENZI. 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 clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from New Jersey (Mr. CORZINE) is necessarily absent.

The result was announced—yeas 97, nays 2, as follows:

[Rollcall Vote No. 328 Leg.]

YEAS—97

Akaka	Dole	McCain
Alexander	Domenici	McConnell
Allard	Dorgan	Mikulski
Allen	Durbin	Murkowski
Baucus	Ensign	Murray
Bayh	Enzi	Nelson (FL)
Bennett	Feingold	Nelson (NE)
Biden	Feinstein	Obama
Bingaman	Frist	Pryor
Bond	Graham	Reed
Boxer	Grassley	Reid
Brownback	Gregg	Roberts
Bunning	Hagel	Rockefeller
Burns	Harkin	Salazar
Burr	Hatch	Santorum
Byrd	Hutchison	Sarbanes
Cantwell	Inhofe	Schumer
Carper	Inouye	Sessions
Chafee	Isakson	Shelby
Chambliss	Jeffords	Smith
Clinton	Johnson	Snowe
Coburn	Kennedy	Specter
Cochran	Kerry	Stevens
Coleman	Kohl	Sununu
Collins	Kyl	Talent
Conrad	Landrieu	Thomas
Cornyn	Lautenberg	Thune
Craig	Leahy	Vitter
Crapo	Lieberman	Voinovich
Dayton	Lincoln	Warner
DeMint	Lott	Wyden
DeWine	Lugar	
Dodd	Martinez	

NAYS—2

Levin	Stabenow

NOT VOTING—1

Corzine

(The bill will be printed in a future edition of the RECORD.)

DEPARTMENTS OF COMMERCE AND JUSTICE, SCIENCE, AND RELATED AGENCIES FOR FISCAL YEAR 2006—CONFERENCE REPORT—Resumed

Mr. GRASSLEY. Mr. President, I rise today to discuss the conference report to accompany H.R. 2862, the Commerce, Justice, Science Appropriations Act. While I will be voting for this conference report, I have grave concerns regarding the cuts in the Edward Byrne Memorial Justice Assistance Grants Program.

The Byrne/JAG program is the primary Federal assistance program for State and local law enforcement's counter-drug activities. This program is critical to fighting the domestic war on drugs. In my State of Iowa, this grant program funds highly successful drug task forces. I fear that without these grants, many of these task forces will disappear and the threat from methamphetamine will only grow larger.

I have a letter from Sheriff Thomas Faust, the executive director of the National Sheriff's Association. His letter raises many of the concerns I have already highlighted with regard to the JAG program. Sheriff Faust's letter warns that, ''Cuts of this magnitude seriously inhibit law enforcement's abilities and endanger the safety and well being of our communities! In order to keep communities safe from crime and free of drugs, law enforcement must be given the resources they need! The fiscal year 2006 CJS appropriations bill does not provide for those resources.''

While I have fears that these cuts in the JAG program will have grave results, because the conference report funds other critical programs, I will vote in support of the conference report.

I ask unanimous consent to print the above-referenced letter in the RECORD.

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

NATIONAL SHERIFFS' ASSOCIATION,
Alexandria, VA, November 15, 2005.

DEAR SENATOR: On behalf of the National Sheriffs' Association (NSA) and our 23,000 members, I am writing to express our extreme disappointment and concern over the lack of funding for the Edward Byrne Memorial Justice Assistance Grants Program (JAG) in H.R. 2862, the Science, State, Justice, Commerce and Related Agencies Appropriations Bill.

The JAG program, which was formed by consolidating the Edward Byrne Memorial Grant program and the Local Law Enforcement Block Grant program, is one of the primary federal assistance programs for state, tribal and local law enforcement agencies. State and local law enforcement agencies, including the 3,087 sheriffs' offices across the country, rely heavily on JAG funds for critical operational activities. JAG funds support many of our counter-drug activities, particularly drug task forces. Without these funds, our sheriffs will not be able to sustain the task forces or even fight the war on drugs!

Local law enforcement agencies from all across the country are already out-manned and out-gunned by the drug cartels and street gangs in our communities. Over the last several years we have been forced to deal with the loss of personnel, because of budget cuts to the COPS program. Now the COPS Universal Hiring Program has been zeroed out by Congress, thus abandoning an effective program, and the JAG Funds are being cut as well. These cuts will put an end to any progress that has been made and destroy any hope we might have of winning the war on drugs or ridding our communities of methamphetamine!

For more than a decade, the resources provided under the JAG program have allowed law enforcement agencies to expand their capabilities and make great strides in reducing the incidence of crime in communities across the nation. It is our belief that the lack of

federal support for local law enforcement will surely result in increased crime and drug abuse!

The conference agreement would provide just $416 million for the Byrne Memorial Justice Assistance Grants, of which only $321 million is available for local law enforcement assistance. We find this level of funding to be unacceptable and believe that Congress is failing to adequately recognize the mission of law enforcement!

Cuts of this magnitude seriously inhibit law enforcement's abilities and endanger the safety and well being of our communities! In order to keep communities safe from crime and free of drugs, law enforcement agencies must be given the resources they need! The FY06 SSJC appropriations bill does not provide for those resources.

At a time where law enforcement and securing the homeland should be of the highest priority, Congress has chosen to completely dismiss them as a priority! With the rise of terrorism, and the fact that methamphetamine use and abuse has risen to epidemic proportions, Congress should embrace law enforcement, support the JAG program and COPS Hiring Program, and increase their funding, not cut their funding!

Sincerely,

THOMAS N. FAUST,
Executive Director &
Retired Sheriff, Arlington County, VA.

Mr. HARKIN. This bill cuts over $200 million from the Byrne Justice Assistance Grant Program and over $120 million from the COPS Program. These cuts follow on 3 previous years of cuts that have decimated these important and successful law enforcement assistance programs.

In 2002, Byrne was funded at $994 million. Next year, it will be funded at only $416 million—a 60 percent cut.

I am also dismayed that after my amendment to add $34 million in funding to legal services programs passed the Senate, not a single dollar was included in the conference report. Meanwhile a study earlier this year found that over half those eligible for legal aid cannot receive the help they need with critical issues including custody, child support, housing, and more critically right now, navigating hurricane related bureaucracy.

These programs have now been cut so severely that law enforcement in my State will likely be left with no alternatives to layoffs. That simply isn't acceptable. While I will be voting for this conference report because I believe that the appropriators did the best they could within the situation they faced, I want to serve notice on the Senate that we must restore funding to local law enforcement grant programs and to legal assistance next year.

The fault for these drastic cuts to law enforcement programs lies directly with the President and with every Member of Congress who voted for his budget that cut $1.3 billion in law enforcement funding. Appropriators only get a certain amount of money to work with, and that money is set by the budget. It was literally impossible for appropriators to restore all of the $1.3 billion in direct help for law enforcement including over $150 million in cuts to victims, over $300 million in assistance to States overwhelmed with illegal aliens, over $150 million in cuts to juvenile justice programs, almost $500 million in cuts to the COPS Program and $800 million in cuts to the Byrne Program.

It is simply outrageous that 54 Members of this Senate voted not to restore this funding during the budget process and that all 55 Republicans voted for a budget that eliminated this funding. Any one of those 55 people who stands up here and complains about these cuts is a hypocrite because they allowed it to happen.

In my State of Iowa, these cuts that will mean a 42-percent reduction in the amount of Byrne funding available statewide from $4.6 million last year, down from $6.2 million the year before, to only $2.6 million. We will receive only $2.6 million to fund 25 drug task forces, 16 offender treatment programs, and 9 early intervention programs. These cuts will come as my State continues to be in the middle of a meth epidemic.

Our preliminary estimates are that this is going to mean the loss of 27 drug task force salaries and corresponding 1300 fewer arrests. It will mean layoffs. There are no longer any alternatives. It will also mean the loss of 22 Byrne funded programs including innovative and successful treatment programs. These cuts will lead to at least 1,200 fewer meth addicts in prison receiving drug treatment. The result will be to put addicts back on the streets where there crimes will escalate and drive up the costs of prosecuting and incarcerating them the next time around.

These cuts will be devastating. Between fiscal year 2003 and 2005 we had already slashed over $1 billion in direct help to local law enforcement officers. How much more can we expect our law enforcement officers to take?

It is simply amazing to me that this administration and this Congress could be so foolish as to slash funds from programs that work. Between 1993 and 2003, violent crime in this country declined by more than 50 percent—from 49.1 to 22.3 incidents of violence per 1,000 persons. This is the exact same period of time when we provided over $1 billion to the COPS and Byrne programs alone.

Even after cuts to the program, last year the Byrne Program funded 4,316 cops and prosecutors working on 764 drug enforcement task forces nationally. Byrne funding led to 130,000 drug arrests in 32 States, the seizure of 136 tons of illegal drugs, the confiscation of over 7,000 weapons, and the seizure of 7,691 meth labs. It is simply crazy that we are slashing over $200 million from this program in this bill.

Mr. KOHL. Mr. President, I rise in support of the conference report accompanying H.R. 2862, the Commerce, Justice, Science and Related Agencies Appropriations Act for Fiscal Year 2006, but I do so with some reservations. To be sure, this bill funds many programs and agencies vital to the Nation's security and economic strength, and the conferees should be complimented for drafting a balanced spending bill. However, this appropriations measure is also supposed to fund local law enforcement and juvenile crime prevention programs, and in the past, it did so successfully. Unfortunately, this year's version does not adequately fulfill the very important responsibility of supporting law enforcement and crime prevention programs.

Let us first consider the Edward J. Byrne Justice Assistance Grant Program. For more than 30 years, Byrne grants have paid for State and local drug task forces, community crime prevention programs, substance abuse treatment programs, prosecution initiatives, and many other local crime control programs. Talk to any police chief or sheriff back in your home State and they will tell you that the Byrne program is the backbone of Federal aid for local law enforcement. We should not walk away from a program with more than 30 years of success supporting our local police chiefs, sheriffs, and district attorneys.

Sadly, this conference report takes a step in that direction by providing a little more than $416 million for the Byrne grant program. That number represents a cut of more than $200 million from last year's level. Slashing the Byrne program in this manner will have a real and negative impact on local police departments, district attorneys, and community crime prevention programs.

The COPS program is another victim of this conference report. Though my colleagues should be commended for increasing the overall COPS Program from last year's level of $388 million to $478 million this year, I am discouraged that we have zeroed out the Universal Hiring Program completely this year. We should remember that just 3 years ago, the overall COPS program received more than a billion dollars, and $330 million of that was for the hiring program which simply puts more cops on the streets. And that simply has led to a reduction in crime. Do we want to risk this success by abandoning a program that works?

Perhaps the biggest disappointment is how the title V Local Delinquency Prevention Program is treated in this appropriations bill. The title V program is the only Federal program solely dedicated to juvenile crime prevention, and the conference report dedicates $65 million to it. But after one takes away all of the national earmarks that are housed in title V—all worthy programs that I support like the Gang Resistance, Education and Training, GREAT Program—title V is left with a mere $5 million to spread across the entire country. That amount is not enough to build robust juvenile crime prevention programs. I should hope that in the future, we can, at a minimum, fund the title V program at the Senate-passed level of $80

million and do so free of national program earmarks. To be sure, these other programs deserve federal dollars and should be funded as separate line items in order that title V can have sufficient program funds to operate successfully.

Make no mistake, juvenile crime prevention programs supported by title V are worth our support. According to many experts in the field, every dollar spent on prevention saves three or four dollars in costs attributable to juvenile crime. And who can put a dollar value on the hundreds, even thousands of young lives turned from crime and into productive work and community life by the juvenile crime prevention initiatives supported by title V? We can and must do better.

This conference report is the product of many long hours of negotiations and hard work. Subcommittee Chairman SHELBY and Ranking Member MIKULSKI and their staffs deserve praise for a balanced product. Indeed, this bill is the result of compromise and I will vote in favor of it. But I hope that next year we can do a better job at helping our overworked local police officers and giving a ray of hope for disadvantaged children who desperately need our help.

Mr. CORNYN. Mr. President, I rise today to voice my disappointment with respect to the funding level provided for Project Safe Neighborhoods in the fiscal year 2006 Commerce, Justice, and Science Appropriations conference report.

The President's Project Safe Neighborhoods has been one of the most incredibly successful crime prevention programs in our Nation. And today, we passed appropriations with tragically low funding for this important program that has been highly effective at removing from our streets criminals who use guns to carry out their crimes.

When I was Attorney General of Texas, I joined with then Governor Bush to launch Texas Exile. That program, modeled after the effective Project Exile in Richmond, VA, also was extraordinarily successful—providing local prosecutors with the funds to get more than 2,000 guns off the streets and to issue more than 1,500 indictments for gun crimes, resulting in almost 1,200 convictions in its first 3 years of existence alone.

And when President Bush came to Washington, he built upon our success in Texas by making Project Safe Neighborhoods one of his top priorities and launching the Project Exile program nationally—providing badly needed resources to jurisdictions throughout the country to combat gun related crimes.

And in the short time this initiative has been up and running, the results have been astonishing. Project Safe Neighborhoods' prosecution, prevention and deterrence efforts have helped fuel historical lows in gun crime across America as well as a 30-year low in the violent crime victimization rate. Over the past 4 years, Federal gun crime prosecutions have increased by 76 percent—and virtually all of these criminals spend time in prison—for example, 94 percent in fiscal year 2004.

The administration has devoted over $1.3 billion to implement Project Safe Neighborhoods since its inception in 2001. These funds have been used to hire almost 200 new Federal prosecutors dedicated to gun crime and provide grants to hire approximately 540 new State and local gun prosecutors.

While I appreciate any effort this body might take to embrace fiscal discipline—I question the efficacy of choosing to cut a program that literally is saving thousands of lives nationwide and making our society increasingly safer just as we are seeing the significant successes resulting from it.

The additional Federal funding for these State and local gun prosecutors, as well as the associated community outreach efforts and other important initiatives are critical to the success of the program and to the national reduction of violent crime.

That is why I was so concerned when I learned of the shortfall in this funding. None of the $73,800,000 in grants for State and local governments requested by President Bush was included initially in either the House or Senate.

And I was not alone. Chairman SPECTER and Senators GRASSLEY, KYL, SESSIONS and COBURN from the Judiciary Committee as well as Senators SANTORUM and LUGAR joined me in requesting full funding for the program in a letter dated September 8, 2005.

And, I must thank my colleague from Alabama, Senator SHELBY, as well as fellow Texan, Congressman JIM CULBERSON, and their respective staffs, for their help in achieving at least a minimal amount of funding of $15 million that we were able to get into the conference report.

The Project Safe Neighborhoods program serves as a model of coordinated government efforts—with Federal, State and local governments sharing the burden of prosecuting criminals and coordinating their resources to do so. At a time when some Federal agencies struggle to coordinate efficiently with state and local governments—the Project Safe Neighborhoods program serves as a model of efficiency and effectiveness.

In closing, while I voted in favor of the appropriations conference report because of its many important programs—I remain committed to seeking full funding for Project Safe Neighborhoods next year and in the years to come and looking forward to working with my colleagues to ensure that we keep America's streets safe from violent gun-using criminals.

The PRESIDING OFFICER. Under the previous order, the question is on agreeing to the conference report to accompany H.R. 2862.

Mr. ROBERTS. 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 clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from New Jersey (Mr. CORZINE) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 94, nays 5, as follows:

[Rollcall Vote No. 329 Leg.]

YEAS—94

Akaka	Durbin	McConnell
Alexander	Ensign	Mikulski
Allard	Enzi	Murkowski
Allen	Feingold	Murray
Bayh	Feinstein	Nelson (FL)
Bennett	Frist	Nelson (NE)
Biden	Graham	Obama
Bingaman	Grassley	Pryor
Bond	Gregg	Reed
Boxer	Hagel	Reid
Brownback	Harkin	Roberts
Bunning	Hatch	Rockefeller
Burns	Hutchison	Salazar
Burr	Inhofe	Santorum
Byrd	Inouye	Sarbanes
Cantwell	Isakson	Schumer
Carper	Jeffords	Sessions
Chafee	Johnson	Shelby
Chambliss	Kennedy	Smith
Clinton	Kerry	Snowe
Cochran	Kohl	Specter
Coleman	Kyl	Stabenow
Collins	Landrieu	Stevens
Cornyn	Lautenberg	Sununu
Craig	Leahy	Talent
Crapo	Levin	Thune
DeMint	Lieberman	Vitter
DeWine	Lincoln	Voinovich
Dodd	Lott	Warner
Dole	Lugar	Wyden
Domenici	Martinez	
Dorgan	McCain	

NAYS—5

Baucus	Conrad	Thomas
Coburn	Dayton	

NOT VOTING—1

Corzine

The conference report was agreed to.

Mr. BAUCUS. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Iowa.

THE TAX RELIEF ACT OF 2005

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Senate begin consideration of S. 2020, the tax reconciliation bill.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 2020) to provide for reconciliation pursuant to section 202(b) of the concurrent resolution on the budget for fiscal year 2006.

Mr. GRASSLEY. Mr. President, before Senator BAUCUS and I give our opening statements, I yield 5 minutes to the Senator from South Carolina for a statement on another subject, and then I presume the Senator from New York wants to follow him for 5 minutes. So there will be 10 minutes before

we start this bill, but the 10 minutes is off the 20 hours allotted to this bill.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

UNANIMOUS CONSENT AGREEMENT—S. 295

Mr. GRAHAM. Mr. President, I thank the Senator for allowing us to have this time. I have a unanimous consent request to make for the RECORD. This has been approved by the majority leader and minority leader.

I ask unanimous consent that the consent agreement relating to S. 295, which is a bill about China currency, which was entered on July 1, be modified so that it is applicable under the same terms including any days in December that the Senate is in session but under no circumstances no later than March 31, 2006, with all other provisos remaining.

At this time, I yield to my colleague from New York.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Mr. President, I thank my friend and colleague Senator GRAHAM, who has been a pleasure to work with on this issue, for his help and support.

This extends the privilege we have been granted by the majority leader and minority leader to bring our bill, our proposal, on Chinese currency up at a later date. After our bill on April 6 got 67 votes on a procedural motion, Senator GRAHAM and I agreed to an up-or-down vote on our bill, S. 295, before the August recess.

In July, at the behest of Treasury Secretary Snow and Federal Reserve Chairman Greenspan, we agreed to delay our vote on our bill until the end of the first session of the 109th. Well, that may well be this week. We are finishing up business while the President is, in fact, going to be in China. Senator GRAHAM and I do not think it would be appropriate to vote on this bill while the President is there so we have agreed to delay.

Senators may recall that back on July 21, China promised to let market forces work and they revaluated their currency by a small but significant 2.1 percent. But they said the market should allow the currency to rise or fall about .3 percent a day. Unfortunately, that has not happened. Since the original 2.1 percent revaluation of the yuan, the currency has moved as much in nearly 4 months as China said it would allow it to move in a single day. So in the whole 4 months, it has not even moved a day's worth. Senator GRAHAM and I, frankly, are disappointed in the progress so far. We said at the time it was a good first baby step, but we need additional steps. Thus far, none have been taken.

We are hopeful the President's trip to China will produce positive results. We are willing to forestall our amendment to see what happens on the President's trip.

Under the new agreement, Senator GRAHAM and I can call up the bill in early December, when Congress returns for votes, or early in the second session, with a promise that the bill will be considered no later than March 31, 2006.

We hope and pray China will move. We do not want to dictate anything to the Chinese. We do not want to tell them how quickly they should move or to what degree, but we do need to see some more movement on something that just about everyone agrees ought to happen. The delay of this resolution will be salutary, we believe, to bringing some results.

I yield back my time to my colleague Senator GRAHAM for some concluding remarks. I would also yield the 5 minutes I have been ceded to Senator GRAHAM so he may finish.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. GRAHAM. Mr. President, I thank my colleague for giving a very good explanation of where we started and where we are today and where we hope to be in the future. Where we started was a situation where China saw no self-interest in allowing their currency to meet international monetary standards of being valued by the market.

The practice of pegging the yuan to the dollar has created a tremendous manufacturing disadvantage for our manufacturers. It has hurt every competitor China deals with. It is a practice that needs to change because China has changed.

Our goal is to allow that change to come about in a reasoned way, in a win-win fashion. The change that occurred, as Senator SCHUMER spoke about, where there was a slight revaluation, was a very good signal coming from China. It was an optimistic event. Since then, 4 months later, very little has happened.

I know the President is going to put it on the table when he goes to China. We stand behind our President in this regard, that we in the Senate, 67 of us, anyway, and the President, through Secretary Snow, and the President himself, have been urging the Chinese to change their currency practices. It is the position of the administration that it should float, while it is also the position of the Senate that China needs to change their currency practices. As Alan Greenspan has said so well, it is in China's self-interest.

I do hope, as Senator SCHUMER said, that after this meeting with President Bush there will be further progress. So I am guardedly optimistic but resolved to make sure we have a level playing field when it comes to dealing with China. This is an opportunity for a win-win. I hope the Chinese will take us up on it and we can have a better relationship.

This one issue is one of the defining moments in the U.S.-China relationship economically and we will see what time yields in terms of these negotiations.

I yield back all time.

The PRESIDING OFFICER. Without objection, the request is agreed to.

The Senator from Montana.

Mr. BAUCUS. Mr. President, I commend my colleagues from New York and South Carolina. This is an appropriate way to handle this issue. Clearly China pegging their yuan to the dollar has caused immense dislocations. It is also fairly clear that a 27-percent tariff on Chinese products coming to the United States is an untenable position and it would not be the right action for the United States Congress to enact legislation which would enact a 27-percent tariff on Chinese goods coming into the United States that, in effect, is a 27-percent tax on products that American consumers would otherwise be purchasing.

Having said that, it is a problem—that is, the Chinese failure to let their currency float. They did let it float a little bit by a couple percentage points not long ago, but most all observers agree that is not enough. To some degree, this issue is tied to Chinese banking reform. Chinese financial institutions have asked the United States and other countries for advice on how to reform their system. There are too many nonperforming loans in the Chinese banking system, which is related to China's inability thus far to let its currency valuate totally freely. There will come a time—and the time is probably sooner rather than later—when this will become an issue and it will come to a head.

Right now is not the time. The Finance Committee clearly takes this issue very seriously. We in the Finance Committee will pay great attention to the degree to which this measure, the Schumer-Graham amendment, should be taken up and passed or modified before reporting it to the floor. Waiting until the end of March of next year certainly is appropriate.

I say to everyone concerned with this issue, we will act in time, and hopefully it is a time when it is an accommodation rather than a confrontation. It is up to both sides of the Pacific, frankly—China and the States—to recognize that we have to get a resolution here. We are two great countries. It is by far better for each country to gauge each other appropriately with eyes wide open. It is not appropriate for either country to sort of stiff-arm each other.

We are here. We are on the world scene. China is on the world scene. China has a huge interest, of course, in China's development but also a huge interest in the stability of the U.S. economy. And vice versa; we do, too, in China.

I urge real leadership in both countries to try to find a solid resolution so we can avoid confrontation. I again thank my friends from New York and South Carolina for their statesmanlike approach to this; namely, not pressing the issue abruptly but rather agreeing to postpone, until March 31, the next deadline.

Mr. President, I would like to turn to the bill before us. The Book of Proverbs counsels: ''Do not quarrel with a

man for no cause.'' One might rephrase that for modern times: ''Know when to take 'yes' for an answer.'' That is how I feel about this tax bill before us today.

Last Tuesday, when the chairman of the Finance Committee gave notice of his intention to hold a markup on the tax reconciliation bill, I thought that we were going to have a knock-down, drug-out fight over capital gains, dividends, and the budget deficit. Now it appears that we are going to have an entirely different debate.

When Chairman GRASSLEY first raised the issues of this tax bill with me, I told him: If you take capital gains and dividends out of the bill, I can support it. And the chairman and now the Finance Committee have taken capital gains and dividends out of the bill. And now I do support it. I am willing to take ''yes'' for an answer.

I am gratified that the chairman and the committee have chosen to forgo the capital gains and dividend provisions that they once contemplated. That is a fundamental change. And from this side of the aisle, that is a welcome change.

The job of a committee chairman is a large part of brokerage job. A committee chairman tries to do the most that he can with the votes that he has. I compliment the chairman of the Finance committee for being among the best at counting the votes. And I think that the bill that the Finance Committee brings before us today represents the moderate consensus of the Senate.

For many reasons, the bill before us today is not all that I would have preferred. It is not always the case, as with any Senator. I would have preferred that we had handled this tax cut legislation outside of the reconciliation straightjacket. I would have preferred that we had done more to address the immediate needs of the people affected by the hurricanes that ravaged the gulf States. I would have preferred that we had done more to address active financing, the provision that we have to help our companies be competitive with companies overseas. And I would have preferred that the committee would have paid for the tax cut in this bill. It is not appropriate by any stretch of the imagination that we add to the deficit rather than not adding to the deficit.

But I know that the chairman and the majority leader would have preferred that the votes had added up a little differently in other ways. That would have been their preference. I gave my preference. They, their preference. Neither of us prevailed.

There are many good things in this mark. Extension of the R&D credit is crucial for American businesses to remain competitive. The devastated Gulf States desperately need the help to rebuild that is in the mark. And I appreciate the work that was done to extend the tax provisions that we all know need to be extended. This is the business of the Finance Committee, to make sure that these extensions are extended so there is no cutoff date which causes a lot of problems for people trying to plan, trying to determine what the future is. That is also the business of the Senate.

The bill before the Senate today thus advances what we have in common. It avoids a massive quarrel.

Later, we will need to resist the fiscally irresponsible road down which the House of Representative seems headed. If the conference reports comes back to the Senate with capital gains and dividends it is, we will be back to a different bill. And will be back to the knock-down, drag-out fight we have thus far avoided.

I am pleased that we have a bill before us without capital gains and divided tax cuts it in. I am pleased that we received ''Yes'' for an answer. ''Proverbs'' is something I think we should listen to from time to time. And as a result, I look forward to fewer quarrels on this bill over the balance of the week.

I yield the floor and suggest the absence of a quorum. I will ask the quorum call be equally charged to both sides.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRASSLEY. 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. GRASSLEY. Mr. President, I want to tell my fellow Senators why they should support this legislation, and most importantly thank Democrats for being so patient while Republicans were figuring out a compromise that we could get a majority of Republicans and all members of the committee behind. I thank Republicans for helping us work something out that we could get done. I have enjoyed the cooperation of Senator BAUCUS. Even though we haven't agreed on the details of this specific piece of legislation—I think you heard Senator BAUCUS speak about the bill that just passed the Senate, the pension bill—there was full cooperation not only between Republicans and Democrats but between two different committees that had jurisdiction over it. There will be differences between Republicans and Democrats on this bill.

I compliment my colleague, Senator BAUCUS, for helping us move things along and being so patient in the process.

This afternoon we begin consideration of an important tax relief measure. The bill before the committee today does three important things. First, it acts on our commitment to provide rebuilding assistance to areas of the country devastated by this year's relentless hurricane season. Second, it provides tax relief for American families by ensuring that there is no interruption in tax provisions that are expiring this year. And third, it provides incentives for increased charitable giving while prohibiting transactions that misuse or abuse charitable organizations and their assets.

An important part of this bill is delivery on a commitment we made to residents of the gulf region, as well as more recently impacted areas of Texas and Florida, to provide much-needed relief and resources for economic rebuilding to those areas.

I want to thank the members of the delegations from States that were devastated by Katrina, Rita, and Wilma during this hurricane season. Specifically, I would like to thank Senator LOTT, a senior member of our Finance Committee. I would also like to thank Senators COCHRAN, LANDRIEU, VITTER, SHELBY, MARTINEZ, and BILL NELSON for their input.

I know some are disappointed we could not do more, especially with respect to Rita and Wilma. But, with the revenue available, we could not answer every need.

As promised, we have made our best effort to marry up our compassion for displaced persons and damaged communities with attention to fiscal discipline and the best use of taxpayer dollars. This hurricane relief package represents an effort to most efficiently and effectively use resources under the Finance Committee's jurisdiction to assist in the rebuilding and revitalization of those regions. I will reiterate the guiding principles of our hurricane relief legislation.

First, because market forces will be the driver in getting these regions back on their feet, our bill includes only provisions that encourage and incentivize redevelopment.

Second, our package provides resources only to those who incurred uninsured losses and does not provide for a bailout of those who assumed risk as an insurer in our capitalist, free-market system.

Third, we have focused our limited Federal resources on those most in need—like the many devastated small business employers who were the backbones of these economies and who will be the engines of their future growth and prosperity. And, finally, the bill provides front-loaded incentives on a timely basis to encourage people and businesses to return to the region as quickly as possible.

This bill also extends popular tax relief ranging from tax deductions for families sending kids to college to relief from the expanding reach of the alternative minimum tax. If we let these provisions lapse, we are raising taxes on a significant number of taxpayers.

I would like to talk briefly about some of the important initiatives in our bill. The largest provision in the bill—about $30 billion of tax relief—amounts to half of the net tax package and is designed to keep people out of

the Alternative Minimum Tax. This piece of the package affects 14 million American families in every State in this Nation. The AMT is terrible and should be repealed. Until such time, we owe it to American taxpayers to ensure that they are not hit by this stealth tax.

I have a chart here dealing with the AMT. It shows, by magnitude, the number of taxpayers, mostly families with kids, who would benefit from the so-called AMT ''hold-harmless'' in this bill.

Now, everyone should know this information comes from the IRS Statistic of Income. This is the latest available government data on State-by-State effects from tax relief proposals in the 2001 and 2003 legislation. With respect to the AMT, the number for 2006 will roughly double what is shown on this chart. So, any Member who looks at his or her State, should understand the number of families affected will double next year.

There will be critics. You are familiar with them. We all know who they are. They will appear with their charts and their over-the-top rhetoric. They will appear here today and they will claim that our hold-harmless isn't good enough. These critics are very good at criticizing. Let me assure everyone that I don't just want the hold-harmless. I want to reform or eliminate the AMT. I challenge the critics in advance, just as I did in the Spring debates on the budget resolution, to propose an AMT reform plan. Don't just whine about it. Join me in fixing it. I look forward to the critics' plan to fix the AMT.

This bill also includes popular and broadly-applicable tax benefits. I will talk about them individually and use charts as I move along.

Let's take a look at the deductibility of college tuition. This is a benefit for families who send their kids to college. By definition, this benefit goes to middle-income families. A lot of these folks aren't low-income, so their kids don't qualify for Pell grants. But they are not high-income either. They get the full benefit of the deduction if they make up to $65,000 as a single person or $130,000 as a couple. Beyond those levels, the benefit phases out. A lot of these folks are paying significant Federal, State and local taxes and they get no help in defraying the high cost of their kids' college education.

This tax deduction provides help to these hard-pressed middle-income families with a benefit and furthers an important national goal of support for higher education. This deduction runs out at the end of this year. These families will face a tax increase if we don't act on this bill. This chart shows the number of families on a State-by-State basis that benefit from the deduction.

Another benefit addressed in this bill is the small savers' credit. Here, I am talking about a tax credit for low-income folks that save through an IRA or pension plan. We all think savings is important. We all want low-income folks to save for retirement. This chart shows the number of low-income savers who benefit in this bill on a State-by-State basis.

The bill also extends a tax deduction for teachers who buy their own supplies for their students. This provision, developed by Senators WARNER and COLLINS, makes whole teachers who go the extra mile by paying out-of-pocket expenses. Who could argue with that? I'm going to point to a chart that shows on a State-by-State basis the number of teachers taking this deduction.

This bill also extends small business expensing. Many small businesses use this benefit to buy equipment on an efficient after-tax basis. It is good for small business. It is good for small business workers. It is good for economic growth.

My final chart deals with the State and local sales tax deduction.

For the States of Alaska, Florida, Nevada, New Hampshire, South Dakota, Tennessee, Texas, Washington, and Wyoming, this bill helps 12.3 million taxpayers in your States. Tennessee is the home of my friend, the majority leader. He has worked hard to get this bill to the floor. Nevada is the home of my friend, the Democratic leader. Unfortunately, the Democratic leader has fought this bill tooth and nail. Hopefully, he will see the light now that we are on the floor. I hope he will work with me to guarantee that folks in his State will be able to deduct their sales taxes next year.

These provisions are bipartisan and millions of American taxpayers rely on them. Every Senator ought to help us pass this bill for these provisions alone.

The bill addresses expiring business and individual provisions known as the ''extenders.'' These provisions include the research and development tax credit and the work opportunity tax credit.

This bill also includes many of the charitable incentives introduced in the CARE Act and which have previously passed the Finance Committee and the Senate. I appreciate the work of Senators SANTORUM and BAUCUS in working with me to balance these incentives with several of the much needed reforms that are supported by the charitable sector, the Treasury Department, I.R.S. and donors and taxpayers overall.

Last, but not least, this bill contains loophole closers and tax shelter fighting provisions that raise revenue.

This bill is bipartisan. I thank my friend and ranking member, Senator BAUCUS, for his cooperation. He and I were not partners on this bill at the beginning and through a large part of the process, but we teamed up yesterday in the Finance Committee. As always, his cooperation and good humor make a big difference.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from Montana.

Mr. BAUCUS. Mr. President, I suggest the absence of a quorum and ask unanimous consent it be charged to both sides.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. Who yields time to the Senator from North Dakota?

Mr. BAUCUS. Mr. President, I yield to the Senator from North Dakota for purposes of offering an amendment.

The PRESIDING OFFICER. The Senator is recognized.

Mr. DORGAN. Mr. President, I was not aware that time had to be yielded for the purpose of offering an amendment. I appreciate that, but the Presiding Officer was asking ''who yields time.'' My understanding is a Senator can seek recognition and, therefore, offer an amendment on his own volition.

The PRESIDING OFFICER. The Senator is correct. The Chair was not aware that the Senator from North Dakota was going to offer an amendment, but thought we were in general debate.

AMENDMENT NO. 2587

(Purpose: To amend the Internal Revenue Code of 1986 to impose a temporary windfall profit tax on crude oil and to rebate the tax collected back to the American consumer, and for other purposes)

Mr. DORGAN. Mr. President, I offer an amendment on behalf of myself, Senator DODD, Senator BOXER, Senator REED of Rhode Island, and Senator LIEBERMAN. I send the amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from North Dakota [Mr. DORGAN], for himself, Mr. DODD, Mrs. BOXER, Mr. REED, and Mr. LIEBERMAN, proposes an amendment numbered 2587.

Mr. DORGAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The amendment is printed in today's RECORD under ''Text of Amendments.'')

Mr. DORGAN. Mr. President, this is not a new subject. It is one myself, Senator DODD, and others have spoken about on the floor, as a matter of fact, in recent days and weeks.

Let me describe briefly that it is, in fact, an amendment that is identical to the legislation we have offered that would create a windfall profits tax on profits of the major integrated oil companies, profits above $40 a barrel for oil, the purpose of which would be to collect that money and rebate it in its

entirety to consumers. Or in the alternative, if the major integrated oil companies are using that money to invest into the ground or to build refineries above ground to expand the supply of energy and, thereby, bring down the price, they would be completely exempt from the windfall profits tax.

If they are using their profits above $40 a barrel for the purpose of buying back stock, ''drilling for oil on Wall Street,'' as I will describe in a few minutes, or for other purpose that will not expand the supply of oil or the supply of energy, then they would be paying a windfall profits tax on profits above $40 a barrel at the rate of 50 percent—a 50-percent excise tax—all of which would come into the Federal Government, all of which would be rebated by check to individuals in this country in order to help pay for the higher cost of energy that individuals are now facing.

This is very simple. This is not a complex amendment. We are not trying to recalculate income or do things that are particularly difficult. The proposition is simply this: Last year, the major integrated oil companies in this country earned the highest profits in their history. The average price for a barrel of oil was $40 a barrel, and at that price the major integrated oil companies had the highest profits in their history.

Now the price is dramatically above that. It has bounced around from $50 to $60 to $70 a barrel, well above the $40 a barrel, and the profits by the major integrated oil companies—and that is all our amendment deals with, the major integrated oil companies—the profits have been extraordinary.

The third quarter profits: $9.9 billion for ExxonMobil. I have a list of a number of them I can show. But the third quarter profits are very substantial—the highest in the history of corporate America. So you have all of this gain by the major integrated oil companies, and then all of the pain on the other side. The major integrated oil companies have all of the gain. Who has all the pain? All the American people who are trying to pay for the price of a tankful of gas or trying to figure out how they are going to heat their home in the winter or trying to figure out, if they are a farmer, how on Earth they can order that next load of fuel so they will be able to go into the field in the spring. How do they pay for all that? That is where all the pain is. You have all the gain on one side, and all the pain on the other side.

Now, we are told this is just a free market. In fact, I had kind of a minilecture about that from the president of Exxon, the CEO of Exxon. He came to the Commerce-Energy Committee hearing we had, the joint hearing, and he kind of gave me a short little minilecture about the marketplace: This is the marketplace. Interestingly, he did not say: The free market. He said: The world market.

Well, let's think about this for a moment: the world market. For ExxonMobil, $9.9 billion in profits they made just in the last quarter. The world market, he says. Well, let me tell you about the world market. The world market, first, is the OPEC ministers sitting around a table someplace in a closed room talking about production and, therefore, the impact on price. Second, it is the major integrated oil companies that are larger by far than they have ever been because of blockbuster mergers. They all have two names now. It used to be Exxon and Mobil. Now it is ExxonMobil. It used to Chevron and Texaco. Now it is ChevronTexaco. We didn't know they were dating, and they got married. Now, pretty soon, it is going to be ''ChevronTexacoShellExxonMobil.'' It will be all one name. They don't seem to drop any names; they just get bigger and bigger.

So the second part—after the OPEC ministers talk about production and price—is these folks, the major integrated oil companies, that are bigger because of blockbuster mergers and have more raw muscle in the marketplace than they have ever had before.

Third, and finally, we have what are called futures markets. The futures markets are supposed to provide liquidity for trading. Instead, it has become a speculative bazaar, a grand bazaar of speculation. And that then gives us what is called the world price—not a free market price. This has no relationship to either freedom or the marketplace. This is not a free market. What we have is all of this gain and all of the pain on the part of the consumers.

Let me describe a little about what is happening here. Last year, we had the highest profits in our history for the major integrated oil companies. BusinessWeek wrote an article. BusinessWeek is not some liberal rag someplace. We are not talking about some progressive magazine. BusinessWeek is a solid, conservative business magazine. Here is what they say: Why isn't big oil drilling more? Rather than developing new fields of oil, giants have preferred to buy rivals, drilling for oil on Wall Street.

All right. They were talking about last year. Last year, ExxonMobil made $25 billion in net income. They spent almost $10 billion to buy back their stock. Does anybody think that expands the supply of oil? No. No. No. That is an approach that certainly makes the stock options of the CEOs much more valuable. It enhances and enriches the corporation. It does nothing at all with respect to expanding America's energy supply and thereby bringing down prices.

So BusinessWeek says: Why are they drilling for oil on Wall Street? Oil has been over $20 a barrel since mid-1999. That should have been ample incentive for companies to open new fields since projects are designed to be profitable with prices as low as the mid-teens. Nevertheless, drilling has lagged. Far from raising money to pursue opportunities, oil companies are paying down debt, buying back shares, and hoarding cash.

That, from BusinessWeek. Question: If this was the case at $40 a barrel, and oil goes to $60, $65, and $70 a barrel, and consumers bear all of this pain—an increased pain from high prices that in many cases they cannot afford—for a product they must have to drive to work, to heat their homes, to prepare for spring planting, is that fair?

The answer clearly is no.

Will somebody do something about it? Will somebody stand up and say it is time to do something about it? I hope the answer to that is yes.

Just a few headlines. This is from last month: High energy prices lift profits of ConocoPhillips by 89 percent. Its third-quarter profits almost doubled, the first big American company to report earnings for the third quarter. Net income jumped 89 percent.

ExxonMobil, from October 27: $9.9 billion in one quarter, up 75 percent.

From earlier this year: Big Oil's Burden of Too Much Cash. The world's ten biggest oil companies earned more than $100 billion in the year 2004, a windfall greater than the economic output of Malaysia. Their sales are expected to exceed $1 trillion for the year 2004, more than Canada's gross domestic product.

It goes on to say: ExxonMobil, the world's largest publicly traded company, earned more than $25 billion last year and spent $9.95 billion to buy back its own stock.

I mentioned that earlier, but that, in fact, is the case. At the hearing with the major CEOs of the big oil companies, I asked that question of the CEO of ExxonMobil. These were people that run ExxonMobil gas stations in the Washington, DC-Virginia-Maryland region. September 9, this is titled, ''Finger Pointing Begins As Gas Prices Jump 24 Cents in 24 Hours; Exxon Dealers Say They Are Chafing Under Higher Prices Decreed From Atop; Station Owners Accuse Big Oil Company of Profiting From Impact of Hurricane Katrina.''

That is very important to point out. Hurricane Katrina hurt these oil companies. Oil was well over $60 a barrel before the first hurricane started circulating in the gulf. That is not what got us $60-plus-per-barrel oil. You have gasoline station dealers saying that Exxon was the one that said, through wholesale prices, you must charge 24 cents more in a 24-hour period. They said: What is going on here?

So I asked Mr. Raymond. Well, he wasn't sure that happened. I said: This was a public charge about your company. Didn't you investigate it?

No. We didn't. We might have. I don't know. He wasn't sure.

Let me back up a step to talk about the slightly larger picture and then come back to this question of fairness. We have a serious problem with energy, there is no question about it. This old planet of ours hosts the U.S. citizens in this little part of the planet. There are

about 6.4 billion people who live on this planet as we spin around the Sun. We have a prodigious demand, a huge demand for oil in this little spot called the United States. We suck up—when I say ''we,'' the royal ''we''—everybody sucks up about 84 million barrels of oil every day from this earth. Eighty-four million barrels a day are produced from underneath this earth. We also use 84 million barrels a day on this planet. It turns out that 21 million of that 84 is used right here in this country. This country uses one-fourth of all of the oil that is pulled out of the ground.

Is that going to change? Sure. China now has 20 million cars on the road. By the year 2020, 15 years from now, it will have 120 million cars. Add 100 million cars to the mix and the demand to run something through those carburetors or fuel injectors, probably gasoline, ask yourself, in a planet where you are pulling up 84 million barrels a day and this country is using 21 million, one-fourth of it, and we have a demand that now comes from other countries saying, We want some of that, and by the way, we want to have more vehicles on the road—China, as an example—where does the additional oil come from? We have serious issues and significant long-term problems that we have to deal with.

I have my own feelings about that. I largely helped write the hydrogen fuel cell title in the Energy bill. I have ideas about what we need to do. We need to grow energy in our fields with renewable fuels, ethanol, biodiesel. There are so many other things we need to do, including encourage the transition of hybrid cars as we move toward a hydrogen fuel cell future. All of those things I will discuss at greater length at some other time. But at the moment, we live now. We can talk about the longer run. John Kenneth Galbraith used to say, in the long run, we are all dead. But we go into this winter, as consumers in this country, confronting a fuel bill that has dramatically increased over last year, and then reading in the newspaper in the morning, wearing a sweater in a home that you have to keep a couple of degrees cooler in order to afford to heat your home, that ExxonMobil has a 75-percent or 89-percent profit or all the majors are showing massive profit increases. So while they sit there fat and happy, racking up the profits, everybody else is trying to figure out how they pay the price. How do you scrape up the money to heat the home, to fill the car, to fill the tanks so that your tractor and farm equipment is ready in the spring?

People say: Well, if that is a problem for you, that is tough luck. There are a couple of economists writing in recent days—I won't name them—who can tell us everything about the future but can't remember their home phone number. You know the type. They are telling us what will happen here is if people can't afford to pay the cost of energy, it will force them to conserve more. Easy to say for one of these economists who drive around town in their Volvo or Mercedes cogitating about the future. What about the people who have to use a car to drive to work, have to fill the tank with gas but don't have the money to do so, or the people who understand they live in the northern part of this country where we have tough winters and they have to pay the heating bill and it costs a lot of money and they don't have it? What about that?

Senator DODD and I have offered a proposal. It is widely reviled by the major oil companies. I understand that. For them, it is the hog rule: Give us what we want, we want everything, and what you don't get doesn't matter to us. After all, energy is not something that is like every other commodity.

I did an interview with a radio person the other day, and he said: If you are going to have a windfall profits tax with respect to oil profits above $40, what about a windfall profits tax on the shares of Google? I said: Do you drive up to your gas station and say, Fill it up with Google? Gasoline is different. Gassing up your car, providing natural gas or home heating fuel for your home is different. It is a necessity. Everybody needs to do it. It is part of what we are as Americans. It is the way we live. In the long term, we have to make some changes, maybe so. But in the short term, we live now at a time when the major oil companies are exhibiting the highest profits in their history, and everybody else is trying to figure out how on earth to pay the bills.

Senator DODD and I put together the simplest possible plan. We have said: If oil continues at this level, understanding that last year, at $40 a barrel, they had the highest profits in their history for the major integrated companies, we say, for the major integrated oil companies, if the price of oil is over $40 a barrel, we believe that is a windfall profit having nothing to do with fairness or the free market. If the oil companies, however, use that extra money to sink back into the ground for exploration and drilling or to build refineries above ground, to do the things that would expand the supply of energy and thereby reduce energy prices, our proposal will not impact them at all. They will not be taxed. We still don't like the prices, but it won't affect them. They are doing the right thing to expand the supply of energy, which will ultimately bring down the price of energy. But if they do not do that—and they are not; they are buying back their stock, hoarding cash, drilling for oil on Wall Street; they are not doing the right thing—then they would be subject to a 50-percent excise tax on those windfall profits above $40.

Senator DODD and I, unlike others, would not suggest we bring that money into the Federal Government and let it rest here. We suggest that money be brought here and sent out immediately in its entirety as a rebate to the consumers of this country who are paying the bills. They are the ones who are hurt. They are the ones from whom these profits came. They are the ones entitled to have the rebate, if the oil companies are not going to use those profits to expand the supply of our country's energy and oil.

This is a hard proposal to misunderstand. Let me just say, there are many who have deliberately done so. Yesterday, a study came across my desk that appeared to have been paid for by an entity called Investors-Shareholders Alliance. Actually, I Googled them on my computer to find out who on Earth this is. But they have been able not to leave traces, even with a Google search. But I don't need to know who they are without understanding who funded that study. That study purported to evaluate a windfall profits tax by number, which was our bill, and the two authors of the study had not bothered to read it, misdescribed it, and analyzed it in a way that was dishonest.

So the press people called me and asked for my reaction. I said: It is a complete joke, perhaps a Ph.D. joke. These people have really big degrees and tiny glasses and think they are pretty smart. It is just that they forgot to read our legislation because they evaluated something else and attached our number to it. I am assuming that was paid for by the big oil companies. God bless them. They have plenty of money. They will have lots of money to defend themselves against this proposal that we offer today.

I wish no ill will toward the oil companies. I don't. That is not the purpose of this. We produce oil in my State, and I have done plenty of things to be supportive of those who really want to expand America's energy supply and drill for oil. But when I see $65-a-barrel oil and I see people who can't afford to pay the price struggling to figure out how to live day to day, putting gas in the car and heating homes, and then I see record profits announced every single day in the newspapers, I say something is wrong, something is disconnected. It seems to me it falls on the shoulders of this Congress to stand up and do something about it.

On this vote, the question is, Who do you stand with and who do you stand for? We have separate interests, the interests of the largest oil companies who would like even higher profits. When one person said to me, Well, why is it a windfall at $65 a barrel, I said, Let me ask you a question. What if it were $165 a barrel? Would you think that was too much, or doesn't that matter to you?

At $40 a barrel, I would say, finally, last year the major integrated oil companies, larger by far than they have ever been because of blockbuster mergers, made the highest profits in their history. Now they have dramatically expanded those profits at the expense

of American consumers. I believe it is unfair. Our amendment would at least begin down the road to try to do something about it. I am pleased to have offered the amendment with my colleague from Connecticut, Senator DODD.

I yield the floor so he may amplify on my comments.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, I commend my colleague from North Dakota who has more than adequately and eloquently described this simple proposal that has some significant implications but, nonetheless, one that is clear and straightforward. Let me repeat what my colleague from North Dakota has stated.

First and foremost, these are not two Senators who believe that oil companies ought not to be able to earn a profit. In fact, our economy depends entirely on the capitalistic system, the profit motive. But all of us have learned historically that there are times when, in the absence of some restraint, the profit motive can cause such disruption, such a misalignment in economic circumstances, that it is imperative that those in positions of responsibility try to step in to do something about it. That is clearly what we are trying to do here. The underlying purpose of this amendment is to provide some relief to consumers.

The New York Times reported the other day that one business has been paying roughly $700,000 for its energy needs. The company anticipated its energy costs this year will be $1.4 million, virtually doubling the cost of its energy needs in a brief period of time.

We know, as a result of these rising costs, what consumers are likely to pay for home heating oil. And while we have seen some abatement in the cost of the price of gasoline, clearly the prices are still very high. We believe these individuals deserve a break.

We talk about tax breaks for people who need them. Clearly, the people who will be paying these costs deserve to have some relief. But we quickly point out that this is a choice the industry can make because what the Senator from North Dakota has said is: If, in fact, you do what you ought to be doing, and that is to plow these profits back into energy creation, energy production, development of resources, there won't be an excess profits tax. That is an option that the industry can have at this juncture and one we would hope they would be engaging in. It was stunning to find out that they are taking virtually half of their profits and just buying back their own stock rather than investing in the expanded development of energy resources.

So at the outset, I want to be very clear. We do not begrudge any company, even an oil company, making a profit and a good profit. It is the engine that keeps our economy moving forward. But as we have said, there is a huge difference between profits and profiteering, and it is profiteering, in our view, that is occurring here.

In the opinion of many, the big oil companies have been engaged in just that, in profiteering. The concept of profiteering is not a new one, and this would not be the first time that the Congress of the United States has acted as a watchdog against such profiteering.

One of the most high profile cases was during World War II when Harry Truman, then a Member of this body, chaired an investigation into the profiteering that was going on among wartime businesses. The concept of profiteering is also not new to this particular industry which operates in a market dominated by the OPEC cartel and a few large corporate conglomerates.

Over the past several years, we have seen a steady and steep increase in the price of oil. In the year 2000, when the Northeast Heating Oil Reserve was established because of concerns that I and others had about heating oil supply and price, crude oil was trading at $30 per barrel. Today, just five years later, the price of crude oil has more than doubled. Refining capacity is near 100 percent, yet over the past 25 years, 176 refineries have closed in the United States. And last month, the five largest oil companies recorded record third-quarter profits.

So here we are. Refining capacity is nearly 100 percent, and 176 refineries in the last 25 years have closed their doors.

ExxonMobil, as this graph here points out, had profits in one quarter, 3 months, of $9.92 billion. Imagine the work that went on in the accounting department to make sure it wasn't $10 billion—we will squeeze it down to $9.92 billion, the largest quarterly profit ever reaped by an American corporation in the history of our Nation. In order to make that profit, ExxonMobil took in a record $100.7 billion in revenue in just those 3 months. To put those numbers in perspective, it is larger than the annual gross domestic product of the United Arab Emirates, a large oil-producing nation. Shell Oil earned third-quarter profits of just over $9 billion. BP earned profits of $6.53 billion, and ChevronTexaco earned $3.6 billion. ConocoPhillips earned profits of $3.8 billion. That is all in 3 months. That is a total of $32.8 billion in profits in 12 weeks.

Mr. President, we all recognize that the gulf coast hurricanes temporarily shook the oil industry as it did other industries, interrupting refining and distribution systems across the country, and it may be some time before all operations are back to normal. We recognize that. But that does not explain the steadily rising oil and gasoline prices that consumers and businesses experienced in the months before the hurricanes. Long before any wind and rain hit the gulf coast, these prices were skyrocketing.

There is evidence that the oil industry deliberately restricted supply to boost profits.

Let me explain using their own language in their own reports, by the way. One major oil company in their 2004 annual report says the following:

> We achieved the highest net income in our history, 18.2 billion. This was 48 percent higher than in 2003 as a result of higher oil and gas prices.

The report goes on to say that these higher profits occurred at the same time that the company produced 3 percent less oil than the year before. They produced less and had almost a 50-percent jump in profits. Mr. President, that is not a coincidence, in my view. It was a deliberate move to raise prices by restricting supply.

It was not long ago that Enron traders were caught on tape colluding to manipulate energy prices during the California energy crisis of 2001. One trader was reported telling the operator of a power plant:

> We want you guys to get a little more creative and come up with a reason to [shut the plant] down.

Mr. President, we don't have anything on tape here from these oil company CEOs, but clearly when you look at some of the reports, they brag about 50 percent profits and yet also point to a 3-percent drop in production.

So given the circumstance of fewer refineries operating at or near capacity, coupled with the increased demand for oil and gas, all we are asking is that these industries reinvest their profits to find alternative sources and types of energy.

In the Energy bill that passed only a few weeks ago, we provide massive tax breaks for the energy industry, and yet even with that they don't want to go out and invest in energy resources to boost energy supply. Instead, profits are used to buy back stock or engage in these mega mergers.

My colleague is right to point out; just look at the names. There used to be a Conoco; there used to be a Phillips. Now it is ConocoPhillips. There used to be a Chevron; there used to be a Texaco. Now it is ChevronTexaco. There used to be an Exxon; there used to be a Mobil. Now it is ExxonMobil. I was born at night but not last night, Mr. President. I know what is going on. You don't have to be an economist or have a Ph.D. in economics to figure out what is going on here.

The simple question is, Do we let this happen and just twiddle our thumbs or do we try to do something about it? And we have offered a simple alternative. The alternative is to provide the rebate and give the people who are paying these increased prices a break.

Let me also be clear that the windfall profits rebate is nothing like the one imposed in 1980. First and foremost, the money would be rebated to consumers. The 1980 windfall profits tax was passed to ensure that the oil industry paid its fair share of taxes to the

Federal Government. We are not suggesting that here at all. Just as important, this amendment would apply only to large integrated oil companies, not the independent producers and refiners. They are exempt under the Dorgan-Dodd proposal. The structure of the tax is different as well. In 1980, the tax was imposed on the difference between the market price of oil and the statutory 1979 base price, adjusted quarterly. Our amendment proposes a 50-percent profits tax only on the profit over $40 per barrel. As my colleague from North Dakota has already eloquently pointed out, that number was not chosen arbitrarily.

At that level, record profits were earned by the industry. Yet that price today is substantially more than $40 per barrel. In 1980, the tax included nearly every barrel of oil produced, and thus domestic production suffered. If oil companies do the right thing to increase supply, then there will be no windfall profits tax incurred. I don't know how else to get their attention. Jawboning doesn't seem to work. So why don't we join in a bipartisan way and say to the oil companies—invest in the energy needs of our Nation and, if not, provide some relief to the people out there who are paying these tremendously increased prices.

If domestic production stays relatively constant at 5.2 million barrels a day and oil continues to sell at nearly $65 a barrel, then the windfall profits tax will be approximately $65 million a day.

This is money that constituents of ours across the country could use to offset the record price increases expected for home heating oil this winter or to combat the rising costs of goods and services that are transported on trucks and rails.

I pointed out one business that the New York Times identified the other day as expecting their energy costs to double from $700,000 to a $1.4 million. Obviously, they are going to pass it on as a cost of production. The consumers will pay the additional cost.

I noticed—I see my good friend from Utah—last night the snow was beginning to fall in the home State of my spouse and the State the distinguished Senator represents. This is not just a New England issue. It is going to happen across the country where many expect record cold temperatures this winter. This is not a situation where consumers have a choice. You don't have a choice to stay warm or not warm, to provide for your family or not provide for your family. These people who travel to work every day don't have a choice whether to get into an automobile. They don't have mass-transit systems. There is no other choice but to put gasoline in that car and go to work. Those companies have no choice other than to shut down or swallow the cost and pass it on to their customers.

It is clear that rising energy costs are a drag on the economy, for individuals, for families, businesses, or farmers, and while gasoline prices are coming down all across the Nation to some degree, they are still on average 32 cents per gallon higher than they were just a year ago. And as the winter weather begins to bear down on us, consumers are bracing for higher heating costs. The prices in my State and across the northern tier States are going to go up.

This windfall profits rebate is a solution for working families across our Nation. It is more than the administration or many of our colleagues have proposed. Every time we try to ease the financial burden on individuals and families, we are met with opposition. We have not been able to raise the minimum wage in 9 years. We can't increase the funding for low-income home energy assistance at all. We have been unable to realistically address fuel efficiency. Senator JACK REED of Rhode Island has offered the home heating assistance amendment. Senator KERRY of Massachusetts has also offered it. In the past, we have had joint efforts by Republicans and Democrats on the LIHEAP program. That has all been turned down. Why not do this? If you don't want to have the general revenues pay for increased help, why not ask that these additional huge profits that are being made go back and provide some relief to people?

The administration has been asleep at the wheel for the last several years and was adamantly opposed to embracing conservation measures. In fact, in 2001, Vice President CHENEY said:

> Conservation may be a sign of personal virtue but it is not a sufficient basis all by itself for sound, comprehensive energy policy.

So you can imagine my surprise when the administration trotted out a conservation program, headed by the ''Energy Hog,'' as they call him. I applaud their late arrival to the benefits of conservation, but I am very disappointed that they have done nothing to stem the rising cost of fuel in our Nation. They brought the oil companies in when they were originally crafting their energy policy, but they have been unwilling to jawbone either OPEC or the large oil companies when individuals, families, and businesses are suffering.

This is an amendment that will have tangible benefits to consumers without undermining the oil industry. It gives the oil companies a choice. I hope our colleagues here on both sides of the aisle would embrace the Dorgan-Dodd amendment. I urge its adoption.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. HATCH. Mr. President, I came over to make some remarks in morning business until I heard the remarks of my colleagues on the other side. I have to say that the windfall profits tax that we enacted a number of years ago, I voted against it. It did not work. It was a disaster. I think this would be an equal disaster. A lot of these folks on the other side are the people who today own a lot of drilling offshore where we know billions of gallons of oil are, who have fought against ANWR where they have estimated at least 6 to 8 billion barrels of oil lie ready to be recovered from a plot of ground as small as 2,000 acres—equal to the Dulles airport acreage.

And you could go on and on about how they have made it almost impossible to drill, to build refineries, to do the things that have to be done to bring oil and gas prices down—almost every argument that has come from the other side. And now we are here trying to tax the companies that now are making very good profits, the very companies that are considering how can they find more oil and gas, how can they drill offshore, how can they drill up in Alaska where there is a lot of oil and gas, and how can we duplicate what they have done up there in Canada with their tar sands. Canada has not been stupid about recovery, and it has cost billions of dollars of investment by oil companies to do what they are doing.

Today Canada is producing a million barrels of oil a day, and before too long that number will grow to 3.5 million barrels a day, mostly from their tar sands. I might add that they now have the second largest oil reserves in the world today, second only to Saudi Arabia, and that is 1 million barrels a day from the tar sands and approximately 1 million barrels from other energy sources. We have just as big of a resource in the U.S., but our companies can not get access to it. It's becoming too difficult to get the necessary permits which are often completely bottled up by the environmentalists, even in areas where drilling would be environmentally safe.

I think the height of stupidity was locking up the Saudi Arabia of coal, which happens to be in Utah, by creating the Grand Staircase-Escalante Monument. President Clinton closed up 60 miles south of Utah, an area larger than the Grand Canyon, without having talked or consulted with one political official in all of Utah—not the Governor, not Members of the Senate or House of Representatives, not even Democrats in Utah. That coal is high-moisture, low-sulfur content, environmentally sound coal, which, if blended with the less clean coal of the east and the central part of our country would save billions of tons of particulates in the air. The arguments for closing off that huge source of clean energy are very similar to the arguments being made today by my two illustrious colleagues, for whom I care a great deal.

It is wonderful for some to get out here and beat up on the big old oil companies. It was just yesterday when I was chatting with one of the largest oil companies, and more than anything, they want to invest in new development and take advantage of incentives we put into the Energy bill. They want to develop the tar sands and oil shale

in our country, we are 15 to 20 years behind Canada on this, so that we can lower the price of oil and gas in this country, so that our good friends in the eastern and northeastern part of this country do not have to pay the high prices they are paying. These oil companies are often not able, even when they make these profits, to drill because they cannot get permits and, in some areas, cannot even drill where we know there are billions of barrels of oil that would lower the price of oil and gas.

That is why I have found this a little hard to take, as I have been sitting here—I didn't plan on talking on this issue. But I am one of those who put into the Energy bill incentives to develop our tar sands and oil shale, our geothermal, our natural gas, and to develop more refineries because over the last 35 years, we have lost 200 refineries and only built 1. Why? Because it is so doggone hard to get approvals to build refineries in this country.

We can't even produce the amount of refined petroleum we need for our automobiles on the road now. Why? Because we have gone so far to the left wing extreme that we cannot develop our own resources, even in an environmentally sound way.

Also, in that bill I put in the CLEAR Act, which provides incentives for alternative fuel vehicles, alternative fuels, alternative fuel stations, alternative fuel cells. Given some time and some investments, I believe we can solve an awful lot of the pollution problems in our country the right way, through incentives, not by punishing the very companies that make our country work. We need to give incentives and government cooperation so companies can get permits to develop more oil and gas, so that we could bring down the price of oil and gas. But every time they want to do that, every time one of these companies wants to do something like that, guess who is throwing up every roadblock they possibly can and all in the interest of politics, in my opinion, which I think is the sum and total of most of the remarks made today on the floor by my two friends and colleagues—and they are friends—on the other side.

Mr. DORGAN. Mr. President, will the Senator from Utah yield for a question?

Mr. HATCH. I listened to the Senator from North Dakota, and I will be happy to take a question. I didn't come here to talk about this, but I got a little bit upset listening to what I consider to be political talk, which we have all too much of on this floor.

Everyday we have people coming around here giving these populous talks about how we have to bring oil and gas prices down, and yet they make it almost impossible to do it. Come on, America, wake up. I am sick of it. I used to be in the oil business. I know how hard it is.

Let me tell you, in eastern Utah, western Colorado, and southern Wyoming, we have upwards estimated 3 trillion barrels of oil, 1 trillion or more of which they say is recoverable, at probably $30 or less per barrel. But developing that oil will take billions of dollars of investment and all kinds of bureaucratic anguish to get the permitting and other steps necessary to go in and do it. And we are 20 years behind Canada. They didn't allow this type of talk to stop them from developing their tar sands.

I talked to a company yesterday who said they may be willing to put a tremendous multibillion-dollar investment in there, and when industry is through, it will be over $100 billion, close to $120 billion invested. Mr. President, where do we think this money is going to come from? By the way, that 1 trillion barrels of oil in eastern Utah, southern Wyoming, and western Colorado is more recoverable oil than all the proven reserves in the Middle East. But it is going to cost more to come out because it is a different form of extraction. To do it costs billions, if not hundreds of billions of dollars of investment over the years. But it will save our country if we have the wisdom and the fortitude and the foresight to go and do it.

I might also add that we haven't built a refinery, as I have said, in 35 years—1 refinery and we have lost 200 of them. Why? Because it is so difficult to get anything done because of the so-called environmentalists, and I have to call some of them extreme environmentalists because true environmentalists should want us to get some of the things I put into the Energy bill.

I don't believe that oil companies should make excessive profits that they are unwilling to use for furthering their business interests either, but if they are given a chance to use them and go out and get more oil for us and more gas for us, they are going to do it. But every step of the way, they are stymied by the very people here who have been complaining.

I am personally tired of it. I feel sorry for the people in the Northeast. I feel sorry for the people in Utah. Our folks are paying more than I wish they had to pay for gas. I feel sorry for those over in Europe, where they have paid more than $4 a gallon for gasoline now for decades, some as high as $6 a gallon for gasoline because they were overrun by the same type of philosophical talk. And that is all it is, talk that we get on this floor.

I can tell you, the American people have to wake up. This populist talk is not what is going to get us oil and gas, nor is it going to bring prices down, nor are rebates going to help our people over the long run. What will help our people is to develop, in environmentally sound ways, resources that will help get us out of these difficulties.

As for that Saudi Arabia of coal I mentioned in the Kaiparowitz Plateau in southern Utah, we now have the capacity to take that high-moisture, low-sulfur content, environmentally sound coal, and develop clean-burn diesel and clean-burn jet fuel. We have that ability today, and it is locked up because of what I consider to be a political stunt that we are stuck with, for now. It wasn't on this side of the floor or this administration that caused that political stunt.

I think it is time to get rid of the populist talk and start talking reality. It is nice to come out and beat up the oil companies who are making great profits, but who would use those profits if they could to develop more of their products.

Mr. DORGAN. Mr. President, I wonder if the Senator from Utah will yield on that point.

Mr. HATCH. I will be happy to.

Mr. DORGAN. I say to the Senator from Utah, I have 20 minutes left, and I will use them after the Senator from Utah is completed. It may take all the 20 minutes to correct the errors of his presentation.

Mr. HATCH. I would be interested in the corrections because I don't believe you can find what I said to be false.

Mr. DORGAN. Almost all of it was wrong.

Mr. HATCH. No, it wasn't wrong. I lived in this industry. I understand it. If you have a question——

The PRESIDING OFFICER. Senators need to be reminded that they have to go through Presiding Officer.

Mr. DORGAN. I asked if he would yield for a question. I will ask one simple question.

Mr. HATCH. OK.

Mr. DORGAN. I wonder if the Senator from Utah has seen the chart I used on the floor that comes from BusinessWeek, not a progressive rag or a conservative business journal, that says this about the major oil companies which the Senator defended so aggressively at the moment:

> Rather than developing new fields, oil giants have preferred to buy rivals, drilling for oil on Wall Street. While that makes financial sense, it is no substitute for new oil.

They are the ones saying the oil companies are not using these profits to drill and build refineries. They are the ones saying it, not us.

Mr. HATCH. Do you have a question?

Mr. DORGAN. Yes. How do you justify what you said with what is in the BusinessWeek article, and virtually everyone else knows that they are buying back stock, hoarding cash, and drilling on Wall Street?

Mr. HATCH. First of all, BusinessWeek is not a conservative publication. Anything that is not liberal you consider conservative on that side. Secondly, the fact of the matter is, I have been making a pretty good case that it is pretty tough to get permits and get past the environmentalist roadblocks. It is in my State and every other State that has energy. Thirdly, I mentioned the coal that has been locked up because of the machinations of the Clinton administration, the last administration.

Fourthly, I don't think it is even plausible that the oil companies, if they can get permits fast enough to do it, would not invest in more production, since that is their business. Some of them are going to China, to Russia, and elsewhere to make these profits because they are forced to.

I think it is very unfair for my colleagues, as much as I admire you, it is very unfair to come on this floor and brand the oil companies as a bunch of antipatriotic companies.

Let me finish with my remarks, and I will yield the floor. I have been in this business. I know doggone well what it takes and how much it takes and how much it costs to develop oil and gas. I also know how difficult it is to get past the roadblocks environmentalists put up.

I get tired of the populist rhetoric on the other side of the aisle that never gives any consideration to how difficult it is to be in this business. I don't have any financial interest in oil. All I can say is that I have been there, I know what it is like. Of course, these companies are out to make money, and if they have a business plan to buy back their stock, good for them. There are a lot of companies that are buying back their stock so they can compete.

I feel strongly about this, which is why I fought for incentives in the Energy bill—and I fought hard to get them there—to develop the tar sands and oil shale, to develop geothermal, to develop refineries. We hear all this rhetoric about how these oil companies are making all this big money and not building refineries, tell me where they can build them; tell me where they don't have to spend billions of dollars to build a refinery or hundreds of millions to build a refinery, all because of what many people would argue are pseudo-environmental arguments and delays.

We have gone so far on that side that we made it almost impossible for us to develop our own natural resources for our own benefit.

I don't like any company that gouges, and if these companies are gouging, then let's do something about it. But let's not take away, as we commonly do around here, their ability to be able to go out and find oil, drill for oil and do what I think both of my colleagues sincerely want them to do, to go out and produce energy.

You talk to any oil company executive and talk about how difficult it is to get permits and to do what has to be done in this country, it is amazing.

I again point out—and it was not false—the fact that I chatted with one of the major oil companies recently that is going to go into the tar sands and oil shale at the tristate area, and their estimate is that it could cost industry as much as 120 billion bucks. That is a lot of money even for the oil companies. But, boy, would that save our country.

But it will never happen if we keep doing this type of stuff on the Senate floor. I think we have done it for so many years now that we are getting used to it and we ought to answer it.

Mr. President, I want to address another subject that I came here to address. I apologize to my colleagues if I offended them, but do not tell me that what I am saying is false. I know it is true. I for one am doggoned tired of this type of rhetoric.

I want to address the nomination of Judge Samuel Alito to be Associate Justice of the Supreme Court, and I would like this put in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

(Several Senators addressed the Chair.)

Mr. DORGAN. Mr. President, I object. We are on an amendment on the reconciliation bill.

Mr. HATCH. I have the floor, do I not?

Mr. DORGAN. I ask the Senator to make his unanimous consent request.

Mr. HATCH. I just got the unanimous consent.

The PRESIDING OFFICER. The Senator from Utah has been yielded time and may speak on any subject.

Mr. DORGAN. Did he not just ask for time in morning business?

Mr. HATCH. I will withdraw the morning business request, and I will put it in this RECORD.

The PRESIDING OFFICER. The understanding is that the statement would be placed in morning business, not under this debate but under morning business, and the time will be charged.

The Senator from Montana.

Mr. HATCH. Mr. President, who has the floor?

The PRESIDING OFFICER. The Senator from Utah has the floor.

Mr. BAUCUS. Parliamentary inquiry to the Chair.

The PRESIDING OFFICER. Will the Senator yield for an inquiry?

Mr. HATCH. Of course, I will.

Mr. BAUCUS. Mr. President, I would just like to know how much time has been yielded to the Senator from Utah, as well as how much time is remaining on the amendment offered by the Senator from North Dakota.

The PRESIDING OFFICER. The Senator from North Dakota has 24 minutes remaining. The Senator from Utah does not have a limit on his time, but he is speaking on the amendment, for which there is 40 minutes remaining.

Mr. BAUCUS. I thank the Chair.

(The remarks of Mr. HATCH are printed in today's RECORD under ''Morning Business.'')

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, this has been entertaining, if not enlightening, to see my colleague get a full tank of indignation in almost a nanosecond, on two subjects in fact. Let me cover the first at least.

My colleague is a good-natured fellow—I like him—my colleague from Utah. In fact, he didn't get angry at me one day some years ago in a full-scale debate when I said to him, if there were an Olympic event for sidestepping, he would win the Gold Medal by far. In fact, he demonstrated that agility again today by sidestepping this point. The center of our colleague's agitation was he said: You cannot produce any more oil because those leftwingers, those environmentalists, will not let you do it.

So I ask, well, how does one explain this then? The Wall Street Journal says the major oil companies are drilling for oil on Wall Street. They are paying down their debt, buying back their shares, and hoarding cash. That is what they are doing with their money. How does one explain that? Did not hear anything, did we? No explanation.

My colleague said he was sick—he said three times he was sick. It is interesting, I suppose I have felt sick about some debate on the Senate floor over these years. I do not think I have ever admitted that, but I would much prefer to see a colleague of mine agitated about the price of energy in a full-scale agitation about what this is doing to consumers, agitated about what it is going to do when somebody on a fixed income cannot figure out a way to heat their home this winter. I would much sooner see a colleague agitated about that than having just come fresh yesterday from, as he described, a meeting with a major oil company, come to make the case for the major oil companies on the Senate floor, and say: You know what the problem is in this country? It is those populists dripping with venom—that word ''populists''—those leftwingers, those environmentalists on this side of the Chamber, they are what is wrong with this country.

Let us see if we can peel back a little bit and expose the truth, if I might. My colleague says those environmentalists and those leftwingers have shut down all of these refineries. Oh, really?

No, that is not true. Take it from me, that is not true. By the way, if my colleague would like to come back to the floor of the Chamber at some point, I would love to have a wide-open debate. Let us just talk back and forth and figure out where the facts are.

Let me give a few facts about refineries. I will not read them all, but I could. Do my colleagues want to know the names of the refineries that were shut down in 1995, 1996, 1997, 1998, 1999, 2000? Do my colleagues want the names of the refineries? I will give names of refineries, and when I tell the names of the refineries I will say who shut them down. The oil companies shut them down.

Now, they did not do that so somebody could come to the Senate floor and blame somebody else. They did it because they were approved for big mergers. They became bigger and bigger, and they decided to shut down refineries. Why? They wanted to tighten

the refining capacity and therefore increase margins. And they have done it.

I will not say I get sick about somebody coming to the Senate floor to blame others for the oil companies shutting down refineries. But do I think it is fair, and do I think it is truthful? Absolutely not. The evidence is exactly the opposite of what my friend from Utah said. He has a right to say it, and he even has a right to say it with a full tank of indignation. That does not make it right. The American people need to know the truth about these issues.

Shutting down refineries has, in fact, occurred in this country. Why? Because as the oil companies merged and merged and became bigger, they were shutting down refineries. And I will read the names if anyone would like me to. But my colleague has gone and will not be interested in these names, I guess. I would be happy to yield.

Mr. DODD. I say to my colleague, since 1980, 176 refineries have closed their doors, not because environmentalists shut them down. Is it not true, I ask my colleagues, these were decisions made by the industry themselves?

Mr. DORGAN. Absolutely.

Mr. DODD. Does my colleague not further agree that in recent reports one of the major companies we are talking about, in effect, bragged that they had reduced production by 3 percent while profits over the same year had increased 50 percent? That was not some environmentalist reducing production by 3 percent. That was the industry itself that made that decision. Is my colleague familiar with that?

Mr. DORGAN. Absolutely. These record profits, the highest profits in history, are accompanied, by the way, in most cases—let me give an example. Exxon reports a 75-percent increase in net profits to $9.9 billion and they produced 5 percent less oil and gas at the same time.

Part of that was due to the hurricane. But the company admits that even without the hurricane, they would have produced less oil and gas at the same time they had the highest profits in history. How does that square with what our colleague from Utah said? What our colleague from Utah said is not accurate. It is not. He said it with great conviction, he said it with great agitation, and it is wrong. Flat wrong.

There are plenty of other things to talk about with respect to this issue. Our colleague raises the suggestion that we can't drill anyplace. You can't drill anyplace.

Look, I support drilling in Lease 181 in the Gulf of Mexico. The only place he was accurate about was the issue of ANWR. Do I think we should drill in ANWR as a first resort? The answer is no. I think it ought to be the last resort if we ever drill there. We have people on the floor who want to open up all these pristine places, especially ANWR, that we have set aside and let's drill. Katie bar the door, drill anywhere. We have set ANWR aside, but there are plenty of places I think we ought to drill.

This was one of the most partisan rants I have heard for some while on the floor of the Senate. We are used to it. The minute you offer an amendment that does anything to a particularly large industry, I am telling you we have people coming through these doors saying, Who do I stand for? Let me stand for the big interests here.

My colleague said he met with a major oil company executive yesterday. Good for him. As I said before, I don't bear ill will toward the major oil companies. But I wish he were as agitated about the impact of these prices on America's consumers. He is not. He has raised a lot of questions about why the oil companies are not producing more oil, why prices are where they are. The fact is, point after point after point has been inaccurate.

I say to my colleague with respect to Exxon, let's take Exxon. He says the problem is these Senators and all the environmentalists and all the others prevent them from drilling.

What did Exxon do last year? They made $25 billion and used $9.9 or $10 billion to buy back their stock. How does he square that with what he said to the Senate? He is flat wrong.

Sigmund Freud had a grandson named Clement. I was thinking about it, as my colleague was supporting the major oil industries' profits tonight. Clement, Sigmund's grandson, said this: ''When you hit someone over the head with a book and get a hollow sound, it doesn't mean the book is empty.''

We have offered a proposal here in the Senate that has great merit. It has been misdescribed by the oil industry for reasons I understand—I am talking about the major integrated companies—misdescribed by our colleague from Utah tonight as something that would reduce the supply of oil. In fact, the single largest incentive that would exist for expanding the supply of energy in this country would be our proposal because the major integrated oil companies would have a choice. They can either use these windfall profits above $40 a barrel to sink back into the ground, exploring for oil, or building refineries. They can either do that, and therefore be exempt from the windfall profits tax we propose, or they can choose to pay a 50-percent excise tax on the windfall profits—one of the two. Which would you choose? There is no question what you would choose. You would choose to expand the supply of energy and reduce energy prices as a result. That is the incentive in our piece of legislation. That is why it makes so much sense and it is why I was sitting here gritting my teeth, listening to the caricature of this legislation offered by my colleague from Utah and the spirited defense of the highest prices in history by the major integrated oil companies and the disparaging comments about the efforts to see if we can give some relief and give some help and stand on the side of consumers.

I chaired the hearings on the Enron scandal several years ago in the Commerce Committee. I had a lot of people there under subpoena, understanding what they did on the west coast with price manipulation.

I must say this issue of pricing, pricing of energy is critically important because this is not some luxury item. This is a necessity for every family, for their daily needs. We need to get this right. The question is, when we vote on this: Who do you stand with and who do you stand for?

Let me yield some time to my colleague. How much time remains on our side?

The PRESIDING OFFICER. There is 13 minutes remaining.

Mr. DORGAN. Let me yield 8 minutes to my colleague from Connecticut.

Mr. DODD. Thank you. I may not use all that time because we made our points. But I want to join with my colleague and friend from North Dakota.

Let me say at the outset I have a great friendship with my colleague from Utah. We have done legislation together over the 24 years we have served together in this body. He has been here a little longer than I have. I enjoyed that relationship. I am somewhat stunned when my colleague from Utah becomes as exercised as he was over the oil industry and its profits. They have done very well. There is no reason to be upset about the oil industry. The profits they recorded in the space of 12 weeks are unprecedented in American history.

I began to wonder whether my colleague from Utah had even read the amendment the Senator from North Dakota and I offered. It very simply says that, with the profits when oil is in excess of $40 a barrel, you either pay an excise tax which would rebate to consumers to the tune of about $65 million a day, which could be meaningful to families who will be paying much higher costs this year, or reinvest this money, these additional profits, into increased production or developing alternatives the industry says it wants to do. That is what the amendment says.

We have watched the industry shut down 176 refineries in 25 years. One company brags about how profits are up 50 percent, and they themselves reduced production by 3 percent.

In any class in 101 economics, when you reduce supply like that, obviously it gives a justification for increasing price. They admit it in their annual reports. I didn't make up that quote. I am quoting one of the major integrated companies in its message to its shareholders: Profits are up 50 percent, we reduced production by 3 percent.

Then I hear my colleague from Utah talking about some environmentalists as if somehow they had shut down the refineries or they were responsible for reducing refinery capacity. It is the oil

industry itself that has been closing refineries.

There are not going to be many more opportunities because we are about to adjourn here. We will not be back until the middle of January. This may be the one opportunity we have to express ourselves on whether we think the industry ought to be doing a better job when it comes to increasing production and providing some relief for the people out there who will be paying these increased costs.

This is not an excessive request. It is one that goes right to the heart of what we have talked about, what we talked about during the consideration of the Energy bill. In fact, as I pointed out earlier, we provide literally billions of dollars in tax breaks for the industry to go out and do some of the things the Senator from Utah talked about.

I voted against that Energy bill, not because there were not some things I liked in the bill but, frankly, because I thought those tax breaks were unnecessary. When you are recording $9 billion, almost $10 billion in profits in 12 weeks, why do you need a tax break? But when the integrated companies report more than $32 billion in profits in 12 weeks and we turn around and provide billions of dollars in tax breaks, I didn't understand that. But that is what we decided to do.

Here we have a chance to say: Listen, you got these additional profits. Put them into energy production or provide a rebate to the people of this country who are going to be paying these increased prices. It is one chance here to decide which side you are on. As I mentioned earlier, we tried to get Low-Income Home Energy Assistance increases for the poorest of our poor, the elderly on fixed incomes, and that has been denied over and over again despite amendments even in the last few days and weeks to provide some relief. That has been repeatedly voted down.

What about providing some relief for people who are going to be paying these additional costs? That is what we are trying to do with this amendment. I commend my colleague from North Dakota. I know some people say, It is a futile effort, why do you even bother? We bother because we think it is right to stand up here.

Other Congresses in other times—where are the Harry Trumans today? We are in the middle of a war right now in the Middle East. He stood up as a Member of this body and he called it profiteering, and he was not accused of being a populist. We celebrate Harry Truman today as someone who had the guts to stand up and tell the truth, whether people wanted to hear it or not. We ought to tell the truth now. These companies are making excessive profits at the expense of our economy and hard-working, honest people. They look to us to provide some help.

That is what we exist for, in part, to make sure you don't have unrestrained activities that will do damage to the average person or average business out there trying to make ends meet.

I again urge our colleagues to support this amendment. It is one chance we have to try to make a difference for these people.

I yield.

Mr. DORGAN. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator has 8½ minutes.

Mr. DORGAN. Let me yield myself 4 minutes. I want to reserve 4 minutes. But let me make a comment. I agree with my colleague from Connecticut. Spirited debate is fine on this floor. I didn't like the representation that was made by our other colleague that somehow what we were proposing here is not only unworthy but part of some cabal that is trying to injure this country and, second, using information that is simply not accurate.

The refineries have been closed by the oil companies, not environmentalists. That is a fact. What has happened is when they merged, they closed refineries in order to restrict supply and boost the yields of the refineries. The fact is, we had experts come in. I am talking about experts, I am not talking about politicians. The so-called experts came to the committee. We said, Why are refineries closing? One reason, because their yields are too low and the major oil companies are closing them. That is exactly the case.

My colleague from Utah talked about tax breaks he had sponsored for the oil industry. He talked about yesterday he was visiting with an executive of the big oil industry—which is fine. He talked about the price they pay in Europe, $3 or $4 a gallon. The interesting thing is in Europe the money between the cost of oil and the $3 or $4 a gallon doesn't go into the pockets of the oil companies, it goes to build infrastructure in Europe. They collect it in taxes and use it to invest in the infrastructure of Europe.

But I think it is important to point out what happens here on this floor. When you offer a proposal such as we offered, it doesn't matter if it is the tobacco industry or pharmaceutical industry or oil industry, we will have people trot through these doors of the Senate and rise to the defense of the pricing policy of the pharmaceutical industry or rise to the defense of the pricing policy of the oil industry. I will ask this. If you are going to get agitated in this Chamber, get agitated about something worthwhile. The agitation ought to be on behalf of some families who are trying to figure out how on Earth will I pay the bill? As I read in tomorrow's paper of the largest profits in the history of this country coming into the treasury of the oil companies, how am I going to pay a 50-percent increase in the bill to heat my home? You want to get agitated, get agitated on behalf of those folks and help us do something.

This notion of partisan blame, coming to the Chamber and ignoring the substance of a proposal and then casting partisan blame, in my judgment is a little tired and a little old. This proposal stands on it own merits. If you don't like it, that is fine. I understand that. Vote against it. But don't suggest somehow you are on the side of the consumer if your interest here on the floor of the Senate is to come and stand with the big oil companies, and to believe that profits above $40 a barrel is fine. It is not. It is not fair.

We believe one of two things should happen: Either it all ought to be sunk back into the ground or above ground for exploring for oil and building refineries and expanding America's supply of energy and bring down prices, or it ought to be recaptured and sent back as a rebate to the people in this country who are having trouble paying their bills, as a rebate to every American using energy.

That is our proposal. Controversial for some? Maybe. Is it the right thing to do for the American people? I believe it is, and I hope this Congress, I hope this Senate will as well.

I yield the floor and I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. GRASSLEY. I yield whatever time he consumes to the majority whip.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

Mr. GRASSLEY. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAUCUS. I ask unanimous consent that the order for the quorum be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

IMMIGRATION AND COMPETITIVENESS

Mr. BAUCUS. Mr. President, in 1882, an Irish immigrant named Marcus Daly set off an explosion that shook the world. It happened 300 feet under the ground, near Warm Springs Creek, 26 miles west of Butte, MT. When the dust settled, Daly saw before him the shiny ore of the largest copper deposit ever known.

The rich copper vein transformed the American economy. It made America the world's largest copper exporter. And it inaugurated an economic boom for my home State that lasted for decades. It also enriched many parts of America.

Thousands of immigrants made the boom happen. They came from Ireland and Italy, Canada and Scandinavia, Serbia and Croatia, Greece and Syria. They came to America to find work in the new mining town, christened Anaconda. By 1900, immigrants made up 40 percent of Anaconda's population.

These new Americans formed the backbone of the mining economy. And their descendants have woven the colorful fabric of Montana.

Immigrants helped build the American economy. In the 1850s, hundreds of

thousands of young Chinese men helped construct the Transcontinental Railroad. At the beginning in the 1870s, Basque shepherd immigrants helped shape the western ranching economy. Beginning in the 1890s, hundreds of thousands of Norwegian farmers lay the foundations of a competitive farming economy in Wisconsin, Iowa, Minnesota, and the Dakota territories. And in the first decades of the 20th century, more than 100,000 Jewish immigrants created New York City's famous garment industry.

Immigrant entrepreneurs and innovators revolutionized the American economy. Scotsman industrialist Andrew Carnegie transformed the American steel industry and consolidated the Nation's railroads. Hungarian Joseph Pulitzer produced a legacy in newsprint. Polish-born producer Samuel Goldwyn left his mark on film.

Once-foreign names became American household brands. Russian-born Max Factor made makeup. Bavarian-born Levi Strauss manufactured clothes. Hessian-born Adolphus Busch brewed beer.

And today, immigrant innovators still populate the cutting edge. Moscow-born Sergey Brin helped found Google. Taiwan-born Jerry Yang founded Yahoo. French-born Pierre Omidyar founded eBay. And Hungarian-born Andy Grove founded Intel.

America remains a nation of immigrants. More than 33 million people living in America were born abroad. More than 9 million came to our shores just between 1990 and 2000.

Since colonial times, immigrants have been vital to the American economy. Their skills and their labor have made our companies, our industries, and our economy more competitive.

Some immigrants come with little more than their strength and ambition. They become our economy's machine operators, factory workers, farm laborers, and service workers.

But many come with master's and doctorate degrees. They work in research laboratories and universities. They sharpen our economy's cutting edge.

This is my seventh address to the Senate on economic competitiveness. Since summer, I have highlighted the importance to competitiveness of education, international trade, healthcare, national savings, and energy, all components we must focus on to make our country more competitive so we have better high-paying jobs and more paying jobs for more Americans. Today, I speak about immigration and economic competitiveness.

Immigrants make our economy more competitive in at least four ways.

First, immigrants provide labor. Marcus Daly needed workers to dig his Montana copper mine. Similarly, today's booming industries require global talent.

Without foreign-born workers, the largest economic expansion in our Nation's history would not have been possible. In the boom years of the 1990s, the labor force grew by nearly 17 million workers. Nearly 40 percent of them were born abroad. Most of these immigrants came when unemployment was at record lows. They filled 4 out of 10 job vacancies, often in regions short on workers, and often in jobs that natives had no desire to fill. Had these immigrants not lent us their strength, our economy would surely have faltered.

Second, immigrants help balance the budget. Tally up taxpayer-funded benefits to immigrants—education, healthcare, social security—and match those costs against what immigrants pay in State, local, Federal taxes. On balance, each immigrant provides a net benefit to the American economy of about $90,000 in taxes over a lifetime. Overall, immigrants contribute $15 billion to our economy every year.

And immigrants will make an important fiscal contribution as the baby boom generation retires. In just 5 years, the number of Americans approaching retirement will increase by nearly half. Most new foreign-born immigrants, on the other hand, are between 10 and 39 years old. And immigrants are likely to have more children than the U.S.-born population.

These younger workers will help fund the coming Social Security, Medicare, and Medicaid benefit payments. Immigrants bolster the deteriorating ratio of workers to retirees. Immigrants provide a shiny vein of ore in a graying economy.

Third, immigrants push the envelope of innovation. Foreign students earn more than a quarter of the Nation's science and engineering degrees. They earn more than a third of science and engineering doctorates. Most of those are in computer sciences and electrical engineering. Foreign students account for as many as four out of five doctoral students in a number of highly-ranked universities. And foreign students bring $13 billion a year to our economy in tuition and fees.

Foreign students' minds help sharpen our economy's cutting edge. Foreign student researchers support work on new medicines, software, and other innovations. Universities patent this research. A 10 percent increase in the number of foreign graduate students would increase patents granted by more than 7 percent.

Patents mean new inventions. Inventions mean new products. And new products mean new profits and new jobs.

Just as important, nearly three-quarters of highly-skilled students stay in America. Instead of taking their skills home and using them to compete with us, they join highly specialized professions in research and academia. They contribute their knowledge to our economy.

At IBM Research and Intel, for example, foreign nationals make up about a third of high-level researchers. At the National Institutes of Health, foreign-born workers make up about half of researchers. In America's top immigration States, foreign-born workers account for 40 percent of teachers and more than a quarter of physicians, chemists, and economists.

Fourth, immigrants drive entrepreneurship. Entrepreneurship is the irreplaceable genius that sparks economic growth. For every famous immigrant entrepreneur like Hungarian financier George Soros or Belgian designer Liz Claiborne, legions of other immigrants push the limits of the economy, or simply provide a neighborhood service.

For more than a century, immigrants have been more likely than native-born Americans to be self-employed entrepreneurs. Since the 1970s, immigrants have helped reverse a national decline in self-employment. Immigrant-run businesses create jobs, tax revenues, and growth. Even small neighborhood businesses can revitalize entire neighborhoods. And small businesses are the primary driver of new jobs.

Immigrants also swell the ranks of high-technology entrepreneurs. Most of the foreign-born scientists and engineers in Silicon Valley have helped found or run a start-up company. Sixty percent of Indian scientists there have participated in start-ups. And fully three-quarters of Indians and most of the Chinese scientists there have plans to start a business. These entrepreneurs are thinking about tomorrow's economy today.

Immigrants devote their labor. They boost our balance sheets. They drive innovation. And they energize entrepreneurship. Immigrants are vital to our economic competitiveness.

Unfortunately, America is not welcoming global talent and labor. In some cases, we have pulled in welcome mat.

State Department visa procedures and security checks intended to keep out terrorists are instead keeping out talent. In the post-September 11 world, America must vigilantly protect its borders. But we must also strike a balance between this vigilance and economic health.

Look at the case of foreign students who want to study at American universities. In 2003, foreign applications to American engineering doctoral programs fell by more than a third—with Chinese applications dropping nearly in half. Despite considerable efforts to reverse this trend, total foreign graduate school applications declined further last year, by double digits in some cases. This year, the number of international students entering American graduate schools finally held steady, despite a 5 percent drop in applications from foreign students.

The decline in applications is not an anomaly. It is a clear trend. At the same time, our economic rivals are actively attracting the world's brightest. Canada doubled its foreign student enrollment last year. And South Korea will triple its foreign student enrollment by 2010.

We unfortunately have also closed the door on talented workers who drive

our companies' competitiveness. Our leading high-tech companies—companies like Intel, Microsoft, and Hewlett-Packard—are imploring Congress to raise the cap for visas for highly-skilled workers—known as H-1B visas. These visas are capped at 65,000. That limit is so out of line with demand that we reached the 2005 cap months before 2005 began.

Today's visa and immigration restrictions also make it difficult for major American companies to employ and train their workforce.

Take this example: A global American entertainment company with headquarters in New York hired Indian managers to run its Bangalore office. The company wanted to train these new hires to company standards, as it does with all employees. The company wanted to send the new hires to New York to receive this training, as it does with all management. The company applied for visas on behalf of its soon-to-be Indian office managers.

What happened? The company filed the paperwork. Months came. Months went. It took 3 months just to get an appointment at the U.S. Embassy. Delays continued. Patience wore thin. Costs mounted, with untrained managers on the payroll. And the company finally gave up.

The company applied for visas to Ireland, where the company had its European branch. The visas came in 4 days. The company trained these new managers at the company's facilities in Ireland, and then sent them back to India to work. This created jobs in Ireland, because the company set up a training program there, instead of using existing trainers in America.

This is no way to do business. We are shooting ourselves in the foot.

We must lift the cap on H–1B visas. We do not have a centrally planned economy. The American Government does not tell companies how many workers they need each year. But the cap has that effect, the effect of a centrally planned economy. That is wrong. Let us listen to business leaders and help them maintain and improve their competitiveness. When our premier global companies implore us to lift the H–1B visa cap or risk hampering their growth, the time for politics is over.

We must simplify temporary entry for foreign workers who need to come to America to help our companies succeed. If we wish to remain a cutting-edge economy, we can no longer obstruct companies from training their overseas employees, participating in meetings and conferences, or traveling to trade shows. Our companies have global markets, global supply chains, and global strategies. We need a global workforce.

Our current commitment of 65,000 H–1B visas each year is outdated. It is outmoded and out of touch with today's needs. We should make a bold commitment to expand that cap. Such a commitment would allow us to lock in similar commitments from our trading partners and enhance exports and American services.

We must actively encourage talented foreign students to study, do research, and innovate at American universities and American research institutions. Visa renewals during multiyear studies need to be routine. These renewals should not require all students to first return to their home countries.

For the most exceptional of these students, who have earned advanced science degrees at American universities, we need a simpler process to obtain permanent residence. These are talented, highly educated individuals, who are in a position to keep our economy competitive. If we do not welcome them into our economy—guess what—then China, India, Europe, or Japan will welcome them into theirs.

Three weeks ago, the National Park Service designated the old mining town of Anaconda, MT, as a national historic landmark. Anaconda's mining boom times are now preserved as part of our Nation's history. But Marcus Daly's explosion—when he found all that copper ore—continues to reverberate through the American economy today.

Let us not stamp out the spark of future booms. Let us, rather, welcome the labor, the innovation, and the entrepreneurship of our new immigrants. Let us ensure for ourselves and for our children the shining ore of boom times to come.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. CORNYN. Mr. President, I yield myself such time as I may consume from the manager's time.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Texas is recognized.

AMENDMENT NO. 2587

Mr. CORNYN. Mr. President, I come to the Chamber to respond to some of the arguments that have been made by some of our colleagues in support of an amendment that would impose a so-called windfall profits tax on crude oil and the use of the tax collected to provide an energy tax credit to consumers.

This is an amendment that, while it may make Senators feel good to try to lash out at the oil companies that are making admittedly significant profits, it is the wrong thing to do for reasons I wish to explain.

I think we are here representing our various States to do more than make popular arguments. We are here to make arguments that ultimately make sense and benefit the national interests of the United States of America. I believe passing a windfall profits tax would damage America. It would damage our national security by making us even more reliant on imported oil and, conversely, less reliant on domestic oil because there would be less of it. It would essentially confiscate the legally earned profits of a legal business that has actually made less money than other industries that I will talk about in a minute.

If we are going to determine in the Congress how much of a profit is too much and how much is not enough, I think we are sending a very bad signal. We are ostensibly believers in the free enterprise system in the United States. Certainly there are examples of gouging and illegal profiteering, but those are at the margins. We should not be in the business in the Senate of saying how much is too much and how much is not enough.

I point out the bill pending on the floor already includes a $4.9 billion tax penalty on large integrated oil companies. That is already in this bill—without this windfall profits tax—and imposes a significant penalty tax on the oil industry.

Now, proposals to limit so-called windfall profits are premised on the notion that the oil industry profits are somehow excessive. I would point out to my colleagues that in the second quarter of 2005, the oil industry earned 7.7 cents, not quite 8 cents, for every dollar of sales. The average profit for all U.S. industries during the second quarter was 7.9 cents. In other words, the average profit was two-tenths of a cent more for sales across all industries.

There were 13 industries in the United States that earned higher profits in the second quarter than the oil and gas industry, including banking, at 19.6 cents; software and services, at 17 cents; consumer services, at 10.9 cents; and real estate, at 8.9 cents. Are we going to impose a windfall profits tax on each of these industries that reaped a higher return on their investment than the oil and gas industry? Well, I doubt it. And thank goodness we are not. It simply is wrong to target an industry, particularly one that has not made excessive profits relative to other industries in the United States during this last year, and say: We are going to treat you differently, we are going to discriminate against you because we know you are unpopular, and we are going to tax you at a higher rate than we would otherwise tax business activity in the United States.

Now, we have seen a spike in gasoline prices, up to, on average, $3.07 a gallon, which, thankfully, has dropped a lot now. I was back in Texas this last weekend, and I saw gasoline selling for $1.98 a gallon. That was certainly good news. Those prices are a little bit higher in other parts of the country, obviously, but the good news is, the price is coming down.

It is that law that does not emanate from inside the beltway but one that governs all of our economic activities that applies here. It is the law of supply and demand—the law that this amendment would attempt to tamper with and create perverse incentives that are not good for America. They do not just target this industry, they actually are bad for our national security. They are unfair when you consider other industries. And it violates our fundamental principles as a nation

that believes in the benefits of a free market.

But the fact is, one of the things that cramped the supply of gasoline recently was the hurricanes that have damaged refineries and oilfields, including out in the Gulf of Mexico. A lot of the refineries and the oil wells have been offline while they have been repaired and now are largely being restored. What we are seeing, as they are coming online, with more supply, and given the same demand, is that the price is coming down.

But the fact is, as well, that significant portions of the profits of the oil industry are going to have to be used to restore prehurricane infrastructure in the Gulf of Mexico and in the affected region.

One of the problems with this ill-conceived windfall profits tax is it will reduce needed investment. One of the things we need in this country, of course, is a greater supply of oil and gas because we know we are in a worldwide economic competition with countries such as India and China that are becoming increasingly industrialized and consuming more energy than they produce. Here again, the law of supply and demand pertains.

By actually putting a tax on the profits that oil and gas companies have received as a result of their lawful business activity, we will deny them money they can and will invest back into creating a greater supply—exploring for more oil and gas, expanding their refineries—which will, in turn, bring down the price of oil and gasoline.

The other thing I would point out is, we have been here before. We have been there. We tried it. And we found that the effect of a windfall profits tax—no matter how good it feels—simply does not solve any problems and, in fact, creates more problems.

In 1990, the Congressional Research Service analyzed the effects of the windfall profits tax that was enacted between 1980 and 1988. The Congressional Research Service found that the tax reduced domestic oil production from between 3 and 6 percent and increased oil imports from between 8 and 16 percent over its lifetime.

At a time when Senator after Senator, Congressman after Congressman, has stood on the floor of our respective bodies and said, We need to reduce our dependence on imported oil and increase our domestic production, this tax, if imposed, would do just the opposite. It would decrease domestic production. It would increase our reliance on imported oil. It would make America less secure. And it would damage our domestic companies that employ hard-working Americans.

It seems like there are so many good reasons not to adopt this amendment. I cannot think of a single good reason to do it, other than perhaps it makes Senators feel good to try to punish the big bad oil companies for making an excessive profit. But I do not think we want to be in the business of determining how much is enough and how much is too much.

The last thing the Federal Government needs to do is get its clumsy hands on the free enterprise system in a way that damages our precious energy supply. We should be encouraging domestic production. We should be encouraging alternative forms of energy, which, by the way, the higher the price of oil and gasoline gets, the more people begin to look at what are other commercially available alternatives. That is good because what it does is it diversifies our dependency on an energy supply so we are not dependent on just one type of energy.

That is the reason we need to—in addition to producing more oil domestically, expanding the size of refinery capacity so we bring the price down—look at nuclear energy, which is, in part, what we did through our Energy bill we passed this last summer. France, for example, generates 80 percent of its electricity using nuclear power. We need to look at other alternative forms of energy that reduce our dependency on fossil fuels, which cause environmental problems. Everyone who cares about the environment should care about our looking at alternative forms of energy.

There are so many reasons this amendment is bad. I hope my colleagues will consider these arguments. I hope we do not stampede into adoption of this bad amendment based on the populist arguments that oil companies are big, so they must be bad, or somehow argue that to make a profit implies some sort of corruption or inappropriate activity. We have laws on our books against those who violate our anti-gouging laws, but it is no crime to make a profit in a free market system.

It is that profit that creates an investment that expands the supply and ultimately brings the price down. It is the profit earned by these companies that allows them to employ hard-working Americans. If we want to put Americans out of business, if we want to increase our dependency on imported oil and reduce the production of domestic oil, then I guess we should pass this ill-conceived amendment. I hope my colleagues will reconsider and vote against the amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. BUNNING. Mr. President, I am glad that we are debating this bill on the floor of the Senate. Despite some concerns which I will discuss later, I supported this bill in the Finance Committee. I have heard a lot in the last few weeks from some of my colleagues talking about how we can't afford the so-called tax cuts that this bill was expected to contain. As we have been saying for weeks, the growth package is not about tax cuts. It is about stopping tax increases, tax increases that will affect American families.

The so-called tax cuts that Democratic Members of Congress are talking about are nothing more than keeping current tax law in place. There are dozens of provisions that American families and employers have come to rely on that will expire at the end of this year, if we do not pass this bill. These are provisions that are important to our constituents and to our economy. Let's take a look at some of the items that are in the bill before us.

First, the research and development tax credit will expire at the end of this year unless we act. This is an important provision of the Tax Code that spurs innovation and new technologies. A majority—believe me—of Senators have supported this provision in the past. The bill before us not only extends this provision, it also adds some improvements to make it more relevant to today's economy.

A lot of other important provisions also expire if we do not pass this bill. The deduction of tuition expenses, that provision affects 36,000 Kentuckians; the tax deduction for teacher classroom expenses, this one affects 38,000 Kentucky teachers; and the low-income saver's credit affects 94,000 low-income Kentucky taxpayers. These are Kentuckians that do not deserve a tax increase. I am going to do all within my power to make sure they don't get one.

I am extremely disappointed that this bill does not contain a provision that I considered to be a vitally important one—keeping the tax rate on dividends and capital gains income from increasing. It is very important that we extend this 15-percent rate through the end of the budget window. As this bill moves through the legislative process, I will fight to make sure that the bill that the President ultimately signs includes these vital provisions. It is very hard to dispute the positive impact that the 15-percent rate has had on the macroeconomy. Dividends paid by companies in the Standard & Poor's 500 have been up over 50 percent since this tax change was implemented. Capital gains revenues from taxes to the Federal Government is estimated by some to exceed the CBO forecast by billions of dollars in fiscal year 2006.

But let's talk about which taxpayers are benefiting from these 15-percent rates. In my State, Kentucky, 18 percent of taxpayers benefited from the reduced rates on dividend income, and 13 percent benefited from the lower rate on capital gains income in 2003. These numbers are especially interesting when you consider that Kentucky has a median income that is below the national average. This does not even count the millions of workers and retirees who hold these assets inside their 401(k)s. As we all know, these dividends are very important to the elderly. Many of our retired folks rely on dividends to supplement their fixed incomes from pensions and Social Security.

While it is true that the lower rates do not sunset until the end of 2008, it is

important that we send a message to the economy by extending these rates this year. If we have not made these provisions permanent, investors and financial markets will grow increasingly uncertain about the future tax treatment of dividends and capital gains as 2008 gets closer. We cannot risk adding unwanted volatility to the markets and the economy which continue to grow.

Again, let me be clear, the proposals that we are planning to extend in this package are not new tax proposals, they are simply current law. If we do not extend these provisions, we will cause a substantial increase in the tax bills of American families and businesses.

I also express my concern about two provisions currently part of this bill that I strongly oppose. First is a provision that will limit the ability of taxpayers who itemize their taxes to take a deduction for their full charitable contributions, as they do under current law. This change would amount to a tax increase on some taxpayers who make small charitable contributions, and I strongly oppose it.

The second is a provision that will change accounting rules for the oil industry. The accounting rules at issue are not some loophole for the oil industry. All taxpayers with inventories can elect to use LIFO inventory rules—all. It would be unfair to impose different rules standards on only one industry and would set a dangerous tax precedent.

Additionally, as my colleagues well know, we just passed an energy bill this summer. It contains incentives to increase refining production which is so desperately needed and which we have been neglecting for too long. To turn around and take away these incentives just a few months later, as this bill does, makes no sense whatsoever. Our focus needs to be on trying to increase domestic production of oil and refining capacity, and this provision will do exactly the opposite.

I am planning to support this bill on the floor of the Senate, but I am only doing so with the expectation that we will improve it and that the bill that lands on the President's desk will ultimately reflect the views of the full Senate and this Congress.

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. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

A NEED FOR ANSWERS

Mr. REID. Mr. President, tonight the Vice President has come out of his bunker and is speaking at a gathering of Washington, DC, insiders. Of course, it is closed to the press.

Unfortunately, he brought his bunker mentality with him in the speech. He is repeating the same tired attack we have heard from administrative officials over the last 2 weeks.

Mr. President, in the last 24 hours in faraway Iraq 10 of our brave soldiers have been killed. On such a night, you would think the Vice President would give a speech that honors the fallen and those still fighting by laying out a strategy for success. But no, instead we have the Vice President of the United States playing politics like he is in the middle of a Presidential campaign.

Yesterday, a bipartisan majority of this body, the Senate, gave the administration a vote of no confidence for its Iraq policy. The Senate said the era of their no-plan, no-end approach is over.

Apparently, though, the White House didn't get the message. The Vice President's speech tonight demonstrates that once again this administration intends to stay the course and continue putting their political fortunes ahead of what this country needs, a plan for success.

Our troops and the American people deserve better.

The White House needs to understand that deceiving the American people is what got them into trouble. Now is the time to come clean, not to continue the pattern of deceit.

So again, Mr. President, I ask Vice President CHENEY to make himself available and answer the American people's questions. If he has time to talk to DC insiders, as he is doing tonight, oil executives, and even a discredited felon, Ahmed Chalabi, who by the way is under investigation for giving this Nation's secrets to Iran, it would seem he has time to answer the questions of the American people.

Mr. CHENEY needs to stop stonewalling and hold a press conference.

Finally, I would urge the members of the Bush administration to stop trying to resurrect their political standing by lashing out at their critics. Instead, they need to focus on the job at hand, giving our troops a strategy for success in Iraq.

This week we have seen Stephen Hadley, Donald Rumsfeld, President Bush, and Vice President CHENEY lash out at their critics. Yet they all remain silent when it comes to giving our troops and the American people a plan for success in Iraq. I believe this tired rhetoric and these political attacks do nothing to get the job done in Iraq. I truly believe, Mr. President, America could do better.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, I ask unanimous consent that the pending amendment be set aside for the purposes of offering an amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2596

Mr. DURBIN. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows.

The Senator from Illinois [Mr. DURBIN] proposes an amendment numbered 2596.

Mr. DURBIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To express the sense of the Senate concerning the provision of health care for children before providing tax cuts for the wealthy)

At the appropriate place, insert the following:

SEC. ___. SENSE OF THE SENATE CONCERNING HEALTH CARE FOR CHILDREN BEFORE TAX CUTS FOR THE WEALTHY.

(a) FINDINGS.—The Senate makes the following findings:

(1) There are more than 9,000,000 children in the United States with no health insurance coverage.

(2) Sixty-seven percent of uninsured children live in families with at least one full-time worker.

(3) According to the Center for Studying Health System Change, uninsured children, when compared to privately insured children, are—

(A) 3.5 times more likely to have gone without needed medical, dental, or other health care;

(B) 4 times more likely to have delayed seeking medical care;

(C) 5 times more likely to go without needed prescription drugs; and

(D) 6.5 times less likely to have a usual source of care.

(4) More than half of these children are eligible for coverage under either the State Children's Health Insurance Program (SCHIP) or Medicaid, but are not enrolled in those safety net programs.

(5) Most States, struggling with budget deficits, have curtailed outreach efforts.

(6) A focus on simple and convenient enrollment and renewal systems, as well as proactive outreach and educational efforts, could help reach these children and reduce the number of uninsured American children.

(7) Some States, seeing that the Federal Government is not providing assistance to middle class families who can't afford health insurance, are trying to extend coverage to some or all children.

(8) State efforts to cover all children will not be successful without financial assistance from the Federal Government.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the Senate should not vote to extend the capital gains and dividend tax cuts, a majority of the benefits of which go to households with incomes over $1,000,000, until Congress has taken steps to ensure that all children in America have access to affordable, quality health insurance;

(2) the Senate should vote instead to use the funds generated by the expiration of the capital gains and dividend tax cuts to further the goal of ensuring that children have access to health insurance coverage by—

(A) awarding grants to States, faith-based organizations, safety net providers, schools, and other community and non-profit organizations to facilitate the enrollment of the 6,800,000 children who are currently eligible for enrollment in the State Children's Health Insurance Program but who are not enrolled;

(B) paying to each State with an approved State Children's Health Insurance Program or Medicaid plan, an amount equal to 90 percent of the sums expended for the design, development, implementation, and evaluation

of enrollment systems determined likely to provide more efficient and effective administration of the plan's enrollment and retention of eligible children; and

(C) establishing a grant program under which a State may apply under section 1115 of the Social Security Act to provide medical assistance under the State Children's Health Insurance Program to all children in their State.

Mr. DURBIN. Mr. President, as we gather in the Senate this evening, there are 45 million Americans who are uninsured.

I have introduced this sense-of-the-Senate resolution and invite cosponsors from both sides of the aisle to establish a national goal that we will eliminate the 45 million uninsured in the next 10 years.

Some are critical of a sense-of-the-senate resolution saying this is ''pie in the sky,'' we could not do that, we could not eliminate 45 million uninsured in America in the course of 10 years. I disagree. If we set it as a bipartisan national goal, if the President and Congress agree it is goal we are going to seek, we can reach that goal.

The amendment which I have just offered will eliminate 20 percent of the uninsured Americans—20 percent of them.

Now, which would be the first group that you would turn to, to give health insurance and give the protection of health insurance? Well, I think most Americans, certainly most American families, would say our children. Would we not want to take care of them first?

There are 9.1 million children in America without health insurance. Let me show you what 9 million children might look like in this depiction. Look at the States in yellow. If you took the children in every one of these States, they would total 9 million children. It gives you an indication of the gravity of this challenge. And it also tells you that we need to do much more. The number of children without health insurance in our Nation exceeds the number of all children living in 21 States and the District of Columbia combined.

According to the Center for Studying Health System Change, uninsured children when compared to privately insured children in the year 2003 were, first, 3½ times more likely to have gone without needed medical, dental or health care; second, 4 times more likely to have delayed seeking medical care; third, 5 times more likely to go without needed prescription drugs; fourth, 6½ times less likely to have the usual source of care.

Let me give you the hard number. Six million children went without needed health care in America in the year 2003.

I am sad to report this year I am afraid it is even more. There are more than 250,000 children in my State of Illinois without health insurance. Most come from working families, such as the Akeys family of Chicago. Annette and her husband own a real estate company. They make about $60,000 a year. That is not a huge sum of money in the city of Chicago. They were forced to give up their family health insurance when their premiums rose to $500 a month. Unfortunately, their 6-year old daughter Katana became ill with a kidney problem and a heart murmur.

Katana was in the hospital for 3 days and the Akeys were left with a $10,000 medical bill to pay out of their own pocket. How did they do it? They took a second mortgage on their home.

The Baldwins from Moline, IL, are another working family who can't afford insurance. Amanda Baldwin manages a fast food restaurant. She makes $556 every 2 weeks. Her husband David is a truck driver. He grosses $1,100 every 2 weeks. They have a 1-year-old son Zachary, but the Baldwins of Moline, IL, have no insurance. Why? Because it would cost $400 a month, which is about one-sixth of their monthly income.

Paula Brooks of Adwardsville, IL, has coverage through the nonprofit agency where she is employed, but she can't afford to add her daughter Brittany, who is 9 years old, to her policy.

There isn't a State in this Union, there isn't a city or town or village in this Nation where you could not find this story repeated over and over and over again—families that can't afford health insurance, children that go without protection.

Let me tell you what has happened since Congress has failed to address this issue. If this is impossible to read as you are following this debate, it is because the print is so small, but what I have is the response of 19 States that have decided they are tired of waiting for Congress. They are trying to expand health care to their citizens. It is pretty clear that many of these States have become desperate. California, Colorado, Connecticut, Florida, Hawaii, my home State of Illinois, Kansas, Louisiana, Maine, Maryland, Massachusetts, Minnesota, Missouri, New Hampshire, New York, Ohio, Vermont, Rhode Island, and Wisconsin, they are doing what we are not doing; they are showing leadership on the issue of expanding health coverage to the people living in their State. For the life of me, I can't explain why this President and this Congress ignore one of the most pressing problems facing America today.

Luckily for the kids of my home State of Illinois, Governor Blagojevich signed a bill yesterday that covers all the children in the State. He calls it the All Kids Program. It will offer Illinois's uninsured children comprehensive health care that includes doctor visits, hospital stays, prescription drugs, vision care, dental care, and medical devices, such as eyeglasses and asthma inhalers.

Parents will pay monthly premiums based on their income. For instance, a family of four that earns between $40,000 and $60,000 a year will pay a $40 monthly premium per child and a $10 copay per physician visit.

But let's make it clear, this Governor in my home State is trying. In Illinois, we are doing something that is not being done in Washington. In Washington, we are not even trying. At the very least, Congress should take steps to ensure all American children have access to affordable, quality health insurance coverage.

Does anyone doubt the popularity of that suggestion, that if you went to the people of America and said, I have a plan that will make sure every kid in America will be covered for a hospital stay, can get to a doctor, can have their prescriptions filled when they need them, regular dental care and vision screenings, is there anyone in America who believes that is an extravagance? I don't think so.

Kids are the least expensive people to insure. The average cost to cover a child in the program in Illinois is $93.23 a month. To cover all 9.1 million children in America, if we decided to expand the program in Illinois to all of America, the cost would be $10 billion per year. Now if you are following this and you say, $10 billion, wait a minute, Senator, that is a huge amount of money for a program, remember this: It is health insurance for every child in America.

Where would we find the $10 billion? We would find it in the legislation that is being debated by the House and the Senate right now: the 2-year cost of the extensions on capital gains tax cuts, tax cuts for the wealthiest Americans. The 2-year cost from 2008 to 2010 is $20 billion. So if we defer the tax break the administration is pushing for the wealthiest people in America, if we say they are not going to receive that tax break for the next 2 years, we would have enough money to provide basic health insurance for every uninsured child in America, and we would eliminate 20 percent of the uninsured Americans with that single act alone.

We could cover all the kids in America for 2 years for the cost of capital gains and dividend tax cuts, and that figure doesn't even include the State share of the program.

The first thing Congress can do is provide States more funding to enroll children who are eligible but not enrolled in SCHIP. These kids account for more than half of all uninsured children.

Before his last election, President Bush campaigned in Pennsylvania, and here is what he said on October 22, 2004:

We'll keep our commitment to America's children by helping them get a healthy start in life. I'll work with Governors and community leaders and religious leaders to make sure every eligible child is enrolled in our Government's low-income health insurance program.

President Bush, then a candidate, went on to say:

We will not allow a lack of attention, or information, to stand between millions of children and the health care they need.

That was a few days before the election. Since then no proposal to cover the uninsured children in America has come from this White House nor from

this Congress—a campaign promise that hasn't been kept.

The majority leader inserted $25 million in funds for outreach in last week's reconciliation bill. That is hardly enough. That isn't going to reach and insure these children. The bill of the Senator from Tennessee to fund outreach to kids would appropriate $100 million. Once we get all eligible kids enrolled, we should provide the Department of Health and Human Services with funds to grant to States that want to cover more children in their State.

Very briefly, here is what my amendment does. It expresses the sense of the Senate that the Senate should not vote to extend the capital gains and dividend tax cuts until Congress has taken steps to ensure that all children in America have access to affordable, quality health insurance.

The majority of the benefits of capital gains and tax cuts go to households with incomes over $1 million a year. Aren't kids in America a higher priority than millionaires? And how many times do people in the course of a campaign or on this floor talk about family values and moral values? Here is a nice moral choice for the Senate: Is it more important to give a tax break to someone making more than a million dollars a year, or provide health insurance for 9 million uninsured children in America?

How does that play out, whether your inspiration is the Bible, the Torah, whatever it happens to be? I think most who have religious convictions and feelings and believe there are moral values we are fighting for say this is a pretty simple choice: a choice between tax cuts for people making over $1 million a year or health insurance for 9 million uninsured children.

Specifically, my amendment would provide grants to States, faith-based organizations, safety net provider schools, and other community and nonprofit organizations to facilitate the enrollment of 6.8 million children currently eligible for SCHIP and not enrolled.

It covers 90 percent of the costs associated with the design, development, implementation, and evaluation of enrollment systems that will provide more efficient enrollment and retention of eligible children.

It will establish a grant program under which a State may apply for a waiver to expand coverage of children in their State.

When I go back home and speak to the families I represent, time and again they say to me: Are you people in Washington in touch with the reality of what is facing us in America? Whether it is a business owner who had to cancel his health insurance because one of his employees had a sick baby which drove the premiums through the roof for every other employee in the pool, whether it is a member of a labor union who says, I am working harder this year, I am getting paid more this year, but I have no take-home pay because it is being taken away from me in health insurance premiums and, Senator, I am getting less coverage, or whether it is a parent worried about a sick child and a medical bill they might never be able to repay—these are the realities of the life in America. It is not the reality of the debate in the Senate. We live in a different world in the Senate. We live in a world where people with a straight face can stand before us and say it is a much more moral thing to do and the right thing to do to give a tax cut to a wealthy person than to provide basic health care for a child in America.

That is the choice, and that is what my amendment will offer to the Members of the Senate. I hope they will choose the children over the millionaires.

Mr. President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DURBIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURBIN. Mr. President, I reserve the remainder of the time for debate on the amendment I just offered.

The PRESIDING OFFICER. The Senator from Iowa.

MORNING BUSINESS

Mr. GRASSLEY. Mr. President, I ask unanimous consent that there now be a period for the transaction of morning business, with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

FUNDING FOR UNIVERSITY OF ALASKA

Mr. MCCONNELL. Mr. President, a provision of the Science, State, Justice, Commerce, and Related Agencies Appropriations Act conference report was intended to transfer certain funds. Unfortunately, an error in drafting made that transfer ineffective. It was clearly the intent of the conferees on that act to provide for the transfer of certain unobligated and unexpended balances to the University of Alaska. We will be taking steps to correct that error at the earliest possible opportunity.

Before the Senate votes on this conference report, I want to take a moment to express my gratitude to Deb Fiddelke at the White House and Michael Allen at the National Security Council for their helpful input and insights into the State Department portion of this bill and the fiscal year 2006 foreign operations and related programs conference report. I appreciate the many courtesies they extend to my staff.

Finally, Secretary Rice and the entire State Department should be aware of the outstanding job Cindy Chang performed in conveying the priorities of the Secretary—indeed, the President—regarding funding for the State Department and our foreign aid programs. My staff and I appreciate the solid working relationship that Cindy has developed with the State Department, Foreign Operations and Related Programs Subcommittee, and she remains vigilant in support of the President's foreign policy agenda.

TRIBUTE TO VIRGINIA ROSE

Mr. REID. Mr. President, I rise today to recognize the contributions of Virginia Rose to Lovelock, NV. After serving the city of Lovelock for 35 years, Virginia retired as deputy city clerk on September 23, 2005.

Virginia has proudly lived in Lovelock all her life. As a young woman, she established a strong work ethic on her family's dairy farm performing daily chores with her nine brothers and sisters.

She continued her hard work as an office clerk for the city of Lovelock from 1961 to 1968. In 1977, Virginia returned as a deputy city clerk and spent the next 28 years as city clerk and treasurer. Virginia's colleagues at the city describe her as a highly motivated and gracious leader who knows how to organize and accomplish what needs to get done.

Virginia continues to serve her community today through active participation in her church, the Pershing County Alumni Association, the Pershing County Democratic Committee, the Lovelock Volunteer Fire Department Ladies Auxiliary, the Sierra Swiss Club, the Lovelock Community Singers, and several other organizations.

Well liked and respected by her community, she has been honored on numerous occasions since 1964. Most recently, she received the Northern Nevada Women of Achievement Award and the Diocese of Reno Outstanding Christian Service Award.

Virginia would likely describe her greatest honor as mother to Kim and Timothy and grandmother to Sarah, Adam, Lauren, and Caroline. She shares in this joy with Glenn, her husband of 46 years.

I have known Virginia for many years. While she is considered a pillar in the Lovelock community, she modestly describes her contributions as a privilege. Her dedication, diligence, and exceptional work has improved the lives of her fellow residents. I hope that you will join me in acknowledging Virginia Rose for her service to the Lovelock community on the occasion of her retirement from the city of Lovelock.

32 YEARS OF DEDICATED SENATE SERVICE

Mr. CRAPO. Mr. President, today I wish to recognize the service of Carolyn Iddings, my Sergeant at Arms customer support analyst. On June 4, 2005, Carolyn celebrated 32 years of service in the Senate.

Carolyn began her Senate career in the office of Senator Mark Hatfield of Oregon. For 16 years, she helped develop many of the systems the Senate uses today including office computers and correspondence management systems. Carolyn then joined the Sergeant at Arms office and has continued to assist in the development and deployment of many Senate information management systems.

Shortly after my election to the Senate, Carolyn was assigned to guide my staff through the complex process of opening a Senate office. Her experience and knowledge of the inner workings of a Member's office were indispensable as she assisted my staff in the opening days of the 106th Congress. She took my systems administrator under her wing and helped him equip in a timely and efficient manner. Thanks to her efforts, my office was up and running the day I was sworn in as a U.S. Senator. Her knowledge of the challenging bureaucratic landscape of the Senate played a key role in the smooth setup of my offices. On numerous occasions Carolyn's help has proven invaluable as our office automation systems have evolved.

Over the last 7 years, Carolyn has answered hundreds of questions, briefed my staff on countless security, information technology, and emergency planning matters. She has shown consistent patience, kindness, and expertise in her interactions with me and my staff, always willing to lend a helping hand. Carolyn demonstrates outstanding professionalism in her job and I wish her the best.

VETERANS AND TROOP DEPLOYMENTS

Mr. BAUCUS. Mr. President, I rise today to commend the contribution of our Armed Forces to this great Nation. It is important to reflect on the sacrifice and commitment of the brave men and women who have put their lives on the line to defend what our Nation stands for—freedom, equality, and justice for all Americans.

Without our veterans, we would not be the free Nation that we are today.

The marines, airmen, and soldiers of Montana have always risen to the challenge by fighting overseas and protecting our homeland.

Over the past 2 weeks 700 members of the first of the 163rd infantry battalion of Montana's National Guard returned home after an 18 month deployment in Iraq and 250 troops from the first of the 189th aviation battalion will return home before the holidays.

I am extremely proud of these men and women, but I also have great concern for them.

Montana now has the highest percentage of veterans per capita in its population than any other state. We also have the highest percentage of female veterans in the country, per capita.

According to the most recent census, the veteran population in Montana is 108,476 out of an adult civilian population of 668,651. Simply put, veterans, and families of veterans, constitute a significant portion of the population in Montana.

They are our mothers, fathers, daughters, sons, sisters, brothers, and friends who are making sacrifices. I take our Nation's commitment to our veterans seriously.

Many Montanans choose to serve because of the economic situation in rural America.

There is no question that rural States are carrying a huge burden when it comes to our current conflicts abroad and these veterans deserve proper healthcare.

I am proud to say that this year the VA Hospital at Fort Harrison, Helena, MT and its outpatient clinics have been ranked as the best VA medical system in the country; however, the shortfalls that we faced in veterans healthcare funding nationwide in 2005 and 2006 are discouraging.

We still need to ensure that those who have given so much for our country are granted their due benefits, and treated with respect. Let's think big when it comes to providing for our veterans and health care.

We must fully fund the veterans' health care system and we should make spending mandatory in order to ensure that those who have given so much to our country are granted their due benefits and are treated with respect and thanks.

Let's think big when it comes to providing for our veterans and health care. We must fully fund the Veterans health care system and we should make spending mandatory in order to ensure that those who have given so much to our country are granted the benefits they deserve.

Since September 11, 2001, about 80 percent of Montana's National Guard members have been deployed to the Middle East, some of them more than once. This Monday in Great Falls, MT, members of our 341st space wing and Red Horse Squadrons from Malmstrom Air Force Base and the Air National Guard will deploy to Iraq.

When they return, they should not have to worry about getting health care and benefits.

As we welcome home our new veterans and deploy troops overseas, let us remember those who have served honorably in all wars, and pay particular attention to those who have made the ultimate sacrifice.

The current wars in Afghanistan and Iraq have taken the lives of the following brave Montanans: SPC Travis Arndt, Great Falls; CPT Michael MacKinnon, Helena; PFC Andrew Bedard, Missoula; LCpl Nicholas Bloem, Bozeman; SFC Robbie McNary, Lewistown; CPL Raleigh Smith, Troy; LCpl Nathan Wood, Great Falls; SSG Aaron Honeyman, Glasgow; LCpl Kane Funke, Kalispell; CPL Dean Pratt, Stevensville; PFC Owen D. Witt, Sand Springs; 1LT Edward Saltz, Big Fork; PFC Kristofer Stoneisfer, Missoula; 1LT Josh Hyland, Missoula.

DEFENSE AUTHORIZATION ACT

Mr. KERRY. Mr. President, drought continues to be a serious problem for many states in this country, and I am very pleased that yesterday, as part of the National Defense Authorization Act for Fiscal Year 2006, we passed legislation that will help small businesses in those States that have been hurt by drought. I thank Senators LEVIN and WARNER, and their staffs, for their help in moving drought relief one step closer to enactment.

This legislation helps small businesses that need disaster assistance but can not get it through the Small Business Administration's disaster loan program. You see, the SBA does not treat all drought victims the same. The agency only helps those small businesses whose income is tied to farming and agriculture. However, farmers and ranchers are not the only small business owners whose livelihoods are at risk when drought hits their communities. The impact can be just as devastating to the owners of rafting businesses, marinas, and bait and tackle shops. Just ask the many small businesses on Lake Mead, outside of Las Vegas, that met with the committee in July: fishing guides that struggle to find ramps that still reach the water to launch their boats; boat dealerships in the county that have lost an estimated $100 million in sales because recreation at the lake is down; marinas paying millions to move their docks, buildings, and utilities, trying to ''chase the water.'' The area usually gets 8 to 10 million visitors a year. However, the impact of drought on Lake Mead has had a serious adverse impact on the regional economy, exceeding $1 billion according to local officials. Lake Michigan has suffered similar economic losses, and its delegation has been pushing for small business relief for years. Sadly, these small businesses cannot get help through the SBA's disaster loan program because of something taxpayers hate about Government—bureaucracy.

The SBA denies these businesses access to disaster loans because its lawyers say drought is not a sudden event and therefore it is not a disaster by definition. However, contrary to the agency's position that drought is not a disaster, in July of 2002, when this legislation was originally introduced, the SBA had in effect drought disaster declarations in 36 States. As of today, 17 States are under SBA drought disaster declarations: Wisconsin, Tennessee, Kentucky, Virginia, Montana, Oregon,

Nebraska, South Dakota, Iowa, Oklahoma, Illinois, Arkansas, Louisiana, Mississippi, Texas, Kansas, and California. Adding insult to injury, in those States where the agency declares drought disasters, it limits assistance to only farm-related small businesses. Take, for instance, South Carolina. A couple of years ago that entire State had been declared a disaster by the SBA, but the administration would not help all drought victims. Let me read to you from the declaration:

Small businesses located in all 46 counties may apply for economic injury disaster loan assistance through the SBA. These are working capital loans to help the business continue to meet its obligations until the business returns to normal conditions. . . . Only small, non-farm agriculture dependent and small agricultural cooperatives are eligible to apply for assistance. Nurseries are also eligible for economic injury caused by drought conditions.

The SBA has the authority to help all small businesses hurt by drought in declared disaster areas, but the agency won't do it. For years the agency has been applying the law unfairly, helping some and not others, and it is out of compliance with the law. The small business drought relief provision that passed yesterday as part of the Defense Authorization Act—and that I introduced this July as the Small Business Drought Relief Act of 2005 S. 1463—would force SBA to comply with existing law, restoring fairness to an unfair system, and get help to small business drought victims that need it.

This legislation has been thoroughly reviewed, passing the committee of jurisdiction and the full Senate three times, with supporters numbering up to 25, from both sides of the aisle. In addition to approval by the committee of jurisdiction, OMB, the Office of Management and Budget, approved virtually identical legislation in 2003. The legislation passed yesterday includes those changes we worked out with the administration, and I see no reason why this should not be retained in the final conference report and sent to the President for his signature.

I thank Senators SNOWE and BOND, our current and past chairs, both of whom have been supportive of this legislation each time it was introduced and passed. And I again thank Senators LEVIN and WARNER.

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 September 3, 2003 in Bridgeport, CT, George Hamilton hosted an afternoon picnic at his home. During the picnic, Hamilton and another guest discovered that one of the other men at the event was gay. They attacked and beat the gay man, causing injuries to his face and ribs. According to sources, throughout the attack the men shouted anti-gay slurs.

I believe that our Government's first duty is to defend its citizens, in all circumstances, from threats to them at home. The Local Law Enforcement Enhancement Act is a major step forward in achieving that goal. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

DEPARTMENT OF DEFENSE AUTHORIZATION BILL

Mr. DODD. Mr. President, I rise today to speak briefly on some of the votes that this body held yesterday related to the fiscal year 2006 Department of Defense authorization bill. Overall, this year's Defense authorization bill was a step in the right direction—for supporting our troops, for strengthening our military, and for securing our country. While I regret the limited time that we had to debate amendments, the end result here is, on balance, positive.

There are, however, a couple of important votes on amendments that I would like to take this opportunity to discuss. First, the two amendments on Iraq—one offered by Senator LEVIN, which I cosponsored, and the other a Republican alternative offered by Senator WARNER, which I voted for.

These two amendments were very similar, and they were both steps in the right direction. They both express the Senate's belief that U.S. forces should not remain in Iraq indefinitely. They both establish expectations that calendar year 2006 should be a period of significant transition to full Iraqi sovereignty, thereby creating the conditions for the phased redeployment of U.S. forces from Iraq. They both stress the need for compromise among Iraqis to achieve a sustainable sovereign government. And they both require the President to begin sharing with the American people his campaign plan for success in Iraq.

But these two amendments, despite all of their similarities, have a fundamental difference. The Democratic amendment would have gone one important step further than the Republican amendment that we ended up adopting. It would have required the President to tell the American people not only his campaign plan, but estimated dates for the redeployment of U.S. forces—in other words, a timetable and strategy for success in Iraq. The Levin amendment acknowledged that unexpected contingencies might arise, and that such contingencies might change some of the projected redeployment dates, but I still believe that without these projected dates, we have left ourselves in an open-ended commitment. That is not good for us, it is not good for Iraq, and it is not good for stability in the region.

Ultimately, I supported the Warner amendment because, as I have said, it is a step in the right direction. But it frankly doesn't take us any closer to convincing the American people that the President has a plan or a timetable for bringing our operations in Iraq to a successful conclusion. And I believe that our soldiers and the American public deserve better.

I would also like to briefly address three related amendments offered by Senators GRAHAM, BINGAMAN, and one by both Senators GRAHAM and LEVIN, dealing with the issue of habeas corpus and detainees who are in U.S. custody at Guantanamo Bay, Cuba.

I voted against Senator GRAHAM's underlying amendment on this issue because I believe that it would have been a step in the wrong direction for our country. That is not to say that we should be providing sanctuary to terrorists. We shouldn't. Any coward who is complicit in terrorist attacks against the U.S. and the civilized world must be brought to justice.

I also recognize that the new threat posed by international terrorist organizations such as al-Qaida, and their murderous henchmen, requires law-abiding nations to adapt in how they combat this threat.

But as we adapt to the terrorist threat, we have to make sure that we don't hurt ourselves, and the cause of freedom, in the process. America's judicial system is part of the bedrock of our country. Protecting its integrity should be a cause of highest concern. That is why I voted for Senator BINGAMAN's second-degree amendment to strike the Graham amendment's text that would have stripped U.S. courts of the ability to review writs of habeas corpus submitted by or on behalf of foreign detainees at Guantanamo Bay. I regret that Senator BINGAMAN's amendment failed on a party line vote.

I commend, however, Senator LEVIN for working with Senator GRAHAM to strike a compromise on this issue. The Graham-Levin compromise is not perfect. It certainly doesn't go as far as this Senator would have liked in fixing the underlying text. But faced with the prospect of the original Graham amendment being sent to conference in its original form, I chose to support the Graham-Levin compromise, which is a definite improvement over the underlying text. What is particularly heartening is that Senator GRAHAM, upon reflection, realized that his amendment went too far and accepted the moderating suggestions proposed by Senator LEVIN. My hope is that the conferees on this bill will continue to improve upon the Graham-Levin text.

Mr. President, as I said at the outset, the Defense authorization bill that the Senate passed yesterday is not perfect. But on balance, I believe that it sends a message to our troops that we are here to support them, and that we remain committed to providing them

with everything that they need to come home from their missions abroad safely and securely. At the end of the day, that is a good start.

PROFILES IN COMPASSION: IOWANS PITCH IN TO HELP VICTIMS OF KATRINA

Mr. HARKIN. Mr. President, Iowans are a big hearted, generous people, especially toward people in need. And citizens of my State proved this, once again, by extending a helping hand to the victims of Hurricane Katrina. Some Iowans as individuals or in organized groups—traveled directly to the region to give assistance in their areas of expertise. Other collected funds and supplies to send to the gulf coast region. Still others helped to welcome more than 1,400 evacuees who made their way to Iowa. And, of course, countless Iowans reached into their bank accounts to contribute to the Red Cross, the Salvation Army, and other organizations participating in the relief effort.

I would like to mention at least a few of the individuals and groups that went far beyond the call of duty in the aftermath of Katrina.

Even before Katrina made landfall—within 2 hours of receiving an emergency call—the Iowa-1 Disaster Medical Assistance Team based in Kirkwood, IA, began making its way to the gulf. Commanded by Dave Wilson, this team of rapid-response medical professionals set up headquarters in Bay St. Louis and Waveland, MS. In the first 14 days after the Hurricane hit, they took care of more than 2,700 patients. Their facilities were equipped to care for only 125 patients a day, but, on some days, the team cared for as many as 450 people.

Another Disaster Medical Assistance Team from Iowa, this one consisting of 30 members, helped to turn an abandoned hospital in Baton Rouge, LA into a full-fledged emergency room hospital. Key members of this team were Beth Boyd of Nevada, IA; Melissa Groet of Oskaloosa; and Kevin Long of Des Moines. A smaller crew from this DMAT team, all of them environmental health experts, deployed to rural Louisiana where they played a critical role in getting public water systems back online.

Some 140 members of the Iowa Army and Air National Guard deployed from Camp Dodge to the gulf region in a convoy of fuel tankers, water tankers, food and water trucks, and other much-needed equipment. Dubbed ''Joint Task Force Iowa,'' their mission was to provide medical, logistics, and water-purification support in Mississippi. In addition, the 185th Air Refueling Wing of the Iowa National Guard provided evacuation, transport, security, and fuel-handling missions from its base in Sioux City.

Meanwhile, back in Iowa, thousands of Iowans went into action in those initial days and weeks after Katrina hit the gulf. For example, the Iowa Jaycees collected enough supplies to fill 20 semi tractor trailers bound for Louisiana. Half of the semis carried clean drinking water, and the others carried diapers, baby wipes, batteries, hygiene products, canned food, and much more, all bound for Louisiana. Jaycee chapters all across Iowa contributed to this magnificent effort.

So many individual Iowans stood out as profiles in compassion during this difficult time. For example, Pastor Rod Bradley of the True Bible Baptist Church personally made three trips by car to pick up evacuees in Gonzales, LA. Wesley Jones traveled from Iowa to the gulf to help clear away debris. And school children in LeClaire, IA, helped evacuee children to adjust to their new school, and sold homemade bracelets to raise money for the evacuee families.

Mr. President, obviously, these are just snapshots. I cannot possibly name all the people from my State who gave generously of their time, talents, and energy to assist the victims of Katrina. Thousands of Iowans opened their hearts, their homes, and their pocketbooks. I simply want to take this time to thank them—the named and the unnamed for their amazing response to this tragedy. They have done Iowa proud, and I am deeply grateful to them for their service and sacrifice.

WASTEWATER TREATMENT WORKS SECURITY ACT

Mr. OBAMA. Mr. President, I rise today in support of the Wastewater Treatment Works Security Act of 2005. I am proud to be an original cosponsor of this bill.

When Timothy McVeigh drove a rental vehicle up to a Federal building in Oklahoma City, Americans began to look at trucks in a completely new way. So we learned to screen vehicles to safeguard against such a tragedy ever happening again.

On September 11, 2001, a thing as ordinary as an airplane became an instrument of destruction and terror, robbing innocent people of the rest of their lives. As a result, we have gotten pretty good at screening people and their luggage at airports, and at keeping planes out of protected air space.

While these changes are necessary and prudent, there is another part of the equation to consider: the act of terror not yet committed. We must look at the threats our security experts have identified and address these potential threats.

One such threat is a possible attack on our Nation's wastewater treatment plants. Traditionally, wastewater treatment plants have stored chemicals that, if used properly, clean the water of harmful organisms. When most of these plants were built, we did not design them to ward against use as potential weapons of mayhem and destruction. Appropriately, we were only concerned about the environment, safety, and preventing accidents.

Since September 11, as security concerns have been identified in this sector, many of these facilities have taken steps on their own to switch to safer alternative treatments or to further secure chemicals and the facilities against deliberate acts of terrorism. But, such changes are expensive. Many of these facilities need assistance to upgrade security at the facility and to switch to these safer alternative forms of treatment.

The Wastewater Treatment Works Security Act of 2005 puts in place requirements to assess facilities' vulnerability and provides much needed financial assistance to upgrade security and to switch to safer forms of chemical treatment. My only regret is that the bill does not pick up more of the cost of the assessments and upgrades. I believe the Federal Government needs to take on a larger share of funding these types of homeland security improvements.

This is a much needed bill, and I urge my colleagues to support it.

LEAKGATE AND THE INDICTMENT OF LEWIS LIBBY

Mr. HARKIN. Mr. President, 2 years ago, after the Washington Post first reported that ''two senior White House officials'' had exposed Valerie Plame Wilson's identity as a covert operative of the Central Intelligence Agency, I repeatedly came to the Senate floor to call on President Bush to act quickly to identify the leakers.

After all, this was a potentially illegal act committed by ''senior White House officials.'' This should have outraged everyone at the White House. President Bush should have taken steps to identity the perpetrators forthwith.

Bear in mind that the number of ''senior White House officials'' with the appropriate security clearances and access to knowledge about Ms. Wilson's identity could be counted on one hand—two hands at a maximum. If Mr. Bush had been serious about identifying the perpetrators, those 5 to 10 ''senior White House officials'' could have been immediately summoned to the Oval Office and questioned by the President. This matter would have been resolved literally within 24 hours.

But that did not happen. There was no outrage. There was no internal investigation. There was no angry President Bush demanding answers from his senior aides. Instead, we have had more than 2 years of concealment, coverup, and contempt.

Well, Special Counsel Patrick Fitzgerald has now broken that coverup wide open. Vice President DICK CHENEY's top aide, Scooter Libby, has been indicted for lying and obstructing justice in order to conceal his role as one of the two leakers. ''Official A,'' the second leaker, is President Bush's top aide, Karl Rove, according to multiple reports in the media, quoting senior White House sources.

But let's be clear, Mr. President, this is about more than Mr. Libby repeatedly lying about his role in leaking a CIA agent's identity; this is about the Bush administration hiding the fact that it manipulated and manufactured intelligence in order to justify the war in Iraq. This is about the Bush administration stopping at nothing to attack and discredit anyone who dared to question its efforts to ''fix'' the intelligence. This is about the United States of America being led to war under false pretenses.

Only one person in this enterprise, Mr. Libby, has been indicted so far—though Mr. Rove remains under investigation. But the issue here is not strictly: Who perpetrated a criminal offense? The issue is: Who else participated in the hardball political campaign to discredit and punish Ambassador Wilson—and who instigated that campaign?

According to Mr. Fitzgerald's indictment, Vice President CHENEY's office was the hub of a concerted effort to gather information about Ambassador Wilson and to counter the assertions made in his famous New York Times op-ed. Indeed, according to the indictment, it was none other than Vice President DICK CHENEY himself who first told Mr. Libby about Valerie Plame Wilson's identity as a CIA operative and wife of Ambassador Joe Wilson.

Again according to the indictment, on July 12, 2003, Mr. Libby flew with the Vice President on Air Force Two, and one of the issues discussed on board was how to deal with the news media. Just hours later, the indictment says, Mr. Libby told two reporters about Mrs. Wilson's status as a CIA agent.

So this gives rise to several obvious questions: What did Vice President CHENEY know, and when did he know it? Why did Mr. Libby lie, saying that he first learned about Mrs. Wilson's identity from reporters? Was he trying to conceal a broader effort, involving the Vice President, to go after Ambassador Wilson?

Vice President CHENEY owes a full explanation to the American people.

Bear in mind that it was Mr. CHENEY who was most aggressive in pushing the CIA to come up with intelligence to justify an invasion of Iraq. The CIA told him definitively that there was no meeting in Vienna between Iraqi agents and 9/11 terrorist Mohammed Atta, but Mr. CHENEY continued to assert in public that this meeting took place. Time and again, he exaggerated the case for Iraq's weapons of mass destruction, including his statement that Iraq had ''reconstituted nuclear weapons.'' It was the Vice President and his aides who took the lead in responding to those who challenged those and other claims by the administration.

By all accounts, Mr. Libby was a disciplined, cautious staff person the antithesis of a rogue operator. It is farfetched to imagine that he was freelancing when he outed Mrs. Wilson's identity as a CIA agent.

So the American people need to hear directly from Vice President CHENEY: Did he discuss with Mr. Libby whether to tell reporters about Mrs. Wilson's identity? When the Vice President read in the media that Mr. Libby had claimed that reporters first told him about Mrs. Wilson's identity, what did he say to Mr. Libby, given the fact that it was he, the Vice President, who first told Mr. Libby about Mrs. Wilson? Why has the Vice President not condemned the leaks and lies by his top aide?

It is very clear why Mr. Libby lied about who told him about Mrs. Wilson's identity. It was to frustrate, sidetrack, and stall Mr. Fitzgerald's investigation until after the 2004 election. As Mr. Fitzgerald said in announcing his indictment, if Mr. Libby had not thrown sand in the eyes of the prosecutors, ''we would have been here in October 2004 instead of October 2005.'' So Mr. Libby's lies were not only about protecting his original source, Vice President CHENEY; they were also about delaying any indictments by Mr. Fitzgerald until after the election. They were about not allowing the election to become an ''accountability moment,'' which very well could have denied President Bush reelection.

At the same time, we need an accounting from President Bush. Karl Rove is the President's closest adviser. We now know from multiple accounts in the media, citing senior administration sources, that Mr. Rove was one of the two ''senior White House officials'' who leaked Mrs. Wilson's identity as a CIA agent to reporters. Mr. Rove is still under investigation, and may or may not face indictment. But whether or not he is actually indicted, his actions were unethical and unacceptable.

Two years ago, we heard testimony from Vincent Cannistrano, former Chief of Operations and Analysis at the CIA Counterterrorism Center, on the far-reaching damage caused by the disclosure of Mrs. Wilson's identify. He said: ''Twenty years of training and experience and millions of dollars were invested in this agent, Valerie Plame [Wilson]. . . . The consequences are much greater than Valerie Plame [Wilson's] job as a clandestine CIA employee. They include damage to the lives and livelihoods of many foreign nationals with whom she was connected, and it has destroyed a clandestine cover mechanism that may have been used to protect other CIA non-official cover officers.''

Early on, President Bush stated that he would fire any White House official found to have been involved in leaking Mrs. Wilson's identity as a CIA agent. To this day, on the White House Web site, you can read the transcript of a press conference on June 10, 2004. A reporter asked: ''Mr. President, do you stand by your pledge to fire anyone found to have [been involved in leaking the CIA agent's name]?'' The President responded with an unambiguous ''yes.''

Today, the President needs to come clean about Mr. Rove's role. He needs to publicly acknowledge, as senior administration officials have already done anonymously, that Mr. Rove was the second leaker. And then he needs to make good on his pledge to fire him.

I urge President Bush—for the good of the country and for the good of his administration—to follow through on his public pledge. The President's original instincts were exactly right: It should be intolerable to allow someone who leaked a CIA agent's identity to stay on in the White House.

It is also deeply disturbing that Mr. Rove continues to hold a top-secret security clearance. Like all holders of a top-secret clearance, Mr. Rove signed a ''Classified Information Nondisclosure Agreement'' acknowledging that ''unauthorized disclosure, unauthorized retention or negligent handling of classified information by me could cause damage or irreparable injury to the United States.'' The signer of the form states: ''I have been advised that any breach of this agreement may result in the termination of any security clearances I hold; removal from any position of special confidence and trust requiring such clearances; or the termination of my employment . . .''

Before signing the nondisclosure agreement, an employee is given training and a booklet explaining the nondisclosure rules, which include prohibitions against providing classified information—or even confirming it—to reporters.

The facts are plain: Mr. Rove violated the terms of his security clearance. If the White House disputes this, then it owes the American people a formal Justice Department investigation of Mr. Rove's actions. If it is determined that he violated the terms of his Nondisclosure Agreement, he should be stripped of his security clearance immediately. This is an issue entirely separate from Mr. Fitzgerald's ongoing investigation, but it is no less important.

I am sure that President Bush is concerned about the damage to his administration from the leaking of Mrs. Wilson's covert identity. A week ago, the Washington Post reported the results of its most recent poll. It found that by a ratio of 3 to 1—46 percent to 15 percent—Americans say that the level of honesty and ethics in the Government has declined since Mr. Bush took office.

I believe it is time for Mr. Rove to go. It is time for President Bush to restore honor and integrity to the White House and to demand the highest ethical standards from his staff.

President Bush still has more than 3 years in office. For our country to be successful, he must be successful. To that end, I urge the President to set a new tone and to chart a new a new course. He should begin by asking Mr. Rove to leave and by asking Vice President CHENEY to give a full and honest accounting of his role in this matter.

ADDITIONAL STATEMENTS

TRIBUTE TO HARDY L. BROWN

• Mrs. BOXER. Mr. President, I rise today to recognize the lifetime of achievement of Hardy L. Brown. His story is a true American success story and he stands today as a leader in his community.

Hardy L. Brown was born in Trenton, NC, in 1942, the son of a sharecropper. After graduating from high school, Hardy Brown relocated to California where he found work as a laborer for Kaiser Steel in Fontana. He did not remain a laborer for long, and, in time, he took a management position with Kaiser Steel. During this same time, he also became actively involved with many community projects, always with a focus on community service.

Hardy Brown was elected to the San Bernardino City Unified School District's Board in 1983 and served for 12 years. He served as president of the board and was the first African-American male to hold this position. During his tenure as board president, he was responsible for the re-opening of and the changing of names of two schools on the west side of San Bernardino.

The banner of The Black Voice News, a weekly news publication focusing on issues surrounding the African American community, claims, ''The Black Voice News, serving the Inland Empire for 30 years.'' Cheryl and Hardy have, in fact, owned and operated the newspaper and served the Inland Empire for 28 of those successful years. He has also served on the board of the West Coast Black Publishers Association and has been active in the National Newspaper Publishers Association, which named him Publisher of the Year in 2000. He also has served as president of the California Black Media Association, an advocacy alliance for Black-owned newspapers, magazines, and radio stations.

Hardy L. Brown has had a lasting impact on southern California both through his public service and through his weekly publications. His advice and counsel are often sought by leaders in education, and by civic leaders and by Members of Congress. In fact, Hardy served on the staff of the late Congressman George E. Brown, Jr. in the Inland Empire. He and his wife, Cheryl, provide an important and reliable progressive voice and insight to the community. I applaud Hardy L. Brown for his lifetime of public service and community leadership and I am pleased to honor him as he celebrates his 63rd birthday. Please join me in honoring a great American and a true community hero, Hardy L. Brown.•

TRIBUTE TO ALBERT CASEY

• Mrs. HUTCHISON. Mr. President, one of my longtime friends, Patricia Patterson, and I were recently discussing the life and service of a great American, and I wanted to take a moment and bring to the attention of my colleagues this American success story.

Al Casey passed away on July 10, 2004, after a lifetime of contributing strong leadership and a gregarious disposition to numerous companies, communities, and organizations from across the country.

After putting himself through Harvard, Al enlisted in the Army during World War II. Following his military service, he returned to Harvard business school, earning a graduate degree in finance. Al loved Harvard, and his friendships there opened doors and enriched his life throughout his long career.

Al's first job was in New York for Railway Express. He and Ellie, his wife of more than 40 years, then moved to San Francisco with the Southern Pacific Railroad. Al later worked as President of the Times Mirror Company and the Los Angeles Times for 8 years, before moving to possibly his most visible corporate assignment—CEO of American Airlines. His philosophy, ''you don't have to be mean to be tough,'' carried him to success in most of his professional endeavors, especially with American, where Al provided aggressive leadership. When he came to American Airlines, he had already established a reputation of high ethical behavior. This, combined with his ability to laugh at himself, secured for him the cooperation and loyalty of his employees.

Following his retirement from American Airlines, Al began a relationship with SMU's Cox Business School as a faculty member. His teaching career was interrupted to rescue First International Bankshares as it emerged from bankruptcy. Later, he served as Postmaster General of the United States under President Reagan. Al enjoyed this tour immensely, even signing letters to close friends as ''Big Stamp.'' He returned to teaching, only to be tapped in 1991 by President George H.W. Bush and Alan Greenspan, Chairman of the Federal Reserve Bank, to pilot the Resolution Trust Corporation—which was charged with disposing of financial and real estate assets left behind in the wake of failed savings and loan companies in the 1980s. It was a massive undertaking that no one thought could be done. Al worked for 18 months and was able to lead the RTC in disposing of almost all of the assets by the time the Clinton administration took office.

Al had a positive outlook on life and genuinely desired to know about the triumphs and tribulations in the lives of friends and coworkers. He supported countless community and civic organizations and was committed to improving the cities and neighborhoods where he lived and worked.

The effects of his steady guidance and endless enthusiasm for life have been felt in major corporations, in professional associations, in government organizations, and in the personal lives of many Americans. Albert Casey coined ''Casey's Law,'' which holds that ''if anything could go right, it should.'' I was honored to know Al, and I thank you, Mr. President, for the opportunity to commemorate such a fine man. He is certainly missed and fondly remembered.•

TRIBUTE TO MICHAEL O. HILL

• Mr. SARBANES. Mr. President, I want to pay tribute today to Michael O. Hill, superintendent of Assateague Island National Seashore. Mike is retiring after a long and distinguished career in the National Park Service, and I want to thank him for his service to our Nation and especially for the outstanding job he did in managing and enhancing Assateague Island National Seashore since coming to Maryland in 2000.

Throughout his 33-year career with the National Park Service, Mike Hill has distinguished himself through his commitment and dedication to managing and protecting some of our Nation's most precious treasures. Beginning as a seasonal employee at Sequoia National Park in 1973, Mike's career quickly took him through a variety of increasingly challenging posts, from his first permanent position as a horse patrol ranger at Petrified Forest National Park to management positions in parks all over our country including Channel Islands National Park, Shenandoah National Park, VA, and Biscayne National Park, FL. In 1990, he was selected for the 2-year Bevinetto congressional fellowship program, where he worked with the National Park Service and Congress to better manage our national parks. In 1993, he became superintendent of Petersburg National Battlefield, and in 2000 he was selected for his present position at Assateague Island National Seashore.

Over the past 5 years, I have had the opportunity and privilege to work closely with Mike on several initiatives to protect the natural resources at Assateague and to enhance visitors' experiences at the seashore. I know firsthand the great leadership and expertise he brought not only to these initiatives, but equally important, to supporting and encouraging one of the finest staffs of park professionals in the country—at a time when all our parks are operating with only two-thirds of the needed funding and personnel. Under Mike's direction, the integrity of the northern 7 miles of the National Seashore has been restored after decades of unnatural erosion, plans have been advanced to develop a new barrier island visitors center to accommodate the increasing number of visitors to the park, and partnerships with the University of Maryland Eastern Shore, the Maryland Coastal Bay Program, and the State and local governments have been strengthened.

Mike's dedication to the stewardship of the National Park System has earned him the respect and admiration of his colleagues, park visitors, and community residents, alike. His passion for Assateague was evident even in

his voicemail: ''I can't take your call right now. With any luck, I'm out on the Island.'' It is due to that commitment that visitors to Assateague and other units of the National Park System will benefit from his labors for years to come. I want to extend my personal congratulations and thanks for his many years of hard work and dedication to the principal conservation mission of the National Park Service and join with his friends and coworkers in wishing him and his family well in the years to come.

It is my firm conviction that public service is one of the most honorable callings, one that demands the very best, most dedicated efforts of those who have the opportunity to serve their fellow citizens and country. Throughout his career, Mike Hill has exemplified a steadfast commitment to meeting his demand.●

COMMENDING SMOKEY HOLLER TREE FARM

● Mrs. DOLE. Mr. President, I rise today to congratulate Earl, Betsy, Meg, and Buddy Deal of Smokey Holler Tree Farm in Laurel Springs, NC, for winning the National Christmas Tree Association's 2005 National Christmas Tree Contest. As Grand Champions, the Deal family has the distinguished honor of providing this year's official White House Christmas tree. This is a storied tradition that began in 1966, and I applaud the Deal family for producing North Carolina's ninth official White House Christmas tree. After winning at the State level, the Deal family's prized 18½-foot Fraser fir was selected out of 22 other entries at the national competition. The tree was then approved by White House Chief Usher Gary Walters and Grounds Foreman Mike Lawn to be the Blue Room Christmas tree. The Deal family will have the honor of presenting the prized Blue Room tree to First Lady Laura Bush in a special ceremony at the White House on November 28, 2005. As an added bonus, the Deal family will provide a tree for the Oval Office and another tree for the private residence at the White House.

This year's official White House Christmas tree is a fine example of the exceptional quality of Christmas trees that we have in North Carolina. North Carolina is one of the top producers of Christmas trees, providing roughly one out of every five Christmas trees in the United States, thereby contributing over $100 million annually to North Carolina's economy. But this success does not come easily; it takes several years of meticulous care and attention to raise a Christmas tree. An average 7-foot tree is about 10 years old, and throughout that time the grower diligently shapes, grooms, and fertilizes the tree several times per year. Not many people realize the years of hard work and sacrifice that go into raising a Christmas tree, and our growers are to be commended for their continuous success.

North Carolina has a rich history in Christmas trees, and year after year, many American families enjoy the warmth and beauty of these North Carolina trees that are a symbol of the holiday season. I am proud of the hard work exhibited by our Christmas tree growers in North Carolina, and I am proud that there will be another North Carolina Christmas tree in the White House this year.●

GUIDEONE INSURANCE HONORED WITH ''PRINCIPAL 10 BEST COMPANIES'' AWARD

● Mr. HARKIN. Mr. President, each year the Principal Financial Group shines a spotlight on companies across the United States that excel in providing for their employees' financial future, including a well-funded retirement. Selected by a blue-ribbon panel, these exemplary companies are honored with the Principal 10 Best Companies Award.

This year, 1 of the 10 recipients of this prestigious award is GuideOne Insurance of West Des Moines, IA. GuideOne, which was founded in 1947, is one of the Nation's largest insurers of churches. It also insures faith-based private schools and colleges as well as not-for-profit senior living communities.

At a time when so many companies across the United States are cutting back—or completely eliminating—their employer-provided retirement benefits, GuideOne is charting a different course. The firm's executives believe that providing for their employees' financial future is critical to success in recruiting, retaining, and motivating an excellent staff.

The 807 employees at GuideOne enjoy a generous benefit package, including a defined benefit pension plan; 100 percent employer-paid premiums for disability insurance; a 401(k) plan with 100 percent employer match up to 3 percent of pay; and health insurance that is 76 percent employer-paid for employees, and 68 percent employer-paid for dependents. Nearly 85 percent of employees participate in the company's 401(k) plan, which is remarkably high by national standards.

To its great credit, the company is also concerned about the health of its employees. GuideOne has a robust wellness program that, among other things, reimburses employees $200 for fitness-related expenses.

Mr. President, it is clear to me that GuideOne understands what too many companies in the United States have forgotten. GuideOne understands that its employees truly are its greatest asset and competitive strength, and that a generous benefit package is the way to attract and retain outstanding talent, while keeping morale and productivity high.

So I congratulate GuideOne for the richly deserved honor of receiving the Principal 10 Best Companies Award, and I salute all the folks at GuideOne for setting an example of enlightened corporate stewardship. They are proving that it is possible to do well and do good at the same time. And I couldn't be more proud that this excellent company calls Iowa home.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

DRAFT OF PROPOSED LEGISLATION ENTITLED ''UNITED STATES-BAHRAIN FREE TRADE AGREEMENT IMPLEMENTATION ACT''—PM 32

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Finance:

To the Congress of the United States:

I am pleased to transmit legislation and supporting documents to implement the United States-Bahrain Free Trade Agreement (the ''Agreement''). This Agreement enhances our bilateral relationship with a strategic friend and ally in the Middle East region and will promote economic growth and prosperity in both nations.

In negotiating this Agreement, my Administration was guided by the objectives set out in the Trade Act of 2002. The Agreement reflects my Administration's commitment to opening markets and expanding opportunities for American workers, farmers, ranchers, and businesses. The Agreement will open Bahrain's market for U.S. manufactured goods, agricultural products, and services. As soon as it enters into force, the Agreement will eliminate tariffs on all manufactured goods that the United States sells to Bahrain and immediately remove Bahrain's import duties on over 80 percent of U.S. agricultural products. The Agreement is also one of the most comprehensive ever negotiated to reduce barriers to trade in services and will create new opportunities for U.S. services firms.

The Agreement contains procedures that will facilitate cooperation between the United States and Bahrain on environmental and labor matters. The labor chapter of the Agreement reinforces Bahrain's recent legislative actions to expand democracy and improve the protection of worker rights,

including trade union rights. Provisions in the Agreement requiring effective enforcement of environmental laws will contribute to high levels of environmental protection.

The approval of this Agreement will be another significant step towards creating a Middle East Free Trade Area by 2013. This Agreement offers the United States yet another opportunity to encourage economic reform in a moderate Muslim nation as we have done through our free trade agreements with Jordan and Morocco. Leaders in Bahrain are supporting the pursuit of social and economic reforms in the region, encouraging foreign investment connected to broad-based development, and providing better protection for women and workers. It is strongly in our national interest to embrace and encourage these reforms, and passing this legislation is a crucial step toward that end.

GEORGE W. BUSH.

THE WHITE HOUSE, *November 16, 2005.*

MESSAGES FROM THE HOUSE

ENROLLED BILLS SIGNED

At 2:20 p.m., a message from the House of Representatives, delivered by Ms. Brandon, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

S. 1713. An act to make amendments to the Iran Nonproliferation Act of 2000 related to International Space Station Payments, and for other purposes.

S. 1894. An act to amend part E of title IV of the Social Security Act to provide for the making of foster care maintenance payments to private for-profit agencies.

The enrolled bills were signed subsequently by the President pro tempore (Mr. STEVENS).

At 2:25 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 318. An act to authorize the Secretary of the Interior to study the suitability and feasibility of designating Castle Nugent Farms located on St. Croix, Virgin Islands, as a unit of the National Park System, and for other purposes.

H.R. 323. An act to redesignate the Ellis Island Library on the third floor of the Ellis Island Immigration Museuni, located on Ellis Island in New York Harbor, as the ''Bob Hope Memorial Library''.

H.R. 326. An act to amend the Yuma Crossing National Heritage Area Act of 2000 to adjust the boundary of the Yuma Crossing National Heritage Area and to extend the authority of the Secretary of the Interior to provide assistance under that Act.

H.R. 856. An act to establish a Federal Youth Development Council to improve the administration and coordination of Federal programs serving youth, and for other purposes.

H.R. 1564. An act to authorize the Secretary of the Interior to convey certain buildings and lands of the Yakima Project, Washington, to the Yakima-Tieton Irrigation District.

H.R. 1972. An act to direct the Secretary of the Interior to conduct a special resource study to determine the suitability and feasibility of including in the National Park System certain sites in Williamson County, Tennessee, relating to the Battle of Franklin.

H.R. 3507. An act to transfer certain land in Riverside County, California, and San Diego County, California, from the Bureau of Land Management to the United States to be held in trust for the Pechanga Band of Luiseno Mission Indians, and for other purposes.

H.R. 3721. An act to amend the Omnibus Parks and Public Lands Management Act of 1996 to allow certain commercial vehicles to continue to use Route 209 within Delaware Water Gap National Recreation Area and to allow the National Park Service to continue to collect fees from those vehicles, and for other purposes.

H.R. 3975. An act to ease the provision of services to individuals affected by Hurricanes Katrina and Rita, and for other purposes.

H.R. 3981. An act to authorize the Secretary of Agriculture to carry out certain land exchanges involving small parcels of National Forest System land in the Tahoe National Forest in the State of California, and for other purposes.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 288. Concurrent resolution recognizing the 30th anniversary of the enactment of the Education for All Handicapped Children Act of 1975 and reaffirming support for the Individuals with Disabilities Education Act so that all children with disabilities have access to a free appropriate public education in the least restrictive environment.

At 6:08 p.m., a message from the House of Representatives, delivered by Ms. Brandon, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 4326. An act to authorize the Secretary of the Navy to enter into a contract for the nuclear refueling and complex overhaul of the U.S.S. Carl Vinson (CVN–70).

MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 318. An act to authorize the Secretary of the Interior to study the suitability and feasibility of designating Castle Nugent Farms located on St. Croix, Virgin Islands, as a unit of the National Park System, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 323. An act to redesignate the Ellis Island Library on the third floor of the Ellis Island Immigration Museum, located on Ellis Island in New York Harbor, as the ''Bob Hope Memorial Library''; to the Committee on Energy and Natural Resources.

H.R. 326. An act to amend the Yuma Crossing National Heritage Area Act of 2000 to adjust the boundary of the Yuma Crossing National Heritage Area and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 856. An act to establish a Federal Youth Development Council to improve the administration and coordination of Federal programs serving youth, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

H.R. 1564. An act to authorize the Secretary of the Interior to convey certain buildings and lands of the Yakima Project, Washington, to the Yakima-Tieton Irrigation District; to the Committee on Energy and Natural Resources.

H.R. 3507. An act to transfer certain land in Riverside County, California, and San Diego County, California, from the Bureau of Land Management to the United States to be held in trust for the Pechanga Band of Luiseno Mission Indians, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 3721. An act to amend the Omnibus Parks and Public Lands Management Act of 1996 to allow certain commercial vehicles to continue to use Route 209 within Delaware Water Gap National Recreation Area and to allow the National Park Service to continue to collect fees from those vehicles, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 3975. An act to ease the provision of services to individuals affected by Hurricanes Katrina and Rita, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

H.R. 3981. An act to authorize the Secretary of Agriculture to carry out certain land exchanges involving small parcels of National Forest System land in the Tahoe National Forest in the State of California, and for other purposes; to the Committee on Energy and Natural Resources.

The following concurrent resolution was read, and referred as indicated:

H. Con. Res. 288. Concurrent resolution recognizing the 30th anniversary of the enactment of the Education for All Handicapped Children Act of 1975 and reaffirming support for the Individuals with Disabilities Education Act so that all children with disabilities have access to a free appropriate public education in the least restrictive environment; to the Committee on Health, Education, Labor, and Pensions.

MEASURES PLACED ON THE CALENDAR

The following bill was read the second time, and placed on the calendar:

S. 2008. A bill to improve cargo security, and for other purposes.

The following bill was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 1972. An act to direct the Secretary of the Interior to conduct a special resource study to determine the suitability and feasibility of including in the National Park System certain sites in Williamson County, Tennessee, relating to the Battle of Franklin.

MEASURES HELD AT DESK

The following measure was discharged from committee, passed without amendment, and was ordered held at the desk, by unanimous consent:

S. 695. A bill to suspend temporarily new shipper bonding privileges.

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–4652. A communication from the Principal Deputy Associate Administrator, Office

of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Maryland; Metropolitan Washington D.C. 1-Hour Ozone Attainment Plan, Lifting of Earlier Rules Resulting in Removal of Sanctions and Federal Implementation Clocks'' (FRL7997–5) received on November 14, 2005; to the Committee on Environment and Public Works.

EC–4653. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of State Air Quality Plans for Designated Facilities and Pollutants, Commonwealth of Virginia; Control of Emissions From Hospital/Medical/Infectious Waste Incinerator Units; Correction'' (FRL7997-6) received on November 14, 2005; to the Committee on Environment and Public Works.

EC–4654. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Determination of Attainment, Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; Indiana; Redesignation of Delaware County to Attainment of the 8-Hour Ozone Standard'' (FRL7997–8) received on November 14, 2005; to the Committee on Environment and Public Works.

EC–4655. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Control of Air Pollution From Aircraft and Aircraft Engines; Emission Standards and Test Procedures'' (FRL7997–3) received on November 14, 2005; to the Committee on Environment and Public Works.

EC–4656. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Control of Air Pollution from New Motor Vehicles; Revisions to Motor Vehicle Diesel Fuel Sulfur Transition Provisions; and Technical Amendments to the Highway Diesel, Nonroad Diesel, and Tier 2 Gasoline Programs'' (FRL7996–9) received on November 14, 2005; to the Committee on Environment and Public Works.

EC–4657. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''National Emission Standards for Hazardous Air Pollutants for Brick and Structural Clay Products Manufacturing: Reconsideration'' (FRL7997–9) received on November 14, 2005; to the Committee on Environment and Public Works.

EC–4658. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Final Rule to Implement the 8-Hour Ozone National Ambient Air Quality Standard—Phase 2; Final Rule to Implement Certain Aspects of the 1990 Amendments Relating to New Source Review and Prevention of Significant Deterioration as they Apply in Carbon Monoxide, Particulate Matter and Ozone NAAQS; Final Rule for Reformulated Gasoline'' (FRL7996–8) received on November 14, 2005; to the Committee on Environment and Public Works.

EC–4659. A communication from the Secretary, Department of Agriculture, transmitting, a report of draft legislation which would provide for the Secretary of Agriculture to meet certain reporting requirements relating to strategic planning; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4660. A communication from the Acting Under Secretary, Emergency Preparedness and Response, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, a report that funding for the State of Minnesota 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–4661. A communication from the Director, Office of Legislative Affairs, Federal Deposit Insurance Corporation (FDIC), transmitting, pursuant to law, the report of a rule entitled ''Deposit Insurance Coverage; Accounts in Qualified Tuition Savings Programs Under Section 529 of the Internal Revenue Code'' (RIN3064–AC90) received on November 15, 2005; to the Committee on Banking, Housing, and Urban Affairs.

EC–4662. A communication from the Secretary, Commission of Fine Arts, transmitting, pursuant to law, a report on Fiscal Year 2005 Competitive Sourcing Efforts and the Commission's Fiscal Year 2005 Inventory of Commercial and Inherently Governmental Activities Report, dated May 24, 2005; to the Committee on Homeland Security and Governmental Affairs.

EC–4663. A communication from the Independent Counsel, Office of Independent Council, transmitting, pursuant to law, the Office's Annual Report on Audit and Investigative Activities; to the Committee on Homeland Security and Governmental Affairs.

EC–4664. A communication from the Director of Selective Service, transmitting, pursuant to law, a report in accordance with the Federal Managers' Integrity Act; to the Committee on Homeland Security and Governmental Affairs.

EC–4665. A communication from the Chairman, Occupational Safety and Health Review Commission, transmitting, pursuant to law, a report on the Agency's compliance with the Inspector General Act of 1978 and the Federal Managers' Financial Integrity Act for fiscal year 2005; to the Committee on Homeland Security and Governmental Affairs.

EC–4666. A communication from the Staff Director, Commission on Civil Rights, transmitting, pursuant to law, the Federal Managers' Financial Integrity Act Report for fiscal year 2004; to the Committee on Homeland Security and Governmental Affairs.

EC–4667. A communication from the Director, Division for Strategic Human Resources Policy, Office of Personnel Management, transmitting, pursuant to law, the report of a rule entitled ''Department of Defense Human Resources Management and Labor Relations Systems'' (RIN3206–AK76/0790–AH82) received on November 15, 2005; to the Committee on Homeland Security and Governmental Affairs.

EC–4668. A communication from the Acting Deputy Secretary of Defense, transmitting, pursuant to law, the Department's Fiscal Year 2005 Performance and Accountability Report; to the Committee on Homeland Security and Governmental Affairs.

EC–4669. A communication from the Commissioner, Social Security Administration, transmitting, pursuant to law, the Administration's Performance and Accountability Report for Fiscal Year 2005; to the Committee on Homeland Security and Governmental Affairs.

EC–4670. A communication from the Attorney General, Department of Justice, transmitting, pursuant to law, the Department's Fiscal Year 2005 Performance and Accountability Report; to the Committee on Homeland Security and Governmental Affairs.

EC–4671. A communication from the Chairman, Nuclear Regulatory Commission, transmitting, pursuant to law, the Commission's Fiscal Year 2005 Performance and Accountability Report; to the Committee on Homeland Security and Governmental Affairs.

EC–4672. A communication from the Director, U.S. Trade and Development Agency, transmitting, pursuant to law, the Agency's Performance and Accountability Reports including audited financial statements for fiscal year 2005; to the Committee on Homeland Security and Governmental Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. CRAIG, from the Committee on Veterans' Affairs, without amendment:

S. 716. A bill to amend title 38, United States Code, to enhance services provided by vet centers, to clarify and improve the provision of bereavement counseling by the Department of Veterans Affairs, and for other purposes (Rept. No. 109–180).

By Mr. STEVENS, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute:

S. 363. A bill to amend the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 to establish vessel ballast water management requirements, and for other purposes (Rept. No. 109–181).

By Mr. SHELBY, from the Committee on Banking, Housing, and Urban Affairs, with an amendment in the nature of a substitute:

S. 467. A bill to extend the applicability of the Terrorism Risk Insurance Act of 2002.

By Mr. GRASSLEY, from the Committee on Finance, without amendment:

S. 2020. An original bill to provide for reconciliation pursuant to section 202(b) of the concurrent resolution on the budget for fiscal year 2006.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. WARNER for the Committee on Armed Services.

Army nominations beginning with Brigadier General Robert P. French and ending with Colonel Terry L. Wiley, which nominations were received by the Senate and appeared in the Congressional Record on November 4, 2005.

Air Force nominations beginning with Brigadier General Larita A. Aragon and ending with Colonel Alex D. Roberts, which nominations were received by the Senate and appeared in the Congressional Record on November 4, 2005.

Air Force nomination of Colonel Steven R. Doohen to be Brigadier General.

Air Force nomination of Colonel Daniel R. Eagle to be Brigadier General.

Army nomination of Lt. Gen. David D. McKiernan to be General.

Army nomination of Maj. Gen. Peter W. Chiarelli to be Lieutenant General.

Army nomination of Maj. Gen. Keith W. Dayton to be Lieutenant General.

Army nomination of Maj. Gen. John R. Wood to be Lieutenant General.

Army nomination of Brig. Gen. William T. Nesbitt to be Major General.

Army nomination of Col. Guy L. Sands-Pingot to be Brigadier General.

Army nomination of Col. Mitchell L. Brown to be Brigadier General.

Navy nomination of Rear Adm. John C. Harvey, Jr. to be Vice Admiral.

Navy nomination of Capt. Frank Thorp IV to be Rear Admiral (lower half).

Mr. WARNER. Mr. President, for the Committee on Armed Services I report favorably the following nomination lists which were printed in the RECORDS on the dates indicated, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar that these nominations lie at the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

Air Force nominations beginning with Brian F. Abell and ending with Ray A. Zuniga, which nominations were received by the Senate and appeared in the Congressional Record on May 26, 2005.

Air Force nomination of Jon R. Stovall to be Colonel.

Air Force nomination of Kenneth W. Bullock to be Lieutenant Colonel.

Air Force nominations beginning with Randall S. Lecheminant and ending with Scott H. R. Lee, which nominations were received by the Senate and appeared in the Congressional Record on November 10, 2005.

Air Force nomination of Rena A. Nicholas to be Major.

Air Force nomination of Jeffrey S. Brittig to be Major.

Air Force nomination of Albert J. Bainger to be Major.

Army nominations beginning with Robinette J. Amaker and ending with Josef H. Moore, which nominations were received by the Senate and appeared in the Congressional Record on October 25, 2005.

Army nominations beginning with Terry K. Besch and ending with John R. Taber, which nominations were received by the Senate and appeared in the Congressional Record on October 25, 2005.

Army nominations beginning with Kimberly K. Armstrong and ending with Kelly A. Wolgast, which nominations were received by the Senate and appeared in the Congressional Record on October 25 2005.

Army nominations beginning with Randall G. Anderson and ending with John H. Trakowski, Jr., which nominations were received by the Senate and appeared in the Congressional Record on October 25, 2005.

Army nominations beginning with Robert Dempster and ending with Errol Lader, which nominations were received by the Senate and appeared in the Congressional Record on October 26, 2005.

Army nominations beginning with Mimms Mabee and ending with Jimmie Perez, which nominations were received by the Senate and appeared in the Congressional Record on October 26, 2005.

Army nominations beginning with Michelle Beach and ending with Helen Laquay, which nominations were received by the Senate and appeared in the Congressional Record on October 26, 2005.

Army nominations beginning with Gregory Brewer and ending with Terrell Morrow, which nominations were received by the Senate and appeared in the Congressional Record on October 26, 2005.

Army nominations beginning with Walter J. Austin and ending with Keith C. Smith, which nominations were received by the Senate and appeared in the Congressional Record on November 4, 2005.

Army nomination of Jack N. Washburne to be Colonel.

Army nominations beginning with Barry J. Bernstein and ending with Juan M. Vera, which nominations were received by the Senate and appeared in the Congressional Record on November 10, 2005.

Army nominations beginning with Melvin S. Hogan and ending with Joseph M. Jackson, which nominations were received by the Senate and appeared in the Congressional Record on November 10, 2005.

By Mr. SHELBY for the Committee on Banking, Housing, and Urban Affairs.

*Ben S. Bernanke, of New Jersey, to be a Member of the Board of Governors of the Federal Reserve System for a term of fourteen years from February 1, 2006.

*Ben S. Bernanke, of New Jersey, to be Chairman of the Board of Governors of the Federal Reserve System for a term of four years.

By Mr. DOMENICI for the Committee on Energy and Natural Resources.

*Jeffrey D. Jarrett, of Pennsylvania, to be an Assistant Secretary of Energy (Fossil Energy).

*Edward F. Sproat III, of Pennsylvania, to be Director of the Office of Civilian Radioactive Waste Management, Department of Energy.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

EXECUTIVE REPORT OF COMMITTEE

The following executive report of committee was submitted:

By Mr. LUGAR, from the Committee on Foreign Relations:

Convention Concerning Migratory Fish Stock in the Pacific Ocean (Treaty Doc. 109–1) (Ex. Rept. 109–8).

Text of the resolution of ratification as reported by the Committee on Foreign Relations:

Resolved (two-thirds of the Senators present concurring therein),

The Senate advises and consents to the ratification of the Convention on the Conservation and Management of the Highly Migratory Fish Stocks in the Western and Central Pacific Ocean, with Annexes, adopted at Honolulu on September 5, 2000, by the Multilateral High Level Conference on the Highly Migratory Fish Stocks in the Western and Central Pacific Ocean, and signed by the United States on that date (Treaty Doc. 109–1).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. GRASSLEY (for himself and Mr. SESSIONS):

S. 2016. A bill to amend chapter 3 of title 28, United States Code, to provide for 11 circuit judges on the United States Court of Appeals for the District of Columbia Circuit; to the Committee on the Judiciary.

By Mr. FEINGOLD (for himself and Ms. SNOWE):

S. 2017. A bill to amend the provisions of titles 5 and 28, United States Code, relating to equal access to justice, award of reasonable costs and fees, and administrative settlement offers, and for other purposes; to the Committee on the Judiciary.

By Mr. JOHNSON (for himself, Mr. CONRAD, and Mr. DORGAN):

S. 2018. A bill to amend the Federal Meat Inspection Act to provide that a quality grade label issued by the Secretary of Agriculture for beef and lamb may not be used for imported beef or imported lamb; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. SMITH (for himself and Mr. BAUCUS):

S. 2019. A bill to provide for a research program for remediation of closed methamphetamine production laboratories, and for other purposes; to the Committee on Environment and Public Works.

By Mr. GRASSLEY:

S. 2020. An original bill to provide for reconciliation pursuant to section 202(b) of the concurrent resolution on the budget for fiscal year 2006; from the Committee on Finance; placed on the calendar.

By Mr. CHAMBLISS:

S. 2021. A bill to amend title 38, United States Code, to establish in the Department of Veterans Affairs an Office of National Veterans Sports Programs and Special Events; to the Committee on Veterans' Affairs.

By Mr. COLEMAN (for himself and Mr. BINGAMAN):

S. 2022. A bill to amend title XVIII of the Social Security Act to provide for coverage of remote patient management services for chronic health care conditions under the Medicare program; to the Committee on Finance.

By Mr. INHOFE (for himself and Mr. THUNE):

S. 2023. A bill to amend the Oil Pollution Act of 1990 to improve that Act, and for other purposes; to the Committee on Environment and Public Works.

By Ms. MURKOWSKI:

S. 2024. A bill to raise the minimum State allocation under section 217(b)(2) of the Cranston-Gonzalez National Affordable Housing Act; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. BAYH (for himself, Mr. BROWNBACK, Mr. LIEBERMAN, Mr. COLEMAN, Mr. GRAHAM, Mr. SALAZAR, Mr. SESSIONS, Mr. NELSON of Florida, Mr. LUGAR, and Mr. OBAMA):

S. 2025. A bill to promote the national security and stability of the United States economy by reducing the dependence of the United States on oil through the use of alternative fuels and new technology, and for other purposes; to the Committee on Finance.

By Mr. LAUTENBERG (for himself, Mr. KERRY, Mr. DORGAN, and Mr. DAYTON):

S. 2026. A bill to amend title XVIII of the Social Security Act to require that a prescription drug plan or an MA–PD plan that has an initial coverage limit obtain a signed certification prior to enrolling benficiaries under the plan under part D of such title; to the Committee on Finance.

By Mr. GRASSLEY (for himself and Mr. BAUCUS):

S. 2027. A bill to implement the United States-Bahrain Free Trade Agreement; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. BURNS (for himself, Mr. LEAHY, Mr. INOUYE, Mr. SMITH, Mr.

STEVENS, Mr. SUNUNU, Mr. NELSON of Florida, Mrs. HUTCHISON, Mr. INHOFE, Mr. ALLEN, and Mr. CRAIG):

S. Res. 317. A resolution expressing the sense of the Senate regarding oversight of the Internet Corporation for Assigned Names and Numbers; considered and agreed to.

ADDITIONAL COSPONSORS

S. 1112

At the request of Mr. BAUCUS, the name of the Senator from Connecticut (Mr. LIEBERMAN) 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. 1139

At the request of Mr. SANTORUM, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 1139, a bill to amend the Animal Welfare Act to strengthen the ability of the Secretary of Agriculture to regulate the pet industry.

S. 1179

At the request of Mr. AKAKA, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 1179, a bill to amend title XVIII of the Social Security Act to ensure that benefits under part D of such title have no impact on benefits under other Federal programs.

S. 1215

At the request of Mr. GREGG, the name of the Senator from Alabama (Mr. SESSIONS) was added as a cosponsor of S. 1215, a bill to authorize the acquisition of interests in underdeveloped coastal areas in order better to ensure their protection from development.

S. 1496

At the request of Mr. CRAPO, the name of the Senator from North Carolina (Mr. BURR) was added as a cosponsor of S. 1496, a bill to direct the Secretary of the Interior to conduct a pilot program under which up to 15 States may issue electronic Federal migratory bird hunting stamps.

S. 1504

At the request of Mr. ENSIGN, the names of the Senator from Florida (Mr. MARTINEZ) and the Senator from North Carolina (Mr. BURR) were added as cosponsors of S. 1504, a bill to establish a market driven telecommunications marketplace, to eliminate government managed competition of existing communication service, and to provide parity between functionally equivalent services.

S. 1791

At the request of Mr. SMITH, the names of the Senator from Georgia (Mr. CHAMBLISS), the Senator from Georgia (Mr. ISAKSON), the Senator from North Carolina (Mr. BURR) and the Senator from Kentucky (Mr. BUNNING) were added as cosponsors of S. 1791, a bill to amend the Internal Revenue Code of 1986 to allow a deduction for qualified timber gains.

S. 1841

At the request of Mr. NELSON of Florida, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 1841, a bill to amend title XVIII of the Social Security Act to provide extended and additional protection to Medicare beneficiaries who enroll for the Medicare prescription drug benefit during 2006.

S. 1930

At the request of Mr. REID, the names of the Senator from Georgia (Mr. CHAMBLISS) and the Senator from Connecticut (Mr. LIEBERMAN) were added as cosponsors of S. 1930, a bill to expand the research, prevention, and awareness activities of the National Institute of Diabetes and Digestive and Kidney Diseases and the Centers for Disease Control and Prevention with respect to inflammatory bowel disease.

S. 2013

At the request of Mr. STEVENS, the name of the Senator from Alaska (Ms. MURKOWSKI) was added as a cosponsor of S. 2013, a bill to amend the Marine Mammal Protection Act of 1972 to implement the Agreement on the Conservation and Management of the Alaska-Chukotka Polar Bear Population.

S. CON. RES. 60

At the request of Mr. TALENT, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. Con. Res. 60, a concurrent resolution designating the Negro Leagues Baseball Museum in Kansas City, Missouri, as America's National Negro Leagues Baseball Museum.

S. CON. RES. 62

At the request of Mr. MCCONNELL, the names of the Senator from Illinois (Mr. OBAMA), the Senator from North Carolina (Mr. BURR) and the Senator from Nebraska (Mr. HAGEL) were added as cosponsors of S. Con. Res. 62, a concurrent resolution directing the Joint Committee on the Library to procure a statue of Rosa Parks for placement in the Capitol.

At the request of Mr. STEVENS, his name was added as a cosponsor of S. Con. Res. 62, supra.

At the request of Mr. DODD, the name of the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. Con. Res. 62, supra.

At the request of Mr. ROBERTS, his name was added as a cosponsor of S. Con. Res. 62, supra.

S. RES. 219

At the request of Mrs. FEINSTEIN, the names of the Senator from New York (Mr. SCHUMER), the Senator from Maryland (Ms. MIKULSKI), the Senator from Hawaii (Mr. AKAKA), the Senator from Washington (Ms. CANTWELL) and the Senator from Washington (Mrs. MURRAY) were added as cosponsors of S. Res. 219, a resolution designating March 8, 2006, as ''Endangered Species Day'', and encouraging the people of the United States to become educated about, and aware of, threats to species, success stories in species recovery, and the opportunity to promote species conservation worldwide.

S. RES. 316

At the request of Mr. COLEMAN, the names of the Senator from Utah (Mr. BENNETT), the Senator from Florida (Mr. NELSON) and the Senator from Arizona (Mr. KYL) were added as cosponsors of S. Res. 316, a resolution expressing the sense of the Senate that the United Nations and other international organizations should not be allowed to exercise control over the Internet.

AMENDMENT NO. 2574

At the request of Ms. SNOWE, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of amendment No. 2574 proposed to S. 1042, an original bill to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. GRASSLEY (for himself and Mr. SESSIONS):

S. 2016. A bill to amend chapter 3 of title 28, United States Code, to provide for 11 circuit judges on the United States Court of Appeals for the District of Columbia Circuit; to the Committee on the Judiciary.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the text of this bill be printed in the RECORD.

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

S. 2016

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

SECTION 1. JUDGES ON THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT.

(a) IN GENERAL.—The table under section 44(a) of title 28, United States Code, is amended by striking the item relating to the District of Columbia and inserting the following:

''District of Columbia ..... 11''.

(b) EXISTING VACANCY NOT FILLED.—In order to comply with the amendment made under subsection (a), 1 of the vacancies of circuit judges on the United States Court of Appeals for the District of Columbia Circuit which existed on the date preceding the date of the enactment of this Act, shall not be filled.

By Mr. FEINGOLD (for himself and Ms. SNOWE):

S. 2017. A bill to amend the provisions of titles 5 and 28, United States Code, relating to equal access to justice, award of reasonable costs and fees, and administrative settlement offers, and for other purposes; to the Committee on the Judiciary.

Mr. FEINGOLD. Mr. President, today I plan to introduce the Equal Access to Justice Reform Act of 2005.

This legislation contains adjustments to the Equal Access to Justice

Act (EAJA) that will streamline and improve the process of awarding attorneys' fees to private parties who prevail in litigation against the Federal Government. This is the fifth Congress in which I have introduced EAJA reform. I believe this reform is an important step toward reducing the burden of defending government litigation for many individuals and small businesses.

I am very pleased to be joined in introducing this legislation this year by my friend from Maine, Senator OLYMPIA SNOWE, who chairs the Small Business Committee. We hope that by working together on a bipartisan basis, we will increase the chances that this important project will become law.

The legislation we are proposing today deals directly with a problem that affects small businesses and individual Americans across this country who face legal battles with the Federal Government. Even if they win in court, they may lose financially because they incur the great expense of paying their attorneys.

It is important to understand what the Equal Access to Justice Act is, and why it exists. The premise of this statute is very simple. EAJA seeks to level the playing field for individuals and small businesses that face the United States government in litigation. It establishes guidelines for the award of attorneys' fees when the individual or small business prevails in a case brought by the government. Quite simply, EAJA acknowledges that the resources available to the Federal Government in a legal dispute far outweigh those available to most Americans. This disparity is lessened by requiring the government, in certain instances, to pay the attorneys' fees of successful individual and small-business parties. By giving successful parties the right to seek attorneys' fees from the United States, EAJA seeks to prevent individuals and small business owners from having to risk their family savings or their companies' financial well-being to seek justice in court.

My interest in this issue predates my election to the Senate. It arises from my experience as both a private attorney and a Member of the State Senate in my home State of Wisconsin. While in private practice, I became aware of how the ability to recoup attorneys' fees is a significant factor, and often one of the first considered, when parties decide whether to defend a case. Upon entering the Wisconsin State Senate, I authored legislation modeled on the Federal law, which had been championed by one of my predecessors in this body from Wisconsin, Senator Gaylord Nelson. Today, Wisconsin statutes contain provisions similar to the federal EAJA statute.

It seemed to me then, as it does now, that we should do all that we can to help ease the financial burdens on people who need to have their claims reviewed and decided by impartial decision makers. The bill Senator SNOWE and I are introducing today does a number of things to make EAJA more effective for individuals and small business owners across this country.

First, this legislation eliminates the restrictive provision in current law that prevents successful parties from collecting attorneys' fees unless they can show the government's position was ''not substantially justified.'' I believe that this high threshold for obtaining attorneys' fees is unfair. If an individual or small business battles the Federal Government in an adversarial proceeding and prevails, the government should pay the fees incurred. Imagine a small business that spends time and money fighting the government and wins, only to find out that it must undertake the additional step of litigating the justification of government's litigation position just to recover attorneys' fees. For the government, with its vast resources, this second litigation over fees poses little difficulty, but for the small business or individual, it may simply not be financially feasible.

This additional step presents more than a financial burden on the individual or small business litigant. A 1992 study also reveals that it is unnecessary and a waste of government resources. University of Virginia Professor Harold Krent reviewed EAJA cases in 1989 and 1990 and released a study on behalf of the Administrative Conference of the United States. Professor Krent found that only a small percentage of EAJA awards were denied because of the substantial justification defense. While it is impossible to determine the exact cost of litigating the issue of substantial justification, Professor Krent found that the money saved by the government was not enough to justify the cost of the additional litigation. In short, eliminating this often-burdensome second step is a cost-effective step that will streamline recovery under EAJA and may very well save the government money in the long run.

A second improvement this bill makes to EAJA are modifications to the definition of a small business. Small businesses are currently defined for purposes of EAJA as businesses with a net worth of less than $7 million. We update that number to $10 million and also provide for an inflation adjustment every five years based on the Producer Price Index. This provision will ensure that EAJA continues to serve the small businesses it is intended to protect.

Another part of this legislation that will streamline and improve EAJA is a provision designed to encourage settlement and avoid costly and protracted litigation. Under the bill, the government can make an offer of settlement after an application for fees and other expenses has been filed. If the government's offer is rejected and the prevailing party seeking recovery ultimately wins a smaller award, that party is not entitled to the attorneys' fees and costs incurred after the date of the government's offer. Again, this will encourage settlement and speed the claims process. It will reduce the time and expense of the litigation.

This bill also requires the government agency that brought the case against the small business or individual to pay attorneys' fees from their own budgets. This provision ensures federal agencies will consider the financial impact of the actions they choose to bring against individuals and small businesses. OSHA, NLRB, EEOC, and the Mine Safety and Health Administration are exempt from this provision because they play a unique role in acting on behalf of workers to enforce the laws.

Finally, this bill will modify the definition of prevailing party to ensure that if claims filed against the government are the catalyst for a change in the position by the government that results in the individual or small business achieving a significant part of the relief sought, the individual or small business will be considered the prevailing party even if the case settles rather than going to a judgment. This reverses, in cases where fees are available under EAJA, the 2001 decision of the Supreme Court in Buckhannon Board and Care Home, Inc. v. West Virginia Department of Health and Human Resources.

We all know that the American small business owner faces many challenges. Government regulation can be a formidable obstacle to conducting business, and litigation can be costly. The Equal Access to Justice Act was conceived and implemented as a check on the formidable power of the federal government. It has already helped many individual Americans and small businesses. The legislation we are offering today will make EAJA more effective and more fair. I want to thank Senator SNOWE for agreeing to work with me on this important bill. I hope our colleagues can support it.

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. 2017

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 ''Equal Access to Justice Reform Act of 2005''.

SEC. 2. FINDINGS AND STATEMENT OF PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) the Equal Access to Justice Act (Public Law 96–481; 94 Stat. 2325 et seq.) (in this section referred to as ''EAJA'') was intended to make the justice system more accessible to individuals of modest means, small businesses, and nonprofit organizations (in this section collectively referred to as ''small parties'') through limited recovery of their attorneys' fees when they prevail in disputes with the Federal Government; and

(2) although EAJA has succeeded, at modest cost, in improving access to the justice system for small parties, EAJA retains formidable barriers to attorneys' fees recovery

(even for small parties that completely prevail against the Government), as well as inefficient and costly mechanisms for determining the fees recovery.

(b) PURPOSE.—It is, therefore, the purpose of this Act to remove existing barriers and inefficiencies in EAJA in order to—

(1) equalize the level of accountability to Federal law among governments in the United States;

(2) discourage marginal Federal enforcement actions directed at small parties;

(3) reduce the practice of paying EAJA liabilities from the General Treasury, to ensure that Federal agencies properly consider the financial consequences of their actions and subsequent impact on the Federal budget;

(4) refine and improve Federal policies through adjudication;

(5) promote a fair and cost-effective process for prompt settlement and payment of attorneys' fees claims; and

(6) provide a fairer opportunity for full participation by small businesses in the free enterprise system, further increasing the economic vitality of the Nation.

(c) COMPLIANCE POLICY.—In complying with the statement of congressional policy expressed in this section, each Federal agency, to the maximum extent practicable, should—

(1) avoid unjustified enforcement actions directed at small parties covered by EAJA;

(2) encourage settlement of justified enforcement actions directed at small parties covered by EAJA; and

(3) minimize impediments to prompt resolution and payment of reasonable attorneys' fees to prevailing small parties covered by EAJA.

SEC. 3. REPORTING AND TECHNICAL ASSISTANCE BY OFFICE OF ADVOCACY.

(a) FUNCTIONS OF OFFICE OF ADVOCACY.—Section 202 of Public Law 94–305 (15 U.S.C. 634b) is amended—

(1) in paragraph (3), by inserting before the semicolon at the end the following: ''and for ensuring that the justice system remains accessible to small businesses for the resolution of disputes with the Federal Government''; and

(2) by striking paragraph (11) and inserting the following:

''(11) advise, cooperate with, and consult with the President and Attorney General with respect to section 303(b) of the Small Business Economic Policy Act of 1980 (15 U.S.C. 631b(b)) and section 504(e) of title 5, United States Code; and''.

(b) DUTIES OF OFFICE OF ADVOCACY.—Section 203 of Public Law 94–305 (15 U.S.C. 634c) is amended—

(1) in paragraph (2), by inserting before the semicolon at the end the following: '', including the resolution of disputes with the Federal Government and the role of procedures established by the Equal Access to Justice Act (Public Law 96–481; 94 Stat. 2325) in such disputes''; and

(2) in paragraph (3), by inserting after ''the Small Business Act'' the following: '', including those related to the Equal Access to Justice Act,''.

(c) REPORTS TO CONGRESS.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Attorney General, in cooperation with the Chief Counsel for Advocacy of the Small Business Administration, shall transmit to the congressional committees specified in paragraph (2) a report containing—

(A) an analysis of the effectiveness of the Equal Access to Justice Act (Public Law 96–481; 94 Stat. 2325) (in this paragraph referred to as ''EAJA'') in achieving its purpose to ease the burden upon small businesses and other small parties covered by EAJA of engaging in dispute resolution with the Federal Government, including—

(i) the relative awareness of EAJA in the small business community;

(ii) the relative awareness of EAJA's requirements among Federal agencies;

(iii) the extent and quality of rules and regulations adopted by each Federal agency for processing, resolving, and paying attorneys' fees claims under EAJA;

(iv) the extent to which each Federal agency claims any exemptions in whole or in part from EAJA's coverage;

(v) the frequency or degree of use of EAJA's procedures by prevailing small businesses; and

(vi) an analysis of the costs and benefits of EAJA generally;

(B) an analysis of the variations in the frequency and amounts of fee awards paid by specific Federal agencies and within specific Federal circuits and districts under section 504 of title 5, United States Code, and section 2412 of title 28, United States Code, including the number and total dollar amount of all claims filed with, and all claims processed, settled, litigated, and paid by, each agency under EAJA; and

(C) recommendations for congressional oversight or legislative changes with respect to EAJA, including any recommendations for promulgation or amendment of regulations issued under EAJA by specific Federal agencies.

(2) SPECIFIED COMMITTEES.—The congressional committees referred to in paragraph (1) are the following:

(A) The Committee on the Judiciary and the Committee on Small Business of the House of Representatives.

(B) The Committee on the Judiciary and the Committee on Small Business and Entrepreneurship of the Senate.

(3) REPORT ON SMALL BUSINESS AND COMPETITION.—Section 303 of the Small Business Economic Policy Act of 1980 (15 U.S.C. 631b) is amended—

(A) in subsection (a), by striking paragraph (5) and inserting the following:

''(5) recommend a program for carrying out the policy declared in section 302 (including a policy to ensure that the justice system remains accessible to small business enterprises for the resolution of disputes with the Federal Government), together with such recommendations for legislation as the President may deem necessary or desirable.'';

(B) in subsection (b)—

(i) by striking ''(b)'' and inserting ''(b)(1)''; and

(ii) by adding at the end the following:

''(2) The President, after consultation with the Chief Counsel for Advocacy of the Small Business Administration and the Attorney General, shall transmit simultaneously as an appendix to such annual report, a report that describes, by agency and department—

''(A) the total number of claims filed, processed, settled, and litigated by small business concerns under section 504 of title 5, United States Code, and section 2412 of title 28, United States Code (originally enacted pursuant to the Equal Access to Justice Act (Public Law 96–481; 94 Stat. 2325));

''(B) the total dollar amount of all outstanding awards and settlements to small business concerns under such sections;

''(C) the total dollar amount of all claims paid to small business concerns under such sections;

''(D) the underlying legal claims involved in each controversy with small business concerns under such sections; and

''(E) any other relevant information that the President determines may aid Congress in evaluating the impact on small business concerns of such sections.

''(3) Each agency shall provide the President with such information as is necessary for the President to comply with the requirements of this subsection.''; and

(C) in subsection (d)—

(i) by striking ''(d)'' and inserting ''(d)(1)''; and

(ii) by adding at the end the following:

''(2) All reports concerning the Equal Access to Justice Act (Public Law 96–481; 94 Stat. 2325), or the congressional policy to ensure that the justice system remains accessible to small business enterprises for the resolution of disputes with the Federal Government, shall be transmitted to the following congressional committees:

''(A) The Committee on the Judiciary and the Committee on Small Business of the House of Representatives.

''(B) The Committee on the Judiciary and the Committee on Small Business and Entrepreneurship of the Senate.''.

SEC. 4. EQUAL ACCESS FOR SMALL PARTIES IN CIVIL AND ADMINISTRATIVE PROCEEDINGS.

(a) ELIMINATION OF SUBSTANTIAL JUSTIFICATION STANDARD.—

(1) ADMINISTRATIVE PROCEEDINGS.—Section 504 of title 5, United States Code, is amended—

(A) in subsection (a)(1), by striking '', unless the adjudicative officer'' and all that follows through the period at the end and inserting a period; and

(B) in subsection (a)(2), by striking ''The party shall also allege that the position of the agency was not substantially justified.''.

(2) JUDICIAL PROCEEDINGS.—Section 2412 of title 28, United States Code, is amended—

(A) in subsection (d)(1)(A), by striking '', unless the court'' and all that follows through the period at the end and inserting a period;

(B) in subsection (d)(1)(B), by striking ''The party shall also allege'' and all that follows through the period at the end and inserting a period; and

(C) in subsection (d)(3), by striking '', unless the court'' and all that follows through the period at the end and inserting a period.

(b) ELIGIBILITY OF SMALL BUSINESSES FOR FEE AWARD.—

(1) ADMINISTRATIVE PROCEEDINGS.—

(A) IN GENERAL.—Section 504(b)(1)(B)(ii) of title 5, United States Code, is amended by striking ''$7,000,000'' and inserting ''$10,000,000''.

(B) ADJUSTMENT IN NET WORTH LIMITATION.—Section 504(b) of title 5, United States Code, is amended by adding at the end the following:

''(3) Beginning on January 1 of the 5th year following the date of enactment of this paragraph, and on January 1 every 5 years thereafter, the dollar amount under paragraph (1)(B)(ii) shall be adjusted by the Producer Price Index as determined by the Secretary of the Treasury, in collaboration with the Bureau of Labor Statistics.''.

(2) JUDICIAL PROCEEDINGS.—

(A) IN GENERAL.—Section 2412(d)(2)(B)(ii) of title 28, United States Code, is amended by striking ''$7,000,000'' and inserting ''$10,000,000''.

(B) ADJUSTMENT IN NET WORTH LIMITATION.—Section 2412(d) of title 28, United States Code, is amended by adding at the end the following:

''(5) Beginning on January 1 of the 5th year following the date of enactment of this paragraph, and on January 1 every 5 years thereafter, the dollar amount under paragraph (2)(B)(ii) shall be adjusted by the Producer Price Index as determined by the Secretary of the Treasury, in collaboration with the Bureau of Labor Statistics.''.

(c) ELIMINATION OF RATE CAP.—

(1) ADMINISTRATIVE PROCEEDINGS.—Section 504(b)(1)(A) of title 5, United States Code, is amended—

(A) by striking ''(i)''; and

(B) by striking ''by the agency involved'' and all that follows through ''a higher fee'' and inserting ''by the agency involved''.

(2) JUDICIAL PROCEEDINGS.—Section 2412(d)(2)(A) of title 28, United States Code, is amended—

(A) by striking ''(i)''; and

(B) by striking ''by the United States'' and all that follows through ''a higher fee'' and inserting ''by the United States''.

(d) OFFERS OF SETTLEMENT.—

(1) ADMINISTRATIVE PROCEEDINGS.—Section 504(a) of title 5, United States Code, as amended by this section, is further amended by adding at the end the following:

''(5)(A) At any time after an agency receives an application submitted under paragraph (2), the agency may serve upon the applicant a written offer of settlement of the claims made in the application. If within 10 business days after such service the applicant serves written notice that the offer is accepted, either the agency or the applicant may then file the offer and notice of acceptance together with proof of service thereof.

''(B) An offer not accepted within the time allowed shall be deemed withdrawn. The fact that an offer is made but not accepted shall not preclude a subsequent offer. If any award of fees and expenses for the merits of the proceeding finally obtained by the applicant is not more favorable than the offer, the applicant shall not be entitled to receive an award for fees or other expenses incurred (in relation to the application for fees and expenses) after the date of the offer.''.

(2) JUDICIAL PROCEEDINGS.—Section 2412(d)(1) of title 28, United States Code, as amended by this section, is further amended by adding at the end the following:

''(E)(i) At any time after an agency receives an application submitted under subparagraph (B), the agency may serve upon the applicant a written offer of settlement of the claims made in the application. If within 10 business days after such service the applicant serves written notice that the offer is accepted, either the agency or the applicant may then file the offer and notice of acceptance together with proof of service thereof.

''(ii) An offer not accepted within the time allowed shall be deemed withdrawn. The fact that an offer is made but not accepted shall not preclude a subsequent offer. If any award of fees and expenses for the merits of the proceeding finally obtained by the applicant is not more favorable than the offer, the applicant shall not be entitled to receive an award for fees or other expenses incurred (in relation to the application for fees and expenses) after the date of the offer.''.

(e) DECLARATION OF INTENT TO SEEK FEE AWARD.—

(1) ADMINISTRATIVE PROCEEDINGS.—Section 504(a)(2) of title 5, United States Code, as amended by this section, is further amended by inserting before the first sentence the following: ''At any time after the commencement of an adversary adjudication, the adjudicative officer may (and if requested by a party shall) require a party to declare whether such party intends to seek an award of fees and expenses against the agency should such party prevail.''.

(2) JUDICIAL PROCEEDINGS.—Section 2412(d)(1)(B) of title 28, United States Code, as amended by this section, is further amended by inserting before the first sentence the following: ''At any time after the commencement of an adversary adjudication, as defined in subsection (b)(1)(C) of section 504 of title 5, United States Code, the court may (and if requested by a party shall) require a party to declare whether such party intends to seek an award of fees and expenses against the agency should such party prevail.''.

(f) PAYMENT OF ATTORNEYS' FEES FROM AGENCY APPROPRIATIONS.—

(1) ADMINISTRATIVE PROCEEDINGS.—Section 504(d) of title 5, United States Code, is amended to read as follows:

''(d)(1) Fees and other expenses awarded under this section shall be paid by any agency over which the party prevails from any funds made available to the agency by appropriation or otherwise.

''(2) Fees and expenses awarded under this section may not be paid from the claims and judgments account of the Treasury from funds appropriated pursuant to section 1304 of title 31.

''(3) Paragraph (2) shall not apply to the National Labor Relations Board, the Occupational Safety and Health Administration, the Mine Safety and Health Administration, or the Equal Employment Opportunity Commission.''.

(2) JUDICIAL PROCEEDINGS.—Section 2412(d)(4) of title 28, United States Code, is amended to read as follows:

''(4)(A) Fees and other expenses awarded under this subsection shall be paid by any agency over which the party prevails from any funds made available to the agency by appropriation or otherwise.

''(B) Fees and expenses awarded under this section may not be paid from the claims and judgments account of the Treasury from funds appropriated pursuant to section 1304 of title 31.

''(C) Subparagraph (B) shall not apply to the National Labor Relations Board, the Occupational Safety and Health Administration, the Mine Safety and Health Administration, or the Equal Employment Opportunity Commission.''.

(g) ELIGIBILITY OF TAXPAYERS FOR FEE AWARD.—

(1) ADMINISTRATIVE PROCEEDINGS.—Section 504 of title 5, United States Code, as amended by this section, is further amended by striking subsection (f).

(2) JUDICIAL PROCEEDINGS.—Section 2412 of title 28, United States Code, as amended by this section, is further amended by striking subsection (e) and redesignating subsection (f) as subsection (e).

(h) CONFORMING AMENDMENT RELATING TO REPORTING REQUIREMENT UNDER SMALL BUSINESS ACT.—Section 504(e) of title 5, United States Code, is amended to read as follows:

''(e)(1) The Attorney General, after consultation with the Chief Counsel for Advocacy of the Small Business Administration, shall report annually to the Congress on the amount of fees and other expenses awarded to individuals during the preceding fiscal year pursuant to this section and section 2412 of title 28. The report shall describe the number, nature, and amount of the awards, the claims involved in the controversy, and any other relevant information which may aid the Congress in evaluating the scope and impact of such awards for individuals engaged in disputes with Federal agencies. Each agency shall provide the Attorney General with such information as is necessary for the Attorney General to comply with the requirements of this subsection.

''(2) A requirement that the President report annually on proceedings affecting small business concerns under this section and under section 2412 of title 28 is provided in section 303(b) of the Small Business Economic Policy Act of 1980 (15 U.S.C. 631b(b)).''.

(i) APPLICABILITY.—The provisions of this section and the amendments made by this section shall apply to any proceeding pending on, or commenced on or after, the effective date of this Act.

SEC. 5. DEFINITION OF PREVAILING PARTY IN EAJA CASES.

(a) TITLE 5.—Section 504(b)(1) of title 5, United States Code, is amended by adding at the end the following:

''(G) 'prevailing party' includes, in addition to a party who prevails through a judicial or administrative judgment or order, a party whose pursuit of a nonfrivolous claim or defense was a catalyst for a voluntary or unilateral change in position by the opposing party that provides any significant part of the relief sought.''.

(b) TITLE 28.—Section 2412 of title 28, United States Code, is amended—

(1) in subsection (d)(2)(H), by inserting after ''means'' the following: '', subject to subsection (g),''; and

(2) by adding at the end the following:

''(g) For the purposes of this section, the term 'prevailing party' includes, in addition to a party who prevails through a judicial or administrative judgment or order, a party whose pursuit of a nonfrivolous claim or defense was a catalyst for a voluntary or unilateral change in position by the opposing party that provides any significant part of the relief sought.''.

SEC. 6. EFFECTIVE DATE.

The provisions of this Act and the amendments made by this Act shall take effect 30 days after the date of the enactment of this Act.

Ms. SNOWE. Mr. President, as Chair of the Senate Committee on Small Business and Entrepreneurship, I have fought to ensure that small businesses across the country are treated fairly by the Federal Government. Unfortunately, in far too many cases, Federal agencies take arbitrary or abusive enforcement actions against small businesses. Few repercussions deter the Federal Government from taking these unwarranted and unjust actions, which can irreparably injure the reputation and financial viability of a small business.

Enacted in 1980 on a bipartisan basis, the Equal Access to Justice Act (EAJA) intended to allow small businesses to collect legal fees after prevailing in litigation against the Federal Government. However, a number of barriers and inefficiencies exist within EAJA that prevent its effectiveness.

For example, EAJA currently requires a small business that has prevailed in litigation against the Federal Government to enter into a costly second proceeding with the government. At the second proceeding, the government can assert a ''substantial justification'' defense to prevent the small business from recovering its legal costs, even though the small business prevailed on the merits of the underlying case in court. Even in instances when the Federal Government based its actions entirely on erroneous facts or without any legal basis, if the Federal Government can show that it was ''substantially justified'' in taking its actions, then a small business will be barred from EAJA recovery.

In practice, courts typically give a very wide berth to the government's substantially justified defense—a reality that means that prevailing small businesses can rarely, if ever, recover their legal fees under EAJA. And while

a second proceeding may be in the best interest of the Federal agency—especially because its case is being funded by the General Treasury—the second proceeding may ultimately be more costly and more time consuming to the small business than the original, underlying case.

I believe that this is a flawed system. Small businesses are a driving force of the United States economy, representing 99.7 percent of all employer firms and generating approximately 75 percent of net new jobs annually. It is in our Nation's best interest to protect and watch over small businesses, as their success and vitality are key to America's economy and job growth.

It's plain and simple: We should not idly stand by while the Federal Government mistreats our Nation's small businesses.

That is why today I introduce with my colleague Senator FEINGOLD the Equal Access to Justice Reform Act of 2005 (EAJRA). This bill would ensure that small businesses are adequately protected from unreasonable regulations and actions, as well as update EAJA to better serve today's small businesses.

Under our legislation, small parties would be more likely to recover their legal fees when they prevail in litigation against the Federal Government. First, the EAJRA would eliminate the ''substantial justification'' defense, which would increase the likelihood that small businesses will be able to recover their legal costs after their winning their case.

Second, our legislation would modernize the EAJA by updating eligibility qualifications for small businesses. It would raise the threshold for qualifying small businesses from $7 million to $10 million net worth, and index that threshold for inflation. Given modern economic realities, a net worth of $7 million is no longer sufficient.

Third, the EAJRA would remove the hourly rate cap on attorney's fees. The current hourly rate cap of $125 was set during EAJA's enactment in 1980, and has yet to be adjusted for inflation. However, the market rate for competent legal services, especially for complex and high-risk litigation against the Federal Government, is far greater than the cap of $125 per hour. This limit prevents small businesses from receiving fair and just reimbursement of attorney's fees, placing them at a notable disadvantage.

Finally, the EAJRA would require agencies that lose lawsuits, other than the National Labor Relations Board, the Occupational Safety and Health Administration, the Mine Safety and Health Administration, and the Equal Employment Opportunity Commission, to pay legal fees awarded under EAJA out of their own budgets and not the General Treasury. This would eliminate inefficient uses of Federal agency resources and would discourage marginal or abusive Federal enforcement actions directed at small parties. In addition, the Federal budget would no longer be unnecessarily burdened.

The EAJRA creates a fair and even playing field. It would equalize the level of accountability to Federal law among governments in the United States. It is a ''good government'' statute that would promote justice and equality of treatment between small and large entities, and would greatly increase transparency in the Federal Government.

This legislation is absolutely necessary. I urge my colleagues to support the Equal Access to Justice Reform Act so that we can ensure that our nation's small businesses are protected from unfair and unreasonable governmental actions.

By Mr. SMITH (for himself and Mr. BAUCUS):

S. 2019. A bill to provide for a research program for remediation of closed methamphetamine production laboratories, and for other purposes; to the Committee on Environment and Public Works.

Mr. BAUCUS. Mr. President, I am pleased to introduce with Senator SMITH a bill that would provide for the establishment of voluntary, ''health-based'' remediation guidelines for former methamphetamine laboratories, an issue of great importance to Montana, Oregon, and all of rural America.

The material and chemical byproducts of methamphetamine production pose novel risks to the environment and public health. These risks are compounded by the sheer number of meth labs and the vulnerability of police, social service workers, and children exposed to meth production. The DEA estimated that there were as many as 16,000 meth labs in operation in 2004. Additionally, thousands of meth labs have been busted over the years but never properly remediated. Producing one pound of meth leaves behind six pounds of hazardous waste. In addition to bulk waste, cooking meth infuses toxic chemicals into the walls, carpeting, and ventilation systems of the homes, apartments, motel rooms, and parks where meth is produced.

Unremediated methamphetamine labs pose significant public health risks. The Department of Health and Human Services has reported that law enforcement officials and social service workers exposed to meth labs, or even just individuals removed from meth labs, have complained of severe headaches, eye and respiratory irritations, nausea, and burns. The need for remediation guidelines is clear.

Currently, eight States, including Montana, have ''feasibility-based'' remediation standards. ''Feasibility-based'' standards consider cost as a key factor in determining what level of remediation is desirable. While such standards are a start, we need greater certainty that our public servants and children are adequately protected.

Our bill provides a remedy. It directs the Assistant Administrator for Research and Development of the EPA to establish voluntary remediation guidelines, based on the best available scientific knowledge. To further this effort, our bill provides for a program of research to identify methamphetamine laboratory-related chemicals of concern, assess the types and levels of exposure to chemicals of concern—including routine and accidental exposures—that may present a significant risk of adverse biological effects, and evaluate the performance of various methamphetamine laboratory cleanup and remediation techniques. Our bill does not regulate States. The remediation guidelines are purely voluntary, meant to put States, remediation consultants, homeowners, and realtors on the same page.

Methamphetamine production poisons not only users but also spouses, children, public servants, and any future owners of properties exposed to meth production. To protect the public we need consistent, scientifically-based remediation guidelines.

By Mr. CHAMBLISS:

S. 2021. A bill to amend title 38, United States Code, to establish in the Department of Veterans Affairs an Office of National Veterans Sports Programs and Special Events; to the Committee on Veterans' Affairs.

Mr. CHAMBLISS. Mr. President, I rise today to introduce my bill, the ''Disabled Veterans Sports and Special Events Promotion Act of 2005''.

We discovered during World War II that sports and physical activity play a vital role in the rehabilitation of recently disabled military personnel. Young service members who had just returned from WWII and were undergoing rehabilitation were drawn to sports and other team activities. The appeal of sports for these veterans served as more than just a rehabilitation technique. In fact, sports served as a source of motivation as well as a path to a fuller life for young people in the aftermath of a disability. As would be expected, many of these veterans became exceptional athletes and sought opportunities for competition and excellence in the new world of competitive Paralympic sports.

With the onset of hostilities in Afghanistan and Iraq, a new generation of U.S. military personnel with disabilities has emerged. These newly-disabled men and women are young, ambitious, goal-oriented and in their physical prime. Sport, which played a fundamental role for returning veterans of World War II, Korea, and Vietnam, has the capacity to assist military personnel in adjusting to life with a disability. The United States Olympic Committee (USOC) and its Paralympic partners recognize the opportunity to play a key role in the lives of returning military personnel with newly acquired disabilities.

The USOC Paralympic Military Program is a collaborative effort among the USOC, military installations and

commands, Veterans' Affairs (VA) offices and programs, and Paralympic organizations nationwide that are conducting Paralympic sport programs for active duty military personnel and veterans who have physical disabilities.

The Program has been established to enable severely injured service members and veterans to enhance their rehabilitation, readiness and lifestyle through participation in Paralympic sports. The Program is designed for recently injured service members, 2001 and after, Paralympic-eligible disabilities; however, other service members and veterans with physical disabilities who are able to engage in program activities are welcome. Paralympic-eligible disabilities are: amputations, visual impairments, Brain injuries affecting physical mobility, spinal cord injuries and, other mobility-impairing disabilities.

This bill would establish within the Department of Veterans Affairs an Office of National Veterans Sports Programs and Special Events which would establish and carry out sports programs for disabled veterans. In addition, the office would arrange for the VA to sponsor sports programs for disabled veterans conducted by other groups if the Secretary detennines that the programs are consistent with the VA's goals and missions. The office would provide for, facilitate, and encourage disabled veterans to participate in these programs. Finally, the office will cooperate with the USOC and their Paralympic Military Program to promote participation of disabled veterans in the Paralympics.

This bill allows those injured in service to our country the option to regain a healthy, active lifestyle through sport and competition. Competing in sports such as cycling, fencing, shooting, sled hockey, table tennis, and sitting volleyball gives these injured veterans the opportunity to rehabilitate their bodies and minds while competing at the highest level. It is my hope that as we proceed with this bill, we keep the people at the receiving end of our decisions and deliberations foremost in our minds.

I ask my colleagues to support this bill.

By Mr. COLEMAN (for himself and Mr. BINGAMAN):

S. 2022. A bill to amend title XVIII of the Social Security Act to provide for coverage of remote patient management services for chronic health care conditions under the Medicare program; to the Committee on Finance.

Mr. COLEMAN. Mr. President, constituents across the country in rural areas face serious health care issues, not only in terms of illness but also in lack of easily accessible services. One out of every five Americans lives in rural areas however only one out of every ten physicians practice in rural areas. Forty percent of our rural population lives in a medically underserved area. With access to care an average of thirty miles away, rural areas have much to gain from the ability to access healthcare information at a distance. We depend on our farmers and ranchers—they are the lifeblood of America and take care of the essentials in our lives such as feeding us and clothing us. We should make sure to take care of them as well.

Today, I am proud to be joined by my friend, Senator BINGAMAN in introducing the Remote Monitoring Access Act of 2005 to overcome the barriers to more rapid diffusion of innovative new technologies that will improve quality and access to care for Medicare beneficiaries, by implementing changes in Medicare fee-for-service reimbursements. Our legislation would create a new benefit category for remote patient management services in the Medicare physician fee schedule. Under this category, Medicare would cover physician services involved with the remote management of specific medical conditions.

New technology that collects, analyzes, and transmits clinical health information is in development or has recently been introduced to the market. The promise of this remote management technology is clear: better information on the patient's condition—collected and stored electronically, analyzed for clinical value, and transmitted to the physician or the patient—should improve patient care and access.

Remote monitoring technology is also emerging to extend the provision of health care services to areas where there is a shortage of physicians. This technology allows physicians to monitor and treat patients without a face-to-face office visit, thereby increasing access to physicians for patients living in rural areas.

In its March 2001 report, ''Crossing the Quality Chasm,'' the Institute of Medicine stated that the automation of clinical and other health transactions was an essential factor for improving quality, preventing errors, enhancing consumer confidence in the health care system, and improving efficiency, yet ''health care delivery has been relatively untouched by the revolution in information technology that has been transforming nearly every other aspect of society.''

Three major areas in which remote management technologies are emerging in health care are the treatment of congestive heart failure (CHF), diabetes and cardiac arrhythmia.

Despite these innovations and their ability to improve care, many new clinical information and remote management technologies have failed to diffuse rapidly. A significant barrier to wider adoption and evolution of the technologies is the relative lack of payment mechanisms in fee-for-service Medicare to reimburse for remote, non-face-to-face management and disease management services provided by a physician.

Under existing Medicare fee schedules, physicians generally receive a fixed, predetermined amount for a given service. The cost of devices used or supplied in the service is usually bundled into the payment, and payments are primarily provided for face-to-face interactions between the physician and patient. The payment structure creates at least two problems for the wider adoption of patient management approaches using remote management technology.

To overcome the barriers to more rapid diffusion of innovative new technology for Medicare beneficiaries, changes in Medicare fee-for-service reimbursements are necessary. This legislation would create a new benefit category for remote patient management services in the Medicare physician fee schedule. Under this category, Medicare would cover physician services involved with the remote management of specific medical conditions.

The quality of care provided through remote management would allow physicians to qualify for bonus payments conditioned on specific quality measures. This legislation directs the Secretary, through the Agency for Health Care Research and Quality (AHRQ) to develop standards of care and quality standards for the remote management services provided for each medical condition covered. AHRQ would develop these standards working in conjunction with appropriate physician groups. The Secretary is also given the authority to develop guidelines on the frequency of billing for remote patient management services.

I urge my fellow colleagues to join me in ensuring rural Americans have the access to remote monitoring and the opportunity to keep pace with health technology by supporting the Remote Monitoring Access Act of 2005.

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. 2022

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 ''Remote Monitoring Access Act of 2005''.

SEC. 2. COVERAGE OF REMOTE PATIENT MANAGEMENT SERVICES FOR CHRONIC HEALTH CARE CONDITIONS.

(a) IN GENERAL.—Section 1861(s)(2) of the Social Security Act (42 U.S.C. 1395x(s)(2)) is amended—

(1) in subparagraph (Y), by striking ''and'' at the end;

(2) in subparagraph (Z), by inserting ''and'' at the end; and

(3) by inserting after subparagraph (Z) the following new subparagraph:

''(AA) remote patient management services (as defined in subsection (bbb));''.

(b) SERVICES DESCRIBED.—Section 1861 of the Social Security Act (42 U.S.C. 1395x) is amended by adding at the end the following new subsection:

''Remote Patient Management Services

''(bbb)(1) The term 'remote patient management services' means the remote monitoring and management of an individual

with a covered chronic health condition (as defined in paragraph (2)) through the utilization of a system of technology that allows a remote interface to collect and transmit clinical data between the individual and the responsible physician or supplier for the purposes of clinical review or response by the physician or supplier.

''(2) For purposes of paragraph (1), the term 'covered chronic health condition' includes—

''(A) heart failure;

''(B) diabetes;

''(C) cardiac arrhythmia; and

''(D) any other chronic condition determined by the Secretary to be appropriate for treatment through remote patient management services.

''(3)(A) The Secretary, in consultation with appropriate physician groups, may develop guidelines on the frequency of billing for remote patient management services. Such guidelines shall be determined based on medical necessity and shall be sufficient to ensure appropriate and timely monitoring of individuals being furnished such services.

''(B) The Secretary, acting through the Agency for Health Care Research and Quality, shall do the following:

''(i) Not later than 1 year after the date of enactment of the Remote Monitoring Access Act of 2005, develop, in consultation with appropriate physician groups, a standard of care and quality standards for remote patient management services for the covered chronic health conditions specified in subparagraphs (A), (B), and (C) of paragraph (2).

''(ii) If the Secretary makes a determination under paragraph (2)(D) with respect to a chronic condition, develop, in consultation with appropriate physician groups, a standard of care and quality standards for remote patient management services for such condition within 1 year of such determination.

''(iii) Periodically review and update such standards of care and quality standards under this subparagraph as necessary.''.

(c) PAYMENT UNDER THE PHYSICIAN FEE SCHEDULE.—Section 1848 of the Social Security Act (42 U.S.C. 1395w–4) is amended—

(1) in subsection (c)(2)—

(A) in subparagraph (B)—

(i) in clause (ii)(II), by striking ''clause (iv)'' and inserting ''clauses (iv) and (v)''; and

(ii) by adding at the end the following new clause:

''(v) BUDGETARY TREATMENT OF CERTAIN SERVICES.—The additional expenditures attributable to services described in section 1861(s)(2)(AA) shall not be taken into account in applying clause (ii)(II) for 2006.''; and

(B) by adding at the end the following new paragraph:

''(7) TREATMENT OF REMOTE PATIENT MANAGEMENT SERVICES.—In determining relative value units for remote patient management services (as defined in section 1861(bbb)), the Secretary, in consultation with appropriate physician groups, shall take into consideration—

''(A) costs associated with such services, including physician time involved, installation and information transmittal costs, costs of remote patient management technology (including devices and software), and resource costs necessary for patient monitoring and follow-up (but not including costs of any related item or non-physician service otherwise reimbursed under this title); and

''(B) the level of intensity of services provided, based on—

''(i) the frequency of evaluation necessary to manage the individual being furnished the services;

''(ii) the amount of time necessary for, and the complexity of, the evaluation, including the information that must be obtained, reviewed, and analyzed; and

''(iii) the number of possible diagnoses and the number of management options that must be considered.''; and

(2) in subsection (j)(3), by inserting ''(2)(AA),'' after ''(2)(W),''.

(d) INCENTIVE PAYMENTS.—Section 1833 of the Social Security Act (42 U.S.C. 1395l) is amended by adding at the end the following new subsection:

''(v) INCENTIVE FOR MEETING CERTAIN STANDARDS OF CARE AND QUALITY STANDARDS IN THE FURNISHING OF REMOTE PATIENT MANAGEMENT SERVICES.—In the case of remote patient management services (as defined in section 1861(bbb)) that are furnished by a physician who the Secretary determines meets or exceeds the standards of care and quality standards developed by the Secretary under paragraph (3)(B) of such section for such services, in addition to the amount of payment that would otherwise be made for such services under this part, there shall also be paid to the physician (or to an employer or facility in cases described in clause (A) of section 1842(b)(6)) (on a monthly or quarterly basis) from the Federal Supplementary Medical Insurance Trust Fund an amount equal to 10 percent of the payment amount for the service under this part.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after January 1, 2006.

By Ms. MURKOWSKI:

S. 2024. A bill to raise the minimum State allocation under section 217(b)(2) of the Cranston-Gonzalez National Affordable Housing Act; to the Committee on Banking, Housing, and Urban Affairs.

Ms. MURKOWSKI. Mr. President, I rise to introduce a bill that will increase the minimum funding level for low population States for the U.S. Department of Housing and Urban Development's HOME Investment Partnerships Program.

This program was created when the Cranston-Gonzalez National Affordable Housing bill was signed into law in 1990. Funds were first appropriated for this program in 1992. HOME program funds are disbursed to State and local governments for the purpose of assisting with the expansion of housing for low-income families. These governmental entities have a great deal of flexibility when using these funds to implement the program's purpose.

When this program was created, a minimum funding level of $3 million was created for States that would normally receive a small amount of HOME funds under the allocation formula, which is based on a State's population, among other parameters. Five States—Alaska, Delaware, Nevada, Hawaii, and North Dakota—received this level of funding for this program in fiscal year 2005. Bearing in mind inflation between 1992—when this program was first funded—and 2005, a $3 million allocation in 1992 dollars decreased in value to $2,215,235 in 2005.

This is unacceptable. My State is one of the most expensive areas in the country to develop housing, especially when one takes into account the cost to transport building materials to extremely remote areas of my State.

This legislation increases the minimum State funding level for the HOME program to $5 million. Based on fiscal year 2005 allocations for this program, eight States received less than $5 million. Those States are: Alaska, Delaware, Nevada, Hawaii, Montana, North Dakota, Utah, and Wyoming. My proposed increase in funding would be offset by an overall decrease in allocations to other States. If a $5 million minimum funding level had been in place in fiscal year 2005, the other 42 States would only have experienced an overall decrease of less than $13 million. Bearing in mind that the amount appropriated in fiscal year 2005 for this program is $1.865 billion, such a decrease in funds seems reasonable considering no changes have been made to the minimum State funding level since the HOME program was first funded in 1992.

In addition, the congressionally appointed, bipartisan Millennium Housing Commission recommended increasing the minimum State funding level for the HOME program to $5 million in their May 30, 2002, report to Congress.

It is imperative that we address this important issue so that we can address the housing needs of a greater amount of low-income families in low-population States.

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. 2024

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 ''Small State HOME Program Equity Act of 2005''.

SEC. 2. ALLOCATION OF RESOURCES.

Section 217(b)(2)(A) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12747(b)(2)(A)) is amended by striking ''$3,000,000'' each place it occurs and inserting ''$5,000,000''.

By Mr. BAYH (for himself, Mr. BROWNBACK, Mr. LIEBERMAN, Mr. COLEMAN, Mr. GRAHAM, Mr. SALAZAR, Mr. SESSIONS, Mr. NELSON of Florida, Mr. LUGAR, and Mr. OBAMA):

S. 2025. A bill to promote the national security and stability of the United States economy by reducing the dependence of the United States on oil through the use of alternative fuels and new technology, and for other purposes; to the Committee on Finance.

Mr. LIEBERMAN. Mr. President, our dependence on foreign oil is sapping America's power and independence as a nation. It is urgent we begin now to diversify the fuels we use to power our vehicles or risk ceding our national power to the rulers of faraway deserts, distant tundras, steaming rain forests or off-shore, drilling platforms half a world away.

I rise today as part of a bipartisan group of 10 Senators who represent the American Northeast, South, Midwest and West to introduce the Vehicle and Fuel Choices for America Security Act.

We chose this title because nothing less than our national security is at stake.

Besides myself, the rest of the ''Gang of Ten,'' or the ''Energy Security Ten,'' as some call us are Senators SAM BROWNBACK of Kansas, EVAN BAYH of Indiana, NORM COLEMAN of Minnesota, LINDSEY GRAHAM of South Carolina, KEN SALAZAR of Colorado, JEFF SESSIONS of Alabama, BILL NELSON of Florida, RICHARD LUGAR of Indiana and BARACK OBAMA of Illinois. And we expect even more of our colleagues from both sides of the aisle will be joining us soon.

I hope that in the future we all look back on the day this bill was introduced as the beginning of a major shift in our national security strategy. I hope that history will say we saw a challenge to our national security and prosperity and then met it and mastered it.

A recent report by the International Energy Agency, IEA, sums up the urgent need for our legislation.

According to the IEA, global demand for oil—now about 85 million barrels a day—will increase by more than 50 percent to 130 million barrels a day between now and 2030 if nothing is done.

The industrialized world's dependence on oil heightens global instability. The authors of the IEA report note that the way things are going ''we are ending up with 95 percent of the world relying for its economic well-being on decisions made by five or six countries in the Middle East.''

Besides the Mideast, I would add that Nigeria is roiled by instability, Venezuela's current leadership is hostile to us and Russia's resurgent state power has ominous overtones.

In fact, we are just one well-orchestrated terrorist attack or political upheaval away from a $100-a-barrel overnight price spike that would that would send the global economy tumbling and the industrialized world, including China and India, scrambling to secure supplies from the remaining and limited number of oil supply sites.

History tells us that wars have started over such competition.

Left unchecked, I fear that we are literally watching the slow but steady erosion of America's power and independence as a nation—our economic and military power and our political independence.

We are burning it up in our automobile engines and spewing it from our tailpipes because of our absolute dependence on oil to fuel our cars and trucks.

That dependence on oil—and that means foreign oil because our own reserves are less than 1 percent of the world's oil reserves—puts us in jeopardy in three key ways—a convergence forming a perfect storm that is extremely dangerous to America's national security and economy.

First, the structure of the global oil market deeply affects—and distorts—our foreign policy. Our broader interests and aspirations must compete with our own need for oil and the growing thirst for it in the rest of the world—especially by China and India.

As a study in the journal Foreign Affairs makes clear, China is moving aggressively to compete for the world's limited supplies of oil not just with its growing economic power, but with its growing military and diplomatic power as well.

Second, today we must depend for our oil on a global gallery of nations that are politically unstable, unreliable, or just plain hostile to us.

All that and much more should make us worry because if we don't change—it is within their borders and under their earth and waters that our economic and national security lies.

Doing nothing about our oil dependency will make us a pitiful giant—like Gulliver in Lilliput—tied down by smaller nations and subject to their whims. And we will have given them the ropes and helped them tie the knots.

We can take on this problem now and stand tall as the free and independent giant we are by moving our nation—and the world—on to energy independence, by setting America free from its dependence on oil.

There is only one way to do this. We need to transform our total transportation infrastructure from the refinery to the tailpipe and each step in between because transportation is the key to energy independence.

Barely 2 percent of our electricity comes from oil.

Ninety six percent of the energy used to power our cars comes from oil—literally millions of barrels of oil per day. This is unsustainable and dangerous.

The Vehicle and Fuel Choices for America Security Act aims to strengthen America's security by transforming transportation from the refinery to the tailpipe and each step in between, thus breaking our dependence on foreign oil.

We start by making it our national policy to cut consumption by 10 million barrels a day over the next 25 years.

First, we need to rethink and then remake our fuel supplies. Gasoline is not the only portable source of stored energy. Tons of agricultural waste and millions of acres of idle grassland can be used to create billions of barrels of new fuels.

Our farmers could soon be measuring production in barrels of energy as well as bushels of food.

Then we must remake our automobile engines as well. Vehicles that get 500 miles per gallon—or that use no refined crude oil—are within our grasp. I know that sounds unbelievable. I am going to tell you how we can do it.

To help us get there, our bill also requires that by 2012, 10 percent of all vehicles sold in the U.S. be hybrid, hybrid-electric plug-in or alternative fuel vehicles. That number will rise by 10 percent a year until it reaches 50 percent in 2016.

To help spur this market along, our bill amends our current energy policy to require that one quarter of federal vehicles purchased must be hybrids or plug-in hybrids.

My bill will detail how we can get there with available technology and previously unavailable Federal Government leadership. Coupling these new programs with the explicit oil-savings goals for the Federal Government is the key to the effectiveness of this proposal.

I can almost hear colleagues murmur, So, Senator LIEBERMAN, what else is new? We've been hearing this for years and nothing has happened.

I can't blame you if you are skeptical. The struggle for oil independence has been going on at least since Jimmy Carter was President.

But things have changed since the days of Jimmy Carter and even since last summer. There is a new understanding of the depth of the crisis that our oil dependence is creating.

This summer's doubling of gasoline and crude oil prices hit tens of millions of Americans with the global reality of oil demand and pricing. And Hurricane Katrina reminded us how vulnerable our supplies can become.

This reality is bipartisan. And, along with my colleagues cosponsoring this bill, I think Americans are ready to set the serious goals that eluded us in the past and take the bold steps necessary to reach those goals.

Now let me give you more details.

The bill I will propose puts our Nation's transportation system on a new road—a road where the tanks are filled with more home-grown fuel—and I do mean grown—not just American corn, but from American sugar, prairie grass, and agricultural waste.

We will push harder for more and quicker production and commercialization of biomass-based fuels.

The Energy bill signed into law last summer created a new set of incentives for these fuel alternatives, including their commercial production.

What my bill would do—again, by including a mass-production mandate for alternative fuel vehicles—is ensure that the investments would be made in the facilities to produce and market these new fuels by providing big demand for them.

The bill would also create a program to guarantee that filling stations had the pumps to provide the fuel to keep pace with the growing alternative-fuel fleet produced by the mandate.

Is there a model to give us confidence we can achieve this transformation? Yes.

Brazil is now enjoying substantial immunity from current high world oil prices, thanks to a long-term strategy, launched during the oil shocks of the 1970s, to integrate sugar cane ethanol into its fuel supply. They started initially with a mandate that all fuel sold in the country contain 25 percent alcohol. They are now up to 40 percent biofuels.

In addition to the fuel mandate, Brazil offered low-interest loans and tax breaks for the building of distilleries and subsidized a fuel distribution network.

Brazil has the advantage of a substantial sugar cane industry already in place. But we have our own vast potential to develop our own biofuel supply, using feedstock like corn, crop waste, switch grass, sugarcane and fast-growing trees and shrubs such as hybrid poplars and willows.

According to the Department of Energy, if two-thirds of the Nation's idled cropland were used to grow these kinds of energy crops, the result could be dramatic. Those 35 million acres could produce between 15 and 35 billion gallons of ethanol each year to fuel cars, trucks, and buses.

That is about 2.2 million barrels of fuel a day from right here in the U.S.A.

What Brazil offers us, more importantly, is a case study of government leadership to combine technology mandates and subsidies to wean its transportation sector from foreign oil to a domestic alternative.

From this January through this July—before this summer's fuel spike—we have sent almost $100 billion out of the country to purchase oil, while the Brazilians are now relying on homegrown fuel.

The key to their success is that they responded 30 years ago to the first storm warnings. We did not, and now the storm is at our shores, slapping against the levees of our economic strength and national security. We have to mobilize and lead a similar response as Brazil did.

If we do this right, our farmers could soon be measuring production in barrels of energy as well as bushels of food. Our energy would be guaranteed ''Made in America'' and the profits would be guaranteed ''Kept in America.''

For all these new fuels to be effective, we need the flexible fuel vehicles that can take advantage of them.

As I said earlier, our bill also requires that 50 percent of all vehicles sold in the U.S. be hybrid, hybrid-electric plug-in, or alternative fuel vehicles by 2016.

Sound ambitious? It is not. It has already happened in Brazil. Several automakers selling cars in Brazil, including our own General Motors and Ford, already manufacture a fleet that is more than 50-percent flexible fuel cars that can run on any combination of gasoline and biofuels.

The technology exists now and adds a negligible cost—about $150—to the price of each vehicle. For this we get the flexibility to power a car with fuel made from corn, prairie grass, or agricultural waste from our own heartland that will cost a lot less than gasoline does today.

Maximizing fuel efficiency and promoting energy independence even further would be a new generation of flexible-fuel hybrid cars known as plug-ins because you can plug them in at night to recharge the battery.

Hybrids that use a use both a gasoline engine and electric motor for power are already getting 50 miles per gallon. Making them flexible fuel cars, as I've already said, can save us more than 2 million barrels of gasoline a day.

But we can do even better—dramatically better—with the plug-in hybrid that is just now on the threshold of commercialization. Like the present hybrids, it would use both a gasoline and electric motor. But the plug-in hybrid would be able to use the battery exclusively for the first 30 miles of a trip.

Think of that for a minute. Although Americans drive about 2.2 trillion miles a year, according the Census, the vast majority of those trips are less than 15 miles.

That means a plug-in hybrid would use zero—zero—gallons of gas or any combustible fuel for the vast majority of its trips. And experts tell me it could effectively get the 500 miles per gallon on longer trips.

Plugging in your car during off peak hours—when power is in surplus and cheaper—would soon just become part of the modem daily routine, like plugging in your cell phone or PDA before you go to bed.

And off-peak electricity can be the equivalent of 50 cent a gallon gasoline, I repeat—the equivalent of 50 cent a gallon fuel is feasible.

Of course, electricity does not come magically through the wires to our homes. That power would come from coal, natural gas, nuclear, solar, wind or other sources—sources that we have in abundance here at home—and a little—very little—would come from oil.

This isn't pie in the sky. These vehicles could be in your garage within a couple of years. Some of the incentives for achieving this were included in the Energy bill signed into law in August. But they did not go nearly far enough.

We need to couple these incentives with real performance standards and sales requirements to ensure that as soon as possible new cars are running not just on gasoline but on biofuels and electricity.

As always, there is a do-nothing crowd that says the ever-rising price of gasoline and crude oil are the cure—that with higher prices people will reduce consumption and the market will respond with greater investments in the supply of oil to bring prices down.

But all that would do is perpetuate the problem. Market-driven oil-dependency is still dependency on foreign oil, driving us further down the current path toward national insecurity and economic and environmental troubles.

Some say that we can ease the crisis through greater domestic drilling—in places like the Arctic Refuge and other public lands or off our shores.

But that won't make a dent in the problem. In the world of oil, geology is destiny and the U.S. today has only 1 percent of the world's oil reserves. And that small new supply wouldn't matter much in the global market, since the price of oil produced within the United States rises and falls with the global market, regardless of where it is produced.

We just don't have enough oil in the U.S. anymore. And no matter how much more we drill, we will still be paying the world price of oil—not an American price.

Our present energy and transportation systems were born at the end of the 19th and the beginning of the 20th centuries with the twin discoveries of oil extraction and the internal combustion engine. Those systems have served us well bringing growth to our Nation and the world.

But it is now the 21st century, and it is time to move on. The era of big oil is over. It is time to revolutionize our entire energy infrastructure, from the refinery to the tailpipe, and begin a new era of energy independence.

It is time to set America free by cutting our dependence on foreign oil and by doing so strengthen our security, preserve our independence and energize our economy.

By Mr. LAUTENBERG (for himself, Mr. KERRY, Mr. DORGAN, and Mr. DAYTON):

S. 2026. A bill to amend title XVIII of the Social Security Act to require that a prescription drug plan or an MA–PD plan that has an initial coverage limit obtain a signed certification prior to enrolling beneficiaries under the plan under part D of such title; to the Committee on Finance.

Mr. LAUTENBERG. Mr. President, I rise to introduce the Medicare Prescription Drug Gap Disclosure Act with my colleagues, Senators KERRY, DORGAN and DAYTON. This important legislation will require Medicare beneficiaries enrolling in a Medicare Prescription Drug Plan, PDP, or Medicare Advantage Drug Plan, MA–PD, with a potential coverage gap to sign a short, easy to read, statement indicating that they are aware of the potential loss of coverage.

Yesterday, 42 million Medicare beneficiaries became eligible to sign up for the new Medicare prescription drug benefit, scheduled to start on January 1, 2006. However, too many seniors are understandably confused about this complicated change to Medicare, and I fear that many may sign up for drug plans without understanding the major pitfalls of the program. The biggest pitfall in the drug plan is the notorious ''coverage gap'' also known as the ''donut hole.''

In the coverage gap, beneficiaries pay 100 percent of prescription costs after they exceed a certain level of out-of-pocket spending and before protection kicks in against catastrophic drug expenses. They also continue to pay 100 percent of their monthly premiums.

We need to make sure that seniors are aware of the threat that the coverage gap poses, and it should not be

hidden in a mountain of paperwork. My legislation would require plan providers to have beneficiaries sign the following certification before enrollment:

I understand that the Medicare Prescription Drug Plan or MA–PD Plan that I am signing up for may result in a gap in coverage during a given year. I understand that if subject to this gap in coverage, I will be responsible for paying 100 percent of the costs of my prescription drugs and will continue to be responsible for paying the plan's monthly premium while subject to this gap in coverage. For specific information on the potential coverage gap under this plan, I understand that I should contact [prescription drug plan] at [toll free phone number].

The bottom line is that, after months of trying to explain this new drug benefit to Medicare beneficiaries, many do not understand the ramifications of the coverage gap. Unfortunately, millions of Medicare beneficiaries may learn about the coverage gap the hard way—when the pharmacist at the cash register tells them sometime next year that they are suddenly required to pay the full cost of their prescriptions.

Mr. President, a study by the Commonwealth Fund found that 38 percent of Medicare enrollees are likely to experience this costly interruption in care. Moreover, the benefits must be renewed each year, meaning that the coverage gap repeats itself if beneficiaries reach the coverage gap again.

A recent survey by the Kaiser Foundation and the Harvard School of Public Health, found that only 35 percent of people 65 and older said they understood the new drug benefit. In addition, the numerous media stories in recent days contain anecdotal evidence that illustrates the confusion around the new drug benefit.

I therefore urge my colleagues to support this bill. Only with such a clear, separate disclaimer will seniors have a fair opportunity to be warned of the risks posed by this gap in drug coverage.

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. 2026

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Medicare Prescription Drug Gap Disclosure Act''.

SEC. 2. REQUIREMENT OF SIGNED CERTIFICATION PRIOR TO PLAN ENROLLMENT UNDER PART D.

(a) IN GENERAL.—Section 1860D–1(b)(1) of the Social Security Act (42 U.S.C. 1395w–101) is amended by adding at the end the following new subparagraph:

''(D) SPECIAL RULE FOR PLANS WITH AN INITIAL COVERAGE LIMIT.—

''(i) IN GENERAL.—The process for enrollment established under subparagraph (A) shall include, in the case of a prescription drug plan or an MA–PD plan that has an initial coverage limit (as described in section 1860D–2(b)(3)), a requirement that, prior to enrolling a part D eligible individual in the plan, the plan must obtain a certification signed by the enrollee or the legal guardian of the enrollee that meets the requirements described in clause (ii) and includes the following text: 'I understand that the Medicare Prescription Drug Plan or MA–PD Plan that I am signing up for may result in a gap in coverage during a given year. I understand that if subject to this gap in coverage, I will be responsible for paying 100 percent of the cost of my prescription drugs and will continue to be responsible for paying the plan's monthly premium while subject to this gap in coverage. For specific information on the potential coverage gap under this plan, I understand that I should contact (insert name of the sponsor of the prescription drug plan or the sponsor of the MA–PD plan) at (insert toll free phone number for such sponsor of such plan).'.

''(ii) CERTIFICATION REQUIREMENTS DESCRIBED.—The certification required under clause (i) shall meet the following requirements:

''(I) The certification shall be printed in a typeface of not less than 18 points.

''(II) The certification shall be printed on a single piece of paper separate from any matter not related to the certification.

''(III) The certification shall have a heading printed at the top of the page in all capital letters and bold face type that states the following: 'WARNING: POTENTIAL MEDICARE PRESCRIPTION DRUG COVERAGE GAP'.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of enactment of this Act.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 317—EXPRESSING THE SENSE OF THE SENATE REGARDING OVERSIGHT OF THE INTERNET CORPORATION FOR ASSIGNED NAMES AND NUMBERS

Mr. BURNS (for himself, Mr. LEAHY, Mr. INOUYE, Mr. SMITH, Mr. STEVENS, Mr. SUNUNU, Mr. NELSON of Florida, Mrs. HUTCHISON, Mr. INHOFE, Mr. ALLEN, and Mr. CRAIG) submitted the following resolution; which was considered and agreed to:

S. RES. 317

Whereas the origins of the Internet can be found in United States Government funding of research to develop packet-switching technology and communications networks, starting with the ''ARPANET'' network established by the Department of Defense's Advanced Research Projects Agency in the 1960s and carried forward by the National Science Foundation's ''NSFNET'';

Whereas in subsequent years the Internet evolved from a United States Government research initiative to a global tool for information exchange as in the 1990s it was commercialized by private sector investment, technical management and coordination;

Whereas since its inception the authoritative root zone server—the file server system that contains the master list of all top level domain names made available for routers serving the Internet—has been physically located in the United States;

Whereas today the Internet is a global communications network of inestimable value;

Whereas the continued success and dynamism of the Internet is dependent upon continued private sector leadership and the ability for all users to participate in its continued evolution;

Whereas in allowing people all around the world freely to exchange information, communicate with one another, and facilitate economic growth and democracy, the Internet has enormous potential to enrich and transform human society;

Whereas existing structures have worked effectively to make the Internet the highly robust medium that it is today;

Whereas the security and stability of the Internet's underlying infrastructure, the domain name and addressing system, must be maintained;

Whereas the United States has been committed to the principles of freedom of expression and the free flow of information, as expressed in Article 19 of the Universal Declaration of Human Rights, and reaffirmed in the Geneva Declaration of Principles adopted at the first phase of the World Summit on the Information Society;

Whereas the U.S. Principles on the Internet's Domain Name and Addressing System, issued on June 30, 2005, represent an appropriate framework for the coordination of the system at the present time;

Whereas the Internet Corporation for Assigned Names and Numbers popularly known as ICANN, is the proper organization to coordinate the technical day-to-day operation of the Internet's domain name and addressing system;

Whereas all stakeholders from around the world, including governments, are encouraged to advise ICANN in its decision-making;

Whereas ICANN makes significant efforts to ensure that the views of governments and all Internet stakeholders are reflected in its activities;

Whereas governments have legitimate concerns with respect to the management of their country code top level domains;

Whereas the United States Government is committed to working successfully with the international community to address those concerns, bearing in mind the need for stability and security of the Internet's domain name and addressing system;

Whereas the topic of Internet governance, as currently being discussed in the United Nations World Summit on the Information Society is a broad and complex topic;

Whereas it is appropriate for governments and other stakeholders to discuss Internet governance, given that the Internet will likely be an increasingly important part of the world economy and society in the 21st Century;

Whereas Internet governance discussions in the World Summit should focus on the real threats to the Internet's growth and stability, and not recommend changes to the current regime of domain name and addressing system management and coordination on political grounds unrelated to any technical need; and

Whereas market-based policies and private sector leadership have allowed this medium the flexibility to innovate and evolve: Now, therefore, be it

Resolved by the Senate, That it is the sense of the Senate that—

(1) it is incumbent upon the United States and other responsible governments to send clear signals to the marketplace that the current structure of oversight and management of the Internet's domain name and addressing service works, and will continue to deliver tangible benefits to Internet users worldwide in the future; and

(2) therefore the authoritative root zone server should remain physically located in the United States and the Secretary of Commerce should maintain oversight of ICANN so that ICANN can continue to manage the day-to-day operation of the Internet's domain name and addressing system well, remain responsive to all Internet stakeholders

worldwide, and otherwise fulfill its core technical mission.

AMENDMENTS SUBMITTED AND PROPOSED

SA 2581. Mr. ENZI (for Mr. GRASSLEY (for himself, Mr. ENZI, Mr. KENNEDY, and Mr. BAUCUS)) proposed an amendment to the bill S. 1783, to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to reform the pension funding rules, and for other purposes.

SA 2582. Mr. ISAKSON (for himself, Mr. NELSON, of Florida, Mr. LOTT, Mr. COLEMAN, Mr. ROCKEFELLER, Mr. DEWINE, Mr. ALEXANDER, Mr. BENNETT, Mr. BURNS, Mr. HATCH, Mr. CHAMBLISS, Mr. CARPER, and Mr. SALAZAR) proposed an amendment to the bill S. 1783, supra.

SA 2583. Mr. AKAKA (for himself, Mr. SPECTER, Mr. DURBIN, Mr. SALAZAR, Mr. INOUYE, and Mrs. FEINSTEIN) proposed an amendment to the bill S. 1783, supra

SA 2584. Mr. ISAKSON (for Mr. CRAIG) proposed an amendment to the bill S. 1234, to increase, effective as of December 1, 2005, the rates of compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for the survivors of certain disabled veterans.

SA 2585. Mr. ISAKSON (for Mr. DODD (for himself and Mr. MCCONNELL)) proposed an amendment to the concurrent resolution S. Con. Res. 62, directing the Joint Committee on the Library to procure a statue of Rosa Parks for placement in the Capitol.

SA 2586. Mr. SMITH (for himself, Mrs. LINCOLN, Mr. PRYOR, Mr. BUNNING, Mr. BURR, Mr. CHAMBLISS, Mrs. DOLE, Mrs. MURRAY, and Ms. CANTWELL) submitted an amendment intended to be proposed by him to the bill S. 2020, to provide for reconciliation pursuant to section 202(b) of the concurrent resolution on the budget for fiscal year 2006; which was ordered to lie on the table.

SA 2587. Mr. DORGAN (for himself, Mr. DODD, Mrs. BOXER, Mr. REED, Mr. LIEBERMAN, and Mr. KOHL) proposed an amendment to the bill S. 2020, supra.

SA 2588. Mr. KENNEDY (for himself, Ms. LANDRIEU, Mr. DURBIN, and Mr. JOHNSON) submitted an amendment intended to be proposed by him to the bill S. 2020, supra; which was ordered to lie on the table.

SA 2589. Mr. MARTINEZ submitted an amendment intended to be proposed by him to the bill S. 2020, supra; which was ordered to lie on the table.

SA 2590. Mr. KOHL (for himself and Mr. HARKIN) submitted an amendment intended to be proposed by him to the bill S. 2020, supra; which was ordered to lie on the table.

SA 2591. Mr. MCCONNELL (for Mr. DOMENICI (for himself and Mr. BINGAMAN)) proposed an amendment to the bill S. 1238, to amend the Public Lands Corps Act of 1993 to provide for the conduct of projects that protect forests, and for other purposes.

SA 2592. Mr. MCCONNELL (for Mr. DOMENICI (for himself and Mr. BINGAMAN)) proposed an amendment to the bill S. 485, to reauthorize and amend the National Geologic Mapping Act of 1992.

SA 2593. Mr. MCCONNELL (for Mr. DOMENICI (for himself and Mr. BINGAMAN)) proposed an amendment to the bill S. 1170, An act to establish the Fort Stanton-Snowy River Cave National Conservation Area.

SA 2594. Mr. MCCONNELL (for Mr. DOMENICI) proposed an amendment to the bill S. 1170, supra.

SA 2595. Mr. SCHUMER (for himself, Mrs. CLINTON, Mr. SMITH, and Mr. WYDEN) submitted an amendment intended to be proposed by him to the bill S. 2020, to provide for reconciliation pursuant to section 202(b) of the concurrent resolution on the budget for fiscal year 2006; which was ordered to lie on the table.

SA 2596. Mr. DURBIN proposed an amendment to the bill S. 2020, to provide for reconciliation pursuant to section 202(b) of the concurrent resolution on the budget for fiscal year 2006; which was ordered to lie on the table.

SA 2597. Mr. LAUTENBERG submitted an amendment intended to be proposed by him to the bill S. 2020, to provide for reconciliation pursuant to section 202(b) of the concurrent resolution on the budget for fiscal year 2006; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 2581. Mr. ENZI (for Mr. GRASSLEY (for himself, Mr. ENZI, Mr. KENNEDY, and Mr. BAUCUS)) proposed an amendment to the bill S. 1783, to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to reform the pension funding rules, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Pension Security and Transparency Act of 2005''.

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

TITLE I—FUNDING AND DEDUCTION RULES FOR SINGLE-EMPLOYER DEFINED BENEFIT PLANS AND RELATED PROVISIONS

Subtitle A—Amendments to Employee Retirement Income Security Act of 1974

SEC. 101. MINIMUM FUNDING STANDARDS.

(a) REPEAL OF EXISTING FUNDING RULES.—Sections 302 through 308 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1082 through 1086) are repealed.

(b) NEW MINIMUM FUNDING STANDARDS.—Part 3 of subtitle B of title I of such Act (as amended by subsection (a)) is amended by inserting after section 301 the following new section:

''MINIMUM FUNDING STANDARDS

''SEC. 302. (a) REQUIREMENT TO MEET MINIMUM FUNDING STANDARD.—

''(1) IN GENERAL.—A plan to which this part applies shall satisfy the minimum funding standard applicable to the plan for any plan year.

''(2) MINIMUM FUNDING STANDARD.—For purposes of paragraph (1), a plan shall be treated as satisfying the minimum funding standard for a plan year if—

''(A) in the case of a defined benefit plan which is a single-employer plan, the employer makes contributions to or under the plan for the plan year which, in the aggregate, are not less than the minimum required contribution determined under section 303 for the plan for the plan year,

''(B) in the case of a money purchase plan which is a single-employer plan, the employer makes contributions to or under the plan for the plan year which are required under the terms of the plan, and

''(C) in the case of a multiemployer plan, the employers make contributions to or under the plan for any plan year which, in

the aggregate, are sufficient to ensure that the plan does not have an accumulated funding deficiency under section 304 as of the end of the plan year.

''(b) LIABILITY FOR CONTRIBUTIONS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), the amount of any contribution required by this section (including any required installments under section 303(j)) shall be paid by the employer responsible for making contributions to or under the plan.

''(2) JOINT AND SEVERAL LIABILITY WHERE EMPLOYER MEMBER OF CONTROLLED GROUP.—If the employer referred to in paragraph (1) is a member of a controlled group, each member of such group shall be jointly and severally liable for payment of such contributions.

''(c) VARIANCE FROM MINIMUM FUNDING STANDARDS.—

''(1) WAIVER IN CASE OF BUSINESS HARDSHIP.—

''(A) IN GENERAL.—If—

''(i) an employer is (or in the case of a multiemployer plan, 10 percent or more of the number of employers contributing to or under the plan are) unable to satisfy the minimum funding standard for a plan year without temporary substantial business hardship (substantial business hardship in the case of a multiemployer plan), and

''(ii) application of the standard would be adverse to the interests of plan participants in the aggregate,

the Secretary of the Treasury may, subject to subparagraph (C), waive the requirements of subsection (a) for such year with respect to all or any portion of the minimum funding standard. The Secretary of the Treasury shall not waive the minimum funding standard with respect to a plan for more than 3 of any 15 (5 of any 15 in the case of a multiemployer plan) consecutive plan years.

''(B) EFFECTS OF WAIVER.—If a waiver is granted under subparagraph (A) for any plan year—

''(i) in the case of a single-employer plan, the minimum required contribution under section 303 for the plan year shall be reduced by the amount of the waived funding deficiency and such amount shall be amortized as required under section 303(e), and

''(ii) in the case of a multiemployer plan, the funding standard account shall be credited under section 304(b)(3)(C) with the amount of the waived funding deficiency and such amount shall be amortized as required under section 304(b)(2)(C).

''(C) WAIVER OF AMORTIZED PORTION NOT ALLOWED.—The Secretary of the Treasury may not waive under subparagraph (A) any portion of the minimum funding standard under subsection (a) for a plan year which is attributable to any waived funding deficiency for any preceding plan year.

''(2) DETERMINATION OF BUSINESS HARDSHIP.—For purposes of this subsection, the factors taken into account in determining temporary substantial business hardship (substantial business hardship in the case of a multiemployer plan) shall include (but shall not be limited to) whether or not—

''(A) the employer is operating at an economic loss,

''(B) there is substantial unemployment or underemployment in the trade or business and in the industry concerned,

''(C) the sales and profits of the industry concerned are depressed or declining, and

''(D) it is reasonable to expect that the plan will be continued only if the waiver is granted.

''(3) WAIVED FUNDING DEFICIENCY.—For purposes of this part, the term 'waived funding deficiency' means the portion of the minimum funding standard under subsection (a) (determined without regard to the waiver) for a plan year waived by the Secretary of the Treasury and not satisfied by employer contributions.

''(4) SECURITY FOR WAIVERS FOR SINGLE-EMPLOYER PLANS, CONSULTATIONS.—

''(A) SECURITY MAY BE REQUIRED.—

''(i) IN GENERAL.—Except as provided in subparagraph (C), the Secretary of the Treasury may require an employer maintaining a defined benefit plan which is a single-employer plan (within the meaning of section 4001(a)(15)) to provide security to such plan as a condition for granting or modifying a waiver under paragraph (1).

''(ii) SPECIAL RULES.—Any security provided under clause (i) may be perfected and enforced only by the Pension Benefit Guaranty Corporation, or, at the direction of the Corporation, by a contributing sponsor (within the meaning of section 4001(a)(13)) or a member of such sponsor's controlled group (within the meaning of section 4001(a)(14)).

''(B) CONSULTATION WITH THE PENSION BENEFIT GUARANTY CORPORATION.—Except as provided in subparagraph (C), the Secretary of the Treasury shall, before granting or modifying a waiver under this subsection with respect to a plan described in subparagraph (A)(i)—

''(i) provide the Pension Benefit Guaranty Corporation with—

''(I) notice of the completed application for any waiver or modification, and

''(II) an opportunity to comment on such application within 30 days after receipt of such notice, and

''(ii) consider—

''(I) any comments of the Corporation under clause (i)(II), and

''(II) any views of any employee organization (within the meaning of section 3(4)) representing participants in the plan which are submitted in writing to the Secretary of the Treasury in connection with such application.

Information provided to the Corporation under this subparagraph shall be considered tax return information and subject to the safeguarding and reporting requirements of section 6103(p) of the Internal Revenue Code of 1986.

''(C) EXCEPTION FOR CERTAIN WAIVERS.—

''(i) IN GENERAL.—The preceding provisions of this paragraph shall not apply to any plan with respect to which the sum of—

''(I) the aggregate unpaid minimum required contributions for the plan year and all preceding plan years, and

''(II) the present value of all waiver amortization installments determined for the plan year and succeeding plan years under section 303(e)(2),

is less than $1,000,000.

''(ii) TREATMENT OF WAIVERS FOR WHICH APPLICATIONS ARE PENDING.—The amount described in clause (i)(I) shall include any increase in such amount which would result if all applications for waivers of the minimum funding standard under this subsection which are pending with respect to such plan were denied.

''(iii) UNPAID MINIMUM REQUIRED CONTRIBUTION.—For purposes of this subparagraph—

''(I) IN GENERAL.—The term 'unpaid minimum required contribution' means, with respect to any plan year, any minimum required contribution under section 303 for the plan year which is not paid on or before the due date (as determined under section 303(j)(1)) for the plan year.

''(II) ORDERING RULE.—For purposes of subclause (I), any payment to or under a plan for any plan year shall be allocated first to unpaid minimum required contributions for all preceding plan years on a first-in, first-out basis and then to the minimum required contribution under section 303 for the plan year.

''(5) SPECIAL RULES FOR SINGLE-EMPLOYER PLANS.—

''(A) APPLICATION MUST BE SUBMITTED BEFORE DATE 2½ MONTHS AFTER CLOSE OF YEAR.—In the case of a single-employer plan, no waiver may be granted under this subsection with respect to any plan for any plan year unless an application therefor is submitted to the Secretary of the Treasury not later than the 15th day of the 3rd month beginning after the close of such plan year.

''(B) SPECIAL RULE IF EMPLOYER IS MEMBER OF CONTROLLED GROUP.—In the case of a single-employer plan, if an employer is a member of a controlled group, the temporary substantial business hardship requirements of paragraph (1) shall be treated as met only if such requirements are met—

''(i) with respect to such employer, and

''(ii) with respect to the controlled group of which such employer is a member (determined by treating all members of such group as a single employer).

The Secretary of the Treasury may provide that an analysis of a trade or business or industry of a member need not be conducted if the Secretary of the Treasury determines such analysis is not necessary because the taking into account of such member would not significantly affect the determination under this paragraph.

''(6) ADVANCE NOTICE.—

''(A) IN GENERAL.—The Secretary of the Treasury shall, before granting a waiver under this subsection, require each applicant to provide evidence satisfactory to such Secretary that the applicant has provided notice of the filing of the application for such waiver to each affected party (as defined in section 4001(a)(21)) other than the Pension Benefit Guaranty Corporation and in the case of a multiemployer plan, to each employer required to contribute to the plan under subsection (b)(1). Such notice shall include a description of the extent to which the plan is funded for benefits which are guaranteed under title IV and for benefit liabilities.

''(B) CONSIDERATION OF RELEVANT INFORMATION.—The Secretary of the Treasury shall consider any relevant information provided by a person to whom notice was given under subparagraph (A).

''(7) RESTRICTION ON PLAN AMENDMENTS.—

''(A) IN GENERAL.—No amendment of a plan which increases the liabilities of the plan by reason of any increase in benefits, any change in the accrual of benefits, or any change in the rate at which benefits become nonforfeitable under the plan shall be adopted if a waiver under this subsection or an extension of time under section 304(d) is in effect with respect to the plan, or if a plan amendment described in subsection (d)(2) has been made at any time in the preceding 24 months. If a plan is amended in violation of the preceding sentence, any such waiver, or extension of time, shall not apply to any plan year ending on or after the date on which such amendment is adopted.

''(B) EXCEPTION.—Subparagraph (A) shall not apply to any plan amendment which—

''(i) the Secretary of the Treasury determines to be reasonable and which provides for only de minimis increases in the liabilities of the plan,

''(ii) only repeals an amendment described in subsection (d)(2), or

''(iii) is required as a condition of qualification under part I of subchapter D, of chapter 1 of the Internal Revenue Code of 1986.

''(8) CROSS REFERENCE.—For corresponding duties of the Secretary of the Treasury with regard to implementation of the Internal Revenue Code of 1986, see section 412(d) of such Code.

''(d) MISCELLANEOUS RULES.—

''(1) CHANGE IN METHOD OR YEAR.—If the funding method, the valuation date, or a plan year for a plan is changed, the change shall take effect only if approved by the Secretary of the Treasury.

''(2) CERTAIN RETROACTIVE PLAN AMENDMENTS.—For purposes of this section, any amendment applying to a plan year which—

''(A) is adopted after the close of such plan year but no later than 2½ months after the close of the plan year (or, in the case of a multiemployer plan, no later than 2 years after the close of such plan year),

''(B) does not reduce the accrued benefit of any participant determined as of the beginning of the first plan year to which the amendment applies, and

''(C) does not reduce the accrued benefit of any participant determined as of the time of adoption except to the extent required by the circumstances,

shall, at the election of the plan administrator, be deemed to have been made on the first day of such plan year. No amendment described in this paragraph which reduces the accrued benefits of any participant shall take effect unless the plan administrator files a notice with the Secretary of the Treasury notifying him of such amendment and such Secretary has approved such amendment, or within 90 days after the date on which such notice was filed, failed to disapprove such amendment. No amendment described in this subsection shall be approved by the Secretary of the Treasury unless such Secretary determines that such amendment is necessary because of a temporary substantial business hardship (as determined under subsection (c)(2)) or a substantial business hardship (as so determined) in the case of a multiemployer plan and that a waiver under subsection (c) (or, in the case of a multiemployer plan, any extension of the amortization period under section 304(d)) is unavailable or inadequate.

''(3) CONTROLLED GROUP.—For purposes of this section, the term 'controlled group' means any group treated as a single employer under subsection (b), (c), (m), or (o) of section 414 of the Internal Revenue Code of 1986.''.

(c) CLERICAL AMENDMENT.—The table of contents in section 1 of such Act is amended by striking the items relating to sections 302 through 308 and inserting the following new item:

''Sec. 302. Minimum funding standards.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after 2006.

SEC. 102. FUNDING RULES FOR SINGLE-EMPLOYER DEFINED BENEFIT PENSION PLANS.

(a) IN GENERAL.—Part 3 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (as amended by section 101 of this Act) is amended by inserting after section 302 the following new section:

''MINIMUM FUNDING STANDARDS FOR SINGLE-EMPLOYER DEFINED BENEFIT PENSION PLANS

''SEC. 303. (a) MINIMUM REQUIRED CONTRIBUTION.—For purposes of this section and section 302(a)(2)(A), except as provided in subsection (f), the term 'minimum required contribution' means, with respect to any plan year of a defined benefit plan which is a single employer plan—

''(1) in any case in which the value of plan assets of the plan (as reduced under subsection (f)(4)) is less than the funding target of the plan for the plan year, the sum of—

''(A) the target normal cost of the plan for the plan year,

''(B) the shortfall amortization charge (if any) for the plan for the plan year determined under subsection (c), and

''(C) the waiver amortization charge (if any) for the plan for the plan year as determined under subsection (e); or

''(2) in any case in which the value of plan assets of the plan (as reduced under subsection (f)(4)) equals or exceeds the funding target of the plan for the plan year, the target normal cost of the plan for the plan year reduced (but not below zero) by any such excess.

''(b) TARGET NORMAL COST.—For purposes of this section, except as provided in subsection (i)(2) with respect to plans in at-risk status, the term 'target normal cost' means, for any plan year, the present value of all benefits which are expected to accrue or to be earned under the plan during the plan year. For purposes of this subsection, if any benefit attributable to services performed in a preceding plan year is increased by reason of any increase in compensation during the current plan year, the increase in such benefit shall be treated as having accrued during the current plan year.

''(c) SHORTFALL AMORTIZATION CHARGE.—

''(1) IN GENERAL.—For purposes of this section, the shortfall amortization charge for a plan for any plan year is the aggregate total of the shortfall amortization installments for such plan year with respect to the shortfall amortization bases for such plan year and each of the 6 preceding plan years.

''(2) SHORTFALL AMORTIZATION INSTALLMENT.—For purposes of paragraph (1)—

''(A) DETERMINATION.—The shortfall amortization installments are the amounts necessary to amortize the shortfall amortization base of the plan for any plan year in level annual installments over the 7-plan-year period beginning with such plan year.

''(B) SHORTFALL INSTALLMENT.—The shortfall amortization installment for any plan year in the 7-plan-year period under subparagraph (A) with respect to any shortfall amortization base is the annual installment determined under subparagraph (A) for that year for that base.

''(C) SEGMENT RATES.—In determining any shortfall amortization installment under this paragraph, the plan sponsor shall use the segment rates determined under subparagraph (C) of subsection (h)(2), applied under rules similar to the rules of subparagraph (B) of subsection (h)(2).

''(3) SHORTFALL AMORTIZATION BASE.—For purposes of this section, the shortfall amortization base of a plan for a plan year is the excess (if any) of—

''(A) the funding shortfall of such plan for such plan year, over

''(B) the present value (determined using the segment rates determined under subparagraph (C) of subsection (h)(2), applied under rules similar to the rules of subparagraph (B) of subsection (h)(2)) of the aggregate total of the shortfall amortization installments and waiver amortization installments which have been determined for such plan year and any succeeding plan year with respect to the shortfall amortization bases and waiver amortization bases of the plan for any plan year preceding such plan year.

''(4) FUNDING SHORTFALL.—

''(A) IN GENERAL.—For purposes of this section, except as provided in subparagraph (B), the funding shortfall of a plan for any plan year is the excess (if any) of—

''(i) the funding target of the plan for the plan year, over

''(ii) the value of plan assets of the plan (as reduced under subsection (f)(4)) for the plan year which are held by the plan on the valuation date.

''(B) TRANSITION RULE FOR AMORTIZATION OF FUNDING SHORTFALL.—

''(i) IN GENERAL.—Solely for purposes of applying paragraph (3) in the case of plan years beginning after 2006 and before 2011, only the applicable percentage of the funding target shall be taken into account under paragraph (3)(A) in determining the funding shortfall for the plan year.

''(ii) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A)—

''(I) IN GENERAL.—Except as provided in subclause (II), the applicable percentage shall be 93 percent for plan years beginning in 2007, 96 percent for plan years beginning in 2008, and 100 percent for any succeeding plan year.

''(II) SMALL PLANS.—In the case of a plan described in subsection (g)(2)(B), the applicable percentage shall be determined in accordance with the following table:

"In the case of a plan year beginning in calendar year:	The applicable percentage is—
2007	92
2008	94
2009	96
2010	98.

''(5) EARLY DEEMED AMORTIZATION UPON ATTAINMENT OF FUNDING TARGET.—In any case in which the funding shortfall of a plan for a plan year is zero, for purposes of determining the shortfall amortization charge for such plan year and succeeding plan years, the shortfall amortization bases for all preceding plan years (and all shortfall amortization installments determined with respect to such bases) shall be reduced to zero.

''(d) RULES RELATING TO FUNDING TARGET.—For purposes of this section—

''(1) FUNDING TARGET.—Except as provided in subsection (i)(1) with respect to plans in at-risk status, the funding target of a plan for a plan year is the present value of all benefits accrued or earned under the plan as of the beginning of the plan year.

''(2) FUNDING TARGET ATTAINMENT PERCENTAGE.—The 'funding target attainment percentage' of a plan for a plan year is the ratio (expressed as a percentage) which—

''(A) the value of plan assets for the plan year, bears to

''(B) the funding target of the plan for the plan year (determined without regard to subsection (i)(1)).

''(e) WAIVER AMORTIZATION CHARGE.—

''(1) DETERMINATION OF WAIVER AMORTIZATION CHARGE.—The waiver amortization charge (if any) for a plan for any plan year is the aggregate total of the waiver amortization installments for such plan year with respect to the waiver amortization bases for each of the 5 preceding plan years.

''(2) WAIVER AMORTIZATION INSTALLMENT.—For purposes of paragraph (1)—

''(A) DETERMINATION.—The waiver amortization installments are the amounts necessary to amortize the waiver amortization base of the plan for any plan year in level annual installments over a period of 5 plan years beginning with the succeeding plan year.

''(B) WAIVER INSTALLMENT.—The waiver amortization installment for any plan year in the 5-year period under subparagraph (A) with respect to any waiver amortization base is the annual installment determined under subparagraph (A) for that year for that base.

''(3) INTEREST RATE.—In determining any waiver amortization installment under this subsection, the plan sponsor shall use the segment rates determined under subparagraph (C) of subsection (h)(2), applied under rules similar to the rules of subparagraph (B) of subsection (h)(2).

''(4) WAIVER AMORTIZATION BASE.—The waiver amortization base of a plan for a plan year is the amount of the waived funding deficiency (if any) for such plan year under section 302(c).

''(5) EARLY DEEMED AMORTIZATION UPON ATTAINMENT OF FUNDING TARGET.—In any case

in which the funding shortfall of a plan for a plan year is zero, for purposes of determining the waiver amortization charge for such plan year and succeeding plan years, the waiver amortization bases for all preceding plan years (and all waiver amortization installments with respect to such bases) shall be reduced to zero.

''(f) USE OF PREFUNDING BALANCES TO SATISFY MINIMUM REQUIRED CONTRIBUTIONS.—

''(1) IN GENERAL.—A plan sponsor may credit any amount of a plan's prefunding balance for a plan year against the minimum required contribution for the plan year and the amount of the contributions an employer is required to make under section 302(b) for the plan year shall be reduced by the amount so credited. Any such amount shall be credited on the first day of the plan year.

''(2) PREFUNDING BALANCE.—

''(A) BEGINNING BALANCE.—The beginning balance of a prefunding balance maintained by a plan shall be zero, except that if a plan was in effect for a plan year beginning in 2006 and had a positive balance in the funding standard account under section 302(b) (as in effect for such plan year) as of the end of such plan year, the beginning balance for the plan for its first plan year beginning after 2006 shall be such positive balance.

''(B) INCREASES.—

''(i) IN GENERAL.—As of the first day of each plan year beginning after 2007, the prefunding balance of a plan shall be increased by the excess (if any) of—

''(I) the aggregate amount of employer contributions to the plan for the preceding plan year, over

''(II) the minimum required contribution for the preceding plan year.

''(ii) ADJUSTMENTS FOR INTEREST.—Any excess contributions under clause (i) shall be properly adjusted for interest accruing for the periods between the first day of the current plan year and the dates on which the excess contributions were made, determined by using the effective interest rate for the preceding plan year and by treating contributions as being first used to satisfy the minimum required contribution.

''(iii) CERTAIN CONTRIBUTIONS DISREGARDED.—Any contribution which is required to be made under section 206(g) in addition to any contribution required under this section shall not be taken into account for purposes of clause (i).

''(C) DECREASES.—As of the first day of each plan year after 2007, the prefunding balance of a plan shall be decreased (but not below zero) by the amount of the balance credited under paragraph (1) against the minimum required contribution of the plan for the preceding plan year.

''(D) ADJUSTMENTS FOR INVESTMENT EXPERIENCE.—In determining the prefunding balance of a plan as of the first day of the plan year, the plan sponsor shall, in accordance with regulations prescribed by the Secretary of the Treasury, adjust such balance to reflect the rate of return on plan assets for the preceding plan year. Notwithstanding subsection (g)(3), such rate of return shall be determined on the basis of fair market value and shall properly take into account, in accordance with such regulations, all contributions, distributions, and other plan payments made during such period.

''(3) LIMITATION FOR UNDERFUNDED PLANS.—

''(A) IN GENERAL.—If the ratio (expressed as a percentage) for any plan year which—

''(i) the value of plan assets for the preceding plan year, bears to

''(ii) the funding target of the plan for the preceding plan year (determined without regard to subsection (i)(1)),

is less than 80 percent, the preceding provisions of this subsection shall not apply unless employers liable for contributions to the plan under section 302(b) make contributions to the plan for the plan year in an aggregate amount not less than the amount determined under subparagraph (B). Any contribution required by this subparagraph may not be reduced by any credit otherwise allowable under paragraph (1).

''(B) APPLICABLE AMOUNT.—The amount determined under this subparagraph for any plan year is the greater of—

''(i) the target normal cost of the plan for the plan year, or

''(ii) 25 percent of the minimum required contribution under subsection (a) for the plan year without regard to this subsection.

''(4) REDUCTION IN VALUE OF ASSETS.—Solely for purposes of applying subsections (a) and (c)(4)(A)(ii) in determining the minimum required contribution under this section, the value of the plan assets otherwise determined without regard to this paragraph shall be reduced by the amount of the prefunding balance under this subsection.

''(g) VALUATION OF PLAN ASSETS AND LIABILITIES.—

''(1) TIMING OF DETERMINATIONS.—Except as otherwise provided under this subsection, all determinations under this section for a plan year shall be made as of the valuation date of the plan for such plan year.

''(2) VALUATION DATE.—For purposes of this section—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the valuation date of a plan for any plan year shall be the first day of the plan year.

''(B) EXCEPTION FOR SMALL PLANS.—If, on each day during the preceding plan year, a plan had 100 or fewer participants, the plan may designate any day during the plan year as its valuation date for such plan year and succeeding plan years. For purposes of this subparagraph, all defined benefit plans (other than multiemployer plans) maintained by the same employer (or any member of such employer's controlled group) shall be treated as 1 plan, but only employees of such employer or member shall be taken into account.

''(C) APPLICATION OF CERTAIN RULES IN DETERMINATION OF PLAN SIZE.—For purposes of this paragraph—

''(i) PLANS NOT IN EXISTENCE IN PRECEDING YEAR.—In the case of the first plan year of any plan, subparagraph (B) shall apply to such plan by taking into account the number of participants that the plan is reasonably expected to have on days during such first plan year.

''(ii) PREDECESSORS.—Any reference in subparagraph (B) to an employer shall include a reference to any predecessor of such employer.

''(3) DETERMINATION OF VALUE OF PLAN ASSETS.—For purposes of this section—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the value of plan assets shall be the fair market value of the assets.

''(B) AVERAGING ALLOWED.—A plan may determine the value of plan assets on the basis of any reasonable actuarial method of valuation providing for the averaging of fair market values, but only if such method—

''(i) is permitted under regulations prescribed by the Secretary of the Treasury, and

''(ii) does not provide for averaging of such values over more than the period beginning on the last day of the 12th month preceding the valuation date and ending on the valuation date (or a similar period in the case of a valuation date which is not the 1st day of a month).

''(4) ACCOUNTING FOR CONTRIBUTION RECEIPTS.—For purposes of determining the value of assets under paragraph (3)—

''(A) PRIOR YEAR CONTRIBUTIONS.—If—

''(i) an employer makes any contribution to the plan after the valuation date for the plan year in which the contribution is made, and

''(ii) the contribution is for a preceding plan year,

the contribution shall be taken into account as an asset of the plan as of the valuation date, except that in the case of any plan year beginning after 2007, only the present value (determined as of the valuation date) of such contribution may be taken into account. For purposes of the preceding sentence, present value shall be determined using the effective interest rate for the preceding plan year to which the contribution is properly allocable.

''(B) SPECIAL RULE FOR CURRENT YEAR CONTRIBUTIONS MADE BEFORE VALUATION DATE.—If any contributions for any plan year are made to or under the plan during the plan year but before the valuation date for the plan year, the assets of the plan as of the valuation date shall not include—

''(i) such contributions, and

''(ii) interest on such contributions for the period between the date of the contributions and the valuation date, determined by using the effective interest rate for the plan year.

''(h) ACTUARIAL ASSUMPTIONS AND METHODS.—

''(1) IN GENERAL.—Subject to this subsection, the determination of any present value or other computation under this section shall be made on the basis of actuarial assumptions and methods—

''(A) each of which is reasonable (taking into account the experience of the plan and reasonable expectations), and

''(B) which, in combination, offer the actuary's best estimate of anticipated experience under the plan.

''(2) INTEREST RATES.—

''(A) EFFECTIVE INTEREST RATE.—For purposes of this section, the term 'effective interest rate' means, with respect to any plan for any plan year, the single rate of interest which, if used to determine the present value of the plan's accrued or earned benefits referred to in subsection (d)(1), would result in an amount equal to the funding target of the plan for such plan year.

''(B) INTEREST RATES FOR DETERMINING FUNDING TARGET.—For purposes of determining the funding target of a plan for any plan year, the interest rate used in determining the present value of the benefits of the plan shall be—

''(i) in the case of benefits reasonably determined to be payable during the 5-year period beginning on the first day of the plan year, the first segment rate with respect to the applicable month,

''(ii) in the case of benefits reasonably determined to be payable during the 15-year period beginning at the end of the period described in clause (i), the second segment rate with respect to the applicable month, and

''(iii) in the case of benefits reasonably determined to be payable after the period described in clause (ii), the third segment rate with respect to the applicable month.

''(C) SEGMENT RATES.—For purposes of this paragraph—

''(i) FIRST SEGMENT RATE.—The term 'first segment rate' means, with respect to any month, the single rate of interest which shall be determined by the Secretary of the Treasury for such month on the basis of the corporate bond yield curve for such month, taking into account only that portion of such yield curve which is based on bonds maturing during the 5-year period commencing with such month.

''(ii) SECOND SEGMENT RATE.—The term 'second segment rate' means, with respect to any month, the single rate of interest which shall be determined by the Secretary of the

Treasury for such month on the basis of the corporate bond yield curve for such month, taking into account only that portion of such yield curve which is based on bonds maturing during each of the years in the 15-year period beginning at the end of the period described in clause (i).

''(iii) THIRD SEGMENT RATE.—The term 'third segment rate' means, with respect to any month, the single rate of interest which shall be determined by the Secretary of the Treasury for such month on the basis of the corporate bond yield curve for such month, taking into account only that portion of such yield curve which is based on bonds maturing during periods beginning after the period described in clause (ii).

''(D) CORPORATE BOND YIELD CURVE.—The term 'corporate bond yield curve' means, with respect to any month, a yield curve which is prescribed by the Secretary of the Treasury for such month and which reflects the average, for the 12-month period ending with the month preceding such month, of yields on investment grade corporate bonds with varying maturities.

''(E) APPLICABLE MONTH.—For purposes of this paragraph, the term 'applicable month' means, with respect to any plan for any plan year, the month which includes the valuation date of such plan for such plan year or, at the election of the plan administrator, any of the 4 months which precede such month. Any election made under this subparagraph shall apply to the plan year for which the election is made and all succeeding plan years, unless the election is revoked with the consent of the Secretary of the Treasury.

''(F) PUBLICATION REQUIREMENTS.—The Secretary of the Treasury shall publish for each month the corporate bond yield curve for such month and each of the rates determined under this paragraph for such month. The Secretary of the Treasury shall also publish a description of the methodology used to determine such yield curve and such rates which is sufficiently detailed to enable plans to make reasonable projections regarding the yield curve and such rates for future months based on the plan's projection of future interest rates.

''(G) TRANSITION RULE.—

''(i) IN GENERAL.—Notwithstanding the preceding provisions of this paragraph, for plan years beginning in 2007 or 2008, the first, second, or third segment rate for a plan with respect to any month shall be equal to the sum of—

''(I) the product of such rate for such month determined without regard to this subparagraph, multiplied by the applicable percentage, and

''(II) the product of the rate determined under the rules of section 302(b)(5)(B)(ii)(II) (as in effect for plan years beginning in 2006), multiplied by a percentage equal to 100 percent minus the applicable percentage.

''(ii) APPLICABLE PERCENTAGE.—For purposes of clause (i), the applicable percentage is 33⅓ percent for plan years beginning in 2007 and 66⅔ percent for plan years beginning in 2008.

''(3) MORTALITY TABLES.—

''(A) IN GENERAL.—Except as provided in subparagraphs (C) and (D), the mortality table used in determining any present value or making any computation under this section shall be the RP–2000 Combined Mortality Table, using Scale AA, as published by the Society of Actuaries, as in effect on the date of the enactment of the Pension Security and Transparency Act of 2005 and as revised from time to time under subparagraph (B).

''(B) PERIODIC REVISION.—The Secretary of the Treasury shall (at least every 10 years) make revisions in any table in effect under subparagraph (A) to reflect the actual experience of pension plans and projected trends in such experience.

''(C) SUBSTITUTE MORTALITY TABLE.—

''(i) IN GENERAL.—Upon request by the plan sponsor and approval by the Secretary of the Treasury, a mortality table which meets the requirements of clause (ii) shall be used in determining any present value or making any computation under this section during the 10-consecutive plan year period specified in the request. A mortality table described in this clause shall cease to be in effect if the plan actuary determines at any time that such table does not meet the requirements of clause (ii).

''(ii) REQUIREMENTS.—A mortality table meets the requirements of this clause if the Secretary of the Treasury determines that—

''(I) there is a sufficient number of plan participants, and the pension plans have been maintained for a sufficient period of time, to have credible information necessary for purposes of subclause (II),

''(II) such table reflects the actual experience of the pension plans maintained by the sponsor and projected trends in general mortality experience,

''(III) except as provided by the Secretary, such table will be used by all plans maintained by the plan sponsor and all members of any controlled group which includes the plan sponsor, and

''(IV) such table is significantly different from the table described in subparagraph (A).

''(iii) DEADLINE FOR DISPOSITION OF APPLICATION.—Any mortality table submitted to the Secretary of the Treasury for approval under this subparagraph shall be treated as in effect for the first plan year in the 10-year period described in clause (i) unless the Secretary of the Treasury, during the 180-day period beginning on the date of such submission, disapproves of such table and provides the reasons that such table fails to meet the requirements of clause (ii). The 180-day period shall be extended for any period during which the Secretary of the Treasury has requested information from the plan sponsor and such information has not been provided.

''(D) SEPARATE MORTALITY TABLES FOR THE DISABLED.—Notwithstanding subparagraph (A)—

''(i) IN GENERAL.—The Secretary of the Treasury shall establish mortality tables which may be used (in lieu of the tables under subparagraph (A)) under this subsection for individuals who are entitled to benefits under the plan on account of disability. The Secretary of the Treasury shall establish separate tables for individuals whose disabilities occur in plan years beginning before January 1, 1995, and for individuals whose disabilities occur in plan years beginning on or after such date.

''(ii) SPECIAL RULE FOR DISABILITIES OCCURRING AFTER 1994.—In the case of disabilities occurring in plan years beginning after December 31, 1994, the tables under clause (i) shall apply only with respect to individuals described in such subclause who are disabled within the meaning of title II of the Social Security Act and the regulations thereunder.

''(iii) PERIODIC REVISION.—The Secretary of the Treasury shall (at least every 10 years) make revisions in any table in effect under clause (i) to reflect the actual experience of pension plans and projected trends in such experience.

''(E) TRANSITION RULE.—Under regulations of the Secretary of the Treasury, any difference in present value resulting from any differences in assumptions as set forth in the mortality table specified in subparagraph (A) and assumptions as set forth in the mortality table described in section 302(d)(7)(C)(ii) (as in effect for plan years beginning in 2006) shall be phased in ratably over the first period of 5 plan years beginning in or after 2007 so as to be fully effective for the fifth plan year.

''(4) PROBABILITY OF BENEFIT PAYMENTS IN THE FORM OF LUMP SUMS OR OTHER OPTIONAL FORMS.—For purposes of determining any present value or making any computation under this section, there shall be taken into account—

''(A) the probability that future benefit payments under the plan will be made in the form of optional forms of benefits provided under the plan (including lump sum distributions, determined on the basis of the plan's experience and other related assumptions), and

''(B) any difference in the present value of such future benefit payments resulting from the use of actuarial assumptions, in determining benefit payments in any such optional form of benefits, which are different from those specified in this subsection.

''(5) APPROVAL OF LARGE CHANGES IN ACTUARIAL ASSUMPTIONS.—

''(A) IN GENERAL.—No actuarial assumption used to determine the funding target for a plan to which this paragraph applies may be changed without the approval of the Secretary of the Treasury.

''(B) PLANS TO WHICH PARAGRAPH APPLIES.—This paragraph shall apply to a plan only if—

''(i) the aggregate unfunded benefits as of the close of the preceding plan year (as determined under section 4006(a)(3)(E)(iii)) of such plan and all other plans maintained by the contributing sponsors (as defined in section 4001(a)(13)) and members of such sponsors' controlled groups (as defined in section 4001(a)(14)) which are covered by title IV (disregarding plans with no unfunded benefits) exceed $50,000,000; and

''(ii) the change in assumptions (determined after taking into account any changes in interest rate and mortality table) results in a decrease in the funding shortfall of the plan for the current plan year that exceeds $50,000,000, or that exceeds $5,000,000 and that is 5 percent or more of the funding target of the plan before such change.

''(i) SPECIAL RULES FOR AT-RISK PLANS.—

''(1) FUNDING TARGET FOR PLANS IN AT-RISK STATUS.—

''(A) IN GENERAL.—In the case of a plan to which this subsection applies for a plan year, the funding target of the plan for the plan year is equal to the present value of all liabilities to participants and their beneficiaries under the plan for the plan year, as determined by using the additional actuarial assumptions described in subparagraph (B).

''(B) ADDITIONAL ACTUARIAL ASSUMPTIONS.—The actuarial assumptions described in this subparagraph are as follows:

''(i) All employees who are not otherwise assumed to retire as of the valuation date but who will be eligible to elect benefits during the plan year and the 7 succeeding plan years shall be assumed to retire at the earliest retirement date under the plan but not before the end of the plan year for which the at-risk target liability and at-risk target normal cost are being determined.

''(ii) All employees shall be assumed to elect the retirement benefit available under the plan at the assumed retirement age (determined after application of clause (i)) which would result in the highest present value of liabilities.

''(2) TARGET NORMAL COST OF AT-RISK PLANS.—In the case of a plan to which this subsection applies for a plan year, the target normal cost of the plan for such plan year shall be equal to the present value of all benefits which are expected to accrue or be earned under the plan during the plan year, determined using the additional actuarial assumptions described in paragraph (1)(B).

''(3) MINIMUM AMOUNT.—In no event shall—

''(A) the at-risk target liability be less than the target liability, as determined without regard to this subsection, or

''(B) the at-risk target normal cost be less than the target normal cost, as determined without regard to this subsection.

''(4) DETERMINATION OF AT-RISK STATUS.—For purposes of this subsection, a plan is in at-risk status for a plan year if—

''(A) the plan is maintained by a financially-weak employer, and

''(B) the funding target attainment percentage for the plan year is less than 93 percent.

''(5) FINANCIALLY-WEAK EMPLOYER.—

''(A) IN GENERAL.—For purposes of this subsection, the term 'financially-weak employer' means any employer if—

''(i) as of the valuation date for each of the years during a period of at least 3 consecutive plan years ending with the plan year—

''(I) the employer has an outstanding senior unsecured debt instrument which is rated lower than investment grade by each of the nationally recognized statistical rating organizations for corporate bonds that has issued a credit rating for such instrument, or

''(II) if no such debt instrument has been rated by such an organization but 1 or more of such organizations has made an issuer credit rating for such employer, all such organizations which have so rated the employer have rated such employer lower than investment grade, and

''(ii) at least 2 of the years during such period are deterioration years.

If an employer is treated as a financially-weak employer for any plan year, clause (ii) shall not apply in determining whether the employer is so treated for any succeeding plan year in any continuous period of plan years for which the employer is treated as a financially-weak employer.

''(B) CONTROLLED GROUP EXCEPTION.—If an employer treated as a financially-weak employer under subparagraph (A) is a member of a controlled group (as defined in section 302(d)(3)), the employer shall not be treated as a financially-weak employer if a significant member (as determined under regulations prescribed by the Secretary of the Treasury) of such group has an outstanding senior unsecured debt instrument that is rated as being investment grade by an organization described in subparagraph (A).

''(C) EMPLOYERS WITH NO RATINGS.—If—

''(i) an employer has no debt instrument described in subparagraph (A)(i) which was rated by an organization described in such subparagraph, and

''(ii) no such organization has made an issuer credit rating for such employer,

then such employer shall only be treated as a financially-weak employer to the extent provided in regulations prescribed by the Secretary of the Treasury.

''(6) DETERMINATION OF DETERIORATION YEAR.—For purposes of paragraph (5), the term 'deterioration year' means any year during the period described in paragraph (5)(A)(i) for which the rating described in subclause (I) or (II) of paragraph (5)(A)(i) by each organization is either—

''(A) lower than the lowest rating of the employer by such organization for a preceding year in such period, or

''(B) the lowest rating used by such organization.

''(7) YEARS BEFORE EFFECTIVE DATE.—For purposes of paragraphs (5) and (6), plan years beginning before 2007 shall not be taken into account.

''(8) TRANSITION BETWEEN APPLICABLE FUNDING TARGETS AND BETWEEN APPLICABLE TARGET NORMAL COSTS.—

''(A) IN GENERAL.—In any case in which a plan which is in at-risk status for a plan year has been in such status for a consecutive period of fewer than 5 plan years, the applicable amount of the funding target and of the target normal cost shall be, in lieu of the amount determined without regard to this paragraph, the sum of—

''(i) the amount determined under this section without regard to this subsection, plus

''(ii) the transition percentage for such plan year of the excess of the amount determined under this subsection (without regard to this paragraph) over the amount determined under this section without regard to this subsection.

''(B) IMPROVEMENT YEARS NOT TAKEN INTO ACCOUNT.—

''(i) IN GENERAL.—An improvement year shall not be taken into account in determining any consecutive period of plan years for purposes of subparagraph (A).

''(ii) APPLICATION OF SUBSECTION AFTER IMPROVEMENT YEAR ENDS.—Plan years immediately before and after an improvement year (or consecutive period of improvement years) shall be treated as consecutive for purposes of subparagraph (A).

''(iii) IMPROVEMENT YEAR.—For purposes of this subparagraph, the term 'improvement year' means any plan year for which any rating described in subclause (I) or (II) of paragraph (5)(A)(i) is higher than such rating for the preceding plan year.

''(C) TRANSITION PERCENTAGE.—For purposes of subparagraph (A), the transition percentage shall be determined in accordance with the following table:

"If the consecutive number of years (including the plan year) the plan is in at-risk status is—	**The transition percentage is—**
1	20
2	40
3	60
4	80.

''(D) YEARS BEFORE EFFECTIVE DATE.—For purposes of this paragraph, plan years beginning before 2007 shall not be taken into account.

''(9) PLANS TO WHICH SUBSECTION APPLIES.—

''(A) IN GENERAL.—Except as provided in this paragraph, this subsection shall apply to any plan to which this section applies and which is in at-risk status for the plan year.

''(B) EXCEPTION FOR SMALL PLANS.—This subsection shall not apply to a plan for a plan year if the plan was described in subsection (g)(2)(B) for the preceding plan year, determined by substituting '500' for '100'.

''(C) EXCEPTION FOR PLANS MAINTAINED BY CERTAIN COOPERATIVES.—This subsection shall not apply to an eligible cooperative plan described in subparagraph (D).

''(D) ELIGIBLE COOPERATIVE PLAN DEFINED.—For purposes of subparagraph (C), a plan shall be treated as an eligible cooperative plan for a plan year if the plan is maintained by more than 1 employer and at least 85 percent of the employers are—

''(i) rural cooperatives (as defined in section 401(k)(7)(B) of the Internal Revenue Code of 1986 without regard to clause (iv) thereof), or

''(ii) organizations which are—

''(I) cooperative organizations described in section 1381(a) of such Code which are more than 50-percent owned by agricultural producers or by cooperatives owned by agricultural producers, or

''(II) more than 50-percent owned, or controlled by, one or more cooperative organizations described in subclause (I).

A plan shall also be treated as an eligible cooperative plan for any plan year for which it is described in section 210(a) and is maintained by a rural telephone cooperative association described in section 3(40)(B)(v).

''(E) EXCEPTION FOR PLANS SECURED BY THIRD PARTIES BOUND BY PBGC AGREEMENTS.—This subsection shall not apply to any plan if—

''(i) a person other than the employer obligated to contribute under the plan is, under the terms of an agreement with the Pension Benefit Guaranty Corporation, liable for any failure of the employer to meet its obligation to pay any minimum required contribution or termination liability with respect to the plan; and

''(ii) such person is not a financially-weak employer under paragraph (5).

''(j) PAYMENT OF MINIMUM REQUIRED CONTRIBUTIONS.—

''(1) IN GENERAL.—For purposes of this section, the due date for any payment of any minimum required contribution for any plan year shall be 8½ months after the close of the plan year.

''(2) INTEREST.—Any payment required under paragraph (1) for a plan year made after the valuation date for such plan year shall be increased by interest for the period from the valuation date to the payment date, determined by using the effective rate of interest for the plan for such plan year.

''(3) ACCELERATED QUARTERLY CONTRIBUTION SCHEDULE FOR UNDERFUNDED PLANS.—

''(A) FAILURE TO TIMELY MAKE REQUIRED INSTALLMENT.—

''(i) IN GENERAL.—In the case of a plan to which this paragraph applies, the employer maintaining the plan shall make the required installments under this paragraph and if the employer fails to pay the full amount of a required installment for the plan year, then the amount of interest charged under paragraph (2) on the underpayment for the period of underpayment shall be determined by using a rate of interest equal to the rate otherwise used under paragraph (2) plus 5 percentage points.

''(ii) PLANS TO WHICH PARAGRAPH APPLIES.—This paragraph applies to any defined benefit plan to which this section applies other than a plan which—

''(I) is a plan described in subsection (g)(2)(B)), or

''(II) had a funding shortfall of $1,000,000 or less for the preceding plan year.

''(B) AMOUNT OF UNDERPAYMENT, PERIOD OF UNDERPAYMENT.—For purposes of subparagraph (A)—

''(i) AMOUNT.—The amount of the underpayment shall be the excess of—

''(I) the required installment, over

''(II) the amount (if any) of the installment contributed to or under the plan on or before the due date for the installment.

''(ii) PERIOD OF UNDERPAYMENT.—The period for which any interest is charged under this paragraph with respect to any portion of the underpayment shall run from the due date for the installment to the date on which such portion is contributed to or under the plan.

''(iii) ORDER OF CREDITING CONTRIBUTIONS.—For purposes of clause (i)(II), contributions shall be credited against unpaid required installments in the order in which such installments are required to be paid.

''(C) NUMBER OF REQUIRED INSTALLMENTS; DUE DATES.—For purposes of this paragraph—

''(i) PAYABLE IN 4 INSTALLMENTS.—There shall be 4 required installments for each plan year.

''(ii) TIME FOR PAYMENT OF INSTALLMENTS.—The due dates for required installments are set forth in the following table:

In the case of the following required installment:	**The due date is:**
1st	April 15
2nd	July 15
3rd	October 15
4th	January 15 of the following year.

''(D) AMOUNT OF REQUIRED INSTALLMENT.—For purposes of this paragraph—

''(i) IN GENERAL.—The amount of any required installment shall be 25 percent of the required annual payment.

''(ii) REQUIRED ANNUAL PAYMENT.—For purposes of clause (i), the term 'required annual payment' means the lesser of—

''(I) 90 percent of the minimum required contribution (without regard to any waiver under section 302(c)) to the plan for the plan year under this section, or

''(II) in the case of a plan year beginning after 2007, 100 percent of the minimum required contribution (without regard to any waiver under section 302(c)) to the plan for the preceding plan year.

Subclause (II) shall not apply if the preceding plan year referred to in such clause was not a year of 12 months.

''(E) FISCAL YEARS AND SHORT YEARS.—

''(i) FISCAL YEARS.—In applying this paragraph to a plan year beginning on any date other than January 1, there shall be substituted for the months specified in this paragraph, the months which correspond thereto.

''(ii) SHORT PLAN YEAR.—This subparagraph shall be applied to plan years of less than 12 months in accordance with regulations prescribed by the Secretary of the Treasury.

''(4) LIQUIDITY REQUIREMENT IN CONNECTION WITH QUARTERLY CONTRIBUTIONS.—

''(A) IN GENERAL.—A plan to which this paragraph applies shall be treated as failing to pay the full amount of any required installment under paragraph (3) to the extent that the value of the liquid assets paid in such installment is less than the liquidity shortfall (whether or not such liquidity shortfall exceeds the amount of such installment required to be paid but for this paragraph).

''(B) PLANS TO WHICH PARAGRAPH APPLIES.—This paragraph shall apply to a plan which—

''(i) is required to pay installments under paragraph (3) for a plan year, and

''(ii) has a liquidity shortfall for any quarter during such plan year.

''(C) PERIOD OF UNDERPAYMENT.—For purposes of paragraph (3)(A), any portion of an installment that is treated as not paid under subparagraph (A) shall continue to be treated as unpaid until the close of the quarter in which the due date for such installment occurs.

''(D) LIMITATION ON INCREASE.—If the amount of any required installment is increased by reason of subparagraph (A), in no event shall such increase exceed the amount which, when added to prior installments for the plan year, is necessary to increase the funding target attainment percentage of the plan for the plan year (taking into account the expected increase in funding target due to benefits accruing or earned during the plan year) to 100 percent.

''(E) DEFINITIONS.—For purposes of this subparagraph:

''(i) LIQUIDITY SHORTFALL.—The term 'liquidity shortfall' means, with respect to any required installment, an amount equal to the excess (as of the last day of the quarter for which such installment is made) of—

''(I) the base amount with respect to such quarter, over

''(II) the value (as of such last day) of the plan's liquid assets.

''(ii) BASE AMOUNT.—

''(I) IN GENERAL.—The term 'base amount' means, with respect to any quarter, an amount equal to 3 times the sum of the adjusted disbursements from the plan for the 12 months ending on the last day of such quarter.

''(II) SPECIAL RULE.—If the amount determined under subclause (I) exceeds an amount equal to 2 times the sum of the adjusted disbursements from the plan for the 36 months ending on the last day of the quarter and an enrolled actuary certifies to the satisfaction of the Secretary of the Treasury that such excess is the result of nonrecurring circumstances, the base amount with respect to such quarter shall be determined without regard to amounts related to those nonrecurring circumstances.

''(iii) DISBURSEMENTS FROM THE PLAN.—The term 'disbursements from the plan' means all disbursements from the trust, including purchases of annuities, payments of single sums and other benefits, and administrative expenses.

''(iv) ADJUSTED DISBURSEMENTS.—The term 'adjusted disbursements' means disbursements from the plan reduced by the product of—

''(I) the plan's funding target attainment percentage for the plan year, and

''(II) the sum of the purchases of annuities, payments of single sums, and such other disbursements as the Secretary of the Treasury shall provide in regulations.

''(v) LIQUID ASSETS.—The term 'liquid assets' means cash, marketable securities, and such other assets as specified by the Secretary of the Treasury in regulations.

''(vi) QUARTER.—The term 'quarter' means, with respect to any required installment, the 3-month period preceding the month in which the due date for such installment occurs.

''(F) REGULATIONS.—The Secretary of the Treasury may prescribe such regulations as are necessary to carry out this paragraph.

''(k) IMPOSITION OF LIEN WHERE FAILURE TO MAKE REQUIRED CONTRIBUTIONS.—

''(1) IN GENERAL.—In the case of a plan to which this subsection applies, if—

''(A) any person fails to make a contribution payment required by section 302 and this section before the due date for such payment, and

''(B) the unpaid balance of such payment (including interest), when added to the aggregate unpaid balance of all preceding such payments for which payment was not made before the due date (including interest), exceeds $1,000,000,

then there shall be a lien in favor of the plan in the amount determined under paragraph (3) upon all property and rights to property, whether real or personal, belonging to such person and any other person who is a member of the same controlled group of which such person is a member.

''(2) PLANS TO WHICH SUBSECTION APPLIES.—This subsection shall apply to a defined benefit plan which is a single-employer plan covered under section 4021 for any plan year for which the funding target attainment percentage (as defined in subsection (d)(2)) of such plan is less than 100 percent.

''(3) AMOUNT OF LIEN.—For purposes of paragraph (1), the amount of the lien shall be equal to the aggregate unpaid balance of contribution payments required under this section and section 302 for which payment has not been made before the due date.

''(4) NOTICE OF FAILURE; LIEN.—

''(A) NOTICE OF FAILURE.—A person committing a failure described in paragraph (1) shall notify the Pension Benefit Guaranty Corporation of such failure within 10 days of the due date for the required contribution payment.

''(B) PERIOD OF LIEN.—The lien imposed by paragraph (1) shall arise on the due date for the required contribution payment and shall continue until the last day of the first plan year in which the plan ceases to be described in paragraph (1)(B). Such lien shall continue to run without regard to whether such plan continues to be described in paragraph (2) during the period referred to in the preceding sentence.

''(C) CERTAIN RULES TO APPLY.—Any amount with respect to which a lien is imposed under paragraph (1) shall be treated as taxes due and owing the United States and rules similar to the rules of subsections (c), (d), and (e) of section 4068 shall apply with respect to a lien imposed by subsection (a) and the amount with respect to such lien.

''(5) ENFORCEMENT.—Any lien created under paragraph (1) may be perfected and enforced only by the Pension Benefit Guaranty Corporation, or at the direction of the Pension Benefit Guaranty Corporation, by the contributing sponsor (or any member of the controlled group of the contributing sponsor).

''(6) DEFINITIONS.—For purposes of this subsection—

''(A) CONTRIBUTION PAYMENT.—The term 'contribution payment' means, in connection with a plan, a contribution payment required to be made to the plan, including any required installment under paragraphs (3) and (4) of subsection (j).

''(B) DUE DATE; REQUIRED INSTALLMENT.—The terms 'due date' and 'required installment' have the meanings given such terms by subsection (j), except that in the case of a payment other than a required installment, the due date shall be the date such payment is required to be made under section 303.

''(C) CONTROLLED GROUP.—The term 'controlled group' means any group treated as a single employer under subsections (b), (c), (m), and (o) of section 414 of the Internal Revenue Code of 1986.

''(l) QUALIFIED TRANSFERS TO HEALTH BENEFIT ACCOUNTS.—In the case of a qualified transfer (as defined in section 420 of the Internal Revenue Code of 1986), any assets so transferred shall not, for purposes of this section, be treated as assets in the plan.''.

(b) CLERICAL AMENDMENT.—The table of sections in section 1 of such Act (as amended by section 101) is amended by inserting after the item relating to section 302 the following new item:

''Sec. 303. Minimum funding standards for single-employer defined benefit pension plans.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to plan years beginning after 2006.

SEC. 103. BENEFIT LIMITATIONS UNDER SINGLE-EMPLOYER PLANS.

(a) LIMITS ON BENEFITS AND BENEFIT ACCRUALS.—

(1) IN GENERAL.—Section 206 of such Act is amended by adding at the end the following new subsection:

''(g) FUNDING-BASED LIMITS ON BENEFITS AND BENEFIT ACCRUALS UNDER SINGLE-EMPLOYER PLANS.—

''(1) LIMITATIONS ON PLAN AMENDMENTS INCREASING LIABILITY FOR BENEFITS.—

''(A) IN GENERAL.—Except as provided in paragraph (4), no amendment to a single-employer plan which has the effect of increasing liabilities of the plan by reason of increases in benefits, establishment of new benefits, changing the rate of benefit accrual, or changing the rate at which benefits become nonforfeitable may take effect during any plan year if the adjusted funding target attainment percentage as of the valuation date of the plan for such plan year is—

''(i) less than 80 percent, or

''(ii) would be less than 80 percent taking into account such amendment.

''(B) EXEMPTION.—Subparagraph (A) shall cease to apply with respect to any plan year,

effective as of the first date of the plan year (or if later, the effective date of the amendment), upon payment by the plan sponsor of a contribution (in addition to any minimum required contribution under section 303) equal to—

''(i) in the case of subparagraph (A)(i), the amount of the increase in the funding target of the plan (under section 303) for the plan year attributable to the amendment, and

''(ii) in the case of subparagraph (A)(ii), the amount sufficient to result in an adjusted funding target attainment percentage of 80 percent.

''(C) EXCEPTION FOR CERTAIN BENEFIT INCREASES.—Subparagraph (A) shall not apply to any amendment which provides for an increase in benefits under a formula which is not based on a participant's compensation, but only if the rate of such increase is not in excess of the contemporaneous rate of increase in average wages of participants covered by the amendment.

''(2) LIMITATIONS ON ACCELERATED BENEFIT DISTRIBUTIONS.—

''(A) IN GENERAL.—A defined benefit plan which is a single-employer plan shall provide that, with respect to any plan year—

''(i) if the plan's adjusted funded target liability percentage as of the valuation date for the preceding plan year was less than 60 percent and the preceding plan year is not otherwise in a prohibited period, the plan sponsor shall, in addition to any other contribution required under section 303, contribute for the current plan year and each succeeding plan year in the prohibited period with respect to the current plan year the amount (if any) which, when added to the portion of the minimum required contribution for the plan year described in subparagraphs (B) and (C) of section 303(a)(1), is sufficient to result in an adjusted funded target liability percentage for the plan year of 60 percent, and

''(ii) no prohibited payments will be made during a prohibited period.

''(B) PROHIBITED PAYMENT.—For purpose of this subsection—

''(i) IN GENERAL.—The term 'prohibited payment' means—

''(I) any payment, in excess of the monthly amount paid under a single life annuity (plus any social security supplements described in the last sentence of section 204(b)(1)(G)), to a participant or beneficiary whose annuity starting date (as defined in section 205(h)(2)) occurs during a prohibited period,

''(II) any payment for the purchase of an irrevocable commitment from an insurer to pay benefits, and

''(III) any other payment specified by the Secretary of the Treasury by regulations.

''(ii) EXCEPTION FOR CERTAIN PAYMENTS.—In the case of any prohibited period described in subparagraph (C)(i), the term 'prohibited payment' shall not include any payment if the amount of the payment does not exceed the lesser of—

''(I) 50 percent of the amount of the payment which could be made without regard to this subsection, or

''(II) the present value (determined under guidance prescribed by the Pension Benefit Guaranty Corporation, using the interest and mortality assumptions under section 205(g)) of the maximum guarantee with respect to the participant under section 4022.

The exception under this clause shall only apply once with respect to any participant, except that, for purposes of this sentence, a participant and any beneficiary on his behalf (including an alternate payee, as defined in section 206(d)(3)(K)) shall be treated as 1 participant. If the accrued benefit of a participant is allocated to such an alternate payee and 1 or more other persons, the amount under subclause (II) shall be allocated among such persons in the same manner as the accrued benefit is allocated unless the qualified domestic relations order (as defined in section 206(d)(3)(B)(i)) provides otherwise.

''(C) PROHIBITED PERIOD.—For purposes of subparagraph (A), the term 'prohibited period' means—

''(i) except as provided in subparagraph (D), if a plan sponsor is required to make the contribution for the current plan year under subparagraph (A), the period beginning on the 1st day of the plan year and ending on the last day of the 1st period of 2 consecutive plan years (beginning on or after such 1st day) for which the plan's adjusted funded target liability percentage was at least 60 percent,

''(ii) any period the plan sponsor is in bankruptcy, or

''(iii) any period during which the plan has a liquidity shortfall (as defined in section 303(j)(4)(E)(i)).

The prohibited period for purposes of clause (ii) shall not include any portion of a plan year (even if the plan sponsor is in bankruptcy during such period) which occurs on or after the date the plan's enrolled actuary certifies that, as of the valuation date for the plan year, the plan's adjusted funded target liability percentage is at least 100 percent.

''(D) SATISFACTION OF REQUIREMENT BEFORE CLOSE OF PLAN YEAR.—If, before the close of the current plan year—

''(i) the plan sponsor makes the contribution required to be made under subparagraph (A), or

''(ii) the plan's enrolled actuary certifies that, as of the valuation date for the plan year, the adjusted funded target liability percentage of the plan is at least 60 percent, this paragraph shall be applied as if no prohibited period had begun as of the beginning of such year and the plan shall, under rules described by the Secretary of the Treasury, restore any payments not made during the prohibited period in effect before the application of this paragraph.

''(3) LIMITATION ON BENEFIT ACCRUALS FOR PLANS WITH SEVERE FUNDING SHORTFALLS.—

''(A) IN GENERAL.—Except as provided in paragraph (4), a single-employer plan shall provide that all future benefit accruals under the plan shall cease during a severe funding shortfall period, but only to the extent the cessation of such accruals would have been permitted under section 204(g) if the cessation had been implemented by a plan amendment adopted immediately before the severe funding shortfall period.

''(B) SEVERE FUNDING SHORTFALL PERIOD.—For purposes of subparagraph (A), the term 'severe funding shortfall period' means in the case of a plan the adjusted funding target attainment percentage of which as of the valuation date of the plan for any plan year is less than 60 percent, the period—

''(i) beginning on the 1st day of the succeeding plan year, and

''(ii) ending on the date the plan's enrolled actuary certifies that the plan's adjusted funding target attainment percentage is at least 60 percent, and

''(C) OPPORTUNITY FOR INCREASED FUNDING.—For purposes of subparagraph (B), a plan shall not be treated as described in such subparagraph for a plan year if the plan's enrolled actuary certifies that the plan sponsor has before the end of the plan year contributed (in addition to any minimum required contribution under section 303) the amount sufficient to result in an adjusted funding target attainment percentage as of the valuation date for the plan year of 60 percent.

''(4) EXCEPTION FOR CERTAIN COLLECTIVELY BARGAINED BENEFITS.—In the case of a plan maintained pursuant to a collective bargaining agreement between employee representatives and the plan sponsor and in effect before the beginning of the first day on which a limitation would otherwise apply under paragraph (1), (2), or (3)—

''(A) such limitations shall not apply to any amendment, prohibited payment, or accrual with respect to such plan, but

''(B) the plan sponsor shall contribute (in addition to any minimum required contribution under section 303) the amount sufficient to result in an adjusted funding target attainment percentage (as of the valuation date for the plan year in which any such limitation would otherwise apply) equal to the percentage necessary to prevent the limitation from applying.

''(5) RULES RELATING TO REQUIRED CONTRIBUTIONS.—

''(A) SECURITY MAY BE PROVIDED.—

''(i) IN GENERAL.—For purposes of this subsection, the adjusted funding target attainment percentage shall be determined by treating as an asset of the plan any security provided by a plan sponsor in a form meeting the requirements of clause (ii) .

''(ii) FORM OF SECURITY.—The security required under clause (i) shall consist of—

''(I) a bond issued by a corporate surety company that is an acceptable surety for purposes of section 412 of this Act,

''(II) cash, or United States obligations which mature in 3 years or less, held in escrow by a bank or similar financial institution, or

''(III) such other form of security as is satisfactory to the Secretary of the Treasury and the parties involved.

''(iii) ENFORCEMENT.—Any security provided under clause (i) may be perfected and enforced at any time after the earlier of—

''(I) the date on which the plan terminates,

''(II) if there is a failure to make a payment of the minimum required contribution for any plan year beginning after the security is provided, the due date for the payment under section 303(j), or

''(III) if the adjusted funding target attainment percentage is less than 60 percent for a consecutive period of 7 years, the valuation date for the last year in the period.

''(iv) RELEASE OF SECURITY.—The security shall be released (and any amounts thereunder shall be refunded together with any interest accrued thereon) at such time as the Secretary of the Treasury may prescribe in regulations, including regulations for partial releases of the security by reason of increases in the funding target attainment percentage.

''(B) PREFUNDING BALANCE MAY NOT BE USED.—No prefunding balance under section 303(f) may be used to satisfy any required contribution under this subsection.

''(C) TREATMENT AS UNPAID MINIMUM REQUIRED CONTRIBUTION.—The amount of any required contribution which a plan sponsor fails to make under paragraph (1) or (3) for any plan year shall be treated as an unpaid minimum required contribution for purposes of subsection (j) and (k) of section 303 and for purposes of section 4971 of the Internal Revenue Code of 1986.

''(6) NEW PLANS.—Paragraphs (1) and (3) shall not apply to a plan for the first 5 plan years of the plan. For purposes of this paragraph, the reference in this paragraph to a plan shall include a reference to any predecessor plan.

''(7) PRESUMED UNDERFUNDING FOR PURPOSES OF BENEFIT LIMITATIONS BASED ON PRIOR YEAR'S FUNDING STATUS.—

''(A) PRESUMPTION OF CONTINUED UNDERFUNDING.—In any case in which a benefit limitation under paragraph (1), (2), or (3) has been applied to a plan with respect to the plan year preceding the current plan year,

the adjusted funding target attainment percentage of the plan as of the valuation date of the plan for the current plan year shall be presumed to be equal to the adjusted funding target attainment percentage of the plan as of the valuation date of the plan for the preceding plan year until the enrolled actuary of the plan certifies the actual adjusted funding target attainment percentage of the plan as of the valuation date of the plan for the current plan year.

''(B) PRESUMPTION OF UNDERFUNDING AFTER 10TH MONTH.—In any case in which no such certification is made with respect to the plan before the first day of the 10th month of the current plan year, for purposes of paragraphs (1), (2), and (3), the plan's adjusted funding target attainment percentage shall be conclusively presumed to be less than 60 percent as of the first day of such 10th month.

''(8) TREATMENT OF PLAN AS OF CLOSE OF PROHIBITED OR CESSATION PERIOD.—For purposes of applying this part—

''(A) OPERATION OF PLAN AFTER PERIOD.—Unless the plan provides otherwise, payments and accruals will resume effective as of the day following the close of a period of limitation of payment or accrual of benefits under paragraph (2) or (3).

''(B) TREATMENT OF AFFECTED BENEFITS.—Nothing in this paragraph shall be construed as affecting the plan's treatment of benefits which would have been paid or accrued but for this subsection.

''(9) FUNDING TARGET ATTAINMENT PERCENTAGE.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'funding target attainment percentage' has the same meaning given such term by section 303(d)(2).

''(B) ADJUSTED FUNDED TARGET LIABILITY PERCENTAGE.—The term 'adjusted funded target liability percentage' means the funded target liability percentage which is determined under subparagraph (A) by increasing each of the amounts under subparagraphs (A) and (B) of section 303(d)(2) by the aggregate amount of purchases of annuities, payments of single sums, and such other disbursements as the Secretary of the Treasury shall prescribe in regulations, which were made by the plan during the preceding 2 plan years.

''(10) YEARS BEFORE EFFECTIVE DATE.—No plan year beginning before 2007 shall be taken into account in determining whether this subsection applies to any plan year beginning after 2006.''.

(2) NOTICE REQUIREMENT.—

(A) IN GENERAL.—Section 101 of such Act (29 U.S.C. 1021) is amended—

(i) by redesignating subsection (j) as subsection (k); and

(ii) by inserting after subsection (i) the following new subsection:

''(j) NOTICE OF FUNDING-BASED LIMITATION ON CERTAIN FORMS OF DISTRIBUTION.—The plan administrator of a single-employer plan shall provide a written notice to plan participants and beneficiaries within 30 days—

''(1) after the plan has become subject to the restriction described in section 206(g)(2),

''(2) in the case of a plan to which section 206(g)(3) applies, after—

''(A) the date in the plan year described in section 206(g)(3)(B) on which the plan's enrolled actuary certifies that the plan's adjusted funding target attainment percentage for the plan year is less than 60 percent (or, if earlier, the date such percentage is deemed to be less than 60 percent under section 206(g)(7)), and

''(B) the first day of the severe funding shortfall period, and

''(3) at such other time as may be determined by the Secretary of the Treasury.

The notice required to be provided under this subsection shall be in writing, except that such notice may be in electronic or other form to the extent that such form is reasonably accessible to the recipient.''.

(B) ENFORCEMENT.—Section 502(c)(4) of such Act (29 U.S.C. 1132(c)(4)) is amended by striking ''section 302(b)(7)(F)(iv)'' and inserting ''sections 101(j) and 302(b)(7)(F)(iv)''.

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to plan years beginning after December 31, 2006.

(2) COLLECTIVE BARGAINING EXCEPTION.—In the case of a plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified before January 1, 2007, the amendments made by this section shall not apply to plan years beginning before the earlier of—

(A) the later of—

(i) the date on which the last collective bargaining agreement relating to the plan terminates (determined without regard to any extension thereof agreed to after the date of the enactment of this Act), or

(ii) the first day of the first plan year to which the amendments made by this subsection would (but for this subparagraph) apply, or

(B) January 1, 2010.

For purposes of subparagraph (A)(i), any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement added by this section shall not be treated as a termination of such collective bargaining agreement.

SEC. 104. TECHNICAL AND CONFORMING AMENDMENTS.

(a) MISCELLANEOUS AMENDMENTS TO TITLE I.—Subtitle B of title I of such Act (29 U.S.C. 1021 et seq.) is amended—

(1) in section 101(d)(3), by striking ''section 302(e)'' and inserting ''section 303(j)'';

(2) in section 103(d)(8)(B), by striking ''the requirements of section 302(c)(3)'' and inserting ''the applicable requirements of sections 303(h) and 304(c)(3)'';

(3) in section 103(d), by striking paragraph (11) and inserting the following:

''(11) If the current value of the assets of the plan is less than 70 percent of—

''(A) in the case of a single-employer plan, the funding target (as defined in section 303(d)(1)) of the plan, or

''(B) in the case of a multiemployer plan, the current liability (as defined in section 304(c)(6)(D)) under the plan,

the percentage which such value is of the amount described in subparagraph (A) or (B).'';

(4) in section 203(a)(3)(C), by striking ''section 302(c)(8)'' and inserting ''section 302(d)(2)'';

(5) in section 204(g)(1), by striking ''section 302(c)(8)'' and inserting ''section 302(d)(2)'';

(6) in section 204(i)(2)(B), by striking ''section 302(c)(8)'' and inserting ''section 302(d)(2)'';

(7) in section 204(i)(3), by striking ''funded current liability percentage (within the meaning of section 302(d)(8) of this Act)'' and inserting ''funding target attainment percentage (as defined in section 303(d)(2))'';

(8) in section 204(i)(4), by striking ''section 302(c)(11)(A), without regard to section 302(c)(11)(B)'' and inserting ''section 302(b)(1), without regard to section 302(b)(2)'';

(9) in section 206(e)(1), by striking ''section 302(d)'' and inserting ''section 303(j)(4)'', and by striking ''section 302(e)(5)'' and inserting ''section 303(j)(4)(E)(i)'';

(10) in section 206(e)(3), by striking ''section 302(e) by reason of paragraph (5)(A) thereof'' and inserting ''section 303(j)(3) by reason of section 303(j)(4)(A)''; and

(11) in sections 101(e)(3), 403(c)(1), and 408(b)(13), by striking ''American Jobs Creation Act of 2004'' and inserting ''Pension Security and Transparency Act of 2005''.

(b) MISCELLANEOUS AMENDMENTS TO TITLE IV.—Title IV of such Act is amended—

(1) in section 4001(a)(13) (29 U.S.C. 1301(a)(13)), by striking ''302(c)(11)(A)'' and inserting ''302(b)(1)'', by striking ''412(c)(11)(A)'' and inserting ''412(c)(1)'', by striking ''302(c)(11)(B)'' and inserting ''302(b)(2)'', and by striking ''412(c)(11)(B)'' and inserting ''412(c)(2)'';

(2) in section 4003(e)(1) (29 U.S.C. 1303(e)(1)), by striking ''302(f)(1)(A) and (B)'' and inserting ''303(k)(1)(A) and (B)'', and by striking ''412(n)(1)(A) and (B)'' and inserting ''430(k)(1)(A) and (B)'';

(3) in section 4010(b)(2) (29 U.S.C. 1310(b)(2)), by striking ''302(f)(1)(A) and (B)'' and inserting ''303(k)(1)(A) and (B)'', and by striking ''412(n)(1)(A) and (B)'' and inserting ''430(k)(1)(A) and (B)'';

(4) in section 4062(c)(1) (29 U.S.C. 1362(c)(1)), by striking paragraphs (1), (2), and (3) and inserting the following:

''(1)(A) in the case of a single-employer plan, the sum of the shortfall amortization charge (within the meaning of section 303(c)(1) of this Act and 430(d)(1) of the Internal Revenue Code of 1986) with respect to the plan (if any) for the plan year in which the termination date occurs, plus the aggregate total of shortfall amortization installments (if any) determined for succeeding plan years under section 303(c)(2) of this Act and section 430(d)(2) of such Code (which, for purposes of this subparagraph, shall include any increase in such sum which would result if all applications for waivers of the minimum funding standard under section 302(c) of this Act and section 412(d) of such Code which are pending with respect to such plan were denied and if no additional contributions (other than those already made by the termination date) were made for the plan year in which the termination date occurs or for any previous plan year), or

''(B) in the case of a multiemployer plan, the outstanding balance of the accumulated funding deficiencies (within the meaning of section 304(a)(2) of this Act and section 431(a) of the Internal Revenue Code of 1986) of the plan (if any) (which, for purposes of this subparagraph, shall include the amount of any increase in such accumulated funding deficiencies of the plan which would result if all pending applications for waivers of the minimum funding standard under section 302(c) of this Act or section 412(d) of such Code and for extensions of the amortization period under section 304(d) of this Act or section 431(d) of such Code with respect to such plan were denied and if no additional contributions (other than those already made by the termination date) were made for the plan year in which the termination date occurs or for any previous plan year),

''(2)(A) in the case of a single-employer plan, the sum of the waiver amortization charge (within the meaning of section 303(e)(1) of this Act and 430(e)(2) of the Internal Revenue Code of 1986) with respect to the plan (if any) for the plan year in which the termination date occurs, plus the aggregate total of waiver amortization installments (if any) determined for succeeding plan years under section 303(e)(3) of this Act and section 430(e)(3) of such Code, or

''(B) in the case of a multiemployer plan, the outstanding balance of the amount of waived funding deficiencies of the plan waived before such date under section 302(c) of this Act or section 412(d) of such Code (if any), and

''(3) in the case of a multiemployer plan, the outstanding balance of the amount of decreases in the minimum funding standard allowed before such date under section 304(d) of

this Act or section 431(d) of such Code (if any);'';

(5) in section 4071 (29 U.S.C. 1371), by striking ''302(f)(4)'' and inserting ''303(k)(4)'';

(6) in section 4243(a)(1)(B) (29 U.S.C. 1423(a)(1)(B)), by striking ''302(a)'' and inserting ''304(a)'', and, in clause (i), by striking ''302(a)'' and inserting ''304(a)'';

(7) in section 4243(f)(1) (29 U.S.C. 1423(f)(1)), by striking ''303(a)'' and inserting ''302(c)'';

(8) in section 4243(f)(2) (29 U.S.C. 1423(f)(2)), by striking ''303(c)'' and inserting ''302(c)(3)'';

and

(9) in section 4243(g) (29 U.S.C. 1423(g)), by striking ''302(c)(3)'' and inserting ''304(c)(3)''.

(c) AMENDMENTS TO REORGANIZATION PLAN NO. 4 OF 1978.—Section 106(b)(ii) of Reorganization Plan No. 4 of 1978 (ratified and affirmed as law by Public Law 98–532 (98 Stat. 2705)) is amended by striking ''302(c)(8)'' and inserting ''302(d)(2)'', by striking ''304(a) and (b)(2)(A)'' and inserting ''304(d)(1), (d)(2), and (e)(2)(A)'', and by striking ''412(c)(8), (e), and (f)(2)(A)'' and inserting ''412(d)(2) and 431(d)(1), (d)(2), and (e)(2)(A)''.

(d) REPEAL OF EXPIRED AUTHORITY FOR TEMPORARY VARIANCES.—Section 207 of such Act (29 U.S.C. 1057) is repealed.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after 2006.

SEC. 105. SPECIAL RULES FOR MULTIPLE EMPLOYER PLANS OF CERTAIN COOPERATIVES.

(a) GENERAL RULE.—Except as provided in this section, if a plan in existence on July 26, 2005, was an eligible cooperative plan for its plan year which includes such date, the amendments made by section 401 of this Act, this subtitle, and subtitle B shall not apply to plan years beginning before the earlier of—

(1) the first plan year for which the plan ceases to be an eligible cooperative plan, or

(2) January 1, 2017.

(b) INTEREST RATE.—In applying section 302(b)(5)(B) of the Employee Retirement Income Security Act of 1974 and section 412(b)(5)(B) of the Internal Revenue Code of 1986 (as in effect before the amendments made by this subtitle and subtitle B) and in applying section 4006(a)(3)(E)(iii) of such Act (as in effect before the amendments made by section 401) to an eligible cooperative plan for plan years beginning after December 31, 2006, and before the first plan year to which such amendments apply, the third segment rate determined under section 303(h)(2)(C)(iii) of such Act and section 430(h)(2)(C)(iii) of such Code (as added by such amendments) shall be used in lieu of the interest rate otherwise used.

(c) ELIGIBLE COOPERATIVE PLAN DEFINED.—For purposes of this section, a plan shall be treated as an eligible cooperative plan for a plan year if the plan is maintained by more than 1 employer and at least 85 percent of the employers are—

(1) rural cooperatives (as defined in section 401(k)(7)(B) of such Code without regard to clause (iv) thereof), or

(2) organizations which are—

(A) cooperative organizations described in section 1381(a) of such Code which are more than 50-percent owned by agricultural producers or by cooperatives owned by agricultural producers, or

(B) more than 50-percent owned, or controlled by, one or more cooperative organizations described in subparagraph (A).

A plan shall also be treated as an eligible cooperative plan for any plan year for which it is described in section 210(a) of the Employee Retirement Income Security Act of 1974 and is maintained by a rural telephone cooperative association described in section 3(40)(B)(v) of such Act.

SEC. 106. TEMPORARY RELIEF FOR CERTAIN RESCUED PLANS.

(a) GENERAL RULE.—Except as provided in this section, if a plan in existence on July 26, 2005, was a rescued plan as of such date, the amendments made by section 401 of this Act, this subtitle, and subtitle B shall not apply to plan years beginning before January 1, 2014.

(b) INTEREST RATE.—In applying section 302(b)(5)(B) of the Employee Retirement Income Security Act of 1974 and section 412(b)(5)(B) of the Internal Revenue Code of 1986 (as in effect before the amendments made by this subtitle and subtitle B), and in applying section 4006(a)(3)(E)(iii) of such Act (as in effect before the amendments made by section 401), to a rescued plan for plan years beginning after December 31, 2006, and before January 1, 2014, the third segment rate determined under section 303(h)(2)(C)(iii) of such Act and section 430(h)(2)(C)(iii) of such Code (as added by such amendments) shall be used in lieu of the interest rate otherwise used.

(c) RESCUED PLAN.—For purposes of this section, the term ''rescued plan'' means a defined benefit plan (other than a multiemployer plan) to which section 302 of such Act and section 412 of such Code apply and—

(1) which was sponsored by an employer which was in bankruptcy, giving rise to a claim by the Pension Benefit Guaranty Corporation of at least $100,000,000, but not greater than $150,000,000, and

(2) the sponsorship of which was assumed by another employer that was not a member of the same controlled group as the bankrupt sponsor and the claim of the Pension Benefit Guaranty Corporation was settled or withdrawn in connection with the assumption of the sponsorship.

Subtitle B—Amendments to Internal Revenue Code of 1986

SEC. 111. MODIFICATIONS OF THE MINIMUM FUNDING STANDARDS.

(a) IN GENERAL.—Section 412 of the Internal Revenue Code of 1986 (relating to minimum funding standards) is amended to read as follows:

''SEC. 412. MINIMUM FUNDING STANDARDS.

''(a) REQUIREMENT TO MEET MINIMUM FUNDING STANDARD.—

''(1) IN GENERAL.—A plan to which this section applies shall satisfy the minimum funding standard applicable to the plan for any plan year.

''(2) MINIMUM FUNDING STANDARD.—For purposes of paragraph (1), a plan shall be treated as satisfying the minimum funding standard for a plan year if—

''(A) in the case of a defined benefit plan which is a single-employer plan, the employer makes contributions to or under the plan for the plan year which, in the aggregate, are not less than the minimum required contribution determined under section 430 for the plan for the plan year,

''(B) in the case of a money purchase pension plan which is a single-employer plan, the employer makes contributions to or under the plan for the plan year which are required under the terms of the plan, and

''(C) in the case of a multiemployer plan, the employers make contributions to or under the plan for the plan year which, in the aggregate, are sufficient to ensure that the plan does not have an accumulated funding deficiency under section 431 as of the end of the plan year.

''(b) PLANS TO WHICH SECTION APPLIES.—

''(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), this section applies to a plan if, for any plan year beginning on or after the effective date of this section for such plan under the Employee Retirement Income Security Act of 1974—

''(A) the plan included a trust which qualified (or was determined by the Secretary to have qualified) under section 401(a), or

''(B) the plan satisfied (or was determined by the Secretary to have satisfied) the requirements of section 403(a).

''(2) EXCEPTIONS.—This section shall not apply to—

''(A) any profit-sharing or stock bonus plan,

''(B) any insurance contract plan described in subsection (g)(3),

''(C) any governmental plan (within the meaning of section 414(d)),

''(D) any church plan (within the meaning of section 414(e)) with respect to which the election provided by section 410(d) has not been made,

''(E) any plan which has not, at any time after September 2, 1974, provided for employer contributions, or

''(F) any plan established and maintained by a society, order, or association described in section 501(c) (8) or (9), if no part of the contributions to or under such plan are made by employers of participants in such plan.

No plan described in subparagraph (C), (D), or (F) shall be treated as a qualified plan for purposes of section 401(a) unless such plan meets the requirements of section 401(a)(7) as in effect on September 1, 1974.

''(3) CERTAIN TERMINATED MULTIEMPLOYER PLANS.—This section applies with respect to a terminated multiemployer plan to which section 4021 of the Employee Retirement Income Security Act of 1974 applies until the last day of the plan year in which the plan terminates (within the meaning of section 4041A(a)(2) of such Act).

''(c) LIABILITY FOR CONTRIBUTIONS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), the amount of any contribution required by this section and any required installments under section 430(j) shall be paid by any employer responsible for making the contribution to or under the plan.

''(2) JOINT AND SEVERAL LIABILITY WHERE EMPLOYER MEMBER OF CONTROLLED GROUP.—If the employer referred to in paragraph (1) is a member of a controlled group, each member of such group shall be jointly and severally liable for payment of such contribution or required installment.

''(d) VARIANCE FROM MINIMUM FUNDING STANDARDS.—

''(1) WAIVER IN CASE OF BUSINESS HARDSHIP.—

''(A) IN GENERAL.—If—

''(i) an employer is (or in the case of a multiemployer plan, 10 percent or more of the number of employers contributing to or under the plan are) unable to satisfy the minimum funding standard for a plan year without temporary substantial business hardship (substantial business hardship in the case of a multiemployer plan), and

''(ii) application of the standard would be adverse to the interests of plan participants in the aggregate,

the Secretary may, subject to subparagraph (C), waive the requirements of subsection (a) for such year with respect to all or any portion of the minimum funding standard. The Secretary of the Treasury shall not waive the minimum funding standard with respect to a plan for more than 3 of any 15 (5 of any 15 in the case of a multiemployer plan) consecutive plan years.

''(B) EFFECTS OF WAIVER.—If a waiver is granted under subparagraph (A) for any plan year—

''(i) in the case of a single-employer plan, the minimum required contribution under section 430 for the plan year shall be reduced by the amount of the waived funding deficiency and such amount shall be amortized as required under section 430(e), and

''(ii) in the case of a multiemployer plan, the funding standard account shall be credited under section 431(b)(3)(C) with the amount of the waived funding deficiency and such amount shall be amortized as required under section 431(b)(2)(C).

''(C) WAIVER OF AMORTIZED PORTION NOT ALLOWED.—The Secretary may not waive under subparagraph (A) any portion of the minimum funding standard under subsection (a) for a plan year which is attributable to any waived funding deficiency for any preceding plan year.

''(2) DETERMINATION OF BUSINESS HARDSHIP.—For purposes of this subsection, the factors taken into account in determining temporary substantial business hardship (substantial business hardship in the case of a multiemployer plan) shall include (but shall not be limited to) whether or not—

''(A) the employer is operating at an economic loss,

''(B) there is substantial unemployment or underemployment in the trade or business and in the industry concerned,

''(C) the sales and profits of the industry concerned are depressed or declining, and

''(D) it is reasonable to expect that the plan will be continued only if the waiver is granted.

''(3) WAIVED FUNDING DEFICIENCY.—For purposes of this part, the term 'waived funding deficiency' means the portion of the minimum funding standard under subsection (a) (determined without regard to the waiver) for a plan year waived by the Secretary and not satisfied by employer contributions.

''(4) SECURITY FOR WAIVERS FOR SINGLE-EMPLOYER PLANS, CONSULTATIONS.—

''(A) SECURITY MAY BE REQUIRED.—

''(i) IN GENERAL.—Except as provided in subparagraph (C), the Secretary may require an employer maintaining a defined benefit plan which is a single-employer plan (within the meaning of section 4001(a)(15) of the Employee Retirement Income Security Act of 1974) to provide security to such plan as a condition for granting or modifying a waiver under paragraph (1).

''(ii) SPECIAL RULES.—Any security provided under clause (i) may be perfected and enforced only by the Pension Benefit Guaranty Corporation, or, at the direction of the Corporation, by a contributing sponsor (within the meaning of section 4001(a)(13) of such Act) or a member of such sponsor's controlled group (within the meaning of section 4001(a)(14) of such Act).

''(B) CONSULTATION WITH THE PENSION BENEFIT GUARANTY CORPORATION.—Except as provided in subparagraph (C), the Secretary shall, before granting or modifying a waiver under this subsection with respect to a plan described in subparagraph (A)(i)—

''(i) provide the Pension Benefit Guaranty Corporation with—

''(I) notice of the completed application for any waiver or modification, and

''(II) an opportunity to comment on such application within 30 days after receipt of such notice, and

''(ii) consider—

''(I) any comments of the Corporation under clause (i)(II), and

''(II) any views of any employee organization (within the meaning of section 3(4) of such Act) representing participants in the plan which are submitted in writing to the Secretary of the Treasury in connection with such application.

Information provided to the Corporation under this subparagraph shall be considered tax return information and subject to the safeguarding and reporting requirements of section 6103(p).

''(C) EXCEPTION FOR CERTAIN WAIVERS.—

''(i) IN GENERAL.—The preceding provisions of this paragraph shall not apply to any plan with respect to which the sum of—

''(I) the aggregate unpaid minimum required contributions for the plan year and all preceding plan years, and

''(II) the present value of all waiver amortization installments determined for the plan year and succeeding plan years under section 430(e)(2),

is less than $1,000,000.

''(ii) TREATMENT OF WAIVERS FOR WHICH APPLICATIONS ARE PENDING.—The amount described in clause (i)(I) shall include any increase in such amount which would result if all applications for waivers of the minimum funding standard under this subsection which are pending with respect to such plan were denied.

''(iii) UNPAID MINIMUM REQUIRED CONTRIBUTION.—For purposes of this subparagraph—

''(I) IN GENERAL.—The term 'unpaid minimum required contribution' means, with respect to any plan year, any minimum required contribution under section 430 for the plan year which is not paid on or before the due date (as determined under section 430(j)(1)) for the plan year.

''(II) ORDERING RULE.—For purposes of subclause (I), any payment to or under a plan for any plan year shall be allocated first to unpaid minimum required contributions for all preceding plan years on a first-in, first-out basis and then to the minimum required contribution under section 430 for the plan year.

''(5) SPECIAL RULES FOR SINGLE-EMPLOYER PLANS.—

''(A) APPLICATION MUST BE SUBMITTED BEFORE DATE 2½ MONTHS AFTER CLOSE OF YEAR.—In the case of a single-employer plan, no waiver may be granted under this subsection with respect to any plan for any plan year unless an application therefor is submitted to the Secretary not later than the 15th day of the 3rd month beginning after the close of such plan year.

''(B) SPECIAL RULE IF EMPLOYER IS MEMBER OF CONTROLLED GROUP.—In the case of a single-employer plan, if an employer is a member of a controlled group, the temporary substantial business hardship requirements of paragraph (1) shall be treated as met only if such requirements are met—

''(i) with respect to such employer, and

''(ii) with respect to the controlled group of which such employer is a member (determined by treating all members of such group as a single employer).

The Secretary may provide that an analysis of a trade or business or industry of a member need not be conducted if the Secretary determines such analysis is not necessary because the taking into account of such member would not significantly affect the determination under this paragraph.

''(6) ADVANCE NOTICE.—

''(A) IN GENERAL.—The Secretary shall, before granting a waiver under this subsection, require each applicant to provide evidence satisfactory to such Secretary that the applicant has provided notice of the filing of the application for such waiver to each affected party (as defined in section 4001(a)(21) of the Employee Retirement Income Security Act of 1974) other than the Pension Benefit Guaranty Corporation and in the case of a multiemployer plan, to each employer required to contribute to the plan under subsection (b)(1). Such notice shall include a description of the extent to which the plan is funded for benefits which are guaranteed under title IV of such Act and for benefit liabilities.

''(B) CONSIDERATION OF RELEVANT INFORMATION.—The Secretary shall consider any relevant information provided by a person to whom notice was given under subparagraph (A).

''(7) RESTRICTION ON PLAN AMENDMENTS.—

''(A) IN GENERAL.—No amendment of a plan which increases the liabilities of the plan by reason of any increase in benefits, any change in the accrual of benefits, or any change in the rate at which benefits become nonforfeitable under the plan shall be adopted if a waiver under this subsection or an extension of time under section 431(d) is in effect with respect to the plan, or if a plan amendment described in subsection (e)(2) has been made at any time in the preceding 24 months. If a plan is amended in violation of the preceding sentence, any such waiver, or extension of time, shall not apply to any plan year ending on or after the date on which such amendment is adopted.

''(B) EXCEPTION.—Subparagraph (A) shall not apply to any plan amendment which—

''(i) the Secretary determines to be reasonable and which provides for only de minimis increases in the liabilities of the plan,

''(ii) only repeals an amendment described in subsection (e)(2), or

''(iii) is required as a condition of qualification under part I of subchapter D, of chapter 1 of the Internal Revenue Code of 1986.

''(e) MISCELLANEOUS RULES.—For purposes of this section—

''(1) CHANGE IN METHOD OR YEAR.—If the funding method, the valuation date, or a plan year for a plan is changed, the change shall take effect only if approved by the Secretary.

''(2) CERTAIN RETROACTIVE PLAN AMENDMENTS.—For purposes of this section, any amendment applying to a plan year which—

''(A) is adopted after the close of such plan year but no later than 2½ months after the close of the plan year (or, in the case of a multiemployer plan, no later than 2 years after the close of such plan year),

''(B) does not reduce the accrued benefit of any participant determined as of the beginning of the first plan year to which the amendment applies, and

''(C) does not reduce the accrued benefit of any participant determined as of the time of adoption except to the extent required by the circumstances,

shall, at the election of the plan administrator, be deemed to have been made on the first day of such plan year. No amendment described in this paragraph which reduces the accrued benefits of any participant shall take effect unless the plan administrator files a notice with the Secretary notifying him of such amendment and the Secretary has approved such amendment, or within 90 days after the date on which such notice was filed, failed to disapprove such amendment. No amendment described in this subsection shall be approved by the Secretary unless the Secretary determines that such amendment is necessary because of a temporary substantial business hardship (as determined under subsection (d)(2)) or a substantial business hardship (as so determined) in the case of a multiemployer plan and that a waiver under subsection (d)(1) (or in the case of a multiemployer plan, any extension of the amortization period under section 431(d)) is unavailable or inadequate.

''(3) CERTAIN INSURANCE CONTRACT PLANS.—A plan is described in this paragraph if—

''(A) the plan is funded exclusively by the purchase of individual insurance contracts,

''(B) such contracts provide for level annual premium payments to be paid extending not later than the retirement age for each individual participating in the plan, and commencing with the date the individual became a participant in the plan (or, in the case of an increase in benefits, commencing at the time such increase becomes effective),

''(C) benefits provided by the plan are equal to the benefits provided under each contract at normal retirement age under the plan and are guaranteed by an insurance carrier (licensed under the laws of a State to do business with the plan) to the extent premiums have been paid,

''(D) premiums payable for the plan year, and all prior plan years, under such contracts have been paid before lapse or there is reinstatement of the policy,

''(E) no rights under such contracts have been subject to a security interest at any time during the plan year, and

''(F) no policy loans are outstanding at any time during the plan year.

A plan funded exclusively by the purchase of group insurance contracts which are determined under regulations prescribed by the Secretary to have the same characteristics as contracts described in the preceding sentence shall be treated as a plan described in this paragraph.

''(4) CONTROLLED GROUP.—For purposes of this section and section 430, the term 'controlled group' means any group treated as a single employer under subsection (b), (c), (m), or (o) of section 414.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to plan years beginning after December 31, 2006.

SEC. 112. FUNDING RULES APPLICABLE TO SINGLE-EMPLOYER PENSION PLANS.

Subchapter D of chapter 1 of the Internal Revenue Code of 1986 (relating to deferred compensation, etc.) is amended by adding at the end the following new part:

''PART III—RULES RELATING TO MINIMUM FUNDING STANDARDS AND BENEFIT LIMITATION

''SEC. 430. MINIMUM FUNDING STANDARDS FOR SINGLE-EMPLOYER DEFINED BENEFIT PLANS.

''(a) MINIMUM REQUIRED CONTRIBUTION.—For purposes of this section and section 412(a)(2)(A), except as provided in subsection (f), the term 'minimum required contribution' means, with respect to any plan year of a defined benefit plan which is a single employer plan—

''(1) in any case in which the value of plan assets of the plan (as reduced under subsection (f)(4)) is less than the funding target of the plan for the plan year, the sum of—

''(A) the target normal cost of the plan for the plan year,

''(B) the shortfall amortization charge (if any) for the plan for the plan year determined under subsection (c), and

''(C) the waiver amortization charge (if any) for the plan for the plan year as determined under subsection (e); or

''(2) in any case in which the value of plan assets of the plan (as reduced under subsection (f)(4)) equals or exceeds the funding target of the plan for the plan year, the target normal cost of the plan for the plan year reduced (but not below zero) by any such excess.

''(b) TARGET NORMAL COST.—For purposes of this section, except as provided in subsection (i)(2) with respect to plans in at-risk status, the term 'target normal cost' means, for any plan year, the present value of all benefits which are expected to accrue or to be earned under the plan during the plan year. For purposes of this subsection, if any benefit attributable to services performed in a preceding plan year is increased by reason of any increase in compensation during the current plan year, the increase in such benefit shall be treated as having accrued during the current plan year.

''(c) SHORTFALL AMORTIZATION CHARGE.—

''(1) IN GENERAL.—For purposes of this section, the shortfall amortization charge for a plan for any plan year is the aggregate total of the shortfall amortization installments for such plan year with respect to the shortfall amortization bases for such plan year and each of the 6 preceding plan years.

''(2) SHORTFALL AMORTIZATION INSTALLMENT.—For purposes of paragraph (1)—

''(A) DETERMINATION.—The shortfall amortization installments are the amounts necessary to amortize the shortfall amortization base of the plan for any plan year in level annual installments over the 7-plan-year period beginning with such plan year.

''(B) SHORTFALL INSTALLMENT.—The shortfall amortization installment for any plan year in the 7-plan-year period under subparagraph (A) with respect to any shortfall amortization base is the annual installment determined under subparagraph (A) for that year for that base.

''(C) SEGMENT RATES.—In determining any shortfall amortization installment under this paragraph, the plan sponsor shall use the segment rates determined under subparagraph (C) of subsection (h)(2), applied under rules similar to the rules of subparagraph (B) of subsection (h)(2).

''(3) SHORTFALL AMORTIZATION BASE.—For purposes of this section, the shortfall amortization base of a plan for a plan year is the excess (if any) of—

''(A) the funding shortfall of such plan for such plan year, over

''(B) the present value (determined using the segment rates determined under subparagraph (C) of subsection (h)(2), applied under rules similar to the rules of subparagraph (B) of subsection (h)(2)) of the aggregate total of the shortfall amortization installments and waiver amortization installments which have been determined for such plan year and any succeeding plan year with respect to the shortfall amortization bases and waiver amortization bases of the plan for any plan year preceding such plan year.

''(4) FUNDING SHORTFALL.—

''(A) IN GENERAL.—For purposes of this section, except as provided in subparagraph (B), the funding shortfall of a plan for any plan year is the excess (if any) of—

''(i) the funding target of the plan for the plan year, over

''(ii) the value of plan assets of the plan (as reduced under subsection (f)(4)) for the plan year which are held by the plan on the valuation date.

''(B) TRANSITION RULE FOR AMORTIZATION OF FUNDING SHORTFALL.—

''(i) IN GENERAL.—Solely for purposes of applying paragraph (3) in the case of plan years beginning after 2006 and before 2011, only the applicable percentage of the funding target shall be taken into account under paragraph (3)(A) in determining the funding shortfall for the plan year.

''(ii) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A)—

''(I) IN GENERAL.—Except as provided in subclause (II), the applicable percentage shall be 93 percent for plan years beginning in 2007, 96 percent for plan years beginning in 2008, and 100 percent for any succeeding plan year.

''(II) SMALL PLANS.—In the case of a plan described in subsection (g)(2)(B), the applicable percentage shall be determined in accordance with the following table:

''In the case of a plan year beginning in calendar year:	**The applicable percentage is—**
2007	92
2008	94
2009	96
2010	98.

''(5) EARLY DEEMED AMORTIZATION UPON ATTAINMENT OF FUNDING TARGET.—In any case in which the funding shortfall of a plan for a plan year is zero, for purposes of determining the shortfall amortization charge for such plan year and succeeding plan years, the shortfall amortization bases for all preceding plan years (and all shortfall amortization installments determined with respect to such bases) shall be reduced to zero.

''(d) RULES RELATING TO FUNDING TARGET.—For purposes of this section—

''(1) FUNDING TARGET.—Except as provided in subsection (i)(1) with respect to plans in at-risk status, the funding target of a plan for a plan year is the present value of all benefits accrued or earned under the plan as of the beginning of the plan year.

''(2) FUNDING TARGET ATTAINMENT PERCENTAGE.—The 'funding target attainment percentage' of a plan for a plan year is the ratio (expressed as a percentage) which—

''(A) the value of plan assets for the plan year, bears to

''(B) the funding target of the plan for the plan year (determined without regard to subsection (i)(1)).

''(e) WAIVER AMORTIZATION CHARGE.—

''(1) DETERMINATION OF WAIVER AMORTIZATION CHARGE.—The waiver amortization charge (if any) for a plan for any plan year is the aggregate total of the waiver amortization installments for such plan year with respect to the waiver amortization bases for each of the 5 preceding plan years.

''(2) WAIVER AMORTIZATION INSTALLMENT.—For purposes of paragraph (1)—

''(A) DETERMINATION.—The waiver amortization installments are the amounts necessary to amortize the waiver amortization base of the plan for any plan year in level annual installments over a period of 5 plan years beginning with the succeeding plan year.

''(B) WAIVER INSTALLMENT.—The waiver amortization installment for any plan year in the 5-year period under subparagraph (A) with respect to any waiver amortization base is the annual installment determined under subparagraph (A) for that year for that base.

''(3) INTEREST RATE.—In determining any waiver amortization installment under this subsection, the plan sponsor shall use the segment rates determined under subparagraph (C) of subsection (h)(2), applied under rules similar to the rules of subparagraph (B) of subsection (h)(2).

''(4) WAIVER AMORTIZATION BASE.—The waiver amortization base of a plan for a plan year is the amount of the waived funding deficiency (if any) for such plan year under section 412(d).

''(5) EARLY DEEMED AMORTIZATION UPON ATTAINMENT OF FUNDING TARGET.—In any case in which the funding shortfall of a plan for a plan year is zero, for purposes of determining the waiver amortization charge for such plan year and succeeding plan years, the waiver amortization bases for all preceding plan years (and all waiver amortization installments with respect to such bases) shall be reduced to zero.

''(f) USE OF PREFUNDING BALANCES TO SATISFY MINIMUM REQUIRED CONTRIBUTIONS.—

''(1) IN GENERAL.—A plan sponsor may credit any amount of a plan's prefunding balance for a plan year against the minimum required contribution for the plan year and the amount of the contributions an employer is required to make under section 412(c) for the plan year shall be reduced by the amount so credited. Any such amount shall be credited on the first day of the plan year.

''(2) PREFUNDING BALANCE.—

''(A) BEGINNING BALANCE.—The beginning balance of a prefunding balance maintained by a plan shall be zero, except that if a plan

was in effect for a plan year beginning in 2006 and had a positive balance in the funding standard account under section 412(b) (as in effect for such plan year) as of the end of such plan year, the beginning balance for the plan for its first plan year beginning after 2006 shall be such positive balance.

''(B) INCREASES.—

''(i) IN GENERAL.—As of the first day of each plan year beginning after 2007, the prefunding balance of a plan shall be increased by the excess (if any) of—

''(I) the aggregate amount of employer contributions to the plan for the preceding plan year, over

''(II) the minimum required contribution for the preceding plan year.

''(ii) ADJUSTMENTS FOR INTEREST.—Any excess contributions under clause (i) shall be properly adjusted for interest accruing for the periods between the first day of the current plan year and the dates on which the excess contributions were made, determined by using the effective interest rate for the preceding plan year and by treating contributions as being first used to satisfy the minimum required contribution.

''(iii) CERTAIN CONTRIBUTIONS DISREGARDED.—Any contribution which is required to be made under section 436 in addition to any contribution required under this section shall not be taken into account for purposes of clause (i).

''(C) DECREASES.—As of the first day of each plan year after 2007, the prefunding balance of a plan shall be decreased (but not below zero) by the amount of the balance credited under paragraph (1) against the minimum required contribution of the plan for the preceding plan year.

''(D) ADJUSTMENTS FOR INVESTMENT EXPERIENCE.—In determining the prefunding balance of a plan as of the first day of the plan year, the plan sponsor shall, in accordance with regulations prescribed by the Secretary, adjust such balance to reflect the rate of return on plan assets for the preceding plan year. Notwithstanding subsection (g)(3), such rate of return shall be determined on the basis of fair market value and shall properly take into account, in accordance with such regulations, all contributions, distributions, and other plan payments made during such period.

''(3) LIMITATION FOR UNDERFUNDED PLANS.—

''(A) IN GENERAL.—If the ratio (expressed as a percentage) for any plan year which—

''(i) the value of plan assets for the preceding plan year, bears to

''(ii) the funding target of the plan for the preceding plan year (determined without regard to subsection (i)(1)),

is less than 80 percent, the preceding provisions of this subsection shall not apply unless employers liable for contributions to the plan under section 412(c) make contributions to the plan for the plan year in an aggregate amount not less than the amount determined under subparagraph (B). Any contribution required by this subparagraph may not be reduced by any credit otherwise allowable under paragraph (1).

''(B) APPLICABLE AMOUNT.—The amount determined under this subparagraph for any plan year is the greater of—

''(i) the target normal cost of the plan for the plan year, or

''(ii) 25 percent of the minimum required contribution under subsection (a) for the plan year without regard to this subsection.

''(4) REDUCTION IN VALUE OF ASSETS.—Solely for purposes of applying subsections (a) and (c)(4)(A)(ii) in determining the minimum required contribution under this section, the value of the plan assets otherwise determined without regard to this paragraph shall be reduced by the amount of the prefunding balance under this subsection.

''(g) VALUATION OF PLAN ASSETS AND LIABILITIES.—

''(1) TIMING OF DETERMINATIONS.—Except as otherwise provided under this subsection, all determinations under this section for a plan year shall be made as of the valuation date of the plan for such plan year.

''(2) VALUATION DATE.—For purposes of this section—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the valuation date of a plan for any plan year shall be the first day of the plan year.

''(B) EXCEPTION FOR SMALL PLANS.—If, on each day during the preceding plan year, a plan had 100 or fewer participants, the plan may designate any day during the plan year as its valuation date for such plan year and succeeding plan years. For purposes of this subparagraph, all defined benefit plans (other than multiemployer plans) maintained by the same employer (or any member of such employer's controlled group) shall be treated as 1 plan, but only employees of such employer or member shall be taken into account.

''(C) APPLICATION OF CERTAIN RULES IN DETERMINATION OF PLAN SIZE.—For purposes of this paragraph—

''(i) PLANS NOT IN EXISTENCE IN PRECEDING YEAR.—In the case of the first plan year of any plan, subparagraph (B) shall apply to such plan by taking into account the number of participants that the plan is reasonably expected to have on days during such first plan year.

''(ii) PREDECESSORS.—Any reference in subparagraph (B) to an employer shall include a reference to any predecessor of such employer.

''(3) DETERMINATION OF VALUE OF PLAN ASSETS.—For purposes of this section—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the value of plan assets shall be the fair market value of the assets.

''(B) AVERAGING ALLOWED.—A plan may determine the value of plan assets on the basis of any reasonable actuarial method of valuation providing for the averaging of fair market values, but only if such method—

''(i) is permitted under regulations prescribed by the Secretary, and

''(ii) does not provide for averaging of such values over more than the period beginning on the last day of the 12th month preceding the valuation date and ending on the valuation date (or a similar period in the case of a valuation date which is not the 1st day of a month).

''(4) ACCOUNTING FOR CONTRIBUTION RECEIPTS.—For purposes of determining the value of assets under paragraph (3)—

''(A) PRIOR YEAR CONTRIBUTIONS.—If—

''(i) an employer makes any contribution to the plan after the valuation date for the plan year in which the contribution is made, and

''(ii) the contribution is for a preceding plan year,

the contribution shall be taken into account as an asset of the plan as of the valuation date, except that in the case of any plan year beginning after 2007, only the present value (determined as of the valuation date) of such contribution may be taken into account. For purposes of the preceding sentence, present value shall be determined using the effective interest rate for the preceding plan year to which the contribution is properly allocable.

''(B) SPECIAL RULE FOR CURRENT YEAR CONTRIBUTIONS MADE BEFORE VALUATION DATE.—If any contributions for any plan year are made to or under the plan during the plan year but before the valuation date for the plan year, the assets of the plan as of the valuation date shall not include—

''(i) such contributions, and

''(ii) interest on such contributions for the period between the date of the contributions and the valuation date, determined by using the effective interest rate for the plan year.

''(h) ACTUARIAL ASSUMPTIONS AND METHODS.—

''(1) IN GENERAL.—Subject to this subsection, the determination of any present value or other computation under this section shall be made on the basis of actuarial assumptions and methods—

''(A) each of which is reasonable (taking into account the experience of the plan and reasonable expectations), and

''(B) which, in combination, offer the actuary's best estimate of anticipated experience under the plan.

''(2) INTEREST RATES.—

''(A) EFFECTIVE INTEREST RATE.—For purposes of this section, the term 'effective interest rate' means, with respect to any plan for any plan year, the single rate of interest which, if used to determine the present value of the plan's accrued or earned benefits referred to in subsection (d)(1), would result in an amount equal to the funding target of the plan for such plan year.

''(B) INTEREST RATES FOR DETERMINING FUNDING TARGET.—For purposes of determining the funding target of a plan for any plan year, the interest rate used in determining the present value of the benefits of the plan shall be—

''(i) in the case of benefits reasonably determined to be payable during the 5-year period beginning on the first day of the plan year, the first segment rate with respect to the applicable month,

''(ii) in the case of benefits reasonably determined to be payable during the 15-year period beginning at the end of the period described in clause (i), the second segment rate with respect to the applicable month, and

''(iii) in the case of benefits reasonably determined to be payable after the period described in clause (ii), the third segment rate with respect to the applicable month.

''(C) SEGMENT RATES.—For purposes of this paragraph—

''(i) FIRST SEGMENT RATE.—The term 'first segment rate' means, with respect to any month, the single rate of interest which shall be determined by the Secretary for such month on the basis of the corporate bond yield curve for such month, taking into account only that portion of such yield curve which is based on bonds maturing during the 5-year period commencing with such month.

''(ii) SECOND SEGMENT RATE.—The term 'second segment rate' means, with respect to any month, the single rate of interest which shall be determined by the Secretary for such month on the basis of the corporate bond yield curve for such month, taking into account only that portion of such yield curve which is based on bonds maturing during each of the years in the 15-year period beginning at the end of the period described in clause (i).

''(iii) THIRD SEGMENT RATE.—The term 'third segment rate' means, with respect to any month, the single rate of interest which shall be determined by the Secretary for such month on the basis of the corporate bond yield curve for such month, taking into account only that portion of such yield curve which is based on bonds maturing during periods beginning after the period described in clause (ii).

''(D) CORPORATE BOND YIELD CURVE.—The term 'corporate bond yield curve' means, with respect to any month, a yield curve which is prescribed by the Secretary for such month and which reflects the average, for the 12-month period ending with the month preceding such month, of yields on investment grade corporate bonds with varying maturities.

''(E) APPLICABLE MONTH.—For purposes of this paragraph, the term 'applicable month' means, with respect to any plan for any plan year, the month which includes the valuation date of such plan for such plan year or, at the election of the plan administrator, any of the 4 months which precede such month. Any election made under this subparagraph shall apply to the plan year for which the election is made and all succeeding plan years, unless the election is revoked with the consent of the Secretary.

''(F) PUBLICATION REQUIREMENTS.—The Secretary shall publish for each month the corporate bond yield curve for such month and each of the rates determined under this paragraph for such month. The Secretary shall also publish a description of the methodology used to determine such yield curve and such rates which is sufficiently detailed to enable plans to make reasonable projections regarding the yield curve and such rates for future months based on the plan's projection of future interest rates.

''(G) TRANSITION RULE.—

''(i) IN GENERAL.—Notwithstanding the preceding provisions of this paragraph, for plan years beginning in 2007 or 2008, the first, second, or third segment rate for a plan with respect to any month shall be equal to the sum of—

''(I) the product of such rate for such month determined without regard to this subparagraph, multiplied by the applicable percentage, and

''(II) the product of the rate determined under the rules of section 412(b)(5)(B)(ii)(II) (as in effect for plan years beginning in 2006), multiplied by a percentage equal to 100 percent minus the applicable percentage.

''(ii) APPLICABLE PERCENTAGE.—For purposes of clause (i), the applicable percentage is 33⅓ percent for plan years beginning in 2007 and 66⅔ percent for plan years beginning in 2008.

''(3) MORTALITY TABLES.—

''(A) IN GENERAL.—Except as provided in subparagraphs (C) and (D), the mortality table used in determining any present value or making any computation under this section shall be the RP–2000 Combined Mortality Table, using Scale AA, as published by the Society of Actuaries, as in effect on the date of the enactment of the Pension Security and Transparency Act of 2005 and as revised from time to time under subparagraph (B).

''(B) PERIODIC REVISION.—The Secretary shall (at least every 10 years) make revisions in any table in effect under subparagraph (A) to reflect the actual experience of pension plans and projected trends in such experience.

''(C) SUBSTITUTE MORTALITY TABLE.—

''(i) IN GENERAL.—Upon request by the plan sponsor and approval by the Secretary, a mortality table which meets the requirements of clause (ii) shall be used in determining any present value or making any computation under this section during the 10-consecutive plan year period specified in the request. A mortality table described in this clause shall cease to be in effect if the plan actuary determines at any time that such table does not meet the requirements of clause (ii).

''(ii) REQUIREMENTS.—A mortality table meets the requirements of this clause if the Secretary determines that—

''(I) there is a sufficient number of plan participants, and the pension plans have been maintained for a sufficient period of time, to have credible information necessary for purposes of subclause (II),

''(II) such table reflects the actual experience of the pension plans maintained by the sponsor and projected trends in general mortality experience,

''(III) except as provided by the Secretary, such table will be used by all plans maintained by the plan sponsor and all members of any controlled group which includes the plan sponsor, and

''(IV) such table is significantly different from the table described in subparagraph (A).

''(iii) DEADLINE FOR DISPOSITION OF APPLICATION.—Any mortality table submitted to the Secretary for approval under this subparagraph shall be treated as in effect for the first plan year in the 10-year period described in clause (i) unless the Secretary, during the 180-day period beginning on the date of such submission, disapproves of such table and provides the reasons that such table fails to meet the requirements of clause (ii). The 180-day period shall be extended for any period during which the Secretary has requested information from the plan sponsor and such information has not been provided.

''(D) SEPARATE MORTALITY TABLES FOR THE DISABLED.—Notwithstanding subparagraph (A)—

''(i) IN GENERAL.—The Secretary shall establish mortality tables which may be used (in lieu of the tables under subparagraph (A)) under this subsection for individuals who are entitled to benefits under the plan on account of disability. The Secretary shall establish separate tables for individuals whose disabilities occur in plan years beginning before January 1, 1995, and for individuals whose disabilities occur in plan years beginning on or after such date.

''(ii) SPECIAL RULE FOR DISABILITIES OCCURRING AFTER 1994.—In the case of disabilities occurring in plan years beginning after December 31, 1994, the tables under clause (i) shall apply only with respect to individuals described in such subclause who are disabled within the meaning of title II of the Social Security Act and the regulations thereunder.

''(iii) PERIODIC REVISION.—The Secretary shall (at least every 10 years) make revisions in any table in effect under clause (i) to reflect the actual experience of pension plans and projected trends in such experience.

''(E) TRANSITION RULE.—Under regulations of the Secretary, any difference in present value resulting from any differences in assumptions as set forth in the mortality table specified in subparagraph (A) and assumptions as set forth in the mortality table described in section 412(l)(7)(C)(ii) (as in effect for plan years beginning in 2006) shall be phased in ratably over the first period of 5 plan years beginning in or after 2007 so as to be fully effective for the fifth plan year.

''(4) PROBABILITY OF BENEFIT PAYMENTS IN THE FORM OF LUMP SUMS OR OTHER OPTIONAL FORMS.—For purposes of determining any present value or making any computation under this section, there shall be taken into account—

''(A) the probability that future benefit payments under the plan will be made in the form of optional forms of benefits provided under the plan (including lump sum distributions, determined on the basis of the plan's experience and other related assumptions), and

''(B) any difference in the present value of such future benefit payments resulting from the use of actuarial assumptions, in determining benefit payments in any such optional form of benefits, which are different from those specified in this subsection.

''(5) APPROVAL OF LARGE CHANGES IN ACTUARIAL ASSUMPTIONS.—

''(A) IN GENERAL.—No actuarial assumption used to determine the funding target for a plan to which this paragraph applies may be changed without the approval of the Secretary.

''(B) PLANS TO WHICH PARAGRAPH APPLIES.—This paragraph shall apply to a plan only if—

''(i) the aggregate unfunded benefits as of the close of the preceding plan year (as determined under section 4006(a)(3)(E)(iii) of the Employee Retirement Income Security Act of 1974) of such plan and all other plans maintained by the contributing sponsors (as defined in section 4001(a)(13) of such Act) and members of such sponsors' controlled groups (as defined in section 4001(a)(14) of such Act) which are covered by title IV of such Act (disregarding plans with no unfunded benefits) exceed $50,000,000; and

''(ii) the change in assumptions (determined after taking into account any changes in interest rate and mortality table) results in a decrease in the funding shortfall of the plan for the current plan year that exceeds $50,000,000, or that exceeds $5,000,000 and that is 5 percent or more of the funding target of the plan before such change.

''(i) SPECIAL RULES FOR AT-RISK PLANS.—

''(1) FUNDING TARGET FOR PLANS IN AT-RISK STATUS.—

''(A) IN GENERAL.—In the case of a plan to which this subsection applies for a plan year, the funding target of the plan for the plan year is equal to the present value of all liabilities to participants and their beneficiaries under the plan for the plan year, as determined by using the additional actuarial assumptions described in subparagraph (B).

''(B) ADDITIONAL ACTUARIAL ASSUMPTIONS.—The actuarial assumptions described in this subparagraph are as follows:

''(i) All employees who are not otherwise assumed to retire as of the valuation date but who will be eligible to elect benefits during the plan year and the 7 succeeding plan years shall be assumed to retire at the earliest retirement date under the plan but not before the end of the plan year for which the at-risk target liability and at-risk target normal cost are being determined.

''(ii) All employees shall be assumed to elect the retirement benefit available under the plan at the assumed retirement age (determined after application of clause (i)) which would result in the highest present value of liabilities.

''(2) TARGET NORMAL COST OF AT-RISK PLANS.—In the case of a plan to which this subsection applies for a plan year, the target normal cost of the plan for such plan year shall be equal to the present value of all benefits which are expected to accrue or be earned under the plan during the plan year, determined using the additional actuarial assumptions described in paragraph (1)(B).

''(3) MINIMUM AMOUNT.—In no event shall—

''(A) the at-risk target liability be less than the target liability, as determined without regard to this subsection, or

''(B) the at-risk target normal cost be less than the target normal cost, as determined without regard to this subsection.

''(4) DETERMINATION OF AT-RISK STATUS.—For purposes of this subsection, a plan is in at-risk status for a plan year if—

''(A) the plan is maintained by a financially-weak employer, and

''(B) the funding target attainment percentage for the plan year is less than 93 percent.

''(5) FINANCIALLY-WEAK EMPLOYER.—

''(A) IN GENERAL.—For purposes of this subsection, the term 'financially-weak employer' means any employer if—

''(i) as of the valuation date for each of the years during a period of at least 3 consecutive plan years ending with the plan year—

''(I) the employer has an outstanding senior unsecured debt instrument which is rated lower than investment grade by each of the nationally recognized statistical rating organizations for corporate bonds that has issued a credit rating for such instrument, or

''(II) if no such debt instrument has been rated by such an organization but 1 or more

of such organizations has made an issuer credit rating for such employer, all such organizations which have so rated the employer have rated such employer lower than investment grade, and

''(ii) at least 2 of the years during such period are deterioration years.

If an employer is treated as a financially-weak employer for any plan year, clause (ii) shall not apply in determining whether the employer is so treated for any succeeding plan year in any continuous period of plan years for which the employer is treated as a financially-weak employer.

''(B) CONTROLLED GROUP EXCEPTION.—If an employer treated as a financially-weak employer under subparagraph (A) is a member of a controlled group (as defined in section 412(e)(4)), the employer shall not be treated as a financially-weak employer if a significant member (as determined under regulations prescribed by the Secretary) of such group has an outstanding senior unsecured debt instrument that is rated as being investment grade by an organization described in subparagraph (A).

''(C) EMPLOYERS WITH NO RATINGS.—If—

''(i) an employer has no debt instrument described in subparagraph (A)(i) which was rated by an organization described in such subparagraph, and

''(ii) no such organization has made an issuer credit rating for such employer,

then such employer shall only be treated as a financially-weak employer to the extent provided in regulations prescribed by the Secretary.

''(6) DETERMINATION OF DETERIORATION YEAR.—For purposes of paragraph (5), the term 'deterioration year' means any year during the period described in paragraph (5)(A)(i) for which the rating described in subclause (I) or (II) of paragraph (5)(A)(i) by each organization is either—

''(A) lower than the lowest rating of the employer by such organization for a preceding year in such period, or

''(B) the lowest rating used by such organization.

''(7) YEARS BEFORE EFFECTIVE DATE.—For purposes of paragraphs (5) and (6), plan years beginning before 2007 shall not be taken into account.

''(8) TRANSITION BETWEEN APPLICABLE FUNDING TARGETS AND BETWEEN APPLICABLE TARGET NORMAL COSTS.—

''(A) IN GENERAL.—In any case in which a plan which is in at-risk status for a plan year has been in such status for a consecutive period of fewer than 5 plan years, the applicable amount of the funding target and of the target normal cost shall be, in lieu of the amount determined without regard to this paragraph, the sum of—

''(i) the amount determined under this section without regard to this subsection, plus

''(ii) the transition percentage for such plan year of the excess of the amount determined under this subsection (without regard to this paragraph) over the amount determined under this section without regard to this subsection.

''(B) IMPROVEMENT YEARS NOT TAKEN INTO ACCOUNT.—

''(i) IN GENERAL.—An improvement year shall not be taken into account in determining any consecutive period of plan years for purposes of subparagraph (A).

''(ii) APPLICATION OF SUBSECTION AFTER IMPROVEMENT YEAR ENDS.—Plan years immediately before and after an improvement year (or consecutive period of improvement years) shall be treated as consecutive for purposes of subparagraph (A).

''(iii) IMPROVEMENT YEAR.—For purposes of this subparagraph, the term 'improvement year' means any plan year for which any rating described in subclause (I) or (II) of paragraph (5)(A)(i) is higher than such rating for the preceding plan year.

''(C) TRANSITION PERCENTAGE.—For purposes of subparagraph (A), the transition percentage shall be determined in accordance with the following table:

"If the consecutive number of years (including the plan year) the plan is in at-risk status is—	The transition percentage is—
1	20
2	40
3	60
4	80.

''(D) YEARS BEFORE EFFECTIVE DATE.—For purposes of this paragraph, plan years beginning before 2007 shall not be taken into account.

''(9) PLANS TO WHICH SUBSECTION APPLIES.—

''(A) IN GENERAL.—Except as provided in this paragraph, this subsection shall apply to any plan to which this section applies and which is in at-risk status for the plan year.

''(B) EXCEPTION FOR SMALL PLANS.—This subsection shall not apply to a plan for a plan year if the plan was described in subsection (g)(2)(B) for the preceding plan year, determined by substituting '500' for '100'.

''(C) EXCEPTION FOR PLANS MAINTAINED BY CERTAIN COOPERATIVES.—This subsection shall not apply to an eligible cooperative plan described in subparagraph (D).

''(D) ELIGIBLE COOPERATIVE PLAN DEFINED.—For purposes of subparagraph (C), a plan shall be treated as an eligible cooperative plan for a plan year if the plan is maintained by more than 1 employer and at least 85 percent of the employers are—

''(i) rural cooperatives (as defined in section 401(k)(7)(B) without regard to clause (iv) thereof), or

''(ii) organizations which are—

''(I) cooperative organizations described in section 1381(a) which are more than 50-percent owned by agricultural producers or by cooperatives owned by agricultural producers, or

''(II) more than 50-percent owned, or controlled by, one or more cooperative organizations described in subclause (I).

A plan shall also be treated as an eligible cooperative plan for any plan year for which it is described in section 210(a) of the Employee Retirement Income Security Act of 1974 and is maintained by a rural telephone cooperative association described in section 3(40)(B)(v) of such Act.

''(E) EXCEPTION FOR PLANS SECURED BY THIRD PARTIES BOUND BY PBGC AGREEMENTS.—This subsection shall not apply to any plan if—

''(i) a person other than the employer obligated to contribute under the plan is, under the terms of an agreement with the Pension Benefit Guaranty Corporation, liable for any failure of the employer to meet its obligation to pay any minimum required contribution or termination liability with respect to the plan; and

''(ii) such person is not a financially-weak employer under paragraph (5).

''(j) PAYMENT OF MINIMUM REQUIRED CONTRIBUTIONS.—

''(1) IN GENERAL.—For purposes of this section, the due date for any payment of any minimum required contribution for any plan year shall be 8½ months after the close of the plan year.

''(2) INTEREST.—Any payment required under paragraph (1) for a plan year made after the valuation date for such plan year shall be increased by interest for the period from the valuation date to the payment date, determined by using the effective rate of interest for the plan for such plan year.

''(3) ACCELERATED QUARTERLY CONTRIBUTION SCHEDULE FOR UNDERFUNDED PLANS.—

''(A) INTEREST PENALTY FOR FAILURE TO MEET ACCELERATED QUARTERLY PAYMENT SCHEDULE.—A plan shall make the required installments under this paragraph for a plan year if the plan had a funding shortfall for the preceding plan year. If the required installment is not paid in full, then the minimum required contribution for the plan year (as increased under paragraph (2)) shall be further increased by an amount equal to the interest on the amount of the underpayment for the period of the underpayment, using an interest rate equal to the excess of—

''(i) 175 percent of the Federal mid-term rate (as in effect under section 1274 for the 1st month of such plan year), over

''(ii) the effective rate of interest for the plan for the plan year.

''(B) AMOUNT OF UNDERPAYMENT, PERIOD OF UNDERPAYMENT.—For purposes of subparagraph (A)—

''(i) AMOUNT.—The amount of the underpayment shall be the excess of—

''(I) the required installment, over

''(II) the amount (if any) of the installment contributed to or under the plan on or before the due date for the installment.

''(ii) PERIOD OF UNDERPAYMENT.—The period for which any interest is charged under this paragraph with respect to any portion of the underpayment shall run from the due date for the installment to the date on which such portion is contributed to or under the plan.

''(iii) ORDER OF CREDITING CONTRIBUTIONS.—For purposes of clause (i)(II), contributions shall be credited against unpaid required installments in the order in which such installments are required to be paid.

''(C) NUMBER OF REQUIRED INSTALLMENTS; DUE DATES.—For purposes of this paragraph—

''(i) PAYABLE IN 4 INSTALLMENTS.—There shall be 4 required installments for each plan year.

''(ii) TIME FOR PAYMENT OF INSTALLMENTS.—The due dates for required installments are set forth in the following table:

In the case of the following required installment:	The due date is:
1st	April 15
2nd	July 15
3rd	October 15
4th	January 15 of the following year.

''(D) AMOUNT OF REQUIRED INSTALLMENT.—For purposes of this paragraph—

''(i) IN GENERAL.—The amount of any required installment shall be 25 percent of the required annual payment.

''(ii) REQUIRED ANNUAL PAYMENT.—For purposes of clause (i), the term 'required annual payment' means the lesser of—

''(I) 90 percent of the minimum required contribution (without regard to any waiver under section 302(c)) to the plan for the plan year under this section, or

''(II) in the case of a plan year beginning after 2007, 100 percent of the minimum required contribution (without regard to any waiver under section 302(c)) to the plan for the preceding plan year.

Subclause (II) shall not apply if the preceding plan year referred to in such clause was not a year of 12 months.

''(E) FISCAL YEARS AND SHORT YEARS.—

''(i) FISCAL YEARS.—In applying this paragraph to a plan year beginning on any date other than January 1, there shall be substituted for the months specified in this paragraph, the months which correspond thereto.

''(ii) SHORT PLAN YEAR.—This subparagraph shall be applied to plan years of less than 12

months in accordance with regulations prescribed by the Secretary of the Treasury.

''(4) LIQUIDITY REQUIREMENT IN CONNECTION WITH QUARTERLY CONTRIBUTIONS.—

''(A) IN GENERAL.—A plan to which this paragraph applies shall be treated as failing to pay the full amount of any required installment under paragraph (3) to the extent that the value of the liquid assets paid in such installment is less than the liquidity shortfall (whether or not such liquidity shortfall exceeds the amount of such installment required to be paid but for this paragraph).

''(B) PLANS TO WHICH PARAGRAPH APPLIES.—This paragraph shall apply to a plan which—

''(i) is required to pay installments under paragraph (3) for a plan year, and

''(ii) has a liquidity shortfall for any quarter during such plan year.

''(C) PERIOD OF UNDERPAYMENT.—For purposes of paragraph (3)(A), any portion of an installment that is treated as not paid under subparagraph (A) shall continue to be treated as unpaid until the close of the quarter in which the due date for such installment occurs.

''(D) LIMITATION ON INCREASE.—If the amount of any required installment is increased by reason of subparagraph (A), in no event shall such increase exceed the amount which, when added to prior installments for the plan year, is necessary to increase the funding target attainment percentage of the plan for the plan year (taking into account the expected increase in funding target due to benefits accruing or earned during the plan year) to 100 percent.

''(E) DEFINITIONS.—For purposes of this subparagraph:

''(i) LIQUIDITY SHORTFALL.—The term 'liquidity shortfall' means, with respect to any required installment, an amount equal to the excess (as of the last day of the quarter for which such installment is made) of—

''(I) the base amount with respect to such quarter, over

''(II) the value (as of such last day) of the plan's liquid assets.

''(ii) BASE AMOUNT.—

''(I) IN GENERAL.—The term 'base amount' means, with respect to any quarter, an amount equal to 3 times the sum of the adjusted disbursements from the plan for the 12 months ending on the last day of such quarter.

''(II) SPECIAL RULE.—If the amount determined under subclause (I) exceeds an amount equal to 2 times the sum of the adjusted disbursements from the plan for the 36 months ending on the last day of the quarter and an enrolled actuary certifies to the satisfaction of the Secretary that such excess is the result of nonrecurring circumstances, the base amount with respect to such quarter shall be determined without regard to amounts related to those nonrecurring circumstances.

''(iii) DISBURSEMENTS FROM THE PLAN.—The term 'disbursements from the plan' means all disbursements from the trust, including purchases of annuities, payments of single sums and other benefits, and administrative expenses.

''(iv) ADJUSTED DISBURSEMENTS.—The term 'adjusted disbursements' means disbursements from the plan reduced by the product of—

''(I) the plan's funding target attainment percentage for the plan year, and

''(II) the sum of the purchases of annuities, payments of single sums, and such other disbursements as the Secretary shall provide in regulations.

''(v) LIQUID ASSETS.—The term 'liquid assets' means cash, marketable securities, and such other assets as specified by the Secretary in regulations.

''(vi) QUARTER.—The term 'quarter' means, with respect to any required installment, the 3-month period preceding the month in which the due date for such installment occurs.

''(F) REGULATIONS.—The Secretary may prescribe such regulations as are necessary to carry out this paragraph.

''(k) IMPOSITION OF LIEN WHERE FAILURE TO MAKE REQUIRED CONTRIBUTIONS.—

''(1) IN GENERAL.—In the case of a plan to which this subsection applies, if—

''(A) any person fails to make a contribution payment required by section 412 and this section before the due date for such payment, and

''(B) the unpaid balance of such payment (including interest), when added to the aggregate unpaid balance of all preceding such payments for which payment was not made before the due date (including interest), exceeds $1,000,000,

then there shall be a lien in favor of the plan in the amount determined under paragraph (3) upon all property and rights to property, whether real or personal, belonging to such person and any other person who is a member of the same controlled group of which such person is a member.

''(2) PLANS TO WHICH SUBSECTION APPLIES.—This subsection shall apply to a defined benefit plan which is a single-employer plan covered under section 4021 of the Employee Retirement Income Security Act of 1974 for any plan year for which the funding target attainment percentage (as defined in subsection (d)(2)) of such plan is less than 100 percent.

''(3) AMOUNT OF LIEN.—For purposes of paragraph (1), the amount of the lien shall be equal to the aggregate unpaid balance of contribution payments required under this section and section 302 for which payment has not been made before the due date.

''(4) NOTICE OF FAILURE; LIEN.—

''(A) NOTICE OF FAILURE.—A person committing a failure described in paragraph (1) shall notify the Pension Benefit Guaranty Corporation of such failure within 10 days of the due date for the required contribution payment.

''(B) PERIOD OF LIEN.—The lien imposed by paragraph (1) shall arise on the due date for the required contribution payment and shall continue until the last day of the first plan year in which the plan ceases to be described in paragraph (1)(B). Such lien shall continue to run without regard to whether such plan continues to be described in paragraph (2) during the period referred to in the preceding sentence.

''(C) CERTAIN RULES TO APPLY.—Any amount with respect to which a lien is imposed under paragraph (1) shall be treated as taxes due and owing the United States and rules similar to the rules of subsections (c), (d), and (e) of section 4068 of the Employee Retirement Income Security Act of 1974 shall apply with respect to a lien imposed by subsection (a) and the amount with respect to such lien.

''(5) ENFORCEMENT.—Any lien created under paragraph (1) may be perfected and enforced only by the Pension Benefit Guaranty Corporation, or at the direction of the Pension Benefit Guaranty Corporation, by the contributing sponsor (or any member of the controlled group of the contributing sponsor).

''(6) DEFINITIONS.—For purposes of this subsection—

''(A) CONTRIBUTION PAYMENT.—The term 'contribution payment' means, in connection with a plan, a contribution payment required to be made to the plan, including any required installment under paragraphs (3) and (4) of subsection (j).

''(B) DUE DATE; REQUIRED INSTALLMENT.—The terms 'due date' and 'required installment' have the meanings given such terms by subsection (j), except that in the case of a payment other than a required installment, the due date shall be the date such payment is required to be made under section 303.

''(C) CONTROLLED GROUP.—The term 'controlled group' means any group treated as a single employer under subsections (b), (c), (m), and (o) of section 414.

''(l) QUALIFIED TRANSFERS TO HEALTH BENEFIT ACCOUNTS.—In the case of a qualified transfer (as defined in section 420), any assets so transferred shall not, for purposes of this section, be treated as assets in the plan.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to plan years beginning after 2006.

SEC. 113. BENEFIT LIMITATIONS UNDER SINGLE-EMPLOYER PLANS.

(a) IN GENERAL.—Part III of subchapter D of chapter 1 of the Internal Revenue Code of 1986 (relating to rules relating to minimum funding standards) is amended by adding at the end the following new subpart:

''Subpart B—Limitations on Benefit Improvements by Single-Employer Plans

''SEC. 436. FUNDING-BASED LIMITS ON BENEFITS AND BENEFIT ACCRUALS UNDER SINGLE-EMPLOYER PLANS.

''(a) GENERAL RULE.—For purposes of section 401(a)(29), a defined benefit plan which is a single-employer plan shall be treated as meeting the requirements of this section if the plan meets the requirements of subsections (b), (c), and (d).

''(b) LIMITATIONS ON PLAN AMENDMENTS INCREASING LIABILITY FOR BENEFITS.—

''(1) IN GENERAL.—Except as provided in this section, no amendment to a single-employer plan which has the effect of increasing liabilities of the plan by reason of increases in benefits, establishment of new benefits, changing the rate of benefit accrual, or changing the rate at which benefits become nonforfeitable may take effect during any plan year if the adjusted funding target attainment percentage as of the valuation date of the plan for such plan year is—

''(A) less than 80 percent, or

''(B) would be less than 80 percent taking into account such amendment.

''(2) EXEMPTION.—Paragraph (1) shall cease to apply with respect to any plan year, effective as of the first date of the plan year (or if later, the effective date of the amendment), upon payment by the plan sponsor of a contribution (in addition to any minimum required contribution under section 430) equal to—

''(A) in the case of paragraph (1)(A), the amount of the increase in the funding target of the plan (under section 430) for the plan year attributable to the amendment, and

''(B) in the case of paragraph (1)(B), the amount sufficient to result in a funding target attainment percentage of 80 percent.

''(3) EXCEPTION FOR CERTAIN BENEFIT INCREASES.—Paragraph (1) shall not apply to any amendment which provides for an increase in benefits under a formula which is not based on a participant's compensation, but only if the rate of such increase is not in excess of the contemporaneous rate of increase in average wages of participants covered by the amendment.

''(c) LIMITATIONS ON ACCELERATED BENEFIT DISTRIBUTIONS.—

''(1) IN GENERAL.—The requirements of this subsection are met if the plan provides that, with respect to any plan year—

''(A) if the plan's adjusted funded target liability percentage as of the valuation date for the preceding plan year was less than 60 percent and the preceding plan year is not otherwise in a prohibited period, the plan sponsor shall, in addition to any other contribution required under section 430, contribute for the current plan year and each succeeding plan year in the prohibited period with respect to the current plan year the amount (if any) which, when added to the portion of the minimum required contribution for the plan year described in subparagraphs (B) and (C) of section 430(a)(1), is sufficient to result in an adjusted funded target liability percentage for the plan year of 60 percent, and

''(B) no prohibited payments will be made during a prohibited period.

''(2) PROHIBITED PAYMENT.—For purpose of this subsection—

''(A) IN GENERAL.—The term 'prohibited payment' means—

''(i) any payment, in excess of the monthly amount paid under a single life annuity (plus any social security supplements described in the last sentence of section 411(a)(9)), to a participant or beneficiary whose annuity starting date (as defined in section 417(f)(2)) occurs during a prohibited period,

''(ii) any payment for the purchase of an irrevocable commitment from an insurer to pay benefits, and

''(iii) any other payment specified by the Secretary by regulations.

''(B) EXCEPTION FOR CERTAIN PAYMENTS.—In the case of any prohibited period described in paragraph (3)(A), the term 'prohibited payment' shall not include any payment if the amount of the payment does not exceed the lesser of—

''(i) 50 percent of the amount of the payment which could be made without regard to this subsection, or

''(ii) the present value (determined under guidance prescribed by the Pension Benefit Guaranty Corporation, using the interest and mortality assumptions under section 417(e)) of the maximum guarantee with respect to the participant under section 4022 of the Employee Retirement Income Security Act of 1974.

The exception under this subparagraph shall only apply once with respect to any participant, except that, for purposes of this sentence, a participant and any beneficiary on his behalf (including an alternate payee, as defined in section 414(p)(8)) shall be treated as 1 participant. If the accrued benefit of a participant is allocated to such an alternate payee and 1 or more other persons, the amount under clause (ii) shall be allocated among such persons in the same manner as the accrued benefit is allocated unless the qualified domestic relations order (as defined in section 414(p)(1)(A)) provides otherwise.

''(3) PROHIBITED PERIOD.—For purposes of paragraph (1), the term 'prohibited period' means—

''(A) except as provided in paragraph (4), if a plan sponsor is required to make the contribution for the current plan year under paragraph (1), the period beginning on the 1st day of the plan year and ending on the last day of the 1st period of 2 consecutive plan years (beginning on or after such 1st day) for which the plan's adjusted funded target liability percentage was at least 60 percent,

''(B) any period the plan sponsor is in bankruptcy, or

''(C) any period during which the plan has a liquidity shortfall (as defined in section 430(j)(4)(E)(i)).

The prohibited period for purposes of subparagraph (B) shall not include any portion of a plan year (even if the plan sponsor is in bankruptcy during such period) which occurs on or after the date the plan's enrolled actuary certifies that, as of the valuation date for the plan year, the plan's adjusted funded target liability percentage is at least 100 percent.

''(4) SATISFACTION OF REQUIREMENT BEFORE CLOSE OF PLAN YEAR.—If, before the close of the current plan year—

''(A) the plan sponsor makes the contribution required to be made under paragraph (1), or

''(B) the plan's enrolled actuary certifies that, as of the valuation date for the plan year, the adjusted funded target liability percentage of the plan is at least 60 percent,

this subsection shall be applied as if no prohibited period had begun as of the beginning of such year and the plan shall, under rules described by the Secretary, restore any payments not made during the prohibited period in effect before the application of this paragraph.

''(d) LIMITATION ON BENEFIT ACCRUALS FOR PLANS WITH SEVERE FUNDING SHORTFALLS.—

''(1) IN GENERAL.—Except as provided in subsection (e), a single-employer plan shall provide that all future benefit accruals under the plan shall cease during a severe funding shortfall period, but only to the extent the cessation of such accruals would have been permitted under section 411(d)(6) if the cessation had been implemented by a plan amendment adopted immediately before the severe funding shortfall period.

''(2) SEVERE FUNDING SHORTFALL PERIOD.—For purposes of paragraph (1), the term 'severe funding shortfall period' means in the case of a plan the adjusted funding target attainment percentage of which as of the valuation date of the plan for any plan year is less than 60 percent, the period—

''(A) beginning on the 1st day of the succeeding plan year, and

''(B) ending on the date the plan's enrolled actuary certifies that the plan's funding target attainment percentage is at least 60 percent.

''(3) OPPORTUNITY FOR INCREASED FUNDING.—For purposes of paragraph (2)(A), a plan shall not be treated as described in such paragraph for a plan year if the plan's enrolled actuary certifies that the plan sponsor has before the end of the plan year contributed (in addition to any minimum required contribution under section 430) the amount sufficient to result in an adjusted funding target attainment percentage as of the valuation date for the plan year of 60 percent.

''(e) EXCEPTION FOR CERTAIN COLLECTIVELY BARGAINED BENEFITS.—In the case of a plan maintained pursuant to a collective bargaining agreement between employee representatives and the plan sponsor and in effect before the beginning of the first day on which a limitation would otherwise apply under subsections (b), (c), or (d)—

''(1) such limitations shall not apply to any amendment, prohibited payment, or accrual with respect to such plan, but

''(2) the plan sponsor shall contribute (in addition to any minimum required contribution under section 430) the amount sufficient to result in a funding target attainment percentage (as of the valuation date for the plan year in which any such limitation would otherwise apply) equal to the percentage necessary to prevent the limitation from applying.

''(f) RULES RELATING TO REQUIRED CONTRIBUTIONS.—

''(1) SECURITY MAY BE PROVIDED.—

''(A) IN GENERAL.—For purposes of this section, the adjusted funding target attainment percentage shall be determined by treating as an asset of the plan any security provided by a plan sponsor in a form meeting the requirements of subparagraph (B) .

''(B) FORM OF SECURITY.—The security required under subparagraph (A) shall consist of—

''(i) a bond issued by a corporate surety company that is an acceptable surety for purposes of section 412 of the Employee Retirement Income Security Act of 1974,

''(ii) cash, or United States obligations which mature in 3 years or less, held in escrow by a bank or similar financial institution, or

''(iii) such other form of security as is satisfactory to the Secretary and the parties involved.

''(C) ENFORCEMENT.—Any security provided under subparagraph (A) may be perfected and enforced at any time after the earlier of—

''(i) the date on which the plan terminates,

''(ii) if there is a failure to make a payment of the minimum required contribution for any plan year beginning after the security is provided, the due date for the payment under section 430(j), or

''(iii) if the adjusted funding target attainment percentage is less than 60 percent for a consecutive period of 7 years, the valuation date for the last year in the period.

''(D) RELEASE OF SECURITY.—The security shall be released (and any amounts thereunder shall be refunded together with any interest accrued thereon) at such time as the Secretary may prescribe in regulations, including regulations for partial releases of the security by reason of increases in the funding target attainment percentage.

''(2) PREFUNDING BALANCE MAY NOT BE USED.—No prefunding balance under section 430(f) may be used to satisfy any required contribution under this section.

''(3) TREATMENT AS UNPAID MINIMUM REQUIRED CONTRIBUTION.—The amount of any required contribution which a plan sponsor fails to make under subsection (b) or (d) for any plan year shall be treated as an unpaid minimum required contribution for purposes of subsection (j) and (k) of section 430 and for purposes of section 4971.

''(g) NEW PLANS.—Subsections (b) and (d) shall not apply to a plan for the first 5 plan years of the plan. For purposes of this subsection, the reference in this subsection to a plan shall include a reference to any predecessor plan.

''(h) PRESUMED UNDERFUNDING FOR PURPOSES OF BENEFIT LIMITATIONS BASED ON PRIOR YEAR'S FUNDING STATUS.—

''(1) PRESUMPTION OF CONTINUED UNDERFUNDING.—In any case in which a benefit limitation under subsection (b), (c), or (d) has been applied to a plan with respect to the plan year preceding the current plan year, the adjusted funding target attainment percentage of the plan as of the valuation date of the plan for the current plan year shall be presumed to be equal to the adjusted funding target attainment percentage of the plan as of the valuation date of the plan for the preceding plan year until the enrolled actuary of the plan certifies the actual adjusted funding target attainment percentage of the plan as of the valuation date of the plan for the current plan year.

''(2) PRESUMPTION OF UNDERFUNDING AFTER 10TH MONTH.—In any case in which no such certification is made with respect to the plan before the first day of the 10th month of the current plan year, for purposes of subsections (b), (c), and (d), the plan's adjusted funding target attainment percentage shall be conclusively presumed to be less than 60 percent as of the first day of such 10th month.

''(i) TREATMENT OF PLAN AS OF CLOSE OF PROHIBITED OR CESSATION PERIOD.—For purposes of applying this part—

''(1) OPERATION OF PLAN AFTER PERIOD.—Unless the plan provides otherwise, payments and accruals will resume effective as

of the day following the close of a period of limitation of payment or accrual of benefits under subsection (c) or (d).

''(2) TREATMENT OF AFFECTED BENEFITS.—Nothing in this subsection shall be construed as affecting the plan's treatment of benefits which would have been paid or accrued but for this section.

''(j) FUNDING TARGET ATTAINMENT PERCENTAGE.—For purposes of this section—

''(1) IN GENERAL.—The term 'funding target attainment percentage' has the same meaning given such term by section 430(d)(2).

''(2) ADJUSTED FUNDED TARGET LIABILITY PERCENTAGE.—The term 'adjusted funded target liability percentage' means the funded target liability percentage which is determined under subparagraph (A) by increasing each of the amounts under subparagraphs (A) and (B) of section 430(d)(2) by the aggregate amount of purchases of annuities, payments of single sums, and such other disbursements as the Secretary shall prescribe in regulations, which were made by the plan during the preceding 2 plan years.

''(k) SPECIAL RULES.—

''(1) BANKRUPTCY.—In the case of a plan sponsor during any period the plan is in bankruptcy—

''(A) subsection (b) shall be applied by substituting '100 percent' for '80 percent' each place it appears,

''(B) any exception under subsection (b) for any benefit increases pursuant to a collective bargaining agreement shall not apply, and

''(C) the exception under subsection (f) shall not apply for purposes of subsection (b).

''(2) YEARS BEFORE EFFECTIVE DATE.—No plan year beginning before 2007 shall be taken into account in determining whether this section applies to any plan year beginning after 2006.''.

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to plan years beginning after December 31, 2006.

(2) COLLECTIVE BARGAINING EXCEPTION.—In the case of a plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified before January 1, 2007, the amendments made by this section shall not apply to plan years beginning before the earlier of—

(A) the later of—

(i) the date on which the last collective bargaining agreement relating to the plan terminates (determined without regard to any extension thereof agreed to after the date of the enactment of this Act), or

(ii) the first day of the first plan year to which the amendments made by this subsection would (but for this subparagraph) apply, or

(B) January 1, 2010.

For purposes of subparagraph (A)(i), any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement added by this section shall not be treated as a termination of such collective bargaining agreement.

SEC. 114. INCREASE IN DEDUCTION LIMIT FOR SINGLE-EMPLOYER PLANS.

(a) IN GENERAL.—Section 404 of the Internal Revenue Code of 1986 (relating to deduction for contributions of an employer to an employees' trust or annuity plan and compensation under a deferred payment plan) is amended—

(1) in subsection (a)(1)(A), by inserting ''in the case of a defined benefit plan other than a multiemployer plan, in an amount determined under subsection (o), and in the case of any other plan'' after ''section 501(a),'', and

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

''(o) DEDUCTION LIMIT FOR SINGLE-EMPLOYER PLANS.—For purposes of subsection (a)(1)(A)—

''(1) IN GENERAL.—In the case of a defined benefit plan to which subsection (a)(1)(A) applies (other than a multiemployer plan), the amount determined under this subsection for any taxable year shall be equal to the greater of—

''(A) the sum of the amounts determined under paragraph (2) with respect to each plan year ending with or within the taxable year, or

''(B) the sum of the minimum required contributions under section 430 for such plan years.

''(2) DETERMINATION OF AMOUNT.—

''(A) IN GENERAL.—The amount determined under this paragraph for any plan year shall be equal to the excess (if any) of—

''(i) the sum of—

''(I) the funding target for the plan year,

''(II) the target normal cost for the plan year, and

''(III) the cushion amount for the plan year, over

''(ii) the value (determined under section 430(g)(2)) of the assets of the plan which are held by the plan as of the valuation date for the plan year.

''(B) SPECIAL RULE FOR CERTAIN EMPLOYERS.—If section 430(i) does not apply to a plan for a plan year, the amount determined under subparagraph (A)(i) for the plan year shall in no event be less than the sum of—

''(i) the funding target for the plan year (determined as if section 430(i) applied to the plan), plus

''(ii) the target normal cost for the plan year (as so determined).

''(3) CUSHION AMOUNT.—For purposes of paragraph (2)(A)(i)(III)—

''(A) IN GENERAL.—The cushion amount for any plan year is the sum of—

''(i) 80 percent of the funding target for the plan year, and

''(ii) the amount by which the funding target for the plan year would increase if the plan were to take into account—

''(I) increases in compensation which are expected to occur in succeeding plan years, or

''(II) if the plan does not base benefits for service to date on compensation, increases in benefits which are expected to occur in succeeding plan years (determined on the basis of the average annual increase in benefits over the 6 immediately preceding plan years).

''(B) LIMITATIONS.—

''(i) IN GENERAL.—In making the computation under subparagraph (A)(ii), the plan's actuary shall assume that the limitations under subsection (l) and section 415(b) shall apply.

''(ii) EXPECTED INCREASES.—In the case of a plan year during which a plan is covered under section 4021 of the Employee Retirement Income Security Act of 1974, the plan's actuary may, notwithstanding subsection (j) or (l), take into account increases in the limitations which are expected to occur in succeeding plan years.

''(4) SPECIAL RULES FOR PLANS WITH 100 OR FEWER PARTICIPANTS.—

''(A) IN GENERAL.—For purposes of determining the amount under paragraph (3) for any plan year, in the case of a plan which has 100 or fewer participants for the plan year, the liability of the plan attributable to benefit increases for highly compensated employees (as defined in section 414(q)) resulting from a plan amendment which is made or becomes effective, whichever is later, within the last 2 years shall not be taken into account in determining the target liability.

''(B) RULE FOR DETERMINING NUMBER OF PARTICIPANTS.—For purposes of determining the number of plan participants, all defined benefit plans maintained by the same employer (or any member of such employer's controlled group (within the meaning of section 412(f)(4))) shall be treated as one plan, but only participants of such member or employer shall be taken into account.

''(5) SPECIAL RULE FOR TERMINATING PLANS.—In the case of a plan which, subject to section 4041 of the Employee Retirement Income Security Act of 1974, terminates during the plan year, the amount determined under paragraph (2) shall in no event be less than the amount required to make the plan sufficient for benefit liabilities (within the meaning of section 4041(d) of such Act).

''(6) ACTUARIAL ASSUMPTIONS.—Any computation under this subsection for any plan year shall use the same actuarial assumptions which are used for the plan year under section 430.

''(7) DEFINITIONS.—Any term used in this subsection which is also used in section 430 shall have the same meaning given such term by section 430.''.

(b) EXCEPTION FROM LIMITATION ON DEDUCTION WHERE COMBINATION OF DEFINED CONTRIBUTION AND DEFINED BENEFIT PLANS.—Section 404(a)(7)(C) of such Code, as amended by this Act, is amended by adding at the end the following new clause:

''(iv) GUARANTEED PLANS.—In applying this paragraph, any single-employer plan covered under section 4021 of the Employee Retirement Income Security Act of 1974 shall not be taken into account.''.

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) The last sentence of section 404(a)(1)(A) of such Code is amended by striking ''section 412'' each place it appears and inserting ''section 431''.

(2) Section 404(a)(1)(B) of such Code is amended—

(A) by striking ''In the case of a plan'' and inserting ''In the case of a multiemployer plan'',

(B) by striking ''section 412(c)(7)'' each place it appears and inserting ''section 431(c)(6)'',

(C) by striking ''section 412(c)(7)(B)'' and inserting ''section 431(c)(6)(A)(ii)'',

(D) by striking ''section 412(c)(7)(A)'' and inserting ''section 431(c)(6)(A)(i)'', and

(E) by striking ''section 412'' and inserting ''section 431''.

(3) Section 404(a)(7)(A) of such Code, as amended by this Act, is amended—

(A) by adding at the end of subparagraph (A) the following new sentence: ''In the case of a defined benefit plan which is a single employer plan, the amount necessary to satisfy the minimum funding standard provided by section 412 shall not be less than the plan's funding shortfall determined under section 430.'', and

(B) by striking subparagraph (D) and inserting:

''(D) INSURANCE CONTRACT PLANS.—For purposes of this paragraph, a plan described in section 412(g)(3) shall be treated as a defined benefit plan.''.

(4) Section 404A(g)(3)(A) of such Code is amended by striking ''paragraphs (3) and (7) of section 412(c)'' and inserting ''paragraphs (3) and (6) of section 431(c)''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after December 31, 2006.

SEC. 115. TECHNICAL AND CONFORMING AMENDMENTS.

(a) AMENDMENTS RELATED TO QUALIFICATION REQUIREMENTS.—

(1) Section 401(a)(29) of the Internal Revenue Code of 1986 is amended to read as follows:

''(29) BENEFIT LIMITATIONS ON PLANS IN AT-RISK STATUS.—In the case of a defined benefit plan (other than a multiemployer plan) to which the requirements of section 412 apply, the trust of which the plan is a part shall not constitute a qualified trust under this subsection unless the plan meets the requirements of section 436.''.

(2) Section 401(a)(32) of such Code is amended—

(A) in subparagraph (A), by striking ''412(m)(5)'' each place it appears and inserting ''section 430(j)(4)'', and

(B) in subparagraph (C), by striking ''section 412(m)'' and inserting ''section 430(j)''.

(3) Section 401(a), as amended by this Act, is amended by striking paragraph (33) and by redesignating paragraphs (34) and (35) as paragraph (33) and (34).

(b) VESTING RULES.—Section 411 of such Code is amended—

(1) by striking ''section 412(c)(8)'' in subsection (a)(3)(C) and inserting ''section 412(d)(2)'',

(2) in subsection (b)(1)(F)—

(A) by striking ''paragraphs (2) and (3) of section 412(i)'' in clause (ii) and inserting ''subparagraphs (B) and (C) of section 412(e)(3)'', and

(B) by striking ''paragraphs (4), (5), and (6) of section 412(i)'' and inserting ''subparagraphs (D), (E), and (F) of section 412(e)(3)'', and

(3) by striking ''section 412(c)(8)'' in subsection (d)(6)(A) and inserting ''section 412(e)(2)''.

(c) MERGERS AND CONSOLIDATIONS OF PLANS.—Subclause (I) of section 414(l)(2)(B)(i) of such Code is amended to read as follows:

''(I) the amount determined under section 431(c)(6)(A)(i) in the case of a multiemployer plan (and the sum of the funding shortfall and target normal cost determined under section 430 in the case of any other plan), over''.

(d) TRANSFER OF EXCESS PENSION ASSETS TO RETIREE HEALTH ACCOUNTS.—

(1) Section 420(e)(2) of such Code is amended to read as follows:

''(2) EXCESS PENSION ASSETS.—The term 'excess pension assets' means the excess (if any) of—

''(A) the lesser of—

''(i) the fair market value of the plan's assets (reduced by the prefunding balance determined under section 430(f)), or

''(ii) the value of plan assets as determined under section 430(g)(3) after reduction under section 430(f), over

''(B) 125 percent of the sum of the funding shortfall and the target normal cost determined under section 430 for such plan year.''.

(2) Section 420(e)(4) of such Code is amended to read as follows:

''(4) COORDINATION WITH SECTION 430.—In the case of a qualified transfer, any assets so transferred shall not, for purposes of this section, be treated as assets in the plan.''.

(e) EXCISE TAXES.—

(1) IN GENERAL.—Subsections (a) and (b) of section 4971 of such Code are amended to read as follows:

''(a) INITIAL TAX.—If at any time during any taxable year an employer maintains a plan to which section 412 applies, there is hereby imposed for the taxable year a tax equal to—

''(1) in the case of a single-employer plan, 10 percent of the aggregate unpaid minimum required contributions for all plan years remaining unpaid as of the end of any plan year ending with or within the taxable year, and

''(2) in the case of a multiemployer plan, 5 percent of the accumulated funding deficiency determined under section 431 as of the end of any plan year ending with or within the taxable year.

''(b) ADDITIONAL TAX.—If—

''(1) a tax is imposed under subsection (a)(1) on any unpaid required minimum contribution and such amount remains unpaid as of the close of the taxable period, or

''(2) a tax is imposed under subsection (a)(2) on any accumulated funding deficiency and the accumulated funding deficiency is not corrected within the taxable period,

there is hereby imposed a tax equal to 100 percent of the unpaid minimum required contribution or accumulated funding deficiency, whichever is applicable, to the extent not so paid or corrected.''.

(2) Section 4971(c) of such Code is amended—

(A) by striking ''the last two sentences of section 412(a)'' in paragraph (1) and inserting ''section 431'', and

(B) by adding at the end the following new paragraph:

''(4) UNPAID MINIMUM REQUIRED CONTRIBUTION.—

''(A) IN GENERAL.—The term 'unpaid minimum required contribution' means, with respect to any plan year, any minimum required contribution under section 430 for the plan year which is not paid on or before the due date (as determined under section 430(j)(1)) for the plan year.

''(B) ORDERING RULE.—Any payment to or under a plan for any plan year shall be allocated first to unpaid minimum required contributions for all preceding plan years on a first-in, first-out basis and then to the minimum required contribution under section 430 for the plan year.''.

(3) Section 4971(e)(1) of such Code is amended by striking ''section 412(b)(3)(A)'' and inserting ''section 412(a)(1)(A)''.

(4) Section 4971(f)(1) of such Code is amended—

(A) by striking ''section 412(m)(5)'' and inserting ''section 430(j)(4)'', and

(B) by striking ''section 412(m)'' and inserting ''section 430(j)''.

(5) Section 4972(c)(7) of such Code is amended by striking ''except to the extent that such contributions exceed the full-funding limitation (as defined in section 412(c)(7), determined without regard to subparagraph (A)(i)(I) thereof)'' and inserting ''except, in the case of a multiemployer plan, to the extent that such contributions exceed the full-funding limitation (as defined in section 431(c)(6))''.

(f) REPORTING REQUIREMENTS.—Section 6059(b) of such Code is amended—

(1) by striking ''the accumulated funding deficiency (as defined in section 412(a))'' in paragraph (2) and inserting ''the minimum required contribution determined under section 430, or the accumulated funding deficiency determined under section 431,'', and

(2) by striking paragraph (3)(B) and inserting:

''(B) the requirements for reasonable actuarial assumptions under section 430(h)(1) or 431(c)(3), whichever are applicable, have been complied with.''.

Subtitle C—Interest Rate Assumptions and Deductible Amounts for 2006

SEC. 121. EXTENSION OF REPLACEMENT OF 30-YEAR TREASURY RATES.

(a) AMENDMENTS OF ERISA.—

(1) DETERMINATION OF RANGE.—Subclause (II) of section 302(b)(5)(B)(ii) of the Employee Retirement Income Security Act of 1974 is amended—

(A) by striking ''2006'' and inserting ''2007'', and

(B) by striking ''AND 2005'' in the heading and inserting '', 2005, AND 2006''.

(2) DETERMINATION OF CURRENT LIABILITY.—Subclause (IV) of section 302(d)(7)(C)(i) of such Act is amended—

(A) by striking ''or 2005'' and inserting '', 2005, or 2006'', and

(B) by striking ''AND 2005'' in the heading and inserting '', 2005, AND 2006''.

(3) PBGC PREMIUM RATE.—Subclause (V) of section 4006(a)(3)(E)(iii) of such Act is amended by striking ''2006'' and inserting ''2007''.

(b) AMENDMENTS OF INTERNAL REVENUE CODE.—

(1) DETERMINATION OF RANGE.—Subclause (II) of section 412(b)(5)(B)(ii) of the Internal Revenue Code of 1986 is amended—

(A) by striking ''2006'' and inserting ''2007'', and

(B) by striking ''AND 2005'' in the heading and inserting '', 2005, AND 2006''.

(2) DETERMINATION OF CURRENT LIABILITY.—Subclause (IV) of section 412(l)(7)(C)(i) of such Code is amended—

(A) by striking ''or 2005'' and inserting '', 2005, or 2006'', and

(B) by striking ''AND 2005'' in the heading and inserting '', 2005, AND 2006''.

(c) PLAN AMENDMENTS.—Clause (ii) of section 101(c)(2)(A) of the Pension Funding Equity Act of 2004 is amended by striking ''2006'' and inserting ''2007''.

SEC. 122. DEDUCTION LIMITS FOR PLAN CONTRIBUTIONS.

(a) IN GENERAL.—Clause (i) of section 404(a)(1)(D) of the Internal Revenue Code of 1986 (relating to special rule in case of certain plans) is amended by striking ''section 412(l)'' and inserting ''section 412(l)(8)(A), except that section 412(l)(8)(A) shall be applied for purposes of this clause by substituting '180 percent (130 percent in the case of a multiemployer plan) of current liability' for 'the current liability' in clause (i).''

(b) CONFORMING AMENDMENT.—Section 404(a)(1) of the Internal Revenue Code of 1986 is amended by striking subparagraph (F).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 2005.

SEC. 123. UPDATING DEDUCTION RULES FOR COMBINATION OF PLANS.

(a) IN GENERAL.—Subparagraph (C) of section 404(a)(7) of the Internal Revenue Code of 1986 (relating to limitation on deductions where combination of defined contribution plan and defined benefit plan) is amended by adding after clause (ii) the following new clause:

''(iii) LIMITATION.—In the case of employer contributions to 1 or more defined contribution plans, this paragraph shall only apply to the extent that such contributions exceed 6 percent of the compensation otherwise paid or accrued during the taxable year to the beneficiaries under such plans. For purposes of this clause, amounts carried over from preceding taxable years under subparagraph (B) shall be treated as employer contributions to 1 or more defined contributions to the extent attributable to employer contributions to such plans in such preceding taxable years.''

(b) CONFORMING AMENDMENT.—Subparagraph (A) of section 4972(c)(6) of such Code (relating to nondeductible contributions) is amended to read as follows:

''(A) so much of the contributions to 1 or more defined contribution plans which are not deductible when contributed solely because of section 404(a)(7) as does not exceed the amount of contributions described in section 401(m)(4)(A), or''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions for taxable years beginning after December 31, 2005.

TITLE II—FUNDING AND DEDUCTION RULES FOR MULTIEMPLOYER DEFINED BENEFIT PLANS AND RELATED PROVISIONS

Subtitle A—Funding Rules

PART I—AMENDMENTS TO EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

SEC. 201. FUNDING RULES FOR MULTIEMPLOYER DEFINED BENEFIT PLANS.

(a) IN GENERAL.—Part 3 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (as amended by this Act) is amended by inserting after section 303 the following new section:

''MINIMUM FUNDING STANDARDS FOR MULTIEMPLOYER PLANS

''SEC. 304. (a) IN GENERAL.—For purposes of section 302, the accumulated funding deficiency of a multiemployer plan for any plan year is—

''(1) except as provided in paragraph (2), the amount, determined as of the end of the plan year, equal to the excess (if any) of the total charges to the funding standard account of the plan for all plan years (beginning with the first plan year for which this part applies to the plan) over the total credits to such account for such years, and

''(2) if the multiemployer plan is in reorganization for any plan year, the accumulated funding deficiency of the plan determined under section 4243.

''(b) FUNDING STANDARD ACCOUNT.—

''(1) ACCOUNT REQUIRED.—Each multiemployer plan to which this part applies shall establish and maintain a funding standard account. Such account shall be credited and charged solely as provided in this section.

''(2) CHARGES TO ACCOUNT.—For a plan year, the funding standard account shall be charged with the sum of—

''(A) the normal cost of the plan for the plan year,

''(B) the amounts necessary to amortize in equal annual installments (until fully amortized)—

''(i) separately, with respect to each plan year, the net increase (if any) in unfunded past service liability under the plan arising from plan amendments adopted in such year, over a period of 15 plan years,

''(ii) separately, with respect to each plan year, the net experience loss (if any) under the plan, over a period of 15 plan years, and

''(iii) separately, with respect to each plan year, the net loss (if any) resulting from changes in actuarial assumptions used under the plan, over a period of 15 plan years,

''(C) the amount necessary to amortize each waived funding deficiency (within the meaning of section 302(c)(3)) for each prior plan year in equal annual installments (until fully amortized) over a period of 15 plan years,

''(D) the amount necessary to amortize in equal annual installments (until fully amortized) over a period of 5 plan years any amount credited to the funding standard account under section 302(b)(3)(D) (as in effect on the day before the date of the enactment of the Pension Security and Transparency Act of 2005), and

''(E) the amount necessary to amortize in equal annual installments (until fully amortized) over a period of 20 years the contributions which would be required to be made under the plan but for the provisions of section 302(c)(7)(A)(i)(I) (as in effect on the day before the date of the enactment of the Pension Security and Transparency Act of 2005).

''(3) CREDITS TO ACCOUNT.—For a plan year, the funding standard account shall be credited with the sum of—

''(A) the amount considered contributed by the employer to or under the plan for the plan year,

''(B) the amount necessary to amortize in equal annual installments (until fully amortized)—

''(i) separately, with respect to each plan year, the net decrease (if any) in unfunded past service liability under the plan arising from plan amendments adopted in such year, over a period of 15 plan years,

''(ii) separately, with respect to each plan year, the net experience gain (if any) under the plan, over a period of 15 plan years, and

''(iii) separately, with respect to each plan year, the net gain (if any) resulting from changes in actuarial assumptions used under the plan, over a period of 15 plan years,

''(C) the amount of the waived funding deficiency (within the meaning of section 302(c)(3)) for the plan year, and

''(D) in the case of a plan year for which the accumulated funding deficiency is determined under the funding standard account if such plan year follows a plan year for which such deficiency was determined under the alternative minimum funding standard under section 305 (as in effect on the day before the date of the enactment of the Pension Security and Transparency Act of 2005), the excess (if any) of any debit balance in the funding standard account (determined without regard to this subparagraph) over any debit balance in the alternative minimum funding standard account.

''(4) SPECIAL RULE FOR AMOUNTS FIRST AMORTIZED TO PLAN YEARS BEFORE 2007.—In the case of any amount amortized under section 302(b) (as in effect on the day before the date of the enactment of the Pension Security and Transparency Act of 2005) over any period beginning with a plan year beginning before 2007, in lieu of the amortization described in paragraphs (2)(B) and (3)(B), such amount shall continue to be amortized under such section as so in effect.

''(5) COMBINING AND OFFSETTING AMOUNTS TO BE AMORTIZED.—Under regulations prescribed by the Secretary of the Treasury, amounts required to be amortized under paragraph (2) or paragraph (3), as the case may be—

''(A) may be combined into one amount under such paragraph to be amortized over a period determined on the basis of the remaining amortization period for all items entering into such combined amount, and

''(B) may be offset against amounts required to be amortized under the other such paragraph, with the resulting amount to be amortized over a period determined on the basis of the remaining amortization periods for all items entering into whichever of the two amounts being offset is the greater.

''(6) INTEREST.—The funding standard account (and items therein) shall be charged or credited (as determined under regulations prescribed by the Secretary of the Treasury) with interest at the appropriate rate consistent with the rate or rates of interest used under the plan to determine costs.

''(7) SPECIAL RULES RELATING TO CHARGES AND CREDITS TO FUNDING STANDARD ACCOUNT.—For purposes of this part—

''(A) WITHDRAWAL LIABILITY.—Any amount received by a multiemployer plan in payment of all or part of an employer's withdrawal liability under part 1 of subtitle E of title IV shall be considered an amount contributed by the employer to or under the plan. The Secretary of the Treasury may prescribe by regulation additional charges and credits to a multiemployer plan's funding standard account to the extent necessary to prevent withdrawal liability payments from being unduly reflected as advance funding for plan liabilities.

''(B) ADJUSTMENTS WHEN A MULTIEMPLOYER PLAN LEAVES REORGANIZATION.—If a multiemployer plan is not in reorganization in the plan year but was in reorganization in the immediately preceding plan year, any balance in the funding standard account at the close of such immediately preceding plan year—

''(i) shall be eliminated by an offsetting credit or charge (as the case may be), but

''(ii) shall be taken into account in subsequent plan years by being amortized in equal annual installments (until fully amortized) over 30 plan years.

The preceding sentence shall not apply to the extent of any accumulated funding deficiency under section 4243(a) as of the end of the last plan year that the plan was in reorganization.

''(C) PLAN PAYMENTS TO SUPPLEMENTAL PROGRAM OR WITHDRAWAL LIABILITY PAYMENT FUND.—Any amount paid by a plan during a plan year to the Pension Benefit Guaranty Corporation pursuant to section 4222 of this Act or to a fund exempt under section 501(c)(22) of the Internal Revenue Code of 1986 pursuant to section 4223 of this Act shall reduce the amount of contributions considered received by the plan for the plan year.

''(D) INTERIM WITHDRAWAL LIABILITY PAYMENTS.—Any amount paid by an employer pending a final determination of the employer's withdrawal liability under part 1 of subtitle E of title IV and subsequently refunded to the employer by the plan shall be charged to the funding standard account in accordance with regulations prescribed by the Secretary of the Treasury.

''(E) ELECTION FOR DEFERRAL OF CHARGE FOR PORTION OF NET EXPERIENCE LOSS.—If an election is in effect under section 302(b)(7)(F) (as in effect on the day before the date of the enactment of the Pension Security and Transparency Act of 2005) for any plan year, the funding standard account shall be charged in the plan year to which the portion of the net experience loss deferred by such election was deferred with the amount so deferred (and paragraph (2)(B)(ii) shall not apply to the amount so charged).

''(F) FINANCIAL ASSISTANCE.—Any amount of any financial assistance from the Pension Benefit Guaranty Corporation to any plan, and any repayment of such amount, shall be taken into account under this section and section 412 of the Internal Revenue Code of 1986 in such manner as is determined by the Secretary of the Treasury.

''(G) SHORT-TERM BENEFITS.—To the extent that any plan amendment increases the unfunded past service liability under the plan by reason of an increase in benefits which are payable under the terms of the plan for a period that does not exceed 14 years from the effective date of the amendment, paragraph (2)(B)(i) shall be applied separately with respect to such increase in unfunded past service liability by substituting the number of years of the period during which such benefits are payable for '15'.

''(c) ADDITIONAL RULES.—

''(1) DETERMINATIONS TO BE MADE UNDER FUNDING METHOD.—For purposes of this part, normal costs, accrued liability, past service liabilities, and experience gains and losses shall be determined under the funding method used to determine costs under the plan.

''(2) VALUATION OF ASSETS.—

''(A) IN GENERAL.—For purposes of this part, the value of the plan's assets shall be determined on the basis of any reasonable actuarial method of valuation which takes into account fair market value and which is permitted under regulations prescribed by the Secretary of the Treasury.

''(B) ELECTION WITH RESPECT TO BONDS.—The value of a bond or other evidence of indebtedness which is not in default as to principal or interest may, at the election of the plan administrator, be determined on an amortized basis running from initial cost at

purchase to par value at maturity or earliest call date. Any election under this subparagraph shall be made at such time and in such manner as the Secretary of the Treasury shall by regulations provide, shall apply to all such evidences of indebtedness, and may be revoked only with the consent of such Secretary.

''(3) ACTUARIAL ASSUMPTIONS MUST BE REASONABLE.—For purposes of this section, all costs, liabilities, rates of interest, and other factors under the plan shall be determined on the basis of actuarial assumptions and methods—

''(A) each of which is reasonable (taking into account the experience of the plan and reasonable expectations), and

''(B) which, in combination, offer the actuary's best estimate of anticipated experience under the plan.

''(4) TREATMENT OF CERTAIN CHANGES AS EXPERIENCE GAIN OR LOSS.—For purposes of this section, if—

''(A) a change in benefits under the Social Security Act or in other retirement benefits created under Federal or State law, or

''(B) a change in the definition of the term 'wages' under section 3121 of the Internal Revenue Code of 1986, or a change in the amount of such wages taken into account under regulations prescribed for purposes of section 401(a)(5) of such Code,

results in an increase or decrease in accrued liability under a plan, such increase or decrease shall be treated as an experience loss or gain.

''(5) FULL FUNDING.—If, as of the close of a plan year, a plan would (without regard to this paragraph) have an accumulated funding deficiency in excess of the full funding limitation—

''(A) the funding standard account shall be credited with the amount of such excess, and

''(B) all amounts described in subparagraphs (B), (C), and (D) of subsection (b) (2) and subparagraph (B) of subsection (b)(3) which are required to be amortized shall be considered fully amortized for purposes of such subparagraphs.

''(6) FULL-FUNDING LIMITATION.—

''(A) IN GENERAL.—For purposes of paragraph (5), the term 'full-funding limitation' means the excess (if any) of—

''(i) the accrued liability (including normal cost) under the plan (determined under the entry age normal funding method if such accrued liability cannot be directly calculated under the funding method used for the plan), over

''(ii) the lesser of—

''(I) the fair market value of the plan's assets, or

''(II) the value of such assets determined under paragraph (2).

''(B) MINIMUM AMOUNT.—

''(i) IN GENERAL.—In no event shall the full-funding limitation determined under subparagraph (A) be less than the excess (if any) of—

''(I) 90 percent of the current liability of the plan (including the expected increase in current liability due to benefits accruing during the plan year), over

''(II) the value of the plan's assets determined under paragraph (2).

''(ii) ASSETS.—For purposes of clause (i), assets shall not be reduced by any credit balance in the funding standard account.

''(C) FULL FUNDING LIMITATION.—For purposes of this paragraph, unless otherwise provided by the plan, the accrued liability under a multiemployer plan shall not include benefits which are not nonforfeitable under the plan after the termination of the plan (taking into consideration section 411(d)(3) of the Internal Revenue Code of 1986).

''(D) CURRENT LIABILITY.—For purposes of this paragraph—

''(i) IN GENERAL.—The term 'current liability' means all liabilities to employees and their beneficiaries under the plan.

''(ii) TREATMENT OF UNPREDICTABLE CONTINGENT EVENT BENEFITS.—For purposes of clause (i), any benefit contingent on an event other than—

''(I) age, service, compensation, death, or disability, or

''(II) an event which is reasonably and reliably predictable (as determined by the Secretary of the Treasury),

shall not be taken into account until the event on which the benefit is contingent occurs.

''(iii) INTEREST RATE USED.—The rate of interest used to determine current liability under this paragraph shall be the rate of interest determined under subparagraph (E).

''(iv) MORTALITY TABLES.—

''(I) COMMISSIONERS' STANDARD TABLE.—In the case of plan years beginning before the first plan year to which the first tables prescribed under subclause (II) apply, the mortality table used in determining current liability under this paragraph shall be the table prescribed by the Secretary of the Treasury which is based on the prevailing commissioners' standard table (described in section 807(d)(5)(A) of the Internal Revenue Code of 1986) used to determine reserves for group annuity contracts issued on January 1, 1993.

''(II) SECRETARIAL AUTHORITY.—The Secretary of the Treasury may by regulation prescribe for plan years beginning after December 31, 1999, mortality tables to be used in determining current liability under this subsection. Such tables shall be based upon the actual experience of pension plans and projected trends in such experience. In prescribing such tables, such Secretary shall take into account results of available independent studies of mortality of individuals covered by pension plans.

''(v) SEPARATE MORTALITY TABLES FOR THE DISABLED.—Notwithstanding clause (iv)—

''(I) IN GENERAL.—The Secretary of the Treasury shall establish mortality tables which may be used (in lieu of the tables under clause (iv)) to determine current liability under this subsection for individuals who are entitled to benefits under the plan on account of disability. Such Secretary shall establish separate tables for individuals whose disabilities occur in plan years beginning before January 1, 1995, and for individuals whose disabilities occur in plan years beginning on or after such date.

''(II) SPECIAL RULE FOR DISABILITIES OCCURRING AFTER 1994.—In the case of disabilities occurring in plan years beginning after December 31, 1994, the tables under subclause (I) shall apply only with respect to individuals described in such subclause who are disabled within the meaning of title II of the Social Security Act and the regulations thereunder.

''(vi) PERIODIC REVIEW.—The Secretary of the Treasury shall periodically (at least every 5 years) review any tables in effect under this subparagraph and shall, to the extent such Secretary determines necessary, by regulation update the tables to reflect the actual experience of pension plans and projected trends in such experience.

''(E) REQUIRED CHANGE OF INTEREST RATE.—For purposes of determining a plan's current liability for purposes of this paragraph—

''(i) IN GENERAL.—If any rate of interest used under the plan under subsection (b)(6) to determine cost is not within the permissible range, the plan shall establish a new rate of interest within the permissible range.

''(ii) PERMISSIBLE RANGE.—For purposes of this subparagraph—

''(I) IN GENERAL.—Except as provided in subclause (II), the term 'permissible range' means a rate of interest which is not more than 5 percent above, and not more than 10 percent below, the weighted average of the rates of interest on 30-year Treasury securities during the 4-year period ending on the last day before the beginning of the plan year.

''(II) SECRETARIAL AUTHORITY.—If the Secretary of the Treasury finds that the lowest rate of interest permissible under subclause (I) is unreasonably high, such Secretary may prescribe a lower rate of interest, except that such rate may not be less than 80 percent of the average rate determined under such subclause.

''(iii) ASSUMPTIONS.—Notwithstanding paragraph (3)(A), the interest rate used under the plan shall be—

''(I) determined without taking into account the experience of the plan and reasonable expectations, but

''(II) consistent with the assumptions which reflect the purchase rates which would be used by insurance companies to satisfy the liabilities under the plan.

''(7) ANNUAL VALUATION.—

''(A) IN GENERAL.—For purposes of this section, a determination of experience gains and losses and a valuation of the plan's liability shall be made not less frequently than once every year, except that such determination shall be made more frequently to the extent required in particular cases under regulations prescribed by the Secretary of the Treasury.

''(B) VALUATION DATE.—

''(i) CURRENT YEAR.—Except as provided in clause (ii), the valuation referred to in subparagraph (A) shall be made as of a date within the plan year to which the valuation refers or within one month prior to the beginning of such year.

''(ii) USE OF PRIOR YEAR VALUATION.—The valuation referred to in subparagraph (A) may be made as of a date within the plan year prior to the year to which the valuation refers if, as of such date, the value of the assets of the plan are not less than 100 percent of the plan's current liability (as defined in paragraph (6)(D) without regard to clause (iv) thereof).

''(iii) ADJUSTMENTS.—Information under clause (ii) shall, in accordance with regulations, be actuarially adjusted to reflect significant differences in participants.

''(iv) LIMITATION.—A change in funding method to use a prior year valuation, as provided in clause (ii), may not be made unless as of the valuation date within the prior plan year, the value of the assets of the plan are not less than 125 percent of the plan's current liability (as defined in paragraph (6)(D) without regard to clause (iv) thereof).

''(8) TIME WHEN CERTAIN CONTRIBUTIONS DEEMED MADE.—For purposes of this section, any contributions for a plan year made by an employer after the last day of such plan year, but not later than two and one-half months after such day, shall be deemed to have been made on such last day. For purposes of this subparagraph, such two and one-half month period may be extended for not more than six months under regulations prescribed by the Secretary of the Treasury.

''(d) EXTENSION OF AMORTIZATION PERIODS FOR MULTIEMPLOYER PLANS.—

''(1) AUTOMATIC EXTENSION UPON APPLICATION BY CERTAIN PLANS.—

''(A) IN GENERAL.—If the plan sponsor of a multiemployer plan—

''(i) submits to the Secretary of the Treasury an application for an extension of the period of years required to amortize any unfunded liability described in any clause of subsection (b)(2)(B) or described in subsection (b)(4), and

''(ii) includes with the application a certification by the plan's actuary described in subparagraph (B),

the Secretary of the Treasury shall extend the amortization period for the period of time (not in excess of 5 years) specified in the application. Such extension shall be in addition to any extension under paragraph (2).

''(B) CRITERIA.—A certification with respect to a multiemployer plan is described in this subparagraph if the plan's actuary certifies that, based on reasonable assumptions—

''(i) absent the extension under subparagraph (A), the plan would have an accumulated funding deficiency in the current plan year or any of the 9 succeeding plan years,

''(ii) the plan sponsor has adopted a plan to improve the plan's funding status,

''(iii) the plan is projected to have sufficient assets to timely pay expected benefits and anticipated expenditures over the amortization period as extended, and

''(iv) the notice required under paragraph (3)(A) has been provided.

''(2) ADDITIONAL EXTENSION.—

''(A) IN GENERAL.—If the plan sponsor of a multiemployer plan submits to the Secretary of the Treasury an application for an extension of the period of years required to amortize any unfunded liability described in any clause of subsection (b)(2)(B) or described in subsection (b)(4), the Secretary of the Treasury may extend the amortization period for a period of time (not in excess of 5 years) if the Secretary of the Treasury makes the determination described in subparagraph (B). Such extension shall be in addition to any extension under paragraph (1).

''(B) DETERMINATION.—The Secretary make grant an extension under subparagraph (A) if the Secretary determines that—

''(i) such extension would carry out the purposes of this Act and would provide adequate protection for participants under the plan and their beneficiaries, and

''(ii) the failure to permit such extension would—

''(I) result in a substantial risk to the voluntary continuation of the plan, or a substantial curtailment of pension benefit levels or employee compensation, and

''(II) be adverse to the interests of plan participants in the aggregate.

''(C) ACTION BY SECRETARY.—The Secretary of the Treasury shall act upon any application for an extension under this paragraph within 180 days of the submission of such application. If the Secretary rejects the application for an extension under this paragraph, the Secretary shall provide notice to the plan detailing the specific reasons for the rejection, including references to the criteria set forth above.

''(3) ADVANCE NOTICE.—

''(A) IN GENERAL.—The Secretary of the Treasury shall, before granting an extension under this subsection, require each applicant to provide evidence satisfactory to such Secretary that the applicant has provided notice of the filing of the application for such extension to each affected party (as defined in section 4001(a)(21)) with respect to the affected plan. Such notice shall include a description of the extent to which the plan is funded for benefits which are guaranteed under title IV and for benefit liabilities.

''(B) CONSIDERATION OF RELEVANT INFORMATION.—The Secretary of the Treasury shall consider any relevant information provided by a person to whom notice was given under paragraph (1).''.

(b) SHORTFALL FUNDING METHOD.—

(1) IN GENERAL.—A multiemployer plan meeting the criteria of paragraph (2) may adopt, use, or cease using, the shortfall funding method and such adoption, use, or cessation of use of such method, shall be deemed approved by the Secretary of the Treasury under section 302(d)(1) of the Employee Retirement Income Security Act of 1974 and section 412(e)(1) of the Internal Revenue Code of 1986.

(2) CRITERIA.—A multiemployer pension plan meets the criteria of this clause if—

(A) the plan has not used the shortfall funding method during the 5-year period ending on the day before the date the plan is to use the method under paragraph (1); and

(B) the plan is not operating under an amortization period extension under section 304(d) of such Act and did not operate under such an extension during such 5-year period.

(3) SHORTFALL FUNDING METHOD DEFINED.—For purposes of this subsection, the term ''shortfall funding method'' means the shortfall funding method described in Treasury Regulations section 1.412(c)(1)–2 (26 C.F.R. 1.412(c)(1)–2).

(4) BENEFIT RESTRICTIONS TO APPLY.—The benefit restrictions under section 302(c)(7) of such Act and section 412(d)(7) of such Code shall apply during any period a multiemployer plan is on the shortfall funding method pursuant to this subsection.

(5) USE OF SHORTFALL METHOD NOT TO PRECLUDE OTHER OPTIONS.—Nothing in this subsection shall be construed to affect a multiemployer plan's ability to adopt the shortfall funding method with the Secretary's permission under otherwise applicable regulations or to affect a multiemployer plan's right to change funding methods, with or without the Secretary's consent, as provided in applicable rules and regulations.

(c) CONFORMING AMENDMENTS.—

(1) Section 301 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1081) is amended by striking subsection (d).

(2) The table of contents in section 1 of such Act (as amended by this Act) is amended by inserting after the item relating to section 303 the following new item:

''Sec. 304. Minimum funding standards for multiemployer plans.''.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to plan years beginning after 2006.

(2) SPECIAL RULE FOR CERTAIN AMORTIZATION EXTENSIONS.—If the Secretary of the Treasury grants an extension under section 304 of the Employee Retirement Income Security Act of 1974 and section 412(e) of the Internal Revenue Code of 1986 with respect to any application filed with the Secretary of the Treasury on or before June 30, 2005, the extension (and any modification thereof) shall be applied and administered under the rules of such sections as in effect before the enactment of this Act, including the use of the rate of interest determined under section 6621(b) of such Code.

SEC. 202. ADDITIONAL FUNDING RULES FOR MULTIEMPLOYER PLANS IN ENDANGERED OR CRITICAL STATUS.

(a) IN GENERAL.—Part 3 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (as amended by the preceding provisions of this Act) is amended by inserting after section 304 the following new section:

''ADDITIONAL FUNDING RULES FOR MULTIEMPLOYER PLANS IN ENDANGERED STATUS OR CRITICAL STATUS

''SEC. 305. (a) GENERAL RULE.—For purposes of this part, in the case of a multiemployer plan—

''(1) if the plan is in endangered status—

''(A) the plan sponsor shall adopt and implement a funding improvement plan in accordance with the requirements of subsection (c), and

''(B) the requirements of subsection (d) shall apply during the funding plan adoption period and the funding improvement period, and

''(2) if the plan is in critical status—

''(A) the plan sponsor shall adopt and implement a rehabilitation plan in accordance with the requirements of subsection (e), and

''(B) the requirements of subsection (f) shall apply during the rehabilitation plan adoption period and the rehabilitation period.

''(b) DETERMINATION OF ENDANGERED AND CRITICAL STATUS.—For purposes of this section—

''(1) ENDANGERED STATUS.—A multiemployer plan is in endangered status for a plan year if, as determined by the plan actuary under paragraph (3), the plan is not in critical status for the plan year and either—

''(A) the plan's funded percentage for such plan year is less than 80 percent, or

''(B) the plan has an accumulated funding deficiency for such plan year, or is projected to have such an accumulated funding deficiency for any of the 6 succeeding plan years, taking into account any extension of amortization periods under section 304(d).

For purposes of this section, a plan described in subparagraph (B) shall be treated as in seriously endangered status.

''(2) CRITICAL STATUS.—A multiemployer plan is in critical status for a plan year if, as determined by the plan actuary under paragraph (3), the plan is described in 1 or more of the following subparagraphs as of the beginning of the plan year:

''(A) A plan is described in this subparagraph if—

''(i) the funded percentage of the plan is less than 65 percent, and

''(ii) the sum of—

''(I) the market value of plan assets, plus

''(II) the present value of the reasonably anticipated employer contributions for the current plan year and each of the 5 succeeding plan years, assuming that the terms of all collective bargaining agreements pursuant to which the plan is maintained for the current plan year continue in effect for succeeding plan years,

is less than the present value of all benefits projected to be payable under the plan during the current plan year and each of the 5 succeeding plan years (plus administrative expenses for such plan years).

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

''(i) the plan has an accumulated funding deficiency for the current plan year, not taking into account any extension of amortization periods under section 304(d), or

''(ii) the plan is projected to have an accumulated funding deficiency for any of the 3 succeeding plan years (4 succeeding plan years if the funded percentage of the plan is 65 percent or less), not taking into account any extension of amortization periods under section 304(d).

''(C) A plan is described in this subparagraph if—

''(i)(I) the plan's normal cost for the current plan year, plus interest (determined at the rate used for determining costs under the plan) for the current plan year on the amount of unfunded benefit liabilities under the plan as of the last date of the preceding plan year, exceeds

''(II) the present value of the reasonably anticipated employer contributions for the current plan year,

''(ii) the present value of nonforfeitable benefits of inactive participants is greater than the present value of nonforfeitable benefits of active participants, and

''(iii) the plan has an accumulated funding deficiency for the current plan year, or is

projected to have such a deficiency for any of the 4 succeeding plan years, not taking into account any extension of amortization periods under section 304(d).

''(D) A plan is described in this subparagraph if the sum of—

''(i) the market value of plan assets, plus

''(ii) the present value of the reasonably anticipated employer contributions for the current plan year and each of the 4 succeeding plan years, assuming that the terms of all collective bargaining agreements pursuant to which the plan is maintained for the current plan year continue in effect for succeeding plan years,

is less than the present value of all benefits projected to be payable under the plan during the current plan year and each of the 4 succeeding plan years (plus administrative expenses for such plan years).

''(3) ANNUAL CERTIFICATION BY PLAN ACTUARY.—

''(A) IN GENERAL.—During the 90-day period beginning on the first day of each plan year of a multiemployer plan, the plan actuary shall certify to the Secretary of the Treasury—

''(i) whether or not the plan is in endangered status for such plan year and whether or not the plan is in critical status for such plan year, and

''(ii) in the case of a plan which is in a funding improvement or rehabilitation period, whether or not the plan is making the scheduled progress in meeting the requirements of its funding improvement or rehabilitation plan.

''(B) ACTUARIAL PROJECTIONS OF ASSETS AND LIABILITIES.—

''(i) IN GENERAL.—In making the determinations and projections under this subsection, the plan actuary shall make projections required for the current and succeeding plan years, using reasonable actuarial estimates, assumptions, and methods, of the current value of the assets of the plan and the present value of all liabilities to participants and beneficiaries under the plan for the current plan year as of the beginning of such year. The projected present value of liabilities as of the beginning of such year shall be determined based on the actuarial statement required under section 103(d) with respect to the most recently filed annual report or the actuarial valuation for the preceding plan year.

''(ii) DETERMINATIONS OF FUTURE CONTRIBUTIONS.—Any actuarial projection of plan assets shall assume—

''(I) reasonably anticipated employer contributions for the current and succeeding plan years, assuming that the terms of the one or more collective bargaining agreements pursuant to which the plan is maintained for the current plan year continue in effect for succeeding plan years, or

''(II) that employer contributions for the most recent plan year will continue indefinitely, but only if the plan actuary determines there have been no significant demographic changes that would make such assumption unreasonable.

''(C) PENALTY FOR FAILURE TO SECURE TIMELY ACTUARIAL CERTIFICATION.—Any failure of the plan's actuary to certify the plan's status under this subsection by the date specified in subparagraph (A) shall be treated for purposes of section 502(c)(2) as a failure or refusal by the plan administrator to file the annual report required to be filed with the Secretary under section 101(b)(4).

''(D) NOTICE.—In any case in which a multiemployer plan is certified to be in endangered or critical status under subparagraph (A), the plan sponsor shall, not later than 30 days after the date of the certification, provide notification of the endangered or critical status to the participants and beneficiaries, the bargaining parties, the Pension Benefit Guaranty Corporation, the Secretary of the Treasury, and the Secretary.

''(c) FUNDING IMPROVEMENT PLAN MUST BE ADOPTED FOR MULTIEMPLOYER PLANS IN ENDANGERED STATUS.—

''(1) IN GENERAL.—In any case in which a multiemployer plan is in endangered status for a plan year, the plan sponsor, in accordance with this subsection—

''(A) shall adopt a funding improvement plan not later than 240 days following the required date for the actuarial certification of endangered status under subsection (b)(3)(A), and

''(B) within 30 days after the adoption of the funding improvement plan—

''(i) in the case of a plan in seriously endangered status, shall provide to the bargaining parties 1 or more schedules showing revised benefit structures, revised contribution structures, or both, which, if adopted, may reasonably be expected to enable the multiemployer plan to meet the applicable requirements under paragraph (3) in accordance with the funding improvement plan, including a description of the reductions in future benefit accruals and increases in contributions that the plan sponsor determines are reasonably necessary to meet the applicable requirements if the plan sponsor assumes that there are no increases in contributions under the plan other than the increases necessary to meet the applicable requirements after future benefit accruals have been reduced to the maximum extent permitted by law, and

''(ii) may, if the plan sponsor deems appropriate, prepare and provide the bargaining parties with additional information relating to contribution rates or benefit reductions, alternative schedules, or other information relevant to achieving the requirements under paragraph (3) in accordance with the funding improvement plan.

''(2) EXCEPTION FOR YEARS AFTER PROCESS BEGINS.—Paragraph (1) shall not apply to a plan year if such year is in a funding plan adoption period or funding improvement period by reason of the plan being in endangered status for a preceding plan year. For purposes of this section, such preceding plan year shall be the initial determination year with respect to the funding improvement plan to which it relates.

''(3) FUNDING IMPROVEMENT PLAN.—For purposes of this section—

''(A) IN GENERAL.—A funding improvement plan is a plan which consists of the actions, including options or a range of options to be proposed to the bargaining parties, which, under reasonable actuarial assumptions, will result in the plan meeting the requirements of this paragraph.

''(B) PLANS OTHER THAN SERIOUSLY ENDANGERED PLANS.—In the case of plan not in seriously endangered status, the requirements of this paragraph are met if the plan's funded percentage as of the close of the funding improvement period exceeds the lesser of 80 percent or a percentage equal to the sum of—

''(i) such percentage as of the beginning of such period, plus

''(ii) 10 percent of the percentage under clause (i).

''(C) SERIOUSLY ENDANGERED PLANS.—In the case of a plan in seriously endangered status, the requirements of this paragraph are met if—

''(i) the plan's funded percentage as of the close of the funding improvement period equals or exceeds the percentage which is equal to the sum of—

''(I) such percentage as of the beginning of such period, plus

''(II) 33 percent of the difference between 100 percent and the percentage under subclause (I), and

''(ii) there is no accumulated funding deficiency for any plan year during the funding improvement period (taking into account any extension of amortization periods under section 304(d)).

''(4) FUNDING IMPROVEMENT PERIOD.—For purposes of this section—

''(A) IN GENERAL.—The funding improvement period for any funding improvement plan adopted pursuant to this subsection is the 10-year period beginning on the first day of the first plan year of the multiemployer plan beginning after the earlier of—

''(i) the second anniversary of the date of the adoption of the funding improvement plan, or

''(ii) the expiration of the collective bargaining agreements in effect on the due date for the actuarial certification of endangered status for the initial determination year under subsection (b)(3)(A) and covering, as of such due date, at least 75 percent of the active participants in such multiemployer plan.

''(B) COORDINATION WITH CHANGES IN STATUS.—

''(i) PLANS NO LONGER IN ENDANGERED STATUS.—If the plan's actuary certifies under subsection (b)(3)(A) for a plan year in any funding plan adoption period or funding improvement period that the plan is no longer in endangered status and is not in critical status, the funding plan adoption period or funding improvement period, whichever is applicable, shall end as of the close of the preceding plan year.

''(ii) PLANS IN CRITICAL STATUS.—If the plan's actuary certifies under subsection (b)(3)(A) for a plan year in any funding plan adoption period or funding improvement period that the plan is in critical status, the funding plan adoption period or funding improvement period, whichever is applicable, shall end as of the close of the plan year preceding the first plan year in the rehabilitation period with respect to such status.

''(C) PLANS IN ENDANGERED STATUS AT END OF PERIOD.—If the plan's actuary certifies under subsection (b)(3)(A) for the first plan year following the close of the period described in subparagraph (A) that the plan is in endangered status, the provisions of this subsection and subsection (d) shall be applied as if such first plan year were an initial determination year, except that the plan may not be amended in a manner inconsistent with the funding improvement plan in effect for the preceding plan year until a new funding improvement plan is adopted.

''(5) SPECIAL RULES FOR CERTAIN UNDERFUNDED PLANS.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), if the funded percentage of a plan in seriously endangered status was 70 percent or less as of the beginning of the initial determination year, the following rules shall apply in determining whether the requirements of paragraph (3)(C)(i) are met:

''(i) The plan's funded percentage as of the close of the funding improvement period must equal or exceed a percentage which is equal to the sum of—

''(I) such percentage as of the beginning of such period, plus

''(II) 20 percent of the difference between 100 percent and the percentage under subclause (I).

''(ii) The funding improvement period under paragraph (4)(A) shall be 15 years rather than 10 years.

''(B) SPECIAL RULES FOR PLANS WITH FUNDED PERCENTAGE OVER 70 PERCENT.—If the funded percentage described in subparagraph (A) was more than 70 percent but less than 80

percent as of the beginning of the initial determination year—

''(i) subparagraph (A) shall apply if the plan's actuary certifies, within 30 days after the certification under subsection (b)(3)(A) for the initial determination year, that, based on the terms of the plan and the collective bargaining agreements in effect at the time of such certification, the plan is not projected to meet the requirements of paragraph (3)(C)(i) without regard to this paragraph, and

''(ii) if there is a certification under clause (i), the plan may, in formulating its funding improvement plan, only take into account the rules of subparagraph (A) for plan years in the funding improvement period beginning on or before the date on which the last of the collective bargaining agreements described in paragraph (4)(A)(ii) expires.

Notwithstanding clause (ii), if for any plan year ending after the date described in clause (ii) the plan actuary certifies (at the time of the annual certification under subsection (b)(3)(A) for such plan year) that, based on the terms of the plan and collective bargaining agreements in effect at the time of that annual certification, the plan is not projected to be able to meet the requirements of paragraph (3)(C)(i) without regard to this paragraph, the plan may continue to assume for such year that the funding improvement period is 15 years rather than 10 years.

''(6) UPDATES TO FUNDING IMPROVEMENT PLAN AND SCHEDULES.—

''(A) FUNDING IMPROVEMENT PLAN.—The plan sponsor shall annually update the funding improvement plan and shall file the update with the plan's annual report under section 104.

''(B) SCHEDULES.—The plan sponsor may periodically update any schedule of contribution rates provided under this subsection to reflect the experience of the plan, except that the schedule or schedules described in paragraph (1)(B)(i) shall be updated at least once every 3 years.

''(C) DURATION OF SCHEDULE.—A schedule of contribution rates provided by the plan sponsor and relied upon by bargaining parties in negotiating a collective bargaining agreement shall remain in effect for the duration of that collective bargaining agreement.

''(7) PENALTY IF NO FUNDING IMPROVEMENT PLAN ADOPTED.—A failure of the plan sponsor to adopt a funding improvement plan by the date specified in paragraph (1)(A) shall be treated for purposes of section 502(c)(2) as a failure or refusal by the plan administrator to file the annual report required to be filed with the Secretary under section 101(b)(4).

''(8) FUNDING PLAN ADOPTION PERIOD.—For purposes of this section, the term 'funding plan adoption period' means the period beginning on the date of the certification under subsection (b)(3)(A) for the initial determination year and ending on the day before the first day of the funding improvement period.

''(d) RULES FOR OPERATION OF PLAN DURING ADOPTION AND IMPROVEMENT PERIODS; FAILURE TO MEET REQUIREMENTS.—

''(1) SPECIAL RULES FOR PLAN ADOPTION PERIOD.—During the plan adoption period—

''(A) the plan sponsor may not accept a collective bargaining agreement or participation agreement with respect to the multiemployer plan that provides for—

''(i) a reduction in the level of contributions for any participants,

''(ii) a suspension of contributions with respect to any period of service, or

''(iii) any new direct or indirect exclusion of younger or newly hired employees from plan participation,

''(B) no amendment of the plan which increases the liabilities of the plan by reason of any increase in benefits, any change in the accrual of benefits, or any change in the rate at which benefits become nonforfeitable under the plan may be adopted unless the amendment is required as a condition of qualification under part I of subchapter D of chapter 1 of the Internal Revenue Code of 1986 or to comply with other applicable law, and

''(C) in the case of a plan in seriously endangered status, the plan sponsor shall take all reasonable actions which are consistent with the terms of the plan and applicable law and which are expected, based on reasonable assumptions, to achieve—

''(i) an increase in the plan's funded percentage, and

''(ii) postponement of an accumulated funding deficiency for at least 1 additional plan year.

Actions under subparagraph (C) include applications for extensions of amortization periods under section 304(d), use of the shortfall funding method in making funding standard account computations, amendments to the plan's benefit structure, reductions in future benefit accruals, and other reasonable actions consistent with the terms of the plan and applicable law.

''(2) COMPLIANCE WITH FUNDING IMPROVEMENT PLAN.—

''(A) IN GENERAL.—A plan may not be amended after the date of the adoption of a funding improvement plan under subsection (c) so as to be inconsistent with the funding improvement plan.

''(B) NO REDUCTION IN CONTRIBUTIONS.—A plan sponsor may not during any funding improvement period accept a collective bargaining agreement or participation agreement with respect to the multiemployer plan that provides for—

''(i) a reduction in the level of contributions for any participants,

''(ii) a suspension of contributions with respect to any period of service, or

''(iii) any new direct or indirect exclusion of younger or newly hired employees from plan participation.

''(C) SPECIAL RULES FOR BENEFIT INCREASES.—A plan may not be amended after the date of the adoption of a funding improvement plan under subsection (c) so as to increase benefits, including future benefit accruals, unless—

''(i) in the case of a plan in seriously endangered status, the plan actuary certifies that, after taking into account the benefit increase, the plan is still reasonably expected to meet the requirements under subsection (c)(3) in accordance with the schedule contemplated in the funding improvement plan, and

''(ii) in the case of a plan not in seriously endangered status, the actuary certifies that such increase is paid for out of contributions not required by the funding improvement plan to meet the requirements under subsection (c)(3) in accordance with the schedule contemplated in the funding improvement plan.

''(3) FAILURE TO MEET REQUIREMENTS.—

''(A) IN GENERAL.—Notwithstanding section 4971(g) of the Internal Revenue Code of 1986, if a plan fails to meet the requirements of subsection (c)(3) by the end of the funding improvement period, the plan shall be treated as having an accumulated funding deficiency for purposes of section 4971 of such Code for the last plan year in such period (and each succeeding plan year until such requirements are met) in an amount equal to the greater of the amount of the contributions necessary to meet such requirements or the amount of such accumulated funding deficiency without regard to this paragraph.

''(B) WAIVER.—In the case of a failure described in subparagraph (A) which is due to reasonable cause and not to willful neglect, the Secretary of the Treasury may waive part or all of the tax imposed by section 4971 of such Code to the extent that the payment of such tax would be excessive or otherwise inequitable relative to the failure involved.

''(e) REHABILITATION PLAN MUST BE ADOPTED FOR MULTIEMPLOYER PLANS IN CRITICAL STATUS.—

''(1) IN GENERAL.—In any case in which a multiemployer plan is in critical status for a plan year, the plan sponsor, in accordance with this subsection—

''(A) shall adopt a rehabilitation plan not later than 240 days following the required date for the actuarial certification of critical status under subsection (b)(3)(A), and

''(B) within 30 days after the adoption of the rehabilitation plan—

''(i) shall provide to the bargaining parties 1 or more schedules showing revised benefit structures, revised contribution structures, or both, which, if adopted, may reasonably be expected to enable the multiemployer plan to emerge from critical status in accordance with the rehabilitation plan, and

''(ii) may, if the plan sponsor deems appropriate, prepare and provide the bargaining parties with additional information relating to contribution rates or benefit reductions, alternative schedules, or other information relevant to emerging from critical status in accordance with the rehabilitation plan.

The schedule or schedules described in subparagraph (B)(i) shall reflect reductions in future benefit accruals and increases in contributions that the plan sponsor determines are reasonably necessary to emerge from critical status. One schedule shall be designated as the default schedule and such schedule shall assume that there are no increases in contributions under the plan other than the increases necessary to emerge from critical status after future benefit accruals and other benefits (other than benefits the reduction or elimination of which are not permitted under section 204(g)) have been reduced to the maximum extent permitted by law.

''(2) EXCEPTION FOR YEARS AFTER PROCESS BEGINS.—Paragraph (1) shall not apply to a plan year if such year is in a rehabilitation plan adoption period or rehabilitation period by reason of the plan being in critical status for a preceding plan year. For purposes of this section, such preceding plan year shall be the initial critical year with respect to the rehabilitation plan to which it relates.

''(3) REHABILITATION PLAN.—For purposes of this section—

''(A) IN GENERAL.—A rehabilitation plan is a plan which consists of—

''(i) actions which will enable, under reasonable actuarial assumptions, the plan to cease to be in critical status by the end of the rehabilitation period and may include reductions in plan expenditures (including plan mergers and consolidations), reductions in future benefit accruals or increases in contributions, if agreed to by the bargaining parties, or any combination of such actions, or

''(ii) if the plan sponsor determines that, based on reasonable actuarial assumptions and upon exhaustion of all reasonable measures, the plan can not reasonably be expected to emerge from critical status by the end of the rehabilitation period, reasonable measures to emerge from critical status at a later time or to forestall possible insolvency (within the meaning of section 4245).

Such plan shall include the schedules required to be provided under paragraph (1)(B)(i). If clause (ii) applies, such plan shall set forth the alternatives considered, explain why the plan is not reasonably expected to emerge from critical status by the end of the

rehabilitation period, and specify when, if ever, the plan is expected to emerge from critical status in accordance with the rehabilitation plan.

''(B) UPDATES TO REHABILITATION PLAN AND SCHEDULES.—

''(i) REHABILITATION PLAN.—The plan sponsor shall annually update the rehabilitation plan and shall file the update with the plan's annual report under section 104.

''(ii) SCHEDULES.—The plan sponsor may periodically update any schedule of contribution rates provided under this subsection to reflect the experience of the plan, except that the schedule or schedules described in paragraph (1)(B)(i) shall be updated at least once every 3 years.

''(iii) DURATION OF SCHEDULE.—A schedule of contribution rates provided by the plan sponsor and relied upon by bargaining parties in negotiating a collective bargaining agreement shall remain in effect for the duration of that collective bargaining agreement.

''(C) DEFAULT SCHEDULE.—If the collective bargaining agreement providing for contributions under a multiemployer plan that was in effect at the time the plan entered critical status expires and, after receiving a schedule from the plan sponsor under paragraph (1)(B)(i), the bargaining parties have not adopted a collective bargaining agreement with terms consistent with such a schedule, the default schedule described in the last sentence of paragraph (1) shall go into effect with respect to those bargaining parties.

''(4) REHABILITATION PERIOD.—For purposes of this section—

''(A) IN GENERAL.—The rehabilitation period for a plan in critical status is the 10-year period beginning on the first day of the first plan year of the multiemployer plan following the earlier of—

''(i) the second anniversary of the date of the adoption of the rehabilitation plan, or

''(ii) the expiration of the collective bargaining agreements in effect on the date of the due date for the actuarial certification of critical status for the initial critical year under subsection (a)(1) and covering, as of such date at least 75 percent of the active participants in such multiemployer plan.

If a plan emerges from critical status as provided under subparagraph (B) before the end of such 10-year period, the rehabilitation period shall end with the plan year preceding the plan year for which the determination under subparagraph (B) is made.

''(B) EMERGENCE.—A plan in critical status shall remain in such status until a plan year for which the plan actuary certifies, in accordance with subsection (b)(3)(A), that the plan is not projected to have an accumulated funding deficiency for the plan year or any of the 9 succeeding plan years, without regard to use of the shortfall method or any extension of amortization periods under section 304(d).

''(5) PENALTY IF NO REHABILITATION PLAN ADOPTED.—A failure of a plan sponsor to adopt a rehabilitation plan by the date specified in paragraph (1)(A) shall be treated for purposes of section 502(c)(2) as a failure or refusal by the plan administrator to file the annual report required to be filed with the Secretary under section 101(b)(4).

''(6) REHABILITATION PLAN ADOPTION PERIOD.—For purposes of this section, the term 'rehabilitation plan adoption period' means the period beginning on the date of the certification under subsection (b)(3)(A) for the initial critical year and ending on the day before the first day of the rehabilitation period.

''(7) LIMITATION ON REDUCTION IN RATES OF FUTURE ACCRUALS.—Any reduction in the rate of future accruals under any schedule described in paragraph (1)(B)(i) shall not reduce the rate of future accruals below—

''(A) a monthly benefit (payable as a single life annuity commencing at the participant's normal retirement age) equal to 1 percent of the contributions required to be made with respect to a participant, or the equivalent standard accrual rate for a participant or group of participants under the collective bargaining agreements in effect as of the first day of the initial critical year, or

''(B) if lower, the accrual rate under the plan on such first day.

The equivalent standard accrual rate shall be determined by the plan sponsor based on the standard or average contribution base units which the plan sponsor determines to be representative for active participants and such other factors as the plan sponsor determines to be relevant. Nothing in this paragraph shall be construed as limiting the ability of the plan sponsor to prepare and provide the bargaining parties with alternative schedules to the default schedule that established lower or higher accrual and contribution rates than the rates otherwise described in this paragraph.

''(8) EMPLOYER IMPACT.—For the purposes of this section, the plan sponsor shall consider the impact of the rehabilitation plan and contribution schedules authorized by this section on bargaining parties with fewer than 500 employees and shall implement the plan in a manner that encourages their continued participation in the plan and minimizes financial harm to employers and their workers.

''(f) RULES FOR OPERATION OF PLAN DURING ADOPTION AND REHABILITATION PERIOD.—

''(1) COMPLIANCE WITH REHABILITATION PLAN.—

''(A) IN GENERAL.—A plan may not be amended after the date of the adoption of a rehabilitation plan under subsection (e) so as to be inconsistent with the rehabilitation plan.

''(B) SPECIAL RULES FOR BENEFIT INCREASES.—A plan may not be amended after the date of the adoption of a rehabilitation plan under subsection (e) so as to increase benefits, including future benefit accruals, unless the plan actuary certifies that such increase is paid for out of additional contributions not contemplated by the rehabilitation plan, and, after taking into account the benefit increase, the multiemployer plan still is reasonably expected to emerge from critical status by the end of the rehabilitation period on the schedule contemplated in the rehabilitation plan.

''(2) RESTRICTION ON LUMP SUMS AND SIMILAR BENEFITS.—

''(A) IN GENERAL.—Effective on the date the notice of certification of the plan's critical status for the initial critical year under subsection (b)(3)(D) is sent, and notwithstanding section 204(g), the plan shall not pay—

''(i) any payment, in excess of the monthly amount paid under a single life annuity (plus any social security supplements described in the last sentence of section 204(b)(1)(G)),

''(ii) any payment for the purchase of an irrevocable commitment from an insurer to pay benefits, and

''(iii) any other payment specified by the Secretary of the Treasury by regulations.

''(B) EXCEPTION.—Subparagraph (A) shall not apply to a benefit which under section 203(e) may be immediately distributed without the consent of the participant or to any makeup payment in the case of a retroactive annuity starting date or any similar payment of benefits owed with respect to a prior period.

''(3) ADJUSTMENTS DISREGARDED IN WITHDRAWAL LIABILITY DETERMINATION.—Any benefit reductions under this subsection shall be disregarded in determining a plan's unfunded vested benefits for purposes of determining an employer's withdrawal liability under section 4201.

''(4) SPECIAL RULES FOR PLAN ADOPTION PERIOD.—During the rehabilitation plan adoption period—

''(A) the plan sponsor may not accept a collective bargaining agreement or participation agreement with respect to the multiemployer plan that provides for—

''(i) a reduction in the level of contributions for any participants,

''(ii) a suspension of contributions with respect to any period of service, or

''(iii) any new direct or indirect exclusion of younger or newly hired employees from plan participation, and

''(B) no amendment of the plan which increases the liabilities of the plan by reason of any increase in benefits, any change in the accrual of benefits, or any change in the rate at which benefits become nonforfeitable under the plan may be adopted unless the amendment is required as a condition of qualification under part I of subchapter D of chapter 1 of the Internal Revenue Code of 1986 or to comply with other applicable law.

''(5) FAILURE TO MEET REQUIREMENTS.—

''(A) IN GENERAL.—Notwithstanding section 4971(g) of the Internal Revenue Code of 1986, if a plan—

''(i) fails to meet the requirements of subsection (e) by the end of the rehabilitation period, or

''(ii) has received a certification under subsection (b)(3)(A)(ii) for 3 consecutive plan years that the plan is not making the scheduled progress in meeting its requirements under the rehabilitation plan,

the plan shall be treated as having an accumulated funding deficiency for purposes of section 4971 of such Code for the last plan year in such period (and each succeeding plan year until such requirements are met) in an amount equal to the greater of the amount of the contributions necessary to meet such requirements or the amount of such accumulated funding deficiency without regard to this paragraph.

''(B) WAIVER.—In the case of a failure described in subparagraph (A) which is due to reasonable cause and not to willful neglect, the Secretary of the Treasury may waive part or all of the tax imposed by section 4971 of such Code to the extent that the payment of such tax would be excessive or otherwise inequitable relative to the failure involved.

''(g) EXPEDITED RESOLUTION OF PLAN SPONSOR DECISIONS.—If, within 60 days of the due date for adoption of a funding improvement plan under subsection (c) or a rehabilitation plan under subsection (e), the plan sponsor of a plan in endangered status or a plan in critical status has not agreed on a funding improvement plan or rehabilitation plan, then any member of the board or group that constitutes the plan sponsor may require that the plan sponsor enter into an expedited dispute resolution procedure for the development and adoption of a funding improvement plan or rehabilitation plan.

''(h) NONBARGAINED PARTICIPATION.—

''(1) BOTH BARGAINED AND NONBARGAINED EMPLOYEE-PARTICIPANTS.—In the case of an employer that contributes to a multiemployer plan with respect to both employees who are covered by one or more collective bargaining agreements and to employees who are not so covered, if the plan is in endangered status or in critical status, benefits of and contributions for the nonbargained employees, including surcharges on those contributions, shall be determined as if those nonbargained employees were covered under the first to expire of the employer's collective bargaining agreements in effect when

the plan entered endangered or critical status.

''(2) NONBARGAINED EMPLOYEES ONLY.—In the case of an employer that contributes to a multiemployer plan only with respect to employees who are not covered by a collective bargaining agreement, this section shall be applied as if the employer were the bargaining parties, and its participation agreement with the plan was a collective bargaining agreement with a term ending on the first day of the plan year beginning after the employer is provided the schedule or schedules described in subsections (c) and (e).

''(3) EMPLOYEES COVERED BY A COLLECTIVE BARGAINING AGREEMENT.—The determination as to whether an employee covered by a collective bargaining agreement for purposes of this section shall be made without regard to the special rule in Treasury Regulation section 1.410(b)–6(d)(ii)(D).

''(i) DEFINITIONS; ACTUARIAL METHOD.—For purposes of this section—

''(1) BARGAINING PARTY.—The term 'bargaining party' means—

''(A)(i) except as provided in clause (ii), an employer who has an obligation to contribute under the plan; or

''(ii) in the case of a plan described under section 404(c) of the Internal Revenue Code of 1986, or a continuation of such a plan, the association of employers that is the employee settlor of the plan; and

''(B) an employee organization which, for purposes of collective bargaining, represents plan participants employed by an employer who has an obligation to contribute under the plan.

''(2) FUNDED PERCENTAGE.—The term 'funded percentage' means the percentage equal to a fraction—

''(A) the numerator of which is the value of the plan's assets, as determined under section 304(c)(2), and

''(B) the denominator of which is the accrued liability of the plan, determined using actuarial assumptions described in section 304(c)(3).

''(3) ACCUMULATED FUNDING DEFICIENCY.—The term 'accumulated funding deficiency' has the meaning given such term in section 304(a).

''(4) ACTIVE PARTICIPANT.—The term 'active participant' means, in connection with a multiemployer plan, a participant who is in covered service under the plan.

''(5) INACTIVE PARTICIPANT.—The term 'inactive participant' means, in connection with a multiemployer plan, a participant, or the beneficiary or alternate payee of a participant, who—

''(A) is not in covered service under the plan, and

''(B) is in pay status under the plan or has a nonforfeitable right to benefits under the plan.

''(6) PAY STATUS.—A person is in pay status under a multiemployer plan if—

''(A) at any time during the current plan year, such person is a participant or beneficiary under the plan and is paid an early, late, normal, or disability retirement benefit under the plan (or a death benefit under the plan related to a retirement benefit), or

''(B) to the extent provided in regulations of the Secretary of the Treasury, such person is entitled to such a benefit under the plan.

''(7) OBLIGATION TO CONTRIBUTE.—The term 'obligation to contribute' has the meaning given such term under section 4212(a).

''(8) ACTUARIAL METHOD.—Notwithstanding any other provision of this section, the actuary's determinations with respect to a plan's normal cost, actuarial accrued liability, and improvements in a plan's funded percentage under this section shall be based upon the unit credit funding method (whether or not that method is used for the plan's actuarial valuation).

''(9) PLAN SPONSOR.—In the case of a plan described under section 404(c) of the Internal Revenue Code of 1986, or a continuation of such a plan, the term 'plan sponsor' means the bargaining parties described under paragraph (1).''.

(b) CAUSE OF ACTION TO COMPEL ADOPTION OF FUNDING IMPROVEMENT OR REHABILITATION PLAN.—Section 502(a) of the Employee Retirement Income Security Act of 1974 is amended by striking ''or'' at the end of paragraph (8), by striking the period at the end of paragraph (9) and inserting ''; or'' and by adding at the end the following:

''(10) in the case of a multiemployer plan that has been certified by the actuary to be in endangered or critical status under section 305, if the plan sponsor has not adopted a funding improvement or rehabilitation plan under subsection (c) or (e) of that section by the deadline established in that section, by an employer that has an obligation to contribute with respect to the multiemployer plan or an employee organization that represents active participants in the multiemployer plan, for an order compelling the plan sponsor to adopt a funding improvement or rehabilitation plan.''.

(c) 4971 EXCISE TAX INAPPLICABLE.—Section 4971 of the Internal Revenue Code of 1986 is amended by redesignating subsection (g) as subsection (h), and inserting after subsection (f) the following:

''(g) MULTIEMPLOYER PLANS IN CRITICAL STATUS.—No tax shall be imposed under this section for a taxable year with respect to a multiemployer plan if, for the plan years ending with or within the taxable year, the plan is in critical status pursuant to section 305 of the Employee Retirement Income Security Act of 1974. This subsection shall only apply if the plan adopts a rehabilitation plan in accordance with section 305(e) of such Act and complies with such rehabilitation plan (and any modifications of the plan) and shall not apply if an excise tax is required to be imposed under this section by reason of a violation of such section 305.''.

(d) NO ADDITIONAL CONTRIBUTIONS REQUIRED.—

(1) Section 302(b) of the Employee Retirement Income Security Act of 1974, as amended by this Act , is amended by adding at the end the following new paragraph:

''(3) MULTIEMPLOYER PLANS IN CRITICAL STATUS.—Subparagraph (A) shall not apply in the case of a multiemployer plan for any plan year in which the plan is in critical status pursuant to section 305. This paragraph shall only apply if the plan adopts a rehabilitation plan in accordance with section 305(e) and complies with such rehabilitation plan (and any modifications of the plan).''.

(2) Section 412(c) of the Internal Revenue Code of 1986, as amended by this Act, is amended by adding at the end the following new paragraph:

''(3) MULTIEMPLOYER PLANS IN CRITICAL STATUS.—Subparagraph (A) shall not apply in the case of a multiemployer plan for any plan year in which the plan is in critical status pursuant to section 305 of the Employee Retirement Income Security Act of 1974. This paragraph shall only apply if the plan adopts a rehabilitation plan in accordance with section 305(e) of such Act and complies with such rehabilitation plan (and any modifications of the plan).''.

(e) CONFORMING AMENDMENT.—The table of contents in section 1 of such Act (as amended by the preceding provisions of this Act) is amended by inserting after the item relating to section 304 the following new item:

''Sec. 305. Additional funding rules for multiemployer plans in endangered status or critical status.''.

(f) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendment made by this section shall apply with respect to plan years beginning after 2006.

(2) SPECIAL RULE FOR CERTAIN RESTORED BENEFITS.—In the case of a multiemployer plan—

(A) with respect to which benefits were reduced pursuant to a plan amendment adopted on or after January 1, 2002, and before June 30, 2005, and

(B) which, pursuant to the plan document, the trust agreement, or a formal written communication from the plan sponsor to participants provided before June 30, 2005, provided for the restoration of such benefits,

the amendments made by this section shall not apply to such benefit restorations to the extent that any restriction on the providing or accrual of such benefits would otherwise apply by reason of such amendments.

SEC. 203. MEASURES TO FORESTALL INSOLVENCY OF MULTIEMPLOYER PLANS.

(a) ADVANCE DETERMINATION OF IMPENDING INSOLVENCY OVER 5 YEARS.—Section 4245(d)(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1426(d)(1)) is amended—

(1) by striking ''3 plan years'' the second place it appears and inserting ''5 plan years''; and

(2) by adding at the end the following new sentence: ''If the plan sponsor makes such a determination that the plan will be insolvent in any of the next 5 plan years, the plan sponsor shall make the comparison under this paragraph at least annually until the plan sponsor makes a determination that the plan will not be insolvent in any of the next 5 plan years.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to determinations made in plan years beginning after 2006.

SEC. 204. SPECIAL RULE FOR CERTAIN BENEFITS FUNDED UNDER AN AGREEMENT APPROVED BY THE PENSION BENEFIT GUARANTY CORPORATION.

In the case of a multiemployer plan that is a party to an agreement that was approved by the Pension Benefit Guaranty Corporation prior to June 30, 2005, and that—

(1) increases benefits, and

(2) provides for special withdrawal liability rules under section 4203(f) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1383),

the amendments made by sections 201, 202, 211, and 212 of this Act shall not apply to the benefit increases under any plan amendment adopted prior to June 30, 2005, that are funded pursuant to such agreement if the plan is funded in compliance with such agreement (and any amendments thereto).

SEC. 205. WITHDRAWAL LIABILITY REFORMS.

(a) REPEAL OF LIMITATION ON WITHDRAWAL LIABILITY OF INSOLVENT EMPLOYERS.—

(1) IN GENERAL.—Subsections (b) and (d) of section 4225 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1405) are repealed.

(2) CONFORMING AMENDMENTS.—Subsections (c) and (e) of section 4225 of such Act are redesignated as subsections (b) and (c), respectively.

(3) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to sales occurring on or after January 1, 2006.

(b) WITHDRAWAL LIABILITY CONTINUES IF WORK CONTRACTED OUT.—

(1) IN GENERAL.—Clause (i) of section 4205(b)(2)(A) of such Act (29 U.S.C. 1385(b)(2)(A)) is amended by inserting ''or to an entity or entities owned or controlled by the employer'' after ''to another location''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply with respect to work transferred on or after the date of the enactment of this Act.

(c) APPLICATION OF FORGIVENESS RULE TO PLANS PRIMARILY COVERING EMPLOYEES IN THE BUILDING AND CONSTRUCTION.—

(1) IN GENERAL.—Section 4210(b) of such Act (29 U.S.C. 1390(b)) is amended—

(A) by striking paragraph (1); and

(B) by redesignating paragraphs (2) through (4) as paragraphs (1) through (3), respectively.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply with respect to plan withdrawals occurring on or after January 1, 2006.

PART II—AMENDMENTS TO INTERNAL REVENUE CODE OF 1986

SEC. 211. FUNDING RULES FOR MULTIEMPLOYER DEFINED BENEFIT PLANS.

(a) IN GENERAL.—Subpart A of part III of subchapter D of chapter 1 of the Internal Revenue Code of 1986 (as added by this Act) is amended by inserting after section 430 the following new section:

"SEC. 431. MINIMUM FUNDING STANDARDS FOR MULTIEMPLOYER PLANS.

''(a) IN GENERAL.—For purposes of section 412, the accumulated funding deficiency of a multiemployer plan for any plan year is—

''(1) except as provided in paragraph (2), the amount, determined as of the end of the plan year, equal to the excess (if any) of the total charges to the funding standard account of the plan for all plan years (beginning with the first plan year for which this part applies to the plan) over the total credits to such account for such years, and

''(2) if the multiemployer plan is in reorganization for any plan year, the accumulated funding deficiency of the plan determined under section 4243 of the Employee Retirement Income Security Act of 1974.

''(b) FUNDING STANDARD ACCOUNT.—

''(1) ACCOUNT REQUIRED.—Each multiemployer plan to which this part applies shall establish and maintain a funding standard account. Such account shall be credited and charged solely as provided in this section.

''(2) CHARGES TO ACCOUNT.—For a plan year, the funding standard account shall be charged with the sum of—

''(A) the normal cost of the plan for the plan year,

''(B) the amounts necessary to amortize in equal annual installments (until fully amortized)—

''(i) separately, with respect to each plan year, the net increase (if any) in unfunded past service liability under the plan arising from plan amendments adopted in such year, over a period of 15 plan years,

''(ii) separately, with respect to each plan year, the net experience loss (if any) under the plan, over a period of 15 plan years, and

''(iii) separately, with respect to each plan year, the net loss (if any) resulting from changes in actuarial assumptions used under the plan, over a period of 15 plan years,

''(C) the amount necessary to amortize each waived funding deficiency (within the meaning of section 412(d)(3)) for each prior plan year in equal annual installments (until fully amortized) over a period of 15 plan years,

''(D) the amount necessary to amortize in equal annual installments (until fully amortized) over a period of 5 plan years any amount credited to the funding standard account under section 412(b)(3)(D) (as in effect on the day before the date of the enactment of the Pension Security and Transparency Act of 2005), and

''(E) the amount necessary to amortize in equal annual installments (until fully amortized) over a period of 20 years the contributions which would be required to be made under the plan but for the provisions of section 412(c)(7)(A)(i)(I) (as in effect on the day before the date of the enactment of the Pension Security and Transparency Act of 2005).

''(3) CREDITS TO ACCOUNT.—For a plan year, the funding standard account shall be credited with the sum of—

''(A) the amount considered contributed by the employer to or under the plan for the plan year,

''(B) the amount necessary to amortize in equal annual installments (until fully amortized)—

''(i) separately, with respect to each plan year, the net decrease (if any) in unfunded past service liability under the plan arising from plan amendments adopted in such year, over a period of 15 plan years,

''(ii) separately, with respect to each plan year, the net experience gain (if any) under the plan, over a period of 15 plan years, and

''(iii) separately, with respect to each plan year, the net gain (if any) resulting from changes in actuarial assumptions used under the plan, over a period of 15 plan years,

''(C) the amount of the waived funding deficiency (within the meaning of section 412(d)(3)) for the plan year, and

''(D) in the case of a plan year for which the accumulated funding deficiency is determined under the funding standard account if such plan year follows a plan year for which such deficiency was determined under the alternative minimum funding standard under section 412(g) (as in effect on the day before the date of the enactment of the Pension Security and Transparency Act of 2005), the excess (if any) of any debit balance in the funding standard account (determined without regard to this subparagraph) over any debit balance in the alternative minimum funding standard account.

''(4) SPECIAL RULE FOR AMOUNTS FIRST AMORTIZED TO PLAN YEARS BEFORE 2007.—In the case of any amount amortized under section 412(b) (as in effect on the day before the date of the enactment of the Pension Security and Transparency Act of 2005) over any period beginning with a plan year beginning before 2007, in lieu of the amortization described in paragraphs (2)(B) and (3)(B), such amount shall continue to be amortized under such section as so in effect.

''(5) COMBINING AND OFFSETTING AMOUNTS TO BE AMORTIZED.—Under regulations prescribed by the Secretary, amounts required to be amortized under paragraph (2) or paragraph (3), as the case may be—

''(A) may be combined into one amount under such paragraph to be amortized over a period determined on the basis of the remaining amortization period for all items entering into such combined amount, and

''(B) may be offset against amounts required to be amortized under the other such paragraph, with the resulting amount to be amortized over a period determined on the basis of the remaining amortization periods for all items entering into whichever of the two amounts being offset is the greater.

''(6) INTEREST.—The funding standard account (and items therein) shall be charged or credited (as determined under regulations prescribed by the Secretary of the Treasury) with interest at the appropriate rate consistent with the rate or rates of interest used under the plan to determine costs.

''(7) SPECIAL RULES RELATING TO CHARGES AND CREDITS TO FUNDING STANDARD ACCOUNT.—For purposes of this part—

''(A) WITHDRAWAL LIABILITY.—Any amount received by a multiemployer plan in payment of all or part of an employer's withdrawal liability under part 1 of subtitle E of title IV of the Employee Retirement Income Security Act of 1974 shall be considered an amount contributed by the employer to or under the plan. The Secretary may prescribe by regulation additional charges and credits to a multiemployer plan's funding standard account to the extent necessary to prevent withdrawal liability payments from being unduly reflected as advance funding for plan liabilities.

''(B) ADJUSTMENTS WHEN A MULTIEMPLOYER PLAN LEAVES REORGANIZATION.—If a multiemployer plan is not in reorganization in the plan year but was in reorganization in the immediately preceding plan year, any balance in the funding standard account at the close of such immediately preceding plan year—

''(i) shall be eliminated by an offsetting credit or charge (as the case may be), but

''(ii) shall be taken into account in subsequent plan years by being amortized in equal annual installments (until fully amortized) over 30 plan years.

The preceding sentence shall not apply to the extent of any accumulated funding deficiency under section 4243(a) of such Act as of the end of the last plan year that the plan was in reorganization.

''(C) PLAN PAYMENTS TO SUPPLEMENTAL PROGRAM OR WITHDRAWAL LIABILITY PAYMENT FUND.—Any amount paid by a plan during a plan year to the Pension Benefit Guaranty Corporation pursuant to section 4222 of such Act or to a fund exempt under section 501(c)(22) pursuant to section 4223 of such Act shall reduce the amount of contributions considered received by the plan for the plan year.

''(D) INTERIM WITHDRAWAL LIABILITY PAYMENTS.—Any amount paid by an employer pending a final determination of the employer's withdrawal liability under part 1 of subtitle E of title IV of such Act and subsequently refunded to the employer by the plan shall be charged to the funding standard account in accordance with regulations prescribed by the Secretary.

''(E) ELECTION FOR DEFERRAL OF CHARGE FOR PORTION OF NET EXPERIENCE LOSS.—If an election is in effect under section 412(b)(7)(F) (as in effect on the day before the date of the enactment of the Pension Security and Transparency Act of 2005) for any plan year, the funding standard account shall be charged in the plan year to which the portion of the net experience loss deferred by such election was deferred with the amount so deferred (and paragraph (2)(B)(ii) shall not apply to the amount so charged).

''(F) FINANCIAL ASSISTANCE.—Any amount of any financial assistance from the Pension Benefit Guaranty Corporation to any plan, and any repayment of such amount, shall be taken into account under this section and section 412 in such manner as is determined by the Secretary.

''(G) SHORT-TERM BENEFITS.—To the extent that any plan amendment increases the unfunded past service liability under the plan by reason of an increase in benefits which are payable under the terms of the plan for a period that does not exceed 14 years from the effective date of the amendment, paragraph (2)(B)(i) shall be applied separately with respect to such increase in unfunded past service liability by substituting the number of years of the period during which such benefits are payable for '15'.

''(c) ADDITIONAL RULES.—

''(1) DETERMINATIONS TO BE MADE UNDER FUNDING METHOD.—For purposes of this part, normal costs, accrued liability, past service liabilities, and experience gains and losses shall be determined under the funding method used to determine costs under the plan.

''(2) VALUATION OF ASSETS.—

''(A) IN GENERAL.—For purposes of this part, the value of the plan's assets shall be determined on the basis of any reasonable actuarial method of valuation which takes

into account fair market value and which is permitted under regulations prescribed by the Secretary.

''(B) ELECTION WITH RESPECT TO BONDS.—The value of a bond or other evidence of indebtedness which is not in default as to principal or interest may, at the election of the plan administrator, be determined on an amortized basis running from initial cost at purchase to par value at maturity or earliest call date. Any election under this subparagraph shall be made at such time and in such manner as the Secretary shall by regulations provide, shall apply to all such evidences of indebtedness, and may be revoked only with the consent of the Secretary.

''(3) ACTUARIAL ASSUMPTIONS MUST BE REASONABLE.—For purposes of this section, all costs, liabilities, rates of interest, and other factors under the plan shall be determined on the basis of actuarial assumptions and methods—

''(A) each of which is reasonable (taking into account the experience of the plan and reasonable expectations), and

''(B) which, in combination, offer the actuary's best estimate of anticipated experience under the plan.

''(4) TREATMENT OF CERTAIN CHANGES AS EXPERIENCE GAIN OR LOSS.—For purposes of this section, if—

''(A) a change in benefits under the Social Security Act or in other retirement benefits created under Federal or State law, or

''(B) a change in the definition of the term 'wages' under section 3121, or a change in the amount of such wages taken into account under regulations prescribed for purposes of section 401(a)(5),

results in an increase or decrease in accrued liability under a plan, such increase or decrease shall be treated as an experience loss or gain.

''(5) FULL FUNDING.—If, as of the close of a plan year, a plan would (without regard to this paragraph) have an accumulated funding deficiency in excess of the full funding limitation—

''(A) the funding standard account shall be credited with the amount of such excess, and

''(B) all amounts described in subparagraphs (B), (C), and (D) of subsection (b) (2) and subparagraph (B) of subsection (b)(3) which are required to be amortized shall be considered fully amortized for purposes of such subparagraphs.

''(6) FULL-FUNDING LIMITATION.—

''(A) IN GENERAL.—For purposes of paragraph (5), the term 'full-funding limitation' means the excess (if any) of—

''(i) the accrued liability (including normal cost) under the plan (determined under the entry age normal funding method if such accrued liability cannot be directly calculated under the funding method used for the plan), over

''(ii) the lesser of—

''(I) the fair market value of the plan's assets, or

''(II) the value of such assets determined under paragraph (2).

''(B) MINIMUM AMOUNT.—

''(i) IN GENERAL.—In no event shall the full-funding limitation determined under subparagraph (A) be less than the excess (if any) of—

''(I) 90 percent of the current liability of the plan (including the expected increase in current liability due to benefits accruing during the plan year), over

''(II) the value of the plan's assets determined under paragraph (2).

''(ii) ASSETS.—For purposes of clause (i), assets shall not be reduced by any credit balance in the funding standard account.

''(C) FULL FUNDING LIMITATION.—For purposes of this paragraph, unless otherwise provided by the plan, the accrued liability under a multiemployer plan shall not include benefits which are not nonforfeitable under the plan after the termination of the plan (taking into consideration section 411(d)(3)).

''(D) CURRENT LIABILITY.—For purposes of this paragraph—

''(i) IN GENERAL.—The term 'current liability' means all liabilities to employees and their beneficiaries under the plan.

''(ii) TREATMENT OF UNPREDICTABLE CONTINGENT EVENT BENEFITS.—For purposes of clause (i), any benefit contingent on an event other than—

''(I) age, service, compensation, death, or disability, or

''(II) an event which is reasonably and reliably predictable (as determined by the Secretary),

shall not be taken into account until the event on which the benefit is contingent occurs.

''(iii) INTEREST RATE USED.—The rate of interest used to determine current liability under this paragraph shall be the rate of interest determined under subparagraph (E).

''(iv) MORTALITY TABLES.—

''(I) COMMISSIONERS' STANDARD TABLE.—In the case of plan years beginning before the first plan year to which the first tables prescribed under subclause (II) apply, the mortality table used in determining current liability under this paragraph shall be the table prescribed by the Secretary which is based on the prevailing commissioners' standard table (described in section 807(d)(5)(A)) used to determine reserves for group annuity contracts issued on January 1, 1993.

''(II) SECRETARIAL AUTHORITY.—The Secretary may by regulation prescribe for plan years beginning after December 31, 1999, mortality tables to be used in determining current liability under this subsection. Such tables shall be based upon the actual experience of pension plans and projected trends in such experience. In prescribing such tables, the Secretary shall take into account results of available independent studies of mortality of individuals covered by pension plans.

''(v) SEPARATE MORTALITY TABLES FOR THE DISABLED.—Notwithstanding clause (iv)—

''(I) IN GENERAL.—The Secretary shall establish mortality tables which may be used (in lieu of the tables under clause (iv)) to determine current liability under this subsection for individuals who are entitled to benefits under the plan on account of disability. The Secretary shall establish separate tables for individuals whose disabilities occur in plan years beginning before January 1, 1995, and for individuals whose disabilities occur in plan years beginning on or after such date.

''(II) SPECIAL RULE FOR DISABILITIES OCCURRING AFTER 1994.—In the case of disabilities occurring in plan years beginning after December 31, 1994, the tables under subclause (I) shall apply only with respect to individuals described in such subclause who are disabled within the meaning of title II of the Social Security Act and the regulations thereunder.

''(vi) PERIODIC REVIEW.—The Secretary shall periodically (at least every 5 years) review any tables in effect under this subparagraph and shall, to the extent such Secretary determines necessary, by regulation update the tables to reflect the actual experience of pension plans and projected trends in such experience.

''(E) REQUIRED CHANGE OF INTEREST RATE.—For purposes of determining a plan's current liability for purposes of this paragraph—

''(i) IN GENERAL.—If any rate of interest used under the plan under subsection (b)(6) to determine cost is not within the permissible range, the plan shall establish a new rate of interest within the permissible range.

''(ii) PERMISSIBLE RANGE.—For purposes of this subparagraph—

''(I) IN GENERAL.—Except as provided in subclause (II), the term 'permissible range' means a rate of interest which is not more than 5 percent above, and not more than 10 percent below, the weighted average of the rates of interest on 30-year Treasury securities during the 4-year period ending on the last day before the beginning of the plan year.

''(II) SECRETARIAL AUTHORITY.—If the Secretary finds that the lowest rate of interest permissible under subclause (I) is unreasonably high, the Secretary may prescribe a lower rate of interest, except that such rate may not be less than 80 percent of the average rate determined under such subclause.

''(iii) ASSUMPTIONS.—Notwithstanding paragraph (3)(A), the interest rate used under the plan shall be—

''(I) determined without taking into account the experience of the plan and reasonable expectations, but

''(II) consistent with the assumptions which reflect the purchase rates which would be used by insurance companies to satisfy the liabilities under the plan.

''(7) ANNUAL VALUATION.—

''(A) IN GENERAL.—For purposes of this section, a determination of experience gains and losses and a valuation of the plan's liability shall be made not less frequently than once every year, except that such determination shall be made more frequently to the extent required in particular cases under regulations prescribed by the Secretary.

''(B) VALUATION DATE.—

''(i) CURRENT YEAR.—Except as provided in clause (ii), the valuation referred to in subparagraph (A) shall be made as of a date within the plan year to which the valuation refers or within one month prior to the beginning of such year.

''(ii) USE OF PRIOR YEAR VALUATION.—The valuation referred to in subparagraph (A) may be made as of a date within the plan year prior to the year to which the valuation refers if, as of such date, the value of the assets of the plan are not less than 100 percent of the plan's current liability (as defined in paragraph (6)(D) without regard to clause (iv) thereof).

''(iii) ADJUSTMENTS.—Information under clause (ii) shall, in accordance with regulations, be actuarially adjusted to reflect significant differences in participants.

''(iv) LIMITATION.—A change in funding method to use a prior year valuation, as provided in clause (ii), may not be made unless as of the valuation date within the prior plan year, the value of the assets of the plan are not less than 125 percent of the plan's current liability (as defined in paragraph (6)(D) without regard to clause (iv) thereof).

''(8) TIME WHEN CERTAIN CONTRIBUTIONS DEEMED MADE.—For purposes of this section, any contributions for a plan year made by an employer after the last day of such plan year, but not later than two and one-half months after such day, shall be deemed to have been made on such last day. For purposes of this subparagraph, such two and one-half month period may be extended for not more than six months under regulations prescribed by the Secretary.

''(d) EXTENSION OF AMORTIZATION PERIODS FOR MULTIEMPLOYER PLANS.—

''(1) AUTOMATIC EXTENSION UPON APPLICATION BY CERTAIN PLANS.—

''(A) IN GENERAL.—If the plan sponsor of a multiemployer plan—

''(i) submits to the Secretary an application for an extension of the period of years required to amortize any unfunded liability

described in any clause of subsection (b)(2)(B) or described in subsection (b)(4), and

''(ii) includes with the application a certification by the plan's actuary described in subparagraph (B),

the Secretary shall extend the amortization period for the period of time (not in excess of 5 years) specified in the application. Such extension shall be in addition to any extension under paragraph (2).

''(B) CRITERIA.—A certification with respect to a multiemployer plan is described in this subparagraph if the plan's actuary certifies that, based on reasonable assumptions—

''(i) absent the extension under subparagraph (A), the plan would have an accumulated funding deficiency in the current plan year or any of the 9 succeeding plan years,

''(ii) the plan sponsor has adopted a plan to improve the plan's funding status,

''(iii) the plan is projected to have sufficient assets to timely pay expected benefits and anticipated expenditures over the amortization period as extended, and

''(iv) the notice required under paragraph (3)(A) has been provided.

''(2) ADDITIONAL EXTENSION.—

''(A) IN GENERAL.—If the plan sponsor of a multiemployer plan submits to the Secretary an application for an extension of the period of years required to amortize any unfunded liability described in any clause of subsection (b)(2)(B) or described in subsection (b)(4), the Secretary may extend the amortization period for a period of time (not in excess of 5 years) if the Secretary of the Treasury makes the determination described in subparagraph (B). Such extension shall be in addition to any extension under paragraph (1).

''(B) DETERMINATION.—The Secretary may grant an extension under subparagraph (A) if the Secretary determines that—

''(i) such extension would carry out the purposes of this Act and would provide adequate protection for participants under the plan and their beneficiaries, and

''(ii) the failure to permit such extension would—

''(I) result in a substantial risk to the voluntary continuation of the plan, or a substantial curtailment of pension benefit levels or employee compensation, and

''(II) be adverse to the interests of plan participants in the aggregate.

''(C) ACTION BY SECRETARY.—The Secretary shall act upon any application for an extension under this paragraph within 180 days of the submission of such application. If the Secretary rejects the application for an extension under this paragraph, the Secretary shall provide notice to the plan detailing the specific reasons for the rejection, including references to the criteria set forth above.

''(3) ADVANCE NOTICE.—

''(A) IN GENERAL.—The Secretary shall, before granting an extension under this subsection, require each applicant to provide evidence satisfactory to such Secretary that the applicant has provided notice of the filing of the application for such extension to each affected party (as defined in section 4001(a)(21) of the Employee Retirement Income Security Act of 1974) with respect to the affected plan. Such notice shall include a description of the extent to which the plan is funded for benefits which are guaranteed under title IV of such Act and for benefit liabilities.

''(B) CONSIDERATION OF RELEVANT INFORMATION.—The Secretary shall consider any relevant information provided by a person to whom notice was given under paragraph (1).''.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to plan years beginning after 2006.

(2) SPECIAL RULE FOR CERTAIN AMORTIZATION EXTENSIONS.—If the Secretary of the Treasury grants an extension under section 304 of the Employee Retirement Income Security Act of 1974 and section 412(e) of the Internal Revenue Code of 1986 with respect to any application filed with the Secretary of the Treasury on or before June 30, 2005, the extension (and any modification thereof) shall be applied and administered under the rules of such sections as in effect before the enactment of this Act, including the use of the rate of interest determined under section 6621(b) of such Code.

SEC. 212. ADDITIONAL FUNDING RULES FOR MULTIEMPLOYER PLANS IN ENDANGERED OR CRITICAL STATUS.

(a) IN GENERAL.—Subpart A of part III of subchapter D of chapter 1 of the Internal Revenue Code of 1986 (as amended by this Act) is amended by inserting after section 431 the following new section:

''SEC. 432. ADDITIONAL FUNDING RULES FOR MULTIEMPLOYER PLANS IN ENDANGERED STATUS OR CRITICAL STATUS.

''(a) GENERAL RULE.—For purposes of this part, in the case of a multiemployer plan—

''(1) if the plan is in endangered status—

''(A) the plan sponsor shall adopt and implement a funding improvement plan in accordance with the requirements of subsection (c), and

''(B) the requirements of subsection (d) shall apply during the funding plan adoption period and the funding improvement period, and

''(2) if the plan is in critical status—

''(A) the plan sponsor shall adopt and implement a rehabilitation plan in accordance with the requirements of subsection (e), and

''(B) the requirements of subsection (f) shall apply during the rehabilitation plan adoption period and the rehabilitation period.

''(b) DETERMINATION OF ENDANGERED AND CRITICAL STATUS.—For purposes of this section—

''(1) ENDANGERED STATUS.—A multiemployer plan is in endangered status for a plan year if, as determined by the plan actuary under paragraph (3), the plan is not in critical status for the plan year and either—

''(A) the plan's funded percentage for such plan year is less than 80 percent, or

''(B) the plan has an accumulated funding deficiency for such plan year, or is projected to have such an accumulated funding deficiency for any of the 6 succeeding plan years, taking into account any extension of amortization periods under section 431(d).

For purposes of this section, a plan described in subparagraph (B) shall be treated as in seriously endangered status.

''(2) CRITICAL STATUS.—A multiemployer plan is in critical status for a plan year if, as determined by the plan actuary under paragraph (3), the plan is described in 1 or more of the following subparagraphs as of the beginning of the plan year:

''(A) A plan is described in this subparagraph if—

''(i) the funded percentage of the plan is less than 65 percent, and

''(ii) the sum of—

''(I) the market value of plan assets, plus

''(II) the present value of the reasonably anticipated employer contributions for the current plan year and each of the 5 succeeding plan years, assuming that the terms of all collective bargaining agreements pursuant to which the plan is maintained for the current plan year continue in effect for succeeding plan years,

is less than the present value of all benefits projected to be payable under the plan during the current plan year and each of the 5 succeeding plan years (plus administrative expenses for such plan years).

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

''(i) the plan has an accumulated funding deficiency for the current plan year, not taking into account any extension of amortization periods under section 431(d), or

''(ii) the plan is projected to have an accumulated funding deficiency for any of the 3 succeeding plan years (4 succeeding plan years if the funded percentage of the plan is 65 percent or less), not taking into account any extension of amortization periods under section 431(d).

''(C) A plan is described in this subparagraph if—

''(i)(I) the plan's normal cost for the current plan year, plus interest (determined at the rate used for determining costs under the plan) for the current plan year on the amount of unfunded benefit liabilities under the plan as of the last date of the preceding plan year, exceeds

''(II) the present value of the reasonably anticipated employer contributions for the current plan year,

''(ii) the present value of nonforfeitable benefits of inactive participants is greater than the present value of nonforfeitable benefits of active participants, and

''(iii) the plan has an accumulated funding deficiency for the current plan year, or is projected to have such a deficiency for any of the 4 succeeding plan years, not taking into account any extension of amortization periods under section 431(d).

''(D) A plan is described in this subparagraph if the sum of—

''(i) the market value of plan assets, plus

''(ii) the present value of the reasonably anticipated employer contributions for the current plan year and each of the 4 succeeding plan years, assuming that the terms of all collective bargaining agreements pursuant to which the plan is maintained for the current plan year continue in effect for succeeding plan years,

is less than the present value of all benefits projected to be payable under the plan during the current plan year and each of the 4 succeeding plan years (plus administrative expenses for such plan years).

''(3) ANNUAL CERTIFICATION BY PLAN ACTUARY.—

''(A) IN GENERAL.—During the 90-day period beginning on the first day of each plan year of a multiemployer plan, the plan actuary shall certify to the Secretary—

''(i) whether or not the plan is in endangered status for such plan year and whether or not the plan is in critical status for such plan year, and

''(ii) in the case of a plan which is in a funding improvement or rehabilitation period, whether or not the plan is making the scheduled progress in meeting the requirements of its funding improvement or rehabilitation plan.

''(B) ACTUARIAL PROJECTIONS OF ASSETS AND LIABILITIES.—

''(i) IN GENERAL.—In making the determinations and projections under this subsection, the plan actuary shall make projections required for the current and succeeding plan years, using reasonable actuarial estimates, assumptions, and methods, of the current value of the assets of the plan and the present value of all liabilities to participants and beneficiaries under the plan for the current plan year as of the beginning of such year. The projected present value of liabilities as of the beginning of such year shall be determined based on the actuarial statement

required under section 103(d) of the Employee Retirement Income Security Act of 1974 with respect to the most recently filed annual report or the actuarial valuation for the preceding plan year.

''(ii) DETERMINATIONS OF FUTURE CONTRIBUTIONS.—Any actuarial projection of plan assets shall assume—

''(I) reasonably anticipated employer contributions for the current and succeeding plan years, assuming that the terms of the one or more collective bargaining agreements pursuant to which the plan is maintained for the current plan year continue in effect for succeeding plan years, or

''(II) that employer contributions for the most recent plan year will continue indefinitely, but only if the plan actuary determines there have been no significant demographic changes that would make such assumption unreasonable.

''(C) PENALTY FOR FAILURE TO SECURE TIMELY ACTUARIAL CERTIFICATION.—Any failure of the plan's actuary to certify the plan's status under this subsection by the date specified in subparagraph (A) shall be treated for purposes of section 502(c)(2) of such Act as a failure or refusal by the plan administrator to file the annual report required to be filed with the Secretary under section 101(b)(4) of such Act.

''(D) NOTICE.—In any case in which a multiemployer plan is certified to be in endangered or critical status under subparagraph (A), the plan sponsor shall, not later than 30 days after the date of the certification, provide notification of the endangered or critical status to the participants and beneficiaries, the bargaining parties, the Pension Benefit Guaranty Corporation, the Secretary, and the Secretary of Labor.

''(c) FUNDING IMPROVEMENT PLAN MUST BE ADOPTED FOR MULTIEMPLOYER PLANS IN ENDANGERED STATUS.—

''(1) IN GENERAL.—In any case in which a multiemployer plan is in endangered status for a plan year, the plan sponsor, in accordance with this subsection—

''(A) shall adopt a funding improvement plan not later than 240 days following the required date for the actuarial certification of endangered status under subsection (b)(3)(A), and

''(B) within 30 days after the adoption of the funding improvement plan—

''(i) in the case of a plan in seriously endangered status, shall provide to the bargaining parties 1 or more schedules showing revised benefit structures, revised contribution structures, or both, which, if adopted, may reasonably be expected to enable the multiemployer plan to meet the applicable requirements under paragraph (3) in accordance with the funding improvement plan, including a description of the reductions in future benefit accruals and increases in contributions that the plan sponsor determines are reasonably necessary to meet the applicable requirements if the plan sponsor assumes that there are no increases in contributions under the plan other than the increases necessary to meet the applicable requirements after future benefit accruals have been reduced to the maximum extent permitted by law, and

''(ii) may, if the plan sponsor deems appropriate, prepare and provide the bargaining parties with additional information relating to contribution rates or benefit reductions, alternative schedules, or other information relevant to achieving the requirements under paragraph (3) in accordance with the funding improvement plan.

''(2) EXCEPTION FOR YEARS AFTER PROCESS BEGINS.—Paragraph (1) shall not apply to a plan year if such year is in a funding plan adoption period or funding improvement period by reason of the plan being in endangered status for a preceding plan year. For purposes of this section, such preceding plan year shall be the initial determination year with respect to the funding improvement plan to which it relates.

''(3) FUNDING IMPROVEMENT PLAN.—For purposes of this section—

''(A) IN GENERAL.—A funding improvement plan is a plan which consists of the actions, including options or a range of options to be proposed to the bargaining parties, which, under reasonable actuarial assumptions, will result in the plan meeting the requirements of this paragraph.

''(B) PLANS OTHER THAN SERIOUSLY ENDANGERED PLANS.—In the case of plan not in seriously endangered status, the requirements of this paragraph are met if the plan's funded percentage as of the close of the funding improvement period exceeds the lesser of 80 percent or a percentage equal to the sum of—

''(i) such percentage as of the beginning of such period, plus

''(ii) 10 percent of the percentage determined under clause (i).

''(C) SERIOUSLY ENDANGERED PLANS.—In the case of a plan in seriously endangered status, the requirements of this paragraph are met if—

''(i) the plan's funded percentage as of the close of the funding improvement period equals or exceeds the percentage which is equal to the sum of—

''(I) such percentage as of the beginning of such period, plus

''(II) 33 percent of the difference between 100 percent and the percentage under subclause (I), and

''(ii) there is no accumulated funding deficiency for any plan year during the funding improvement period (taking into account any extension of amortization periods under section 431(d)).

''(4) FUNDING IMPROVEMENT PERIOD.—For purposes of this section—

''(A) IN GENERAL.—The funding improvement period for any funding improvement plan adopted pursuant to this subsection is the 10-year period beginning on the first day of the first plan year of the multiemployer plan beginning after the earlier of—

''(i) the second anniversary of the date of the adoption of the funding improvement plan, or

''(ii) the expiration of the collective bargaining agreements in effect on the due date for the actuarial certification of endangered status for the initial determination year under subsection (b)(3)(A) and covering, as of such due date, at least 75 percent of the active participants in such multiemployer plan.

''(B) COORDINATION WITH CHANGES IN STATUS.—

''(i) PLANS NO LONGER IN ENDANGERED STATUS.—If the plan's actuary certifies under subsection (b)(3)(A) for a plan year in any funding plan adoption period or funding improvement period that the plan is no longer in endangered status and is not in critical status, the funding plan adoption period or funding improvement period, whichever is applicable, shall end as of the close of the preceding plan year.

''(ii) PLANS IN CRITICAL STATUS.—If the plan's actuary certifies under subsection (b)(3)(A) for a plan year in any funding plan adoption period or funding improvement period that the plan is in critical status, the funding plan adoption period or funding improvement period, whichever is applicable, shall end as of the close of the plan year preceding the first plan year in the rehabilitation period with respect to such status.

''(5) SPECIAL RULES FOR CERTAIN UNDERFUNDED PLANS.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), if the funded percentage of a plan in seriously endangered status was 70 percent or less as of the beginning of the initial determination year, the following rules shall apply in determining whether the requirements of paragraph (3)(C)(i) are met:

''(i) The plan's funded percentage as of the close of the funding improvement period must equal or exceed a percentage which is equal to the sum of—

''(I) such percentage as of the beginning of such period, plus

''(II) 20 percent of the difference between 100 percent and the percentage under subclause (I).

''(ii) The funding improvement period under paragraph (4)(A) shall be 15 years rather than 10 years.

''(B) SPECIAL RULES FOR PLANS WITH FUNDED PERCENTAGE OVER 70 PERCENT.—If the funded percentage described in subparagraph (A) was more than 70 percent but less than 80 percent as of the beginning of the initial determination year—

''(i) subparagraph (A) shall apply if the plan's actuary certifies, within 30 days after the certification under subsection (b)(3)(A) for the initial determination year, that, based on the terms of the plan and the collective bargaining agreements in effect at the time of such certification, the plan is not projected to meet the requirements of paragraph (3)(C)(i) without regard to this paragraph, and

''(ii) if there is a certification under clause (i), the plan may, in formulating its funding improvement plan, only take into account the rules of subparagraph (A) for plan years in the funding improvement period beginning on or before the date on which the last of the collective bargaining agreements described in paragraph (4)(A)(ii) expires.

Notwithstanding clause (ii), if for any plan year ending after the date described in clause (ii) the plan actuary certifies (at the time of the annual certification under subsection (b)(3)(A) for such plan year) that, based on the terms of the plan and collective bargaining agreements in effect at the time of that annual certification, the plan is not projected to be able to meet the requirements of paragraph (3)(C)(i) without regard to this paragraph, the plan may continue to assume for such year that the funding improvement period is 15 years rather than 10 years.

''(6) UPDATES TO FUNDING IMPROVEMENT PLAN AND SCHEDULES.—

''(A) FUNDING IMPROVEMENT PLAN.—The plan sponsor shall annually update the funding improvement plan and shall file the update with the plan's annual report under section 104 of the Employee Retirement Income Security Act of 1974.

''(B) SCHEDULES.—The plan sponsor may periodically update any schedule of contribution rates provided under this subsection to reflect the experience of the plan, except that the schedule or schedules described in paragraph (1)(B)(i) shall be updated at least once every 3 years.

''(C) DURATION OF SCHEDULE.—A schedule of contribution rates provided by the plan sponsor and relied upon by bargaining parties in negotiating a collective bargaining agreement shall remain in effect for the duration of that collective bargaining agreement.

''(7) PENALTY IF NO FUNDING IMPROVEMENT PLAN ADOPTED.—A failure of the plan sponsor to adopt a funding improvement plan by the date specified in paragraph (1)(A) shall be treated for purposes of section 502(c)(2) of such Act as a failure or refusal by the plan administrator to file the annual report required to be filed with the Secretary of Labor under section 101(b)(4) of such Act.

''(8) FUNDING PLAN ADOPTION PERIOD.—For purposes of this section, the term 'funding

plan adoption period' means the period beginning on the date of the certification under subsection (b)(3)(A) for the initial determination year and ending on the day before the first day of the funding improvement period.

''(d) RULES FOR OPERATION OF PLAN DURING ADOPTION AND IMPROVEMENT PERIODS; FAILURE TO MEET REQUIREMENTS.—

''(1) SPECIAL RULES FOR PLAN ADOPTION PERIOD.—During the plan adoption period—

''(A) the plan sponsor may not accept a collective bargaining agreement or participation agreement with respect to the multiemployer plan that provides for—

''(i) a reduction in the level of contributions for any participants,

''(ii) a suspension of contributions with respect to any period of service, or

''(iii) any new direct or indirect exclusion of younger or newly hired employees from plan participation,

''(B) no amendment of the plan which increases the liabilities of the plan by reason of any increase in benefits, any change in the accrual of benefits, or any change in the rate at which benefits become nonforfeitable under the plan may be adopted unless the amendment is required as a condition of qualification under part I of subchapter D of chapter 1 or to comply with other applicable law, and

''(C) in the case of a plan in seriously endangered status, the plan sponsor shall take all reasonable actions which are consistent with the terms of the plan and applicable law and which are expected, based on reasonable assumptions, to achieve—

''(i) an increase in the plan's funded percentage, and

''(ii) postponement of an accumulated funding deficiency for at least 1 additional plan year.

Actions under subparagraph (C) include applications for extensions of amortization periods under section 431(d), use of the shortfall funding method in making funding standard account computations, amendments to the plan's benefit structure, reductions in future benefit accruals, and other reasonable actions consistent with the terms of the plan and applicable law.

''(2) COMPLIANCE WITH FUNDING IMPROVEMENT PLAN.—

''(A) IN GENERAL.—A plan may not be amended after the date of the adoption of a funding improvement plan under subsection (c) so as to be inconsistent with the funding improvement plan.

''(B) NO REDUCTION IN CONTRIBUTIONS.—A plan sponsor may not during any funding improvement period accept a collective bargaining agreement or participation agreement with respect to the multiemployer plan that provides for—

''(i) a reduction in the level of contributions for any participants,

''(ii) a suspension of contributions with respect to any period of service, or

''(iii) any new direct or indirect exclusion of younger or newly hired employees from plan participation.

''(C) SPECIAL RULES FOR BENEFIT INCREASES.—A plan may not be amended after the date of the adoption of a funding improvement plan under subsection (c) so as to increase benefits, including future benefit accruals, unless—

''(i) in the case of a plan in seriously endangered status, the plan actuary certifies that, after taking into account the benefit increase, the plan is still reasonably expected to meet the requirements under subsection (c)(3) in accordance with the schedule contemplated in the funding improvement plan, and

''(ii) in the case of a plan not in seriously endangered status, the actuary certifies that such increase is paid for out of contributions not required by the funding improvement plan to meet the requirements under subsection (c)(3) in accordance with the schedule contemplated in the funding improvement plan.

''(3) FAILURE TO MEET REQUIREMENTS.—

''(A) IN GENERAL.—Notwithstanding section 4971(g), if a plan fails to meet the requirements of subsection (c)(3) by the end of the funding improvement period, the plan shall be treated as having an accumulated funding deficiency for purposes of section 4971 for the last plan year in such period (and each succeeding plan year until such requirements are met) in an amount equal to the greater of the amount of the contributions necessary to meet such requirements or the amount of such accumulated funding deficiency without regard to this paragraph.

''(B) WAIVER.—In the case of a failure described in subparagraph (A) which is due to reasonable cause and not to willful neglect, the Secretary of the Treasury may waive part or all of the tax imposed by section 4971 of such Code to the extent that the payment of such tax would be excessive or otherwise inequitable relative to the failure involved.

''(e) REHABILITATION PLAN MUST BE ADOPTED FOR MULTIEMPLOYER PLANS IN CRITICAL STATUS.—

''(1) IN GENERAL.—In any case in which a multiemployer plan is in critical status for a plan year, the plan sponsor, in accordance with this subsection—

''(A) shall adopt a rehabilitation plan not later than 240 days following the required date for the actuarial certification of critical status under subsection (b)(3)(A), and

''(B) within 30 days after the adoption of the rehabilitation plan—

''(i) shall provide to the bargaining parties 1 or more schedules showing revised benefit structures, revised contribution structures, or both, which, if adopted, may reasonably be expected to enable the multiemployer plan to emerge from critical status in accordance with the rehabilitation plan, and

''(ii) may, if the plan sponsor deems appropriate, prepare and provide the bargaining parties with additional information relating to contribution rates or benefit reductions, alternative schedules, or other information relevant to emerging from critical status in accordance with the rehabilitation plan.

The schedule or schedules described in subparagraph (B)(i) shall reflect reductions in future benefit accruals and increases in contributions that the plan sponsor determines are reasonably necessary to emerge from critical status. One schedule shall be designated as the default schedule and such schedule shall assume that there are no increases in contributions under the plan other than the increases necessary to emerge from critical status after future benefit accruals and other benefits (other than benefits the reduction or elimination of which are not permitted under section 411(d)(6)) have been reduced to the maximum extent permitted by law.

''(2) EXCEPTION FOR YEARS AFTER PROCESS BEGINS.—Paragraph (1) shall not apply to a plan year if such year is in a rehabilitation plan adoption period or rehabilitation period by reason of the plan being in critical status for a preceding plan year. For purposes of this section, such preceding plan year shall be the initial critical year with respect to the rehabilitation plan to which it relates.

''(3) REHABILITATION PLAN.—For purposes of this section—

''(A) IN GENERAL.—A rehabilitation plan is a plan which consists of—

''(i) actions which will enable, under reasonable actuarial assumptions, the plan to cease to be in critical status by the end of the rehabilitation period and may include reductions in plan expenditures (including plan mergers and consolidations), reductions in future benefit accruals or increases in contributions, if agreed to by the bargaining parties, or any combination of such actions, or

''(ii) if the plan sponsor determines that, based on reasonable actuarial assumptions and upon exhaustion of all reasonable measures, the plan can not reasonably be expected to emerge from critical status by the end of the rehabilitation period, reasonable measures to emerge from critical status at a later time or to forestall possible insolvency (within the meaning of section 4245 of the Employee Retirement Income Security Act of 1974).

Such plan shall include the schedules required to be provided under paragraph (1)(B)(i). If clause (ii) applies, such plan shall set forth the alternatives considered, explain why the plan is not reasonably expected to emerge from critical status by the end of the rehabilitation period, and specify when, if ever, the plan is expected to emerge from critical status in accordance with the rehabilitation plan.

''(B) UPDATES TO REHABILITATION PLAN AND SCHEDULES.—

''(i) REHABILITATION PLAN.—The plan sponsor shall annually update the rehabilitation plan and shall file the update with the plan's annual report under section 104 of the Employee Retirement Income Security Act of 1974.

''(ii) SCHEDULES.—The plan sponsor may periodically update any schedule of contribution rates provided under this subsection to reflect the experience of the plan, except that the schedule or schedules described in paragraph (1)(B)(i) shall be updated at least once every 3 years.

''(iii) DURATION OF SCHEDULE.—A schedule of contribution rates provided by the plan sponsor and relied upon by bargaining parties in negotiating a collective bargaining agreement shall remain in effect for the duration of that collective bargaining agreement.

''(C) DEFAULT SCHEDULE.—If the collective bargaining agreement providing for contributions under a multiemployer plan that was in effect at the time the plan entered critical status expires and, after receiving a schedule from the plan sponsor under paragraph (1)(B)(i), the bargaining parties have not adopted a collective bargaining agreement with terms consistent with such a schedule, the default schedule described in the last sentence of paragraph (1) shall go into effect with respect to those bargaining parties.

''(4) REHABILITATION PERIOD.—For purposes of this section—

''(A) IN GENERAL.—The rehabilitation period for a plan in critical status is the 10-year period beginning on the first day of the first plan year of the multiemployer plan following the earlier of—

''(i) the second anniversary of the date of the adoption of the rehabilitation plan, or

''(ii) the expiration of the collective bargaining agreements in effect on the date of the due date for the actuarial certification of critical status for the initial critical year under subsection (a)(1) and covering, as of such date at least 75 percent of the active participants in such multiemployer plan.

If a plan emerges from critical status as provided under subparagraph (B) before the end of such 10-year period, the rehabilitation period shall end with the plan year preceding the plan year for which the determination under subparagraph (B) is made.

''(B) EMERGENCE.—A plan in critical status shall remain in such status until a plan year

for which the plan actuary certifies, in accordance with subsection (b)(3)(A), that the plan is not projected to have an accumulated funding deficiency for the plan year or any of the 9 succeeding plan years, without regard to use of the shortfall method or any extension of amortization periods under section 431(d).

''(5) PENALTY IF NO REHABILITATION PLAN ADOPTED.—A failure of a plan sponsor to adopt a rehabilitation plan by the date specified in paragraph (1)(A) shall be treated for purposes of section 502(c)(2) of the Employee Retirement Income Security Act of 1974 as a failure or refusal by the plan administrator to file the annual report required to be filed with the Secretary of Labor under section 101(b)(4) of such Act.

''(6) REHABILITATION PLAN ADOPTION PERIOD.—For purposes of this section, the term 'rehabilitation plan adoption period' means the period beginning on the date of the certification under subsection (b)(3)(A) for the initial critical year and ending on the day before the first day of the rehabilitation period.

''(7) LIMITATION ON REDUCTION IN RATES OF FUTURE ACCRUALS.—Any reduction in the rate of future accruals under any schedule described in paragraph (1)(B)(i) shall not reduce the rate of future accruals below—

''(A) a monthly benefit (payable as a single life annuity commencing at the participant's normal retirement age) equal to 1 percent of the contributions required to be made with respect to a participant, or the equivalent standard accrual rate for a participant or group of participants under the collective bargaining agreements in effect as of the first day of the initial critical year, or

''(B) if lower, the accrual rate under the plan on such first day.

The equivalent standard accrual rate shall be determined by the plan sponsor based on the standard or average contribution base units which the plan sponsor determines to be representative for active participants and such other factors as the plan sponsor determines to be relevant. Nothing in this paragraph shall be construed as limiting the ability of the plan sponsor to prepare and provide the bargaining parties with alternative schedules to the default schedule that established lower or higher accrual and contribution rates than the rates otherwise described in this paragraph.

''(8) EMPLOYER IMPACT.—For the purposes of this section, the plan sponsor shall consider the impact of the rehabilitation plan and contribution schedules authorized by this section on bargaining parties with fewer than 500 employees and shall implement the plan in a manner that encourages their continued participation in the plan and minimizes financial harm to employers and their workers.

''(f) RULES FOR OPERATION OF PLAN DURING ADOPTION AND REHABILITATION PERIOD.—

''(1) COMPLIANCE WITH REHABILITATION PLAN.—

''(A) IN GENERAL.—A plan may not be amended after the date of the adoption of a rehabilitation plan under subsection (e) so as to be inconsistent with the rehabilitation plan.

''(B) SPECIAL RULES FOR BENEFIT INCREASES.—A plan may not be amended after the date of the adoption of a rehabilitation plan under subsection (e) so as to increase benefits, including future benefit accruals, unless the plan actuary certifies that such increase is paid for out of additional contributions not contemplated by the rehabilitation plan, and, after taking into account the benefit increase, the multiemployer plan still is reasonably expected to emerge from critical status by the end of the rehabilitation period on the schedule contemplated in the rehabilitation plan.

''(2) RESTRICTION ON LUMP SUMS AND SIMILAR BENEFITS.—

''(A) IN GENERAL.—Effective on the date the notice of certification of the plan's critical status for the initial critical year under subsection (b)(3)(D) is sent, and notwithstanding section 411(d)(6), the plan shall not pay—

''(i) any payment, in excess of the monthly amount paid under a single life annuity (plus any social security supplements described in the last sentence of section 411(b)(1)(A)),

''(ii) any payment for the purchase of an irrevocable commitment from an insurer to pay benefits, and

''(iii) any other payment specified by the Secretary by regulations.

''(B) EXCEPTION.—Subparagraph (A) shall not apply to a benefit which under section 411(a)(11) may be immediately distributed without the consent of the participant or to any makeup payment in the case of a retroactive annuity starting date or any similar payment of benefits owed with respect to a prior period.

''(3) ADJUSTMENTS DISREGARDED IN WITHDRAWAL LIABILITY DETERMINATION.—Any benefit reductions under this subsection shall be disregarded in determining a plan's unfunded vested benefits for purposes of determining an employer's withdrawal liability under section 4201 of the Employee Retirement Income Security Act of 1974.

''(4) SPECIAL RULES FOR PLAN ADOPTION PERIOD.—During the rehabilitation plan adoption period—

''(A) the plan sponsor may not accept a collective bargaining agreement or participation agreement with respect to the multiemployer plan that provides for—

''(i) a reduction in the level of contributions for any participants,

''(ii) a suspension of contributions with respect to any period of service, or

''(iii) any new direct or indirect exclusion of younger or newly hired employees from plan participation, and

''(B) no amendment of the plan which increases the liabilities of the plan by reason of any increase in benefits, any change in the accrual of benefits, or any change in the rate at which benefits become nonforfeitable under the plan may be adopted unless the amendment is required as a condition of qualification under part I of subchapter D of chapter 1 or to comply with other applicable law.

''(5) FAILURE TO MEET REQUIREMENTS.—

''(A) IN GENERAL.—Notwithstanding section 4971(g), if a plan—

''(i) fails to meet the requirements of subsection (e) by the end of the rehabilitation period, or

''(ii) has received a certification under subsection (b)(3)(A)(ii) for 3 consecutive plan years that the plan is not making the scheduled progress in meeting its requirements under the rehabilitation plan,

the plan shall be treated as having an accumulated funding deficiency for purposes of section 4971 for the last plan year in such period (and each succeeding plan year until such requirements are met) in an amount equal to the greater of the amount of the contributions necessary to meet such requirements or the amount of such accumulated funding deficiency without regard to this paragraph.

''(B) WAIVER.—In the case of a failure described in subparagraph (A) which is due to reasonable cause and not to willful neglect, the Secretary may waive part or all of the tax imposed by section 4971 to the extent that the payment of such tax would be excessive or otherwise inequitable relative to the failure involved.

''(g) EXPEDITED RESOLUTION OF PLAN SPONSOR DECISIONS.—If, within 60 days of the due date for adoption of a funding improvement plan under subsection (c) or a rehabilitation plan under subsection (e), the plan sponsor of a plan in endangered status or a plan in critical status has not agreed on a funding improvement plan or rehabilitation plan, then any member of the board or group that constitutes the plan sponsor may require that the plan sponsor enter into an expedited dispute resolution procedure for the development and adoption of a funding improvement plan or rehabilitation plan.

''(h) NONBARGAINED PARTICIPATION.—

''(1) BOTH BARGAINED AND NONBARGAINED EMPLOYEE-PARTICIPANTS.—In the case of an employer that contributes to a multiemployer plan with respect to both employees who are covered by one or more collective bargaining agreements and to employees who are not so covered, if the plan is in endangered status or in critical status, benefits of and contributions for the nonbargained employees, including surcharges on those contributions, shall be determined as if those nonbargained employees were covered under the first to expire of the employer's collective bargaining agreements in effect when the plan entered endangered or critical status.

''(2) NONBARGAINED EMPLOYEES ONLY.—In the case of an employer that contributes to a multiemployer plan only with respect to employees who are not covered by a collective bargaining agreement, this section shall be applied as if the employer were the bargaining parties, and its participation agreement with the plan was a collective bargaining agreement with a term ending on the first day of the plan year beginning after the employer is provided the schedule or schedules described in subsections (c) and (e).

''(3) EMPLOYEES COVERED BY A COLLECTIVE BARGAINING AGREEMENT.—The determination as to whether an employee covered by a collective bargaining agreement for purposes of this section shall be made without regard to the special rule in Treasury Regulation section 1.410(b)–6(d)(ii)(D).

''(i) DEFINITIONS; ACTUARIAL METHOD.—For purposes of this section—

''(1) BARGAINING PARTY.—The term 'bargaining party' means—

''(A)(i) except as provided in clause (ii), an employer who has an obligation to contribute under the plan; or

''(ii) in the case of a plan described under section 404(c), or a continuation of such a plan, the association of employers that is the employee settlor of the plan; and

''(B) an employee organization which, for purposes of collective bargaining, represents plan participants employed by an employer who has an obligation to contribute under the plan.

''(2) FUNDED PERCENTAGE.—The term 'funded percentage' means the percentage equal to a fraction—

''(A) the numerator of which is the value of the plan's assets, as determined under section 431(c)(2), and

''(B) the denominator of which is the accrued liability of the plan, determined using actuarial assumptions described in section 431(c)(3).

''(3) ACCUMULATED FUNDING DEFICIENCY.—The term 'accumulated funding deficiency' has the meaning given such term in section 412(a).

''(4) ACTIVE PARTICIPANT.—The term 'active participant' means, in connection with a multiemployer plan, a participant who is in covered service under the plan.

''(5) INACTIVE PARTICIPANT.—The term 'inactive participant' means, in connection with a multiemployer plan, a participant, or

the beneficiary or alternate payee of a participant, who—

''(A) is not in covered service under the plan, and

''(B) is in pay status under the plan or has a nonforfeitable right to benefits under the plan.

''(6) PAY STATUS.—A person is in pay status under a multiemployer plan if—

''(A) at any time during the current plan year, such person is a participant or beneficiary under the plan and is paid an early, late, normal, or disability retirement benefit under the plan (or a death benefit under the plan related to a retirement benefit), or

''(B) to the extent provided in regulations of the Secretary, such person is entitled to such a benefit under the plan.

''(7) OBLIGATION TO CONTRIBUTE.—The term 'obligation to contribute' has the meaning given such term under section 4212(a) of the Employee Retirement Income Security Act of 1974.

''(8) ACTUARIAL METHOD.—Notwithstanding any other provision of this section, the actuary's determinations with respect to a plan's normal cost, actuarial accrued liability, and improvements in a plan's funded percentage under this section shall be based upon the unit credit funding method (whether or not that method is used for the plan's actuarial valuation).

''(9) PLAN SPONSOR.—In the case of a plan described under section 404(c), or a continuation of such a plan, the term 'plan sponsor' means the bargaining parties described under paragraph (1).''

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendment made by this section shall apply with respect to plan years beginning after 2006.

(2) SPECIAL RULE FOR CERTAIN RESTORED BENEFITS.—In the case of a multiemployer plan—

(A) with respect to which benefits were reduced pursuant to a plan amendment adopted on or after January 1, 2002, and before June 30, 2005, and

(B) which, pursuant to the plan document, the trust agreement, or a formal written communication from the plan sponsor to participants provided before June 30, 2005, provided for the restoration of such benefits,

the amendments made by this section shall not apply to such benefit restorations to the extent that any restriction on the providing or accrual of such benefits would otherwise apply by reason of such amendments.

PART III—SUNSET OF FUNDING RULES

SEC. 216. SUNSET OF FUNDING RULES.

(a) REPORT.—Not later than December 31, 2011, the Secretary of Labor, the Secretary of the Treasury, and the Executive Director of the Pension Benefit Guaranty Corporation shall conduct a study of the effect of the amendments made by this subtitle on the operation and funding status of multiemployer plans and shall report the results of such study, including any recommendations for legislation, to the Congress.

(b) MATTERS INCLUDED IN STUDY.—The study required under subsection (a) shall include—

(1) the effect of funding difficulties, funding rules in effect before the date of the enactment of this Act, and the amendments made by this subtitle on small businesses participating in multiemployer plans,

(2) the effect on the financial status of small employers of—

(A) funding targets set in funding improvement and rehabilitation plans and associated contribution increases,

(B) funding deficiencies,

(C) excise taxes,

(D) withdrawal liability,

(E) the possibility of alternatives schedules and procedures for financially-troubled employers, and

(F) other aspects of the multiemployer system, and

(3) the role of the multiemployer pension plan system in helping small employers to offer pension benefits.

(c) SUNSET.—

(1) IN GENERAL.—Except as provided in this subsection, notwithstanding any other provision of this Act, the provisions of, and the amendments made by, this subtitle shall not apply to plan years beginning after December 31, 2014, and the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 shall be applied to such plan years under the provisions of sections 302 through 308 of such Act and 412 of such Code (as in effect before the amendments made by this Act).

(2) FUNDING IMPROVEMENT AND REHABILITATION PLANS.—If a plan is operating under a funding improvement or rehabilitation plan under section 305 of such Act or 432 of such Code for its last year beginning before January 1, 2015, such plan shall continue to operate under such funding improvement or rehabilitation plan during any period after December 31, 2014, such funding improvement or rehabilitation plan is in effect and all provisions of such Act or Code relating to the operation of such funding improvement or rehabilitation plan shall continue in effect during such period.

(3) AMORTIZATION SCHEDULES.—In the case of any amount amortized under section 304(b) of such Act or 431 of such Code (as in effect after the amendments made by this subtitle) over any period beginning with a plan year beginning before January 1, 2015, such amount shall, in lieu of the amortization which would apply after the application of this subsection, continue to be amortized under such section 304 or 431 (as so in effect).

Subtitle B—Deduction and Related Provisions

SEC. 221. DEDUCTION LIMITS FOR MULTIEMPLOYER PLANS.

(a) INCREASE IN DEDUCTION.—Section 404(a)(1)(D) of the Internal Revenue Code of 1986, as amended by this Act, is amended to read as follows:

''(D) AMOUNT DETERMINED ON BASIS OF UNFUNDED CURRENT LIABILITY.—

''(i) IN GENERAL.—In the case of a defined benefit plan which is a multiemployer plan, except as provided in regulations, the maximum amount deductible under the limitations of this paragraph shall not be less than the unfunded current liability of the plan.

''(ii) UNFUNDED CURRENT LIABILITY.—For purposes of clause (i), the term 'unfunded current liability' means the excess (if any) of—

''(I) 140 percent of the current liability of the plan determined under section 431(c)(6)(C), over

''(II) the value of the plan's assets determined under section 431(c)(2).''.

(b) EXCEPTION FROM LIMITATION ON DEDUCTION WHERE COMBINATION OF DEFINED CONTRIBUTION AND DEFINED BENEFIT PLANS.—

(1) IN GENERAL.—Section 404(a)(7)(C) of such Code, as amended by this Act, is amended by adding at the end the following new clause:

''(v) MULTIEMPLOYER PLANS.—In applying this paragraph, any multiemployer plan shall not be taken into account.''.

(2) CONFORMING AMENDMENT.—Section 404(a)(7)(A) of such Code is amended by striking the last sentence.

(c) EFFECTIVE DATES.—

(1) DEDUCTION LIMIT.—The amendment made by subsection (a) shall apply to years beginning after December 31, 2006.

(2) EXCEPTION.—The amendments made by subsection (b) shall apply to years beginning after December 31, 2005.

SEC. 222. TRANSFER OF EXCESS PENSION ASSETS TO MULTIEMPLOYER HEALTH PLAN.

(a) IN GENERAL.—Section 420(e) of the Internal Revenue Code of 1986 (relating to definitions and special rules) is amended by adding at the end the following new paragraph:

''(5) APPLICATION TO MULTIEMPLOYER PLAN.—In the case of any plan to which section 404(c) applies (or any successor plan primarily covering employees in the building and construction industry)—

''(A) the prohibition under subsection (a) on the application of this section to a multiemployer plan shall not apply, and

''(B) this section shall be applied to any such plan—

''(i) by treating any reference in this section to an employer as a reference to all employers maintaining the plan (or, if appropriate, the plan sponsor), and

''(ii) in accordance with such modifications of this section (and the provisions of this title and the Employee Retirement Income Security Act of 1974 relating to this section) as the Secretary determines appropriate to reflect the fact the plan is not maintained by a single employer.''

(b) AMENDMENTS OF ERISA.—

(1) Section 101(e)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1021(e)(3)) is amended by striking ''American Jobs Creation Act of 2004'' and inserting ''Pension Security and Transparency Act of 2005''.

(2) Section 403(c)(1) of such Act (29 U.S.C. 1103(c)(1)) is amended by striking ''American Jobs Creation Act of 2004'' and inserting ''Pension Security and Transparency Act of 2005''.

(3) Section 408(b)(13) of such Act (29 U.S.C. 1108(b)(13)) is amended by striking ''American Jobs Creation Act of 2004'' and inserting ''Pension Security and Transparency Act of 2005''.

(c) EFFECTIVE DATE.—The amendment made by this section shall apply to transfers made in taxable years beginning after December 31, 2004.

TITLE III—INTEREST RATE ASSUMPTIONS

SEC. 301. INTEREST RATE ASSUMPTION FOR DETERMINATION OF LUMP SUM DISTRIBUTIONS.

(a) AMENDMENTS OF ERISA.—

(1) IN GENERAL.—Section 205(g)(3)(A) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1055(g)(3)(A)) is amended by adding at the end the following new sentence: ''In the case of plan years beginning after 2006, the preceding sentence shall be applied by using the applicable yield curve method under subparagraph (C) rather than the applicable interest rate.''.

(2) APPLICABLE YIELD CURVE METHOD.—Section 205(g)(3) of such Act (29 U.S.C. 1055(g)(3)) is amended by adding at the end the following new subparagraphs:

''(C) APPLICABLE YIELD CURVE METHOD.—For purposes of subparagraph (A), the term 'applicable yield curve method' means—

''(i) the phase-in yield curve method in the case of plan years beginning in 2007, 2008, and 2009, and

''(ii) the yield curve method for years beginning after 2009.

''(D) YIELD CURVE METHOD.—For purposes of this paragraph—

''(i) IN GENERAL.—The yield curve method is a method under which present value is determined—

''(I) by using interest rates drawn from a yield curve which is prescribed by the Secretary of the Treasury and which reflects the yield on high-quality corporate bonds with varying maturities, and

''(II) by matching the timing of the expected benefit payments under the plan to the interest rates on such yield curve.

''(ii) PUBLICATION.—Each month the Secretary of the Treasury shall publish any yield curve prescribed under this subparagraph which shall apply to plan years beginning in such month and such yield curve shall be based on average interest rates for business days occurring during the 3 preceding months.

''(E) PHASE-IN YIELD CURVE METHOD.—

''(i) IN GENERAL.—Present value determined under the phase-in yield curve method shall be equal to the sum of—

''(I) the applicable percentage of such amount determined under the yield curve method described in subparagraph (D), and

''(II) the product of such amount determined by using the applicable interest rate and a percentage equal to 100 percent minus the applicable percentage.

''(ii) APPLICABLE PERCENTAGE.—For purposes of clause (i), the applicable percentage is 25 percent for plan years beginning in 2007, 50 percent for plan years beginning in 2008, and 75 percent for plan years beginning in 2009.''.

(b) AMENDMENTS OF INTERNAL REVENUE CODE.—

(1) IN GENERAL.—Section 417(e)(3)(A) of the Internal Revenue Code of 1986 (relating to determination of present value) is amended by adding at the end the following new sentence: ''In the case of plan years beginning after 2006, the preceding sentence shall be applied by using the applicable yield curve method under subparagraph (C) rather than the applicable interest rate.''

(2) APPLICABLE YIELD CURVE METHOD.—Section 417(e) of such Code is amended by adding at the end the following new subparagraphs:

''(C) APPLICABLE YIELD CURVE METHOD.—For purposes of subparagraph (A), the term 'applicable yield curve method' means—

''(i) the phase-in yield curve method in the case of plan years beginning in 2007, 2008, and 2009, and

''(ii) the yield curve method for years beginning after 2009.

''(D) YIELD CURVE METHOD.—For purposes of this paragraph—

''(i) IN GENERAL.—The yield curve method is a method under which present value is determined—

''(I) by using interest rates drawn from a yield curve which is prescribed by the Secretary and which reflects the yield on high-quality corporate bonds with varying maturities, and

''(II) by matching the timing of the expected benefit payments under the plan to the interest rates on such yield curve.

''(ii) PUBLICATION.—Each month the Secretary shall publish any yield curve prescribed under this subparagraph which shall apply to plan years beginning in such month and such yield curve shall be based on average interest rates for business days occurring during the 3 preceding months.

''(E) PHASE-IN YIELD CURVE METHOD.—

''(i) IN GENERAL.—Present value determined under the phase-in yield curve method shall be equal to the sum of—

''(I) the applicable percentage of such amount determined under the yield curve method described in subparagraph (D), and

''(II) the product of such amount determined by using the applicable interest rate and a percentage equal to 100 percent minus the applicable percentage.

''(ii) APPLICABLE PERCENTAGE.—For purposes of clause (i), the applicable percentage is 25 percent for plan years beginning in 2007, 50 percent for plan years beginning in 2008, and 75 percent for plan years beginning in 2009.''.

(c) SPECIAL RULE FOR PLAN AMENDMENTS.—A plan shall not fail to meet the requirements of section 204(g) of the Employee Retirement Income Security Act of 1974 or section 411(d)(6) of the Internal Revenue Code of 1986 solely by reason of the adoption by the plan of an amendment necessary to meet the requirements of the amendments made by this section.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to plan years beginning after 2006.

SEC. 302. INTEREST RATE ASSUMPTION FOR APPLYING BENEFIT LIMITATIONS TO LUMP SUM DISTRIBUTIONS.

(a) IN GENERAL.—Clause (ii) of section 415(b)(2)(E) of the Internal Revenue Code of 1986 is amended to read as follows:

''(ii) For purposes of adjusting any benefit under subparagraph (B) for any form of benefit subject to section 417(e)(3), clause (i) shall be applied by substituting '5.5 percent' for '5 percent'.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to years beginning after December 31, 2005.

SEC. 303. RESTRICTIONS ON FUNDING OF NONQUALIFIED DEFERRED COMPENSATION PLANS BY EMPLOYERS MAINTAINING UNDERFUNDED OR TERMINATED SINGLE-EMPLOYER PLANS.

(a) AMENDMENTS OF ERISA.—

(1) IN GENERAL.—Part 3 of subtitle A of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1081 et seq.), as amended by this Act, is amended by adding at the end the following new section:

''NOTICE OF FUNDING OF NONQUALIFIED DEFERRED COMPENSATION PLANS

''SEC. 306. (a) NOTICE AND ACCESS.—

''(1) NOTICE RELATING TO RESTRICTED PERIOD.—The plan administrator of a defined benefit plan which is a single-employer plan shall notify each plan sponsor of the plan within a reasonable period of time after the occurrence of an event which results in a restricted period with respect to the plan. Such notice shall include information—

''(A) as to the duration of the restricted period, and

''(B) the restrictions under section 409A(b)(3) of the Internal Revenue Code of 1986 which apply during the restricted period to the plan sponsor and any member of a controlled group which includes such sponsor.

''(2) NOTICE OF EXISTENCE OF, AND TRANSFERS TO, NONQUALIFIED DEFERRED COMPENSATION PLANS.—

''(A) INITIAL NOTICE.—Within 30 days of receipt of a notice under paragraph (1), each plan sponsor shall notify the plan administrator of the plan described in paragraph (1)—

''(i) of nonqualified deferred compensation plans maintained by the plan sponsor or any member of a controlled group which includes such sponsor, and

''(ii) the amount of any assets transferred or otherwise reserved by the plan sponsor or such member in violation of section 409A(b)(3) of such Code during any portion of the restricted period occurring on or before the date the plan sponsor provides such notice.

''(B) ADDITIONAL NOTICES.—If, after the date on which notice is provided under subparagraph (A) and during any portion of the remaining restricted period specified in the notice provided under paragraph (1), the plan sponsor of a plan described in paragraph (1) or a member of a controlled group which includes such sponsor—

''(i) transfers or reserves assets in violation of section 409A(b)(3) of such Code, or

''(ii) establishes a new nonqualified deferred compensation plan,

the plan sponsor shall notify the plan administrator of the plan described in paragraph (1) of such transfer, reservation, or establishment within 3 days of the date of such action.

''(3) ACCESS TO FINANCIAL DATA.—Any fiduciary of the plan shall have access to the financial records of a plan sponsor or any member of a controlled group which includes such sponsor to determine if assets were transferred or otherwise reserved in violation of section 409A(b)(3) of such Code.

''(4) FORM AND MANNER.—The Secretary may prescribe the form and manner of a notice required under this section. Such a notice shall be written in a manner calculated to be understood by the average plan participant and may be delivered in written, electronic, or other appropriate form to the extent that such form is reasonably accessible to the recipient.

''(b) RESTRICTED PERIOD.—For purposes of this section, the term 'restricted period' means, with respect to any plan described in subsection (a)(1)—

''(1) any period—

''(A) beginning on the first day of a plan year following a plan year for which the plan's adjusted funding target attainment percentage (as defined in section 303) was less than 60 percent (determined as of the close of such year), and

''(B) ending on the last day of the first period of 2 consecutive plan years (beginning on or after such first day) for which such percentage was at least 60 percent,

''(2) any period the plan sponsor is in bankruptcy, and

''(3) the 12-month period beginning on the date which is 6 months before the termination date of the plan if, as of the termination date, the plan is not sufficient for benefit liabilities (within the meaning of section 4041).

In the case of a plan which is in at-risk status, paragraph (1) shall be applied by substituting '80 percent' for '60 percent' each place it appears.

''(c) NONQUALIFIED DEFERRED COMPENSATION PLAN.—For purposes of this section—

''(1) IN GENERAL.—The term 'nonqualified deferred compensation plan' means any plan that provides for the deferral of compensation, other than—

''(A) a qualified employer plan, and

''(B) any bona fide vacation leave, sick leave, compensatory time, disability pay, or death benefit plan.

''(2) QUALIFIED EMPLOYER PLAN.—The term 'qualified employer plan' means—

''(A) any plan, contract, pension, account, or trust described in subparagraph (A) or (B) of section 219(g)(5) of the Internal Revenue Code of 1986 (without regard to subparagraph (A)(iii)),

''(B) any eligible deferred compensation plan (within the meaning of section 457(b)) of such Code, and

''(C) any plan described in section 415(m) of such Code.

''(3) PLAN INCLUDES ARRANGEMENTS, ETC.—The term 'plan' includes any agreement or arrangement, including an agreement or arrangement that includes one person.

''(d) OTHER DEFINITIONS.—For purposes of this section—

''(1) APPLICABLE COVERED EMPLOYEE.—

''(A) IN GENERAL.—The term 'applicable covered employee' mean any—

''(i) covered employee of a plan sponsor,

''(ii) covered employee of a member of a controlled group which includes the plan sponsor, and

''(iii) former employee who was a covered employee at the time of termination of employment with the plan sponsor or a member of a controlled group which includes the plan sponsor.

''(B) COVERED EMPLOYEE.—The term 'covered employee' has the meaning given such term by section 162(m)(3) of the Internal Revenue Code of 1986.

''(2) CONTROLLED GROUP.—The term 'controlled group' has the meaning given such term by section 302(d)(3).''.

(2) ENFORCEMENT.—

(A) IN GENERAL.—Section 502(a) of the Employee Retirement Income Security Act (29 U.S.C. 1132(a)), as amended by this Act, is amended—

(i) by striking ''or'' at the end of paragraph (9), by striking the period at the end of paragraph (10) and inserting ''; or'', and by adding at the end the following new paragraph:

''(11) by a fiduciary of a defined benefit plan which is a single-employer plan against—

''(A) a plan sponsor, a member of a controlled group which includes the plan sponsor, an applicable covered employee, or a person holding assets which are part of a nonqualified deferred compensation plan to recover on behalf of the plan—

''(i) assets which were set aside or transferred in violation of section 409A(b)(3) of the Internal Revenue Code of 1986 (and any earnings properly allocable to the assets); or

''(ii) amounts equivalent to the assets and earnings described in clause (i); or

''(B) a plan sponsor, or a member of a controlled group which includes the plan sponsor, to compel the production of records the fiduciary is entitled to under section 306.''; and

(ii) by adding at the end the following new flush sentence:

''For purposes of paragraph (11), any term used in such paragraph which is also used in section 306 shall have the meaning given such term by section 306.''.

(B) AWARDING OF FEES.—Section 502(g) of such Act (29 U.S.C. 1132(g)) is amended by adding at the end the following new paragraph:

''(3) ACTIONS TO RECOVER ASSETS TRANSFERRED TO NONQUALIFIED DEFERRED COMPENSATION PLANS.—If, in any action under subsection (a)(11) by a fiduciary for or on behalf of a plan to enforce section 306 of this Act and section 409A(b)(3), a judgment is awarded in favor of the plan, the court may, in addition to any other amount, award the plan reasonable attorney's fees and costs of the action, to be paid by the defendant''.

(3) CLERICAL AMENDMENT.—The table of contents in section 1 of such Act, as amended by this Act, is amended by adding at the end the following new item:

''Sec. 306. Restrictions on funding of nonqualified deferred compensation plans.''.

(b) AMENDMENTS OF INTERNAL REVENUE CODE.—

(1) IN GENERAL.—Subsection (b) of section 409A of the Internal Revenue Code of 1986 (providing rules relating to funding) is amended by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively, and by inserting after paragraph (2) the following new paragraph:

''(3) EMPLOYERS OF UNDERFUNDED OR TERMINATED DEFINED BENEFIT PLANS.—During any restricted period—

''(A) a plan sponsor of a defined benefit plan which is a single-employer plan, or

''(B) any member of a controlled group which includes such sponsor,

shall not directly or indirectly transfer assets, or directly or indirectly otherwise reserve assets, in a trust (or other arrangement determined by the Secretary) for purposes of paying deferred compensation of an applicable covered employee under a nonqualified deferred compensation plan of the plan sponsor or member. Any assets transferred or reserved in violation of the preceding sentence shall, for purposes of section 83, be treated as property transferred in connection with the performance of services whether or not such assets are available to satisfy claims of general creditors. For purposes of this paragraph, any term used in this paragraph which is also used in section 306 of the Employee Retirement Income Security Act of 1974 shall have the meaning given such term by such section.''.

(2) CONFORMING AMENDMENTS.—Paragraphs (4) and (5) of section 409A(b) of such Code, as redesignated by subsection (a) of this subsection, are each amended by striking ''paragraph (1) or (2)'' each place it appears and inserting ''paragraph (1), (2), or (3)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers or other reservation of assets after December 31, 2006.

SEC. 304. MODIFICATION OF PENSION FUNDING REQUIREMENTS FOR PLANS SUBJECT TO CURRENT TRANSITION RULE.

(a) PLAN YEAR BEFORE NEW FUNDING RULES.—Section 769(c)(3) of the Retirement Protection Act of 1994, as added by section 201 of the Pension Funding Equity Act of 2004, is amended by striking ''and 2005'' and inserting '', 2005, and 2006''.

(b) PLAN YEARS AFTER NEW FUNDING RULES.—

(1) IN GENERAL.—In the case of a plan that—

(A) was not required to pay a variable rate premium for the plan year beginning in 1996,

(B) has not, in any plan year beginning after 1995, merged with another plan (other than a plan sponsored by an employer that was in 1996 within the controlled group of the plan sponsor), and

(C) is sponsored by a company that is engaged primarily in the interurban or interstate passenger bus service,

the rules described in subsection (b) shall apply for any plan year beginning after 2006.

(2) MODIFIED RULES.—The rules described in this subsection are as follows:

(A) For purposes of—

(i) determining unfunded benefits under section 4006(a)(3)(E)(ii) of the Employee Retirement Income Security Act of 1974, and

(ii) determining any present value or making any computation under section 412 and section 430 of the Internal Revenue Code of 1986 and sections 302 and 303 of such Act,

the mortality table shall be the mortality table used by the plan.

(B) Notwithstanding section 303(f)(4) of such Act or 430(f)(4) of such Code, for purposes of section 303(c)(4)(A)(ii) of such Act and 430(c)(4)(A)(ii) of such Code, the value of plan assets shall not be reduced by the amount of the prefunding balance if, pursuant to a binding written agreement with the Pension Benefit Guaranty Corporation entered into before January 1, 2006, the prefunding balance is not available to reduce the minimum required contribution for the plan year.

(3) DEFINITIONS.—Any term used in this section which is also used in section 303 of such Act or section 430 of such Code shall have the meaning provided such term in such section.

(4) CONFORMING AMENDMENT.—Section 769 of the Retirement Protection Act of 1994 is amended by striking subsection (c).

(5) EFFECTIVE DATE.—The amendments made by this subsection shall apply to plan years beginning after 2006.

TITLE IV—IMPROVEMENTS IN PBGC GUARANTEE PROVISIONS

SEC. 401. INCREASES IN PBGC PREMIUMS.

(a) FLAT-RATE PREMIUMS.—

(1) IN GENERAL.—Section 4006(a)(3)(A)(i) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1306(a)(3)(A)(i)) is amended to read as follows:

''(i) in the case of a single-employer plan, an amount equal to—

''(I) for plan years beginning after December 31, 1990, and before January 1, 2006, $19, or

''(II) for plan years beginning after December 31, 2005, the amount determined under subparagraph (H),

plus the additional premium (if any) determined under subparagraph (E) for each individual who is a participant in such plan during the plan year;''.

(2) AMOUNT OF PREMIUM AFTER 2005.—Section 4006(a)(3) of such Act (29 U.S.C. 1306(a)(3)), as amended by sections 406 and 407, is amended by adding at the end the following:

''(H) AMOUNT OF PREMIUM.—

''(i) IN GENERAL.—The amount determined under this subparagraph is the greater of $30 or in the case of plan years beginning after December 31, 2006, the adjusted amount determined under clause (ii).

''(ii) ADJUSTED AMOUNT.—The adjusted amount determined under this clause is the product derived by multiplying $30 by the ratio of—

''(I) the contribution and benefit base (determined under section 230 of the Social Security Act) in effect in the calendar year in which the plan year begins, to

''(II) the contribution and benefit base in effect in 2006.

''(iii) ROUNDING.—If the amount determined under clause (ii) is not a multiple of $1, such product shall be rounded to the nearest multiple of $1.''.

(b) RISK-BASED PREMIUMS.—

(1) CONFORMING AMENDMENTS RELATED TO FUNDING RULES FOR SINGLE-EMPLOYER PLANS.—Section 4006(a)(3)(E) of such Act is amended by striking clauses (iii) and (iv) and inserting the following:

''(iii)(I) For purposes of clause (ii), except as provided in subclause (II), the term 'unfunded benefits' means, for a plan year, the amount which would be the plan's funding shortfall (as defined in section 303(c)(4)) if the value of plan assets of the plan were equal to the fair market value of such assets.

''(II) The interest rate used in valuing benefits for purposes of subclause (I) shall be equal to the first, second, or third segment rate which would be determined under section 303(h)(2)(C) if section 303(h)(2)(D) were applied by using the yields on investment grade corporate bonds with varying maturities rather than the average of such yields for a 12-month period.''.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply with respect to plan years beginning after 2006.

(c) FLAT-RATE PREMIUM ADJUSTMENT.—

(1) IN GENERAL.—Beginning in 2011, and every 5 years thereafter, the Board of Directors of the Pension Benefit Guaranty Corporation under title IV of the Employee Retirement Income Security Act (29 U.S.C. 1301 et seq.) shall submit to Congress a report that describes any recommendations for adjusting the premium rate payable to the Corporation described under section 4006(a)(3)(A)(i) of such Act (as amended by subsection (a)).

(2) CONSIDERATIONS.—In developing the report described under paragraph (1), the Corporation shall consider—

(A) the national average wage index (as defined in section 209(k)(1) of the Social Security Act (42 U.S.C. 409(k)(1)));

(B) the finances of the Corporation as of the date of such report and an actuarial evaluation of the expected operations and status of the funds established under section 4005 of such title IV (29 U.S.C. 1305) for the 5 years succeeding such date;

(C) the impact of any increases in such premium rate on plan sponsors subject to such title IV; and

(D) such other factors determined relevant by the Corporation.

SEC. 402. AUTHORITY TO ENTER ALTERNATIVE FUNDING AGREEMENTS TO PREVENT PLAN TERMINATIONS.

(a) AUTHORITY TO ENTER INTO AGREEMENTS.—

(1) DISTRESS TERMINATIONS.—Section 4041(c) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1341(c)) is amended by adding at the end the following:

''(4) ALTERNATIVE FUNDING AGREEMENTS.—

''(A) IN GENERAL.—If the corporation determines that—

''(i) a plan meets the requirements for a distress termination under this subsection without regard to an alternative funding agreement under section 4047(a), and

''(ii) the termination of the plan would not be necessary if such an agreement were entered into,

the corporation may request that the Secretary of the Treasury, in consultation with the corporation, enter into such an agreement with the contributing sponsors under the plan.

''(B) EARLY ACTION INITIATIVES.—Subject to the limitations in subsection (a)(3), if—

''(i) the corporation determines that it is reasonable to believe that a plan may be subject to a distress termination within 6 months unless action is taken, the corporation may request that the Secretary of the Treasury, in consultation with the corporation, enter into an alternative funding agreement under section 4047(a); and

''(ii) the corporation, upon the request of the contributing sponsor of a plan or other person, determines that it is reasonable to believe that a plan may be subject to a distress termination within 2 years unless action is taken, the corporation may request that the Secretary of the Treasury, in consultation with the corporation, enter into an alternative funding agreement under section 4047(a).''.

(2) INVOLUNTARY TERMINATIONS.—Section 4042 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1342) is amended by adding at the end the following:

''(i) ALTERNATIVE FUNDING AGREEMENTS.—If—

''(1) the corporation determines that it is reasonable to believe that a plan will meet the requirements for an involuntary termination under this section without regard to an alternative funding agreement under section 4047(a) within 6 months unless action is taken, or

''(2) the corporation, upon the request of the contributing sponsor of a plan or other person, determines that it is reasonable to believe that a plan may be subject to an involuntary termination within 2 years unless action is taken,

and such a termination would not be necessary if such an agreement is entered into, the corporation may request that the Secretary of the Treasury, in consultation with the corporation, enter into an alternative funding agreement under section 4047(a).''.

(b) ALTERNATIVE FUNDING SCHEDULES TO PREVENT PLAN TERMINATION.—

(1) IN GENERAL.—Section 4047 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1347) is amended by—

(A) striking the section heading and all that follows though ''Whenever'' and inserting—

''SEC. 4047. ALTERNATIVE FUNDING SCHEDULES TO PREVENT TERMINATION; RESTORATION OF TERMINATED PLANS.

''(a) ALTERNATIVE FUNDING AGREEMENTS.—

''(1) IN GENERAL.—If the requirements of section 4041(c)(4) or 4042(i) are met with respect to any plan, the Secretary of the Treasury, in consultation with the corporation, may enter into an alternative funding agreement with the contributing sponsors under the plan that meets the requirements of this subsection.

''(2) OTHER REQUIREMENTS.—An alternative funding agreement may be entered into by the Secretary of the Treasury, in consultation with corporation, only if—

''(A) such Secretary finds the agreement to be in the best interests of the participants and beneficiaries; and

''(B) the agreement meets the requirements set forth by such Secretary in regulations.

''(3) ALTERNATIVE FUNDING AGREEMENT.—

''(A) IN GENERAL.—An agreement meets the requirements of this subsection if the agreement—

''(i) provides for an additional amortization schedule for a period not to exceed 10 years;

''(ii) requires the plan to pay at the time the agreement is entered into any professional fees or other expenses incurred by the Secretary of the Treasury or the corporation in connection with the agreements,

''(iii) requires approval by the corporation before the contributing sponsor establishes or maintains any other defined benefit plan other than any multiemployer plan that covers a substantial number of employees who are covered by the plan subject to the agreement or who perform substantially the same type of work with respect to the same business operations as employees covered by such plan, and

''(iv) provides for a termination date, or a schedule of termination dates, for the purpose of the guarantee under section 4022, to apply if a plan terminates during the period that the agreement is in effect.

''(B) OTHER CONDITIONS.—Notwithstanding any other provision of this Act, an agreement meeting the requirements of this subsection may provide—

''(i) for restrictions on, or the elimination of, future accruals, but only to the extent that such restrictions or eliminations would have been permitted under section 204(g) or section 411(d)(6) of the Internal Revenue Code of 1986 if they had been implemented by a plan amendment adopted immediately before the effective date of the agreement,

''(ii) that the contributing sponsors will provide security or other collateral in such form and amount as specified in the agreement,

''(iii) conditions under which the plan could be terminated in a standard termination under section 4041(b) or conditions under which accruals to which clause (i) applies could resume in the future, and

''(iv) for such other terms and conditions as the Secretary of the Treasury, in consultation with the corporation, determines necessary to protect the interests of the corporation.

''(C) EMPLOYEE REQUIREMENTS.—

''(i) IN GENERAL.—An agreement meets the requirements of this subsection only if—

''(I) at least 60 days before the agreement is to take effect the contributing sponsors notify affected parties (other than the corporation) of the terms of the agreement and its effect on such parties, and

''(II) each employee organization representing participants in the plan approves the agreement before it takes effect.

''(ii) FORM AND MANNER OF NOTICE.—The notice under clause (i) shall be written in a manner calculated to be understood by the average plan participant and may be provided to a person designated, in writing, by the person to which it would otherwise be provided. Such notice may be provided in written, electronic, or other appropriate form to the extent such form is reasonably accessible to persons to whom the notice is required to be provided.

''(4) COORDINATION WITH MINIMUM FUNDING REQUIREMENTS.—Any alternative funding schedule under an agreement meeting the requirements under this subsection shall supersede the minimum funding requirements of this Act and the Internal Revenue Code of 1986. For purposes of applying this Act or such Code, any contribution required under such schedule shall be treated in the same manner as contributions required under section 302 of this Act and section 412 of such Code.

''(b) RESTORATION OF TERMINATED PLANS.—Whenever''.

(2) CONFORMING AMENDMENT.—The table of contents for title IV of such Act is amended by striking the item relating to section 4047 and inserting the following:

''4047. Alternative funding schedules to prevent terminations; restoration of terminated plans.''.

(c) AMENDMENTS TO OTHER PROVISIONS.—

(1) QUALIFICATION REQUIREMENT.—Section 401(a) of the Internal Revenue Code of 1986, as amended by sections 115 and 701 of this Act, is amended by inserting after paragraph (35) the following new paragraph:

''(36) SUCCESSOR PLANS TO CERTAIN PLANS.—If—

''(A) an alternative funding agreement described in section 4047(a) of the Employee Retirement Income Security Act of 1974 is in effect with respect to any plan, and

''(B) the plan is maintained by an employer that establishes or maintains 1 or more other defined benefit plans (other than any multiemployer plan), and such other plans in combination provide benefit accruals to any substantial number of successor employees,

the Secretary may, in the Secretary's discretion, determine that any trust of which any other such plan is a part does not constitute a qualified trust under this subsection unless all benefit obligations of the plan to which the alternative funding agreement applies have been satisfied. For purposes of this paragraph, the term 'successor employee' means any employee who is or was covered by the plan to which the alternative funding agreement applies and any employee who performs substantially the same type of work with respect to the same business operations as an employee covered by such plan.''.

(2) LIMITATION ON DEDUCTIONS UNDER CERTAIN PLANS.—Section 404(a)(7)(C) of the Internal Revenue Code of 1986 is amended by adding at the end the following:

''(iii) PLANS SUBJECT TO ALTERNATIVE FUNDING AGREEMENTS.—This paragraph shall not apply to any plan for a plan year if an alternative funding agreement described in section 4047(a) of the Employee Retirement Income Security Act of 1974 is in effect for such year.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of enactment of this Act.

SEC. 403. SPECIAL FUNDING RULES FOR PLANS MAINTAINED BY COMMERCIAL AIRLINES THAT ARE AMENDED TO CEASE FUTURE BENEFIT ACCRUALS.

(a) IN GENERAL.—If an election is made to have this section apply to an eligible plan—

(1) in the case of any applicable plan year beginning before January 1, 2007, the plan shall not have an accumulated funding deficiency for purposes of section 302 of the Employee Retirement Income Security Act of 1974 and sections 412 and 4971 of the Internal Revenue Code of 1986 if contributions to the plan for the plan year are not less than the minimum required contribution determined under subsection (d) for the plan for the plan year, and

(2) in the case of any applicable plan year beginning on or after January 1, 2007, the minimum required contribution determined under sections 303 of such Act and 430 of such Code shall, for purposes of sections 302 and 303 of such Act and sections 412, 430, and 4971 of such Code, be equal to the minimum required contribution determined under subsection (d) for the plan for the plan year.

(b) ELIGIBLE PLAN.—For purposes of this section—

(1) IN GENERAL.—The term ''eligible plan'' means a defined benefit plan (other than a multiemployer plan) to which sections 302 of such Act and 412 of such Code applies—

(A) which is sponsored by an employer which is a commercial passenger airline, and

(B) with respect to which the requirements of paragraphs (2) and (3) are met.

(2) ACCRUAL RESTRICTIONS.—The requirements of this paragraph are met if, effective as of the first day of the first applicable plan year and at all times thereafter, the plan provides that—

(A) the accrued benefit, any death or disability benefit, and any social security supplement described in the last sentence of section 411(a)(9) of such Code and section 204(b)(1)(G) of such Act, of each participant are frozen at the amount of such benefit or supplement immediately before such first day, and

(B) all other benefits under the plan are eliminated,

but only to the extent the freezing or elimination of such benefits would have been permitted under section 411(d)(6) of such Code and section 204(g) of such Act if they had been implemented by a plan amendment adopted immediately before such first day.

(3) RESTRICTION ON APPLICABLE BENEFIT INCREASES.—The requirements of this paragraph are met if no applicable benefit increase (as defined in section 436(b)(3) of such Code and section 305(b)(3) of such Act, but determined without regard to subparagraph (B) or (C) thereof) takes effect at any time during the period beginning on July 26, 2005, and ending on the day before the first day of the first applicable plan year.

(c) ELECTIONS AND RELATED TERMS.—

(1) IN GENERAL.—A plan sponsor shall make the election under subsection (a) at such time and in such manner as the Secretary of the Treasury may prescribe. Such election, once made, may be revoked only with the consent of such Secretary.

(2) YEARS FOR WHICH ELECTION MADE.—

(A) IN GENERAL.—The plan sponsor may select the first plan year to which the election under subsection (a) applies from among plan years ending after the date of the election. The election shall apply to such plan year and all subsequent years.

(B) ELECTION OF NEW PLAN YEAR.—The plan sponsor may specify a new plan year in the election under subsection (a) and the plan year of the plan may be changed to such new plan year without the approval of the Secretary of the Treasury.

(3) APPLICABLE PLAN YEAR.—The term ''applicable plan year'' means each plan year to which the election under subsection (a) applies under paragraph (1).

(d) MINIMUM REQUIRED CONTRIBUTION.—

(1) IN GENERAL.—In the case of any applicable plan year during the amortization period, the minimum required contribution shall be the amount necessary to amortize the unfunded liability of the plan, determined as of the first day of the plan year, in equal annual installments (until fully amortized) over the remainder of the amortization period. Such amount shall be separately determined for each applicable plan year.

(2) YEARS AFTER AMORTIZATION PERIOD.—In the case of any plan year beginning after the end of the amortization period, section 302(a)(2)(A) of such Act and section 412(a)(2)(A) of such Code shall apply to such plan, but the prefunding balance as of the first day of the first of such years under section 303(f) of such Act and section 430(f) of such Code shall be zero.

(3) DEFINITIONS.—For purposes of this section—

(A) UNFUNDED LIABILITY.—The term ''unfunded liability'' means the unfunded accrued liability under the plan, determined under the unit credit funding method.

(B) AMORTIZATION PERIOD.—The term ''amortization period'' means the 14-plan year period beginning with the first applicable plan year.

(4) OTHER RULES.—In determining the minimum required contribution and amortization amount under this subsection—

(A) the provisions of section 302(c)(3) of such Act and section 412(c)(3) of such Code, as in effect before the date of enactment of this section, shall apply,

(B) the rate of interest under section 302(b) of such Act and section 412(b) of such Code, as so in effect, shall be used for all calculations requiring an interest rate, and

(C) the value of plan assets shall be equal to their fair market value.

(e) FUNDING STANDARD ACCOUNT AND PREFUNDING BALANCE.—Any charge or credit in the funding standard account under section 302 of such Act or section 412 of such Code, and any prefunding balance under section 303 of such Act or section 430 of such Code, as of the day before the first day of the first applicable plan year, shall be reduced to zero.

(f) AMENDMENTS TO OTHER PROVISIONS.—

(1) QUALIFICATION REQUIREMENT.—Section 401(a)(35) of the Internal Revenue Code of 1986, as added by this Act, is amended by adding at the end the following: ''This paragraph shall also apply to any plan during any period during which an amortization schedule under section 403 of the Pension Security and Transparency Act of 2005 is in effect.''

(2) PBGC LIABILITY LIMITED.—Section 4022 of the Employee Retirement Income Security Act of 1974, as amended by this Act, is amended by adding at the end the following new subsection:

''(h) SPECIAL RULE FOR PLANS ELECTING CERTAIN FUNDING REQUIREMENTS.—If any plan makes an election under section 403 of the Pension Security and Transparency Act of 2005, then this section and section 4044(a)(3) shall be applied by treating the first day of the first applicable plan year as the termination date of the plan.''.

(3) LIMITATION ON DEDUCTIONS UNDER CERTAIN PLANS.—Section 404(a)(7)(C)(iii) of the Internal Revenue Code of 1986, as added by this Act, is amended by adding at the end the following new sentence: ''This clause shall also apply to any plan for a plan year if an election under section 403 of the Pension Security and Transparency Act of 2005 is in effect for such year.''

(4) NOTICE.—In the case of a plan amendment adopted in order to comply with this section, any notice required under section 204(h) of such Act or section 4980F(e) of such Code shall be provided within 15 days of the effective date of such plan amendment. This subsection shall not apply to any plan unless such plan is maintained pursuant to one or more collective bargaining agreements between employee representatives and 1 or more employers.

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years ending after the date of the enactment of this Act.

SEC. 404. LIMITATION ON PBGC GUARANTEE OF SHUTDOWN AND OTHER BENEFITS.

(a) IN GENERAL.—Section 4022(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1322(b)) is amended by adding at the end the following:

''(8) If a benefit is payable by reason of—

''(A) a plant shutdown or similar event; or

''(B) any event other than attainment of any age, performance of any service, receipt or derivation of any compensation, or the occurrence of death or disability,

this section shall be applied as if a plan amendment had been adopted on the date such event occurred that provides for the payment of such benefit.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to benefits that become payable as a result of a plant shutdown or other similar event, as such terms are used in the amendment made by subsection (a), that occurs after July 26, 2005.

SEC. 405. RULES RELATING TO BANKRUPTCY OF EMPLOYER.

(a) GUARANTEE.—Section 4022 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1322), as amended by this Act, is amended by adding at the end the following:

''(i) BANKRUPTCY FILING SUBSTITUTED FOR TERMINATION DATE.—If a contributing sponsor of a plan has filed or has had filed against such person a petition seeking liquidation or reorganization in a case under title 11, United States Code, or under any similar Federal law or law of a State or political subdivision, and the case has not been dismissed as of the termination date, then this section shall be applied by treating the date such petition was filed as the termination date of the plan.''.

(b) ALLOCATION OF ASSETS AMONG PRIORITY GROUPS IN BANKRUPTCY PROCEEDINGS.—Section 4044 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1344) is amended by adding at the end the following:

''(e) BANKRUPTCY FILING SUBSTITUTED FOR TERMINATION DATE.—If a contributing sponsor of a plan has filed or has had filed against such person a petition seeking liquidation or reorganization in a case under title 11, United States Code, or under any similar Federal law or law of a State or political subdivision, and the case has not been dismissed as of the termination date, then subsection (a)(3) shall be applied by treating the date such petition was filed as the termination date of the plan.''.

(c) EFFECTIVE DATE.—The amendments made this section shall apply with respect to proceedings initiated under title 11, United States Code, or under any similar Federal law or law of a State or political subdivision, on or after the date that is 30 days after the date of enactment of this Act.

SEC. 406. PBGC PREMIUMS FOR NEW PLANS OF SMALL EMPLOYERS.

(a) IN GENERAL.—Subparagraph (A) of section 4006(a)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1306(a)(3)(A)) is amended—

(1) in clause (i), by inserting ''other than a new single-employer plan (as defined in subparagraph (F)) maintained by a small employer (as so defined),'' after ''single-employer plan,'',

(2) in clause (iii), by striking the period at the end and inserting '', and'', and

(3) by adding at the end the following new clause:

''(v) in the case of a new single-employer plan (as defined in subparagraph (F)) maintained by a small employer (as so defined) for the plan year, $5 for each individual who is a participant in such plan during the plan year.''

(b) DEFINITION OF NEW SINGLE-EMPLOYER PLAN.—Section 4006(a)(3) of the Employee

Retirement Income Security Act of 1974 (29 U.S.C. 1306(a)(3)) is amended by adding at the end the following new subparagraph:

''(F)(i) For purposes of this paragraph, a single-employer plan maintained by a contributing sponsor shall be treated as a new single-employer plan for each of its first 5 plan years if, during the 36-month period ending on the date of the adoption of such plan, the sponsor or any member of such sponsor's controlled group (or any predecessor of either) did not establish or maintain a plan to which this title applies with respect to which benefits were accrued for substantially the same employees as are in the new single-employer plan.

''(ii)(I) For purposes of this paragraph, the term 'small employer' means an employer which on the first day of any plan year has, in aggregation with all members of the controlled group of such employer, 100 or fewer employees.

''(II) In the case of a plan maintained by two or more contributing sponsors that are not part of the same controlled group, the employees of all contributing sponsors and controlled groups of such sponsors shall be aggregated for purposes of determining whether any contributing sponsor is a small employer.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to plans first effective after December 31, 2005.

SEC. 407. PBGC PREMIUMS FOR SMALL AND NEW PLANS.

(a) NEW PLANS.—Subparagraph (E) of section 4006(a)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1306(a)(3)), as amended by this Act, is amended by adding at the end the following new clause:

''(iv) In the case of a new defined benefit plan, the amount determined under clause (ii) for any plan year shall be an amount equal to the product of the amount determined under clause (ii) and the applicable percentage. For purposes of this clause, the term 'applicable percentage' means—

''(I) 0 percent, for the first plan year.

''(II) 20 percent, for the second plan year.

''(III) 40 percent, for the third plan year.

''(IV) 60 percent, for the fourth plan year.

''(V) 80 percent, for the fifth plan year.

For purposes of this clause, a defined benefit plan (as defined in section 3(35)) maintained by a contributing sponsor shall be treated as a new defined benefit plan for each of its first 5 plan years if, during the 36-month period ending on the date of the adoption of the plan, the sponsor and each member of any controlled group including the sponsor (or any predecessor of either) did not establish or maintain a plan to which this title applies with respect to which benefits were accrued for substantially the same employees as are in the new plan.''

(b) SMALL PLANS.—Paragraph (3) of section 4006(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1306(a)), is amended—

(1) by striking ''The'' in subparagraph (E)(i) and inserting ''Except as provided in subparagraph (G), the'', and

(2) by inserting after subparagraph (F) the following new subparagraph:

''(G)(i) In the case of an employer who has 25 or fewer employees on the first day of the plan year, the additional premium determined under subparagraph (E) for each participant shall not exceed $5 multiplied by the number of participants in the plan as of the close of the preceding plan year.

''(ii) For purposes of clause (i), whether an employer has 25 or fewer employees on the first day of the plan year is determined by taking into consideration all of the employees of all members of the contributing sponsor's controlled group. In the case of a plan maintained by two or more contributing sponsors, the employees of all contributing sponsors and their controlled groups shall be aggregated for purposes of determining whether the 25-or-fewer-employees limitation has been satisfied.''

(c) EFFECTIVE DATES.—

(1) SUBSECTION (a).—The amendments made by subsection (a) shall apply to plans first effective after December 31, 2005.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall apply to plan years beginning after December 31, 2005.

SEC. 408. AUTHORIZATION FOR PBGC TO PAY INTEREST ON PREMIUM OVERPAYMENT REFUNDS.

(a) IN GENERAL.—Section 4007(b) of the Employment Retirement Income Security Act of 1974 (29 U.S.C. 1307(b)) is amended—

(1) by striking ''(b)'' and inserting ''(b)(1)'', and

(2) by inserting at the end the following new paragraph:

''(2) The corporation is authorized to pay, subject to regulations prescribed by the corporation, interest on the amount of any overpayment of premium refunded to a designated payor. Interest under this paragraph shall be calculated at the same rate and in the same manner as interest is calculated for underpayments under paragraph (1).''

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to interest accruing for periods beginning not earlier than the date of the enactment of this Act.

SEC. 409. RULES FOR SUBSTANTIAL OWNER BENEFITS IN TERMINATED PLANS.

(a) MODIFICATION OF PHASE-IN OF GUARANTEE.—Section 4022(b)(5) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1322(b)(5)) is amended to read as follows:

''(5)(A) For purposes of this paragraph, the term 'majority owner' means an individual who, at any time during the 60-month period ending on the date the determination is being made—

''(i) owns the entire interest in an unincorporated trade or business,

''(ii) in the case of a partnership, is a partner who owns, directly or indirectly, 50 percent or more of either the capital interest or the profits interest in such partnership, or

''(iii) in the case of a corporation, owns, directly or indirectly, 50 percent or more in value of either the voting stock of that corporation or all the stock of that corporation.

For purposes of clause (iii), the constructive ownership rules of section 1563(e) of the Internal Revenue Code of 1986 (other than paragraph (3)(C) thereof) shall apply, including the application of such rules under section 414(c) of such Code.

''(B) In the case of a participant who is a majority owner, the amount of benefits guaranteed under this section shall equal the product of—

''(i) a fraction (not to exceed 1) the numerator of which is the number of years from the later of the effective date or the adoption date of the plan to the termination date, and the denominator of which is 10, and

''(ii) the amount of benefits that would be guaranteed under this section if the participant were not a majority owner.''

(b) MODIFICATION OF ALLOCATION OF ASSETS.—

(1) Section 4044(a)(4)(B) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1344(a)(4)(B)) is amended by striking ''section 4022(b)(5)'' and inserting ''section 4022(b)(5)(B)''.

(2) Section 4044(b) of such Act (29 U.S.C. 1344(b)) is amended—

(A) by striking ''(5)'' in paragraph (2) and inserting ''(4), (5),'', and

(B) by redesignating paragraphs (3) through (6) as paragraphs (4) through (7), respectively, and by inserting after paragraph (2) the following new paragraph:

''(3) If assets available for allocation under paragraph (4) of subsection (a) are insufficient to satisfy in full the benefits of all individuals who are described in that paragraph, the assets shall be allocated first to benefits described in subparagraph (A) of that paragraph. Any remaining assets shall then be allocated to benefits described in subparagraph (B) of that paragraph. If assets allocated to such subparagraph (B) are insufficient to satisfy in full the benefits described in that subparagraph, the assets shall be allocated pro rata among individuals on the basis of the present value (as of the termination date) of their respective benefits described in that subparagraph.''

(c) CONFORMING AMENDMENTS.—

(1) Section 4021 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1321) is amended—

(A) in subsection (b)(9), by striking ''as defined in section 4022(b)(6)'', and

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

''(d) For purposes of subsection (b)(9), the term 'substantial owner' means an individual who, at any time during the 60-month period ending on the date the determination is being made—

''(1) owns the entire interest in an unincorporated trade or business,

''(2) in the case of a partnership, is a partner who owns, directly or indirectly, more than 10 percent of either the capital interest or the profits interest in such partnership, or

''(3) in the case of a corporation, owns, directly or indirectly, more than 10 percent in value of either the voting stock of that corporation or all the stock of that corporation.

For purposes of paragraph (3), the constructive ownership rules of section 1563(e) of the Internal Revenue Code of 1986 (other than paragraph (3)(C) thereof) shall apply, including the application of such rules under section 414(c) of such Code.''

(2) Section 4043(c)(7) of such Act (29 U.S.C. 1343(c)(7)) is amended by striking ''section 4022(b)(6)'' and inserting ''section 4021(d)''.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to plan terminations—

(A) under section 4041(c) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1341(c)) with respect to which notices of intent to terminate are provided under section 4041(a)(2) of such Act (29 U.S.C. 1341(a)(2)) after December 31, 2005, and

(B) under section 4042 of such Act (29 U.S.C. 1342) with respect to which proceedings are instituted by the corporation after such date.

(2) CONFORMING AMENDMENTS.—The amendments made by subsection (c) shall take effect on January 1, 2006.

SEC. 410. ACCELERATION OF PBGC COMPUTATION OF BENEFITS ATTRIBUTABLE TO RECOVERIES FROM EMPLOYERS.

(a) MODIFICATION OF AVERAGE RECOVERY PERCENTAGE OF OUTSTANDING AMOUNT OF BENEFIT LIABILITIES PAYABLE BY CORPORATION TO PARTICIPANTS AND BENEFICIARIES.—Section 4022(c)(3)(B)(ii) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1322(c)(3)(B)(ii)) is amended to read as follows:

''(ii) notices of intent to terminate were provided (or in the case of a termination by the corporation, a notice of determination under section 4042 was issued) during the 5-Federal fiscal year period ending with the third fiscal year preceding the fiscal year in which occurs the date of the notice of intent

to terminate (or the notice of determination under section 4042) with respect to the plan termination for which the recovery ratio is being determined.''

(b) VALUATION OF SECTION 4062(c) LIABILITY FOR DETERMINING AMOUNTS PAYABLE BY CORPORATION TO PARTICIPANTS AND BENEFICIARIES.—

(1) SINGLE-EMPLOYER PLAN BENEFITS GUARANTEED.—Section 4022(c)(3)(A) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 13) is amended to read as follows:

''(A) IN GENERAL.—Except as provided in subparagraph (C), the term 'recovery ratio' means the ratio which—

''(i) the sum of the values of all recoveries under section 4062, 4063, or 4064, determined by the corporation in connection with plan terminations described under subparagraph (B), bears to

''(ii) the sum of all unfunded benefit liabilities under such plans as of the termination date in connection with any such prior termination.''.

(2) ALLOCATION OF ASSETS.—Section 4044 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1362) is amended by adding at the end the following new subsection:

''(e) VALUATION OF SECTION 4062(c) LIABILITY FOR DETERMINING AMOUNTS PAYABLE BY CORPORATION TO PARTICIPANTS AND BENEFICIARIES.—

''(1) IN GENERAL.—In the case of a terminated plan, the value of the recovery of liability under section 4062(c) allocable as a plan asset under this section for purposes of determining the amount of benefits payable by the corporation shall be determined by multiplying—

''(A) the amount of liability under section 4062(c) as of the termination date of the plan, by

''(B) the applicable section 4062(c) recovery ratio.

''(2) SECTION 4062(c) RECOVERY RATIO.—For purposes of this subsection—

''(A) IN GENERAL.—Except as provided in subparagraph (C), the term 'section 4062(c) recovery ratio' means the ratio which—

''(i) the sum of the values of all recoveries under section 4062(c) determined by the corporation in connection with plan terminations described under subparagraph (B), bears to

''(ii) the sum of all the amounts of liability under section 4062(c) with respect to such plans as of the termination date in connection with any such prior termination.

''(B) PRIOR TERMINATIONS.—A plan termination described in this subparagraph is a termination with respect to which—

''(i) the value of recoveries under section 4062(c) have been determined by the corporation, and

''(ii) notices of intent to terminate were provided (or in the case of a termination by the corporation, a notice of determination under section 4042 was issued) during the 5-Federal fiscal year period ending with the third fiscal year preceding the fiscal year in which occurs the date of the notice of intent to terminate (or the notice of determination under section 4042) with respect to the plan termination for which the recovery ratio is being determined.

''(C) EXCEPTION.—In the case of a terminated plan with respect to which the outstanding amount of benefit liabilities exceeds $20,000,000, the term 'section 4062(c) recovery ratio' means, with respect to the termination of such plan, the ratio of—

''(i) the value of the recoveries on behalf of the plan under section 4062(c), to

''(ii) the amount of the liability owed under section 4062(c) as of the date of plan termination to the trustee appointed under section 4042 (b) or (c).

''(3) SUBSECTION NOT TO APPLY.—This subsection shall not apply with respect to the determination of—

''(A) whether the amount of outstanding benefit liabilities exceeds $20,000,000, or

''(B) the amount of any liability under section 4062 to the corporation or the trustee appointed under section 4042 (b) or (c).

''(4) DETERMINATIONS.—Determinations under this subsection shall be made by the corporation. Such determinations shall be binding unless shown by clear and convincing evidence to be unreasonable.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply for any termination for which notices of intent to terminate are provided (or in the case of a termination by the corporation, a notice of determination under section 4042 under the Employee Retirement Income Security Act of 1974 is issued) on or after the date which is 30 days after the date of enactment of this section.

SEC. 411. TREATMENT OF CERTAIN PLANS WHERE CESSATION OR CHANGE IN MEMBERSHIP OF A CONTROLLED GROUP.

(a) IN GENERAL.—Section 4041(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1341(b)) is amended by adding at the end the following new paragraph:

''(5) SPECIAL RULE FOR CERTAIN PLANS WHERE CESSATION OR CHANGE IN MEMBERSHIP OF A CONTROLLED GROUP.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), if—

''(i) there is transaction or series of transactions which result in a single-employer plan which is a defined benefit plan being maintained by an employer which is not a member of the same controlled group of which the employer maintaining the plan before such transaction or series of transactions was a member,

''(ii) the corporation treats the transaction or series of transactions as resulting in a standard termination to which this subsection applies, and

''(iii) the plan is fully funded,

then the interest rate used in determining whether the plan is sufficient for benefit liabilities for purposes of this subsection shall be the interest rate used in determining whether the plan is fully funded.

''(B) LIMITATIONS.—Subparagraph (A) shall not apply to any transaction or series of transactions unless—

''(i) any employer maintaining the plan immediately before or after such transaction or series of transactions—

''(I) has an outstanding senior unsecured debt instrument which is rated investment grade by each of the nationally recognized statistical rating organizations for corporate bonds that has issued a credit rating for such instrument, or

''(II) if no such debt instrument of such employer has been rated by such an organization but 1 or more of such organizations has made an issuer credit rating for such employer, all such organizations which have so rated the employer have rated such employer investment grade, and

''(ii) the employer maintaining the plan after the transaction or series of transactions employs at least 30 percent of the employees located in the United States who were employed by such employer immediately before the transaction or series of transactions.

''(C) FULLY FUNDED.—For purposes of subparagraph (A), a plan shall be treated as fully funded with respect to any transaction or series of transactions if—

''(i) in the case of a transaction or series of transactions which occur in a plan year beginning before January 1, 2007, the funded current liability percentage determined under section 302(d) for the plan year is at least 100 percent, and

''(ii) in the case of a transaction or series of transactions which occur in a plan year beginning on or after such date, the funding target attainment percentage determined under section 303 is, as of the valuation date for such plan year, at least 100 percent.''

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to any transaction or series of transactions occurring on and after the date of the enactment of this Act.

SEC. 412. EFFECT OF TITLE.

The decreases in Federal outlays resulting from the enactment of this title, and the amendments made by this title, shall be treated as in lieu of the decreases in Federal outlays which—

(1) resulted from amendments made to title IV of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1301 et seq.); and

(2) were contained in an Act enacted pursuant to the concurrent resolution on the budget for fiscal year 2006.

TITLE V—DISCLOSURE

SEC. 501. DEFINED BENEFIT PLAN FUNDING NOTICE.

(a) IN GENERAL.—Section 101(f) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1021(f)) is amended to read as follows:

''(f) DEFINED BENEFIT PLAN FUNDING NOTICES.—

''(1) IN GENERAL.—The administrator of a defined benefit plan shall for each plan year provide a plan funding notice to the Pension Benefit Guaranty Corporation, to each plan participant and beneficiary, to each labor organization representing such participants or beneficiaries, and, in the case of a multiemployer plan, to each employer that has an obligation to contribute to the plan.

''(2) INFORMATION CONTAINED IN NOTICES.—

''(A) IDENTIFYING INFORMATION.—Each notice required under paragraph (1) shall contain identifying information, including the name of the plan, the address and phone number of the plan administrator and the plan's principal administrative officer, each plan sponsor's employer identification number, and the plan number of the plan.

''(B) SPECIFIC INFORMATION.—A plan funding notice under paragraph (1) shall include—

''(i)(I) in the case of a single-employer plan, a statement as to whether the plan's funding target attainment percentage (as defined in section 303(d)(2)) for the plan year to which the notice relates, and for the 2 preceding plan years, is at least 100 percent (and, if not, the actual percentages), or

''(II) in the case of a multiemployer plan, a statement as to whether the plan's funded percentage (as defined in section 305(i)) for the plan year to which the notice relates, and for the 2 preceding plan years, is at least 100 percent (and, if not, the actual percentages),

''(ii)(I) in the case of a single-employer plan, a statement of the value of the plan's assets and liabilities for the plan year to which the notice relates as of the last day of the plan year to which the notice relates determined using the asset valuation under subclause (I) of section 4006(a)(3)(E)(iii) and the interest rate under subclause (II) of such section, and

''(II) in the case of a multiemployer plan, a statement of the value of the plan's assets and liabilities for the plan year to which the notice relates as the last day of such plan year,

''(iii) a statement of the number of participants who are—

''(I) retired or separated from service and are receiving benefits;

''(II) retired or separated participants entitled to future benefits, and

''(II) active participants under the plan,

''(iv) a statement setting forth the funding policy of the plan and the asset allocation of investments under the plan (expressed as percentages of total assets) as of the end of the plan year to which the notice relates,

''(v) in the case of a multiemployer plan, whether the plan was in critical or endangered status under section 305 for such plan year and, if so—

''(I) a list of the actions taken by the plan to improve its funding status, and

''(II) a statement describing how a person may obtain a copy of the plan's improvement or rehabilitation plan, as appropriate, adopted under section 305 and the actuarial and financial data that demonstrate any action taken by the plan toward fiscal improvement,

''(vi) a summary of any funding improvement plan, rehabilitation plan, or modification thereof adopted under section 305 during the plan year to which the notice relates,

''(vii) in the case of any plan amendments, scheduled benefit increase or reduction, or other known event taking effect in the current plan year and having a material effect on plan liabilities or assets for the year (as defined in regulations by the Secretary), an explanation of the amendment, schedule increase or reduction, or event, and a projection to the end of such plan year of the effect of the amendment, scheduled increase or reduction, or event on plan liabilities,

''(viii)(I) in the case of a single-employer plan, a summary of the rules governing termination of single-employer plans under subtitle C of title IV, or

''(II) in the case of a multiemployer plan, a summary of the rules governing reorganization or insolvency, including the limitations on benefit payments and any potential benefit reductions and suspensions (and the potential effects of such limitations, reductions, and suspensions on the plan), and

''(ix) a general description of the benefits under the plan which are eligible to be guaranteed by the Pension Benefit Guaranty Corporation, along with an explanation of the limitations on the guarantee and the circumstances under which such limitations apply.

''(C) OTHER INFORMATION.—Each notice under paragraph (1) shall include—

''(i) in the case of a multiemployer plan, a statement that the plan administrator shall provide, upon written request, to any labor organization representing plan participants and beneficiaries and any employer that has an obligation to contribute to the plan, a copy of the annual report filed with the Secretary under section 104(a), and

''(ii) any additional information which the plan administrator elects to include to the extent not inconsistent with regulations prescribed by the Secretary.

''(3) TIME FOR PROVIDING NOTICE.—

''(A) IN GENERAL.—Any notice under paragraph (1) shall be provided not later than 90 days after the end of the plan year to which the notice relates.

''(B) EXCEPTION FOR SMALL PLANS.—In the case of a small plan (as such term is used under section 303(g)(2)(B)) any notice under paragraph (1) shall be provided upon filing of the annual report under section 104(a).

''(4) FORM AND MANNER.—Any notice under paragraph (1)—

''(A) shall be provided in a form and manner prescribed in regulations of the Secretary,

''(B) shall be written in a manner so as to be understood by the average plan participant, and

''(C) may be provided in written, electronic, or other appropriate form to the extent such form is reasonably accessible to persons to whom the notice is required to be provided.''.

(b) MODEL NOTICE.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Labor shall publish a model version of the notice required by section 101(f) of the Employee Retirement Income Security Act of 1974. The Secretary of Labor may promulgate any interim final rules as the Secretary determines appropriate to carry out the provisions of this subsection.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after December 31, 2005.

SEC. 502. ACCESS TO MULTIEMPLOYER PENSION PLAN INFORMATION.

(a) FINANCIAL INFORMATION WITH RESPECT TO MULTIEMPLOYER PLANS.—

(1) IN GENERAL.—Section 101 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1021) is amended—

(A) by redesignating subsection (k) as subsection (l); and

(B) by inserting after subsection (j) the following new subsection:

''(k) MULTIEMPLOYER PLAN INFORMATION MADE AVAILABLE ON REQUEST.—

''(1) IN GENERAL.—Each administrator of a multiemployer plan shall, upon written request, furnish to any plan participant or beneficiary, employee representative, or any employer that has an obligation to contribute to the plan—

''(A) a copy of any periodic actuarial report (including sensitivity testing) received by the plan for any plan year which has been in the plan's possession for at least 30 days, and

''(B)(i) a copy of any quarterly, semi-annual, or annual financial report prepared for the plan by any plan investment manager or advisor or other fiduciary which has been in the plan's possession for at least 30 days, or

''(ii) at the discretion of the person submitting the written request, a copy of a quarterly summary of the financial reports described clause (i).

''(2) COMPLIANCE.—Information required to be provided under paragraph (1) —

''(A) shall be provided to the requesting participant, beneficiary, or employer within 30 days after the request in a form and manner prescribed in regulations of the Secretary,

''(B) may be provided in written, electronic, or other appropriate form to the extent such form is reasonably accessible to persons to whom the information is required to be provided, and

''(C) shall not—

''(i) include any individually identifiable information regarding any plan participant, beneficiary, employee, fiduciary, or contributing employer, or

''(ii) reveal any proprietary information regarding the plan, any contributing employer, or entity providing services to the plan.

''(3) LIMITATIONS.—In no case shall a participant, beneficiary, or employer be entitled under this subsection to receive more than one copy of any report described in paragraph (1) during any one 12-month period. The administrator may make a reasonable charge to cover copying, mailing, and other costs of furnishing copies of information pursuant to paragraph (1). The Secretary may by regulations prescribe the maximum amount which will constitute a reasonable charge under the preceding sentence.''.

(2) ENFORCEMENT.—Section 502(c)(4) of such Act (29 U.S.C. 1132(c)(4)) is amended by striking ''section 101(j)'' and inserting ''subsection (j) or (k) of section 101''.

(3) REGULATIONS.—The Secretary shall prescribe regulations under section 101(k)(2) of the Employee Retirement Income Security Act of 1974 (added by paragraph (1)) not later than 270 days after the date of the enactment of this Act.

(b) NOTICE OF POTENTIAL WITHDRAWAL LIABILITY TO MULTIEMPLOYER PLANS.—

(1) IN GENERAL.—Section 101 of such Act (as amended by subsection (a)) is amended—

(A) by redesignating subsection (l) as subsection (m); and

(B) by inserting after subsection (k) the following new subsection:

''(l) NOTICE OF POTENTIAL WITHDRAWAL LIABILITY.—

''(1) IN GENERAL.—The plan sponsor or administrator of a multiemployer plan shall, upon written request, furnish to any employer who has an obligation to contribute to the plan a notice of—

''(A) the estimated amount which would be the amount of such employer's withdrawal liability under part 1 of subtitle E of title IV if such employer withdrew on the last day of the plan year preceding the date of the request, and

''(B) an explanation of how such estimated liability amount was determined, including the actuarial assumptions and methods used to determine the value of the plan liabilities and assets, the data regarding employer contributions, unfunded vested benefits, annual changes in the plan's unfunded vested benefits, and the application of any relevant limitations on the estimated withdrawal liability.

For purposes of subparagraph (B), the term 'employer contribution' means, in connection with a participant, a contribution made by an employer as an employer of such participant.

''(2) COMPLIANCE.—Any notice required to be provided under paragraph (1)—

''(A) shall be provided to the requesting employer within—

''(i) 180 days after the request in a form and manner prescribed in regulations of the Secretary, or

''(ii) subject to regulations of the Secretary, such longer time as may be necessary in the case of a plan that determines withdrawal liability based on any method described under paragraph (4) or (5) of section 4211(c); and

''(B) may be provided in written, electronic, or other appropriate form to the extent such form is reasonably accessible to employers to whom the information is required to be provided.

''(3) LIMITATIONS.—In no case shall an employer be entitled under this subsection to receive more than one notice described in paragraph (1) during any one 12-month period. The person required to provide such notice may make a reasonable charge to cover copying, mailing, and other costs of furnishing such notice pursuant to paragraph (1). The Secretary may by regulations prescribe the maximum amount which will constitute a reasonable charge under the preceding sentence.''.

(2) ENFORCEMENT.—Section 502(c)(4) of such Act (29 U.S.C. 1132(c)(4)) is amended by striking ''section 101(j) or (k)'' and inserting ''subsection (j), (k), or (l) of section 101''.

(c) NOTICE OF AMENDMENT REDUCING FUTURE ACCRUALS.—Section 204(h)(1) of such Act (29 U.S.C. 1054(h)(1)) is amended by inserting at the end before the period ''and to each employer who has an obligation to contribute to the plan.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after December 31, 2005.

SEC. 503. ADDITIONAL ANNUAL REPORTING REQUIREMENTS.

(a) ADDITIONAL ANNUAL REPORTING REQUIREMENTS WITH RESPECT TO DEFINED BENEFIT PLANS.—

(1) IN GENERAL.—Section 103 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1023) is amended—

(A) in subsection (a)(1)(B), by striking ''subsections (d) and (e)'' and inserting ''subsections (d), (e), and (f)''; and

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

''(f) ADDITIONAL INFORMATION WITH RESPECT TO DEFINED BENEFIT PLANS.—

''(1) GENERAL INFORMATION.—With respect to any defined benefit plan, an annual report under this section for a plan year shall include the following:

''(A) In any case in which any liabilities to participants or their beneficiaries under such plan as of the end of such plan year consist (in whole or in part) of liabilities to such participants and beneficiaries under 2 or more pension plans as of immediately before such plan year, the funded percentage of each of such 2 or more pension plans as of the last day of such plan year and the funded percentage of the plan with respect to which the annual report is filed as of the last day of such plan year.

''(B) For purposes of this paragraph, the term 'funded percentage'—

''(i) in the case of a single-employer plan, means the funding target attainment percentage, as defined in section 303(d)(2), and

''(ii) in the case of a multiemployer plan, has the meaning given such term in section 305(i)(2).

''(2) ADDITIONAL INFORMATION FOR MULTIEMPLOYER PLANS.—With respect to any defined benefit plan which is a multiemployer plan, an annual report under this section for a plan year shall include, in addition to the information required under paragraph (1), the following, as of the end of the plan year to which the notice relates:

''(A) The number of employers obligated to contribute to the plan.

''(B) A list of the employers that contributed more than 5 percent of the total contributions to the plan during such plan year.

''(C) The number of participants under the plan on whose behalf no employer contributions have been made to the plan for such plan year and for each of the 2 preceding plan years. For purposes of this subparagraph, the term 'employer contribution' means, in connection with a participant, a contribution made by an employer as an employer of such participant.

''(D) The ratio of—

''(i) the number of participants under the plan on whose behalf no employer had an obligation to make an employer contribution during the plan year, to

''(ii) the number of participants under the plan on whose behalf no employer had an obligation to make an employer contribution during each of the 2 preceding plan years.

''(E) Whether the plan received an amortization extension under section 304(d) or section 431(d) of the Internal Revenue Code of 1986 for such plan year and, if so, the amount of the difference between the minimum required contribution for the year and the minimum required contribution which would have been required without regard to the extension, and the period of such extension.

''(F) Whether the plan used the shortfall funding method (as such term is used in section 305) for such plan year and, if so, the amount of the difference between the minimum required contribution for the year and the minimum required contribution which would have been required without regard to the use of such method, and the period of use of such method.

''(G) Whether the plan was in critical or endangered status under section 305 for such plan year, and if so, a summary of any funding improvement or rehabilitation plan (or modification thereto) adopted during the plan year, and the funding ratio of the plan.

''(H) The number of employers that withdrew from the plan during the preceding plan year and the aggregate amount of withdrawal liability assessed, or estimated to be assessed, against such withdrawn employers.

''(I) In the case of a multiemployer plan that has merged with another plan or to which assets and liabilities have been transferred, the actuarial valuation of the assets and liabilities of each affected plan during the year preceding the effective date of the merger or transfer, based upon the most recent data available as of the day before the first day of the plan year, or other valuation method performed under standards and procedures as the Secretary may prescribe by regulation.''.

(2) GUIDANCE BY SECRETARY OF LABOR.—

(A) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary of Labor shall publish guidance to assist multiemployer defined benefit plans to—

(i) identify and enumerate plan participants for whom there is no employer with an obligation to make an employer contribution under the plan; and

(ii) report such information under section 103(f)(2)(D) of the Employee Retirement Income Security Act of 1974 (as added by this section).

(B) WAIVER OF REQUIREMENT.—The Secretary of Labor shall waive the requirement under section 103(f)(2)(D) of such Act (as added by this section) for the construction and entertainment industries.

(b) ADDITIONAL INFORMATION IN ANNUAL ACTUARIAL STATEMENT REGARDING PLAN RETIREMENT PROJECTIONS.—Section 103(d) of such Act (29 U.S.C. 1023(d)) is amended—

(1) by redesignating paragraphs (12) and (13) as paragraphs (13) and (14), respectively; and

(2) by inserting after paragraph (11) the following new paragraph:

''(12) A statement explaining the actuarial assumptions and methods used in projecting future retirements and forms of benefit distributions under the plan.''.

(c) FORM AND MANNER OF REPORT.—Section 104(b)(3) of such Act (29 U.S.C. 1024(b)(3)) is amended by—

(1) striking ''(3) Within'' and inserting—

''(A) IN GENERAL.—Within''; and

(2) adding at the end the following:

''(B) FORM OF REPORT.—The material provided pursuant to subparagraph (A) to summarize the latest annual report shall be written in a manner calculated to be understood by the average plan participant.

(d) FURNISHING SUMMARY PLAN INFORMATION TO EMPLOYERS AND EMPLOYEE REPRESENTATIVES OF MULTIEMPLOYER PLANS.—

(1) IN GENERAL.—Section 104 of such Act (29 U.S.C. 1024) is amended—

(A) in the header, by striking ''PARTICIPANTS'' and inserting ''PARTICIPANTS AND CERTAIN EMPLOYERS'';

(B) redesignating subsection (d) as subsection (e); and

(C) inserting after subsection (c) the following:

''(d) FURNISHING SUMMARY PLAN INFORMATION TO EMPLOYERS AND EMPLOYEE REPRESENTATIVES OF MULTIEMPLOYER PLANS.—

''(1) IN GENERAL.—With respect to a multiemployer plan subject to this section, within 30 days after the due date under subsection (a)(1) for the filing of the annual report for the fiscal year of the plan, the administrators shall furnish to each employee organization, employer with an obligation to contribute to the plan, and the Pension Benefit Guaranty Corporation, a report that contains—

''(A) a description of the contribution schedules and benefit formulas under the plan, and any modification to such schedules and formulas, during such plan year;

''(B) the number of employers obligated to contribute to the plan;

''(C) a list of the employers that contributed more than 5 percent of the total contributions to the plan during such plan year;

''(D) the number of participants under the plan on whose behalf no employer contributions (which, for purposes of this paragraph, means, in connection with a participant, a contribution made by an employer as an employer of such participant) have been made to the plan for such plan year and for each of the 2 preceding plan years;

''(E) whether the plan was in critical or endangered status under section 305 for such plan year and, if so, include—

''(i) a list of the actions taken by the plan to improve its funding status; and

''(ii) a statement describing how a person may obtain a copy of the plan's improvement or rehabilitation plan, as appropriate, adopted under section 305 and the actuarial and financial data that demonstrate any action taken by the plan toward fiscal improvement;

''(H) the number of employers that withdrew from the plan during the preceding plan year and the aggregate amount of withdrawal liability assessed, or estimated to be assessed, against such withdrawn employers, as reported on the annual report for the plan year to which the report under this subsection relates;

''(I) in the case of a multiemployer plan that has merged with another plan or to which assets and liabilities have been transferred, the actuarial valuation of the assets and liabilities of each affected plan during the year preceding the effective date of the merger or transfer, based upon the most recent data available as of the day before the first day of the plan year, or other valuation method performed under standards and procedures as the Secretary may prescribe by regulation;

''(J) a description as to whether the plan—

''(i) sought or received an amortization extension under section 304(d) or section 431(d) of the Internal Revenue Code of 1986 for such plan year;

''(ii) used the shortfall funding method (as such term is used in section 305) for such plan year; or

''(iii) was in critical or endangered status under section 305 for such plan year; and

''(K) notification of the right under this section of the recipient to a copy of the annual report filed with the Secretary under subsection (a), summary annual report, summary plan description, summary of any material modification of the plan, upon written request, but that—

''(i) in no case shall a recipient be entitled to receive more than one copy of any such report described during any one 12-month period; and

''(ii) the administrator may make a reasonable charge to cover copying, mailing, and other costs of furnishing copies of information pursuant to this subparagraph.

''(2) EFFECT OF SECTION.—Nothing in this section waives any other provision under this title requiring plan administrators to provide, upon request, information to employers that have an obligation to contribution under the plan.''.

(e) MODEL FORM.—Not later than 270 days after the date of the enactment of this Act, the Secretary of Labor shall publish a model form for providing the statements, schedules, and other material required to be provided under section 104(b)(3) of the Employee Retirement Income Security Act of 1974, as amended by this section. The Secretary of

Labor may promulgate any interim final rules as the Secretary determines appropriate to carry out the provisions of this subsection.

(f) FIVE-YEAR REPORT WITH RESPECT TO MULTIEMPLOYER PLANS.—Section 4022A(f) of such Act (29 U.S.C. 1322a(f)) is amended by adding at the end the following:

''(6) Not later than 5 years after the date of the enactment of the Pension Security and Transparency Act of 2005, and at least every fifth year thereafter, the corporation shall submit to Congress a report that contains a description of the fiscal conditions of the multiemployer pension plan system as of the date of such report based on the information submitted to the corporation under section 104(d).''.

(g) CONFORMING AMENDMENT.—Title IV of such Act (29 U.S.C. 1301 et seq.) is amended by striking section 4011.

(h) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to plan years beginning after December 31, 2005.

(2) SPECIAL RULE.—Notwithstanding the provisions of paragraph (1), the requirement under section 103(f)(2)(D) of the Employee Retirement Income Security Act (as added by this section) shall apply to plan years beginning after December 31, 2007.

SEC. 504. TIMING OF ANNUAL REPORTING REQUIREMENTS.

(a) FILING AFTER 285 DAYS AFTER PLAN YEAR ONLY IN CASES OF HARDSHIP.—Section 104(a)(1) of such Act (29 U.S.C. 1024(a)(1)) is amended by inserting after the first sentence the following new sentence: ''In the case of a pension plan, the Secretary may extend the deadline for filing the annual report for any plan year past 285 days after the close of the plan year only on a case by case basis and only in cases of hardship, in accordance with regulations which shall be prescribed by the Secretary.''.

(b) INTERNET DISPLAY OF INFORMATION.—Section 104(b) of such Act (29 U.S.C. 1024(b)) is amended by adding at the end the following:

''(5) Identification and basic plan information and actuarial information included in the annual report for any plan year shall be filed with the Secretary in an electronic format which accommodates display on the Internet, in accordance with regulations which shall be prescribed by the Secretary. The Secretary shall provide for display of such information included in the annual report, within 90 days after the date of the filing of the annual report, on an Internet website maintained by the Secretary and other appropriate media. Such information shall also be displayed on any Internet website maintained by the plan sponsor (or by the plan administrator on behalf of the plan sponsor), in accordance with regulations which shall be prescribed by the Secretary.''.

(c) SUMMARY ANNUAL REPORT FILED WITHIN 30 DAYS AFTER DEADLINE FOR FILING OF ANNUAL REPORT.—Section 104(b)(3) of such Act (29 U.S.C. 1024(b)(3)), as amended by section 503, is amended by—

(1) striking ''(3)(A) Within 210 days after the close of the fiscal year,'' and inserting ''(3)(A) Within 30 days after the due date under subsection (a)(1) for the filing of the annual report for the fiscal year of the plan'';

(2) striking ''the latest'' and inserting ''such''; and

(3) adding at the end the following

''(C) DATE OF INTERNET DISPLAY.—Display of the summary annual report on the Internet website maintained by the plan sponsor (or by the plan administrator on behalf of the plan sponsor) by the date required under subparagraph (A) shall be treated as furnishing such report to each participant and beneficiary receiving benefits under the plan by such date, except that such report shall be furnished to each such participant and beneficiary as soon as practicable thereafter, and in no event later the 30 days after such date.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after December 31, 2005.

SEC. 505. SECTION 4010 FILINGS WITH THE PBGC.

(a) CHANGE IN CRITERIA FOR PERSONS REQUIRED TO PROVIDE INFORMATION TO PBGC.—Section 4010(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1310(b)) is amended—

(1) in paragraph (1)—

(A) by striking ''(1) the aggregate'' and inserting ''(1)(A) the aggregate'';

(B) by striking the semicolon and inserting ''; and'';

(C) by inserting after subparagraph (A) the following:

''(B)(i) the aggregate funding targets attainment percentage of the plan (as defined in subsection (d)) is less than 90 percent; or

''(ii) any debt instrument of the plan sponsor or the plan sponsor has received a rating described in subclause (I) or (II) of section 303(i)(5)(A)(i);''; and

(2) by redesignating paragraphs (2) and (3) as paragraphs (4) and (5), respectively, and by inserting before paragraph (4) (as so redesignated) the following new paragraphs:

''(2) the aggregate funding targets attainment percentage of the plan (as defined in subsection (d)) is less than 60 percent;

''(3)(A) the aggregate funding targets attainment percentage of the plan (as defined in subsection (d)) is less than 75 percent, and

''(B) the plan sponsor is in an industry with respect to which the corporation determines that there is substantial unemployment or underemployment and the sales and profits are depressed or declining;''.

(b) ADDITIONAL INFORMATION REQUIRED.—Section 4010 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1310) is amended by adding at the end the following new subsection:

''(d) ADDITIONAL INFORMATION REQUIRED.—

''(1) IN GENERAL.—The information submitted to the corporation under subsection (a) shall include—

''(A) the amount of benefit liabilities under the plan determined using the assumptions used by the corporation in determining liabilities;

''(B) the funding target of the plan determined as if the plan has been in at-risk status for at least 5 plan years; and

''(C) the funding target attainment percentage of the plan.

''(2) DEFINITIONS.—For purposes of this subsection:

''(A) VALUE OF PLAN ASSETS.—The term 'value of plan assets' means the value of plan assets, as determined under section 303(g)(3).

''(B) FUNDING TARGET.—The term 'funding target' has the meaning provided under section 303(d)(1).

''(C) FUNDING TARGET ATTAINMENT PERCENTAGE.—The term 'funding target attainment percentage' has the meaning provided in section 303(d)(2).

''(D) AGGREGATE FUNDING TARGETS ATTAINMENT PERCENTAGE.—The term 'aggregate funding targets attainment percentage' means, with respect to a contributing sponsor for a plan year, the percentage, taking into account all plans maintained by the contributing sponsor and the members of its controlled group as of the end of such plan year, which—

''(i) the aggregate total of the values of plan assets, as of the end of such plan year, of such plans, is of

''(ii) the aggregate total of the funding targets of such plans, as of the end of such plan year, taking into account only benefits to which participants and beneficiaries have a nonforfeitable right.

''(E) AT-RISK STATUS.—The term 'at-risk status' has the meaning provided in section 303(i)(4).

''(e) NOTICE TO CONGRESS.—The Corporation shall, on an annual basis, submit to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Education and the Workforce of the House of Representatives, a summary report of the information submitted to the Corporation under this section.''.

(c) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to plan years beginning after 2006.

SEC. 506. DISCLOSURE OF TERMINATION INFORMATION TO PLAN PARTICIPANTS.

(a) DISTRESS TERMINATIONS.—

(1) IN GENERAL.—Section 4041(c)(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1341(c)(2)) is amended by adding at the end the following:

''(D) DISCLOSURE OF TERMINATION INFORMATION.—

''(i) IN GENERAL.—A plan administrator that has filed a notice of intent to terminate under subsection (a)(2) shall provide to an affected party any information provided to the corporation under paragraph (2) not later than 15 days after—

''(I) receipt of a request from the affected party for the information; or

''(II) the provision of new information to the corporation relating to the previous request.

''(ii) CONFIDENTIALITY.—

''(I) IN GENERAL.—The plan administrator shall not provide information under clause (i) in a form that includes any information that may directly or indirectly be associated with, or otherwise identify, an individual participant or beneficiary.

''(II) LIMITATION.—A court may limit disclosure under this subparagraph of confidential information described in section 552(b) of title 5, United States Code, to any authorized representative of the participants or beneficiaries that agrees to ensure the confidentiality of such information.

''(iii) FORM AND MANNER OF INFORMATION; CHARGES.—

''(I) FORM AND MANNER.—The corporation may prescribe the form and manner of the provision of information under this subparagraph, which shall include delivery in written, electronic, or other appropriate form to the extent that such form is reasonably accessible to individuals to whom the information is required to be provided.

''(II) REASONABLE CHARGES.—A plan sponsor may charge a reasonable fee for any information provided under this subparagraph in other than electronic form.

''(iv) AUTHORIZED REPRESENTATIVE.—For purposes of this subparagraph, the term 'authorized representative' means any employee organization representing participants in the pension plan.''.

(2) CONFORMING AMENDMENT.—Section 4041(c)(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1341(c)(1)) is amended in subparagraph (C) by striking ''subparagraph (B)'' and inserting ''subparagraphs (B) and (D)''.

(b) INVOLUNTARY TERMINATIONS.—

(1) IN GENERAL.—Section 4042(c) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1342(c)) is amended by—

(A) striking ''(c) If the'' and inserting ''(c)(1) If the'';

(B) redesignating paragraph (3) as paragraph (2); and

(C) adding at the end the following:

''(3) DISCLOSURE OF TERMINATION INFORMATION.—

''(A) IN GENERAL.—

''(i) INFORMATION FROM PLAN SPONSOR OR ADMINISTRATOR.—A plan sponsor or plan administrator of a single-employer plan that has received a notice from the corporation of a determination that the plan should be terminated under this section shall provide to an affected party any information provided to the corporation in conjunction with the plan termination.

''(ii) INFORMATION FROM CORPORATION.—The corporation shall provide a copy of the administrative record, including the trusteeship decision record of a termination of a plan described under clause (i).

''(B) TIMING OF DISCLOSURE.—The plan sponsor, plan administrator, or the corporation, as applicable, shall provide the information described in subparagraph (A) not later than 15 days after—

''(i) receipt of a request from an affected party for such information; or

''(ii) in the case of information described under subparagraph (A)(i), the provision of any new information to the corporation relating to a previous request by an affected party.

''(C) CONFIDENTIALITY.—

''(i) IN GENERAL.—The plan administrator and plan sponsor shall not provide information under subparagraph (A)(i) in a form which includes any information that may directly or indirectly be associated with, or otherwise identify, an individual participant or beneficiary.

''(ii) LIMITATION.—A court may limit disclosure under this paragraph of confidential information described in section 552(b) of title 5, United States Code, to authorized representatives (within the meaning of section 4041(c)(2)(D)(iv)) of the participants or beneficiaries that agree to ensure the confidentiality of such information.

''(D) FORM AND MANNER OF INFORMATION; CHARGES.—

''(i) FORM AND MANNER.—The corporation may prescribe the form and manner of the provision of information under this paragraph, which shall include delivery in written, electronic, or other appropriate form to the extent that such form is reasonably accessible to individuals to whom the information is required to be provided.

''(ii) REASONABLE CHARGES.—A plan sponsor may charge a reasonable fee for any information provided under this paragraph in other than electronic form.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to any plan termination under title IV of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1301 et seq.) with respect to which the notice of intent to terminate (or in the case of a termination by the Pension Benefit Guaranty Corporation, a notice of determination under section 4042 of such Act (29 U.S.C. 1342)) occurs after the date of enactment of this Act.

SEC. 507. BENEFIT SUSPENSION NOTICE.

(a) MODIFICATION OF REGULATION.—The Secretary of Labor shall modify the regulation under subparagraph (B) of section 203(a)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1053(a)(3)(B)) to provide that the notification required by such regulation in connection with any suspension of benefits described in such subparagraph—

(1) in the case of an employee who returns to service described in section 203(a)(3)(B) (i) or (ii) of such Act after commencement of payment of benefits under the plan, shall be made during the first calendar month or the first 4- or 5-week payroll period ending in a calendar month in which the plan withholds payments, and

(2) in the case of any employee who is not described in paragraph (1)—

(A) may be included in the summary plan description for the plan furnished in accordance with section 104(b) of such Act (29 U.S.C. 1024(b)), rather than in a separate notice, and

(B) need not include a copy of the relevant plan provisions.

(b) EFFECTIVE DATE.—The modification made under this section shall apply to plan years beginning after December 31, 2005.

SEC. 508. STUDY AND REPORT BY GOVERNMENT ACCOUNTABILITY OFFICE.

(a) IN GENERAL.—The Comptroller General of the United States shall conduct a study to determine the effectiveness of the enforcement of provisions in the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001 et seq.) and in other Federal laws designed to protect pension plans and the assets and participants of such plan from fraud and mismanagement, including excessive investment management fees, violations of fiduciary duties under Title I of such Act, and the quality of plan assets.

(b) CONTENT OF STUDY.—The study described in subsection (a) shall include:

(1) An identification of which Federal departments and agencies have responsibility for enforcement of these provisions, including the recovery of lost plan assets due to fraud and mismanagement.

(2) Identification of all administrative enforcement powers, procedures, and strategies used by the Securities and Exchange Commission that have the potential to improve the Department of Labor's enforcement of the fiduciary provisions of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001 et seq.).

(3) Identification of any statutory or other barriers that restrict the Department of Labor's authority to use such powers, procedures, and strategies identified in paragraph (2).

(4) An evaluation of whether giving additional investigative or enforcement authority to the Pension Benefit Guaranty Corporation or the Securities and Exchange Commission would significantly improve enforcement of those provisions.

(5) An evaluation of the current authority of the Pension Benefit Guaranty Corporation to bring actions to recover any funds lost by pension plans due to violations of any fiduciary standards under Title I of such Act or other Federal statutes.

(6) The impact that expanding any such authority by the Pension Benefit Guaranty Corporation to bring such actions would have on the Corporation's solvency.

(c) REPORT.—Not later than 6 months after the enactment of this Act, the Comptroller General shall submit a report to Congress on the study conducted under subsection (a) that includes such recommendations for legislation or administrative action as the Comptroller General determines are appropriate.

TITLE VI—TREATMENT OF CASH BALANCE AND OTHER HYBRID DEFINED BENEFIT PENSION PLANS

SEC. 601. PROSPECTIVE APPLICATION OF AGE DISCRIMINATION, CONVERSION, AND PRESENT VALUE ASSUMPTION RULES.

(a) APPLICATION OF AGE DISCRIMINATION PROHIBITIONS.—

(1) AMENDMENT OF ERISA.—Section 204(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1054(b)) is amended by adding at the end the following:

''(5) SPECIAL RULES FOR CASH BALANCE AND OTHER HYBRID DEFINED BENEFIT PLANS.—

''(A) IN GENERAL.—A qualified cash balance plan shall not be treated as violating the requirements of paragraph (1)(H) merely because it may reasonably be expected that the period over which interest credits will be made to a participant's accumulation account (or its equivalent) is longer for a younger participant. This paragraph shall not apply to any plan if the rate of any pay credit or interest credit to such an account under the plan decreases by reason of the participant's attainment of any age.

''(B) QUALIFIED CASH BALANCE PLAN.—For purposes of this paragraph—

''(i) IN GENERAL.—The term 'qualified cash balance plan' means a cash balance plan which meets the vesting requirement under clause (ii) and the interest credit requirement under clause (iii).

''(ii) VESTING REQUIREMENTS.—A plan meets the requirements of this clause if an employee who has completed at least 3 years of service has a nonforfeitable right to 100 percent of the employee's accrued benefit derived from employer contributions.

''(iii) INTEREST CREDITS.—A plan meets the requirements of this clause if the terms of the plan provide that any interest credit (or equivalent amount) for any plan year shall be at a rate which—

''(I) is not less than the applicable Federal mid-term interest rate (as determined under section 1274(d)(1) of the Internal Revenue Code of 1986), and

''(II) is not greater than the greater of the rate determined under subclause (I) or a rate equal to the rate of interest on amounts invested conservatively in long-term investment grade corporate bonds.

''(iv) DETERMINATION OF RATES.—For purposes of clause (iii)(II), the rate of interest on amounts invested conservatively in long-term investment grade corporate bonds shall be determined by the Secretary of the Treasury on the basis of 2 or more indices that are selected periodically by the Secretary of the Treasury. The Secretary of the Treasury shall make publicly available the indices and methodology used to determine the rate.

''(v) VARIABLE RATE OF INTEREST.—If the interest credit rate under the plan is a variable rate, the plan shall provide that, upon the termination of the plan, the rate of interest used to determine accrued benefits under the plan shall be equal to the average of the rates of interest used under the plan during the 5-year period ending on the termination date.

''(C) CASH BALANCE PLAN.—For purposes of this paragraph, the term 'cash balance plan' means a defined benefit plan under which—

''(i) the accrued benefit is determined by reference to the balance of a hypothetical accumulation account, and

''(ii) pay credits and interest credits are credited to such account.

''(D) REGULATIONS TO INCLUDE SIMILAR OR OTHER HYBRID PLANS.—

''(i) CASH BALANCE PLAN.—The Secretary of the Treasury shall issue regulations which include in the definition of cash balance plan any defined benefit plan (or any portion of such a plan) which has an effect similar to a cash balance plan. Such regulations may provide that if a plan sponsor represents in communications to participants and beneficiaries that a plan amendment results in a plan being described in the preceding sentence, such plan shall be treated as a cash balance plan.

''(ii) QUALIFIED CASH BALANCE PLAN.—The Secretary of the Treasury may in the regulations issued under clause (i) provide for the treatment of a cash balance plan as a qualified cash balance plan in cases where the cash balance plan has an effect similar to the qualified cash balance plan.''.

(2) AGE DISCRIMINATION IN EMPLOYMENT ACT.—Section 4(i)(2) of the Age Discrimination of Employment Act of 1967 (29 U.S.C. 623(i)(2)) is amended—

(A) by inserting ''(A)'' after ''(2)'', and

(B) by adding at the end the following new subparagraph:

''(B) A defined benefit plan which is treated as a qualified cash balance plan for purposes of section 204(b)(5) of the Employee Retirement Income Security Act of 1974 shall not be treated as violating the requirements of paragraph (1)(A) merely because it may reasonably be expected that the period over which interest credits will be made under the plan to a participant's accumulation account (or its equivalent) is longer for a younger participant. This subparagraph shall not apply to any plan if the rate of any pay credit or interest credit to such an account under the plan decreases by reason of the participant's attainment of any age.''.

(3) AMENDMENT OF INTERNAL REVENUE CODE.—Section 411(b) of the Internal Revenue Code of 1986 (relating to accrued benefit requirements) is amended by adding at the end the following:

''(5) SPECIAL RULES FOR CASH BALANCE AND OTHER HYBRID DEFINED BENEFIT PLANS.—

''(A) IN GENERAL.—A qualified cash balance plan shall not be treated as violating the requirements of paragraph (1)(H) merely because it may reasonably be expected that the period over which interest credits will be made to a participant's accumulation account (or its equivalent) is longer for a younger participant. This paragraph shall not apply to any plan if the rate of any pay credit or interest credit to such an account under the plan decreases by reason of the participant's attainment of any age.

''(B) QUALIFIED CASH BALANCE PLAN.—For purposes of this paragraph—

''(i) IN GENERAL.—The term 'qualified cash balance plan' means a cash balance plan which meets the vesting requirement under clause (ii) and the interest credit requirement under clause (iii).

''(ii) VESTING REQUIREMENTS.—A plan meets the requirements of this clause if an employee who has completed at least 3 years of service has a nonforfeitable right to 100 percent of the employee's accrued benefit derived from employer contributions.

''(iii) INTEREST CREDITS.—A plan meets the requirements of this clause if the terms of the plan provide that any interest credit (or equivalent amount) for any plan year shall be at a rate which—

''(I) is not less than the applicable Federal mid-term interest rate (as determined under section 1274(d)(1)), and

''(II) is not greater than the greater of the rate determined under subclause (I) or a rate equal to the rate of interest on amounts invested conservatively in long-term investment grade corporate bonds.

''(iv) DETERMINATION OF RATES.—For purposes of clause (iii)(II), the rate of interest on amounts invested conservatively in long-term investment grade corporate bonds shall be determined by the Secretary on the basis of 2 or more indices that are selected periodically by the Secretary. The Secretary shall make publicly available the indices and methodology used to determine the rate.

''(v) VARIABLE RATE OF INTEREST.—If the interest credit rate under the plan is a variable rate, the plan shall provide that, upon the termination of the plan, the rate of interest used to determine accrued benefits under the plan shall be equal to the average of the rates of interest used under the plan during the 5-year period ending on the termination date.

''(C) CASH BALANCE PLAN.—For purposes of this paragraph, the term 'cash balance plan' means a defined benefit plan under which—

''(i) the accrued benefit is determined by reference to the balance of a hypothetical accumulation account, and

''(ii) pay credits and interest credits are credited to such account.

''(D) REGULATIONS TO INCLUDE SIMILAR OR OTHER HYBRID PLANS.—

''(i) CASH BALANCE PLAN.—The Secretary shall issue regulations which include in the definition of cash balance plan any defined benefit plan (or any portion of such a plan) which has an effect similar to a cash balance plan. Such regulations may provide that if a plan sponsor represents in communications to participants and beneficiaries that a plan amendment results in a plan being described in the preceding sentence, such plan shall be treated as a cash balance plan.

''(ii) QUALIFIED CASH BALANCE PLAN.—The Secretary may in the regulations issued under clause (i) provide for the treatment of a cash balance plan as a qualified cash balance plan in cases where the cash balance plan has an effect similar to the qualified cash balance plan.''.

(b) RULES APPLICABLE TO ACCRUED BENEFITS UNDER CONVERTED PLANS.—

(1) AMENDMENT OF ERISA.—Section 204(g) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1054(g)) is amended by adding at the end the following new paragraph:

''(6) TREATMENT OF CONVERSIONS TO CASH BALANCE OR OTHER HYBRID PLANS.—

''(A) IN GENERAL.—For purposes of this subsection, an applicable plan amendment shall be treated as reducing the accrued benefit of a participant if, under the terms of the plan as in effect after the amendment, the accrued benefit of any participant who was a participant as of the effective date of the amendment may at any time be less than the accrued benefit determined under the method under subparagraph (B), (C), or (D) which is specified in the plan and applies uniformly to all participants. An applicable plan amendment shall in no event be treated as meeting the requirements of any such subparagraph if the conversion described in subparagraph (G)(i) is into a cash balance plan other than a qualified cash balance plan (as defined in subsection (b)(5)(B)).

''(B) NO WEARAWAY.—

''(i) IN GENERAL.—The accrued benefit determined under this subparagraph is the sum of—

''(I) the participant's accrued benefit for years of service before the effective date of the amendment, determined under the terms of the plan as in effect before the amendment, plus

''(II) except as provided in clause (ii), the participant's accrued benefit for years of service after the effective date of the amendment, determined under the terms of the plan as in effect after the amendment.

''(ii) REQUIRED AMOUNTS FOR CERTAIN PERIODS.—Notwithstanding clause (i)(II), the plan shall provide that either—

''(I) the accrued benefit of all participants for each of the first 5 plan years to which the amendment applies shall be equal to the greater of the accrued benefit determined under the terms of the plan as in effect both before and after the amendment, or

''(II) the accrued benefit for periods after the effective date of the amendment of all participants who, as of the effective date of the amendment, had attained the age of 40 and had a combined age and years of service under the plan of not less than 55 shall be determined under either of the methods described in clause (iii) which is selected by the plan and which is specified in the amendment.

''(iii) APPLICABLE METHOD.—For purposes of clause (ii)(II), the plan shall select 1 of the following methods:

''(I) The accrued benefit shall be equal to the greater of the accrued benefit determined under the terms of the plan as in effect both before and after the amendment.

''(II) At the election of the participant, the accrued benefit shall be determined under the terms of the plan as in effect either before or after the amendment.

''(C) GREATER OF OLD OR NEW OR ELECTION OF EITHER.—The accrued benefit determined under this subparagraph is the accrued benefit determined under 1 of the following methods which is selected by the plan and which is specified in the amendment:

''(i) The accrued benefit shall be equal to the greater of the accrued benefit determined under the terms of the plan as in effect both before and after the amendment.

''(ii) At the election of the participant, the accrued benefit shall be determined under the terms of the plan as in effect either before or after the amendment.

''(D) METHOD PRESCRIBED BY SECRETARY.—The accrued benefit determined under this subparagraph shall be determined under regulations prescribed by the Secretary which are consistent with the purposes of this paragraph and which may require a plan to provide a credit of additional amounts or increases in initial account balances in amounts substantially equivalent to the benefits that would be required to be provided to meet the requirements of subparagraphs (B) or (C).

''(E) INCLUSION OF PRIOR ACCRUED BENEFIT INTO INITIAL ACCOUNT BALANCE.—

''(i) IN GENERAL.—If, for purposes of subparagraphs (B), (C), or (D), an applicable plan amendment provides that an amount will be initially credited to a participant's accumulation account (or its equivalent) on the effective date of the amendment with respect to the participant's accrued benefit for periods before such date, the requirements of such subparagraph shall be treated as met with respect to such accrued benefit if the amount initially credited is not less than the present value of the participant's accrued benefit determined by using the applicable mortality table and the lower of the applicable interest rate under section 205(g)(3)(A), or the interest rate used to credit interest under the plan, as of such date.

''(ii) ADJUSTMENTS FOR CERTAIN SUBSIDIZED BENEFITS.—For purposes of subparagraph (B), if any early retirement benefit or retirement-type subsidy (within the meaning of paragraph (6)(B)(i)) is not included in the initial account balance under clause (i), the plan shall credit the accumulation account with the amount of such benefit or subsidy for the plan year in which the participant retires if, as of such time, the participant has met the age, years of service, and other requirements under the plan for entitlement to such benefit or subsidy.

''(F) REQUIREMENTS WHERE PARTICIPANT OFFERED CHOICE.—If a plan provides a participant with an election described in subparagraph (B)(iii)(II) or (C)(ii), the following rules shall apply:

''(i) NOTICE.—The plan shall not be treated as meeting the requirements of either such subparagraph unless the plan provides the participant a notice of the right to make such election which includes information (meeting such requirements as may be prescribed by the Secretary of the Treasury)—

''(I) by which the participant may project benefits under the formulas from which the participant may choose and may model the impact of any such choice, and

''(II) with respect to circumstances under which a participant may not receive the projected accrued benefits by reason of a plan termination or otherwise.

''(ii) SIGNIFICANT REDUCTION OF RATE OF ACCRUAL.—The plan shall provide that if, during any of the first 5 plan years during which such an election is in effect, the plan adopts an amendment which results in a significant reduction in the rate of future benefit accrual (within the meaning of section 204(h)), the accrued benefit of the participant shall be determined as if the participant had made the election which resulted in the greatest accrued benefit.

''(iii) BENEFITS MUST NOT BE CONTINGENT ON ELECTION.—The plan shall not be treated as meeting the requirements of either such subparagraph if any other benefit is conditioned (directly or indirectly) on such election.

''(G) APPLICABLE PLAN AMENDMENT.—For purposes of this paragraph—

''(i) IN GENERAL.—The term 'applicable plan amendment' means an amendment to a defined benefit plan which has the effect of converting the plan to a cash balance plan.

''(ii) SPECIAL RULE FOR COORDINATED BENEFITS.—If the benefits of 2 or more defined benefit plans established or maintained by an employer are coordinated in such a manner as to have the effect of the adoption of an amendment described in clause (i), the sponsor of the defined benefit plan or plans providing for such coordination shall be treated as having adopted such a plan amendment as of the date such coordination begins.

''(iii) MULTIPLE AMENDMENTS.—The Secretary of the Treasury shall issue regulations to prevent the avoidance of the purposes of this paragraph through the use of 2 or more plan amendments rather than a single amendment.

''(iv) CASH BALANCE PLAN.—For purposes of this paragraph, the term 'cash balance plan' has the meaning given such term by subsection (b)(5)(C).

''(v) COORDINATION WITH ACCRUAL RULES.—If a plan amendment is treated as meeting the requirements of this paragraph with respect to any participant because such participant is eligible to continue to accrue benefits in the same manner as under the terms of the plan in effect before the amendment, the Secretary of the Treasury shall prescribe regulations under which the plan shall not be treated as failing to meet the requirements of subparagraph (A), (B), or (C) of section 204(b)(1) if the requirements of this paragraph are met.

''(H) APPLICATION OF CERTAIN RULES TO EARLY-RETIREMENT BENEFITS.—Rules similar to the rules of clauses (i), (ii), and (iii) of subparagraph (B) and subparagraph (C) shall apply in the case of any early retirement benefit or retirement-type subsidy (within the meaning of section 204(g)(2)(A)).''.

(2) AMENDMENT OF INTERNAL REVENUE CODE.—Section 411(d) of the Internal Revenue Code of 1986 (relating to special rules) is amended by adding at the end the following new paragraph:

''(7) TREATMENT OF CONVERSIONS TO CASH BALANCE OR OTHER HYBRID PLANS.—

''(A) IN GENERAL.—For purposes of paragraph (6), an applicable plan amendment shall be treated as reducing the accrued benefit of a participant if, under the terms of the plan as in effect after the amendment, the accrued benefit of any participant who was a participant as of the effective date of the amendment may at any time be less than the accrued benefit determined under the method under subparagraph (B), (C), or (D) which is specified in the plan and applies uniformly to all participants. An applicable plan amendment shall in no event be treated as meeting the requirements of any such subparagraph if the conversion described in subparagraph (G)(i) is into a cash balance plan other than a qualified cash balance plan (as defined in subsection (b)(5)(B)).

''(B) NO WEARAWAY.—

''(i) IN GENERAL.—The accrued benefit determined under this subparagraph is the sum of—

''(I) the participant's accrued benefit for years of service before the effective date of the amendment, determined under the terms of the plan as in effect before the amendment, plus

''(II) except as provided in clause (ii), the participant's accrued benefit for years of service after the effective date of the amendment, determined under the terms of the plan as in effect after the amendment.

A similar rule shall apply in the case of any early retirement benefit or retirement-type subsidy (within the meaning of section 411(d)(6)(B)(i)).

''(ii) REQUIRED AMOUNTS FOR CERTAIN PERIODS.—Notwithstanding clause (i)(II), the plan shall provide that either—

''(I) the accrued benefit of all participants for each of the first 5 plan years to which the amendment applies shall be equal to the greater of the accrued benefit determined under the terms of the plan as in effect both before and after the amendment, or

''(II) the accrued benefit for periods after the effective date of the amendment of all participants who, as of the effective date of the amendment, had attained the age of 40 and had a combined age and years of service under the plan of not less than 55 shall be determined under either of the methods described in clause (iii) which is selected by the plan and which is specified in the amendment.

''(iii) APPLICABLE METHOD.—For purposes of clause (ii)(II), the plan shall select 1 of the following methods:

''(I) The accrued benefit shall be equal to the greater of the accrued benefit determined under the terms of the plan as in effect both before and after the amendment.

''(II) At the election of the participant, the accrued benefit shall be determined under the terms of the plan as in effect either before or after the amendment.

''(C) GREATER OF OLD OR NEW OR ELECTION OF EITHER.—The accrued benefit determined under this subparagraph is the accrued benefit determined under 1 of the following methods which is selected by the plan and which is specified in the amendment:

''(i) The accrued benefit shall be equal to the greater of the accrued benefit determined under the terms of the plan as in effect both before and after the amendment.

''(ii) At the election of the participant, the accrued benefit shall be determined under the terms of the plan as in effect either before or after the amendment.

''(D) METHOD PRESCRIBED BY SECRETARY.—The accrued benefit determined under this subparagraph shall be determined under regulations prescribed by the Secretary which are consistent with the purposes of this paragraph and which may require a plan to provide a credit of additional amounts or increases in initial account balances in amounts substantially equivalent to the benefits that would be required to be provided to meet the requirements of subparagraphs (B) or (C).

''(E) INCLUSION OF PRIOR ACCRUED BENEFIT INTO INITIAL ACCOUNT BALANCE.—

''(i) IN GENERAL.—If, for purposes of subparagraphs (B), (C), or (D), an applicable plan amendment provides that an amount will be initially credited to a participant's accumulation account (or its equivalent) on the effective date of the amendment with respect to the participant's accrued benefit for periods before such date, the requirements of such subparagraph shall be treated as met with respect to such accrued benefit if the amount initially credited is not less than the present value of the participant's accrued benefit determined by using the applicable mortality table and the lower of the applicable interest rate under section 417(e)(3)(A), or the interest rate used to credit interest under the plan, as of such date.

''(ii) ADJUSTMENTS FOR CERTAIN SUBSIDIZED BENEFITS.—For purposes of subparagraph (B), if any early retirement benefit or retirement-type subsidy (within the meaning of paragraph (6)(B)(i)) is not included in the initial account balance under clause (i), the plan shall credit the accumulation account with the amount of such benefit or subsidy for the plan year in which the participant retires if, as of such time, the participant has met the age, years of service, and other requirements under the plan for entitlement to such benefit or subsidy.

''(F) REQUIREMENTS WHERE PARTICIPANT OFFERED CHOICE.—If a plan provides a participant with an election described in subparagraph (B)(iii)(II) or (C)(ii), the following rules shall apply:

''(i) NOTICE.—The plan shall not be treated as meeting the requirements of either such subparagraph unless the plan provides the participant a notice of the right to make such election which includes information (meeting such requirements as may be prescribed by the Secretary)—

''(I) by which the participant may project benefits under the formulas from which the participant may choose and may model the impact of any such choice, and

''(II) with respect to circumstances under which a participant may not receive the projected accrued benefits by reason of a plan termination or otherwise.

''(ii) SIGNIFICANT REDUCTION OF RATE OF ACCRUAL.—The plan shall provide that if, during any of the first 5 plan years during which such an election is in effect, the plan adopts an amendment which results in a significant reduction in the rate of future benefit accrual (within the meaning of section 4980F(e)), the accrued benefit of the participant shall be determined as if the participant had made the election which resulted in the greatest accrued benefit.

''(iii) BENEFITS MUST NOT BE CONTINGENT ON ELECTION.—The plan shall not be treated as meeting the requirements of either such subparagraph if any other benefit is conditioned (directly or indirectly) on such election.

''(G) APPLICABLE PLAN AMENDMENT.—For purposes of this paragraph—

''(i) IN GENERAL.—The term 'applicable plan amendment' means an amendment to a defined benefit plan which has the effect of converting the plan to a cash balance plan.

''(ii) SPECIAL RULE FOR COORDINATED BENEFITS.—If the benefits of 2 or more defined benefit plans established or maintained by an employer are coordinated in such a manner as to have the effect of the adoption of an amendment described in clause (i), the sponsor of the defined benefit plan or plans providing for such coordination shall be treated as having adopted such a plan amendment as of the date such coordination begins.

''(iii) MULTIPLE AMENDMENTS.—The Secretary shall issue regulations to prevent the avoidance of the purposes of this paragraph through the use of 2 or more plan amendments rather than a single amendment.

''(iv) CASH BALANCE PLAN.—For purposes of this paragraph, the term 'cash balance plan' has the meaning given such term by subsection (b)(5)(C).

''(v) COORDINATION WITH ACCRUAL AND NONDISCRIMINATION RULES.—If a plan amendment is treated as meeting the requirements of this paragraph with respect to any participant because such participant is eligible to continue to accrue benefits in the same manner as under the terms of the plan in effect

before the amendment, the Secretary shall prescribe regulations under which—

''(I) the plan shall not be treated as failing to meet the requirements of subparagraph (A), (B), or (C) of section 411(b)(1) if the requirements of this paragraph are met, and

''(II) the plan shall, subject to such terms and conditions as may be provided in such regulations, not be treated as failing to meet the requirements of section 401(a)(4) merely because the plan provides any accrual or benefit which is required to be provided under subparagraph (B), (C), or (D) or because only participants as of the effective date of the amendment are so eligible, except that this subclause shall only apply if the plan met the requirements of section 401(a)(4) under the terms of the plan as in effect before the amendment.

''(H) APPLICATION OF CERTAIN RULES TO EARLY-RETIREMENT BENEFITS.—Rules similar to the rules of clauses (i), (ii), and (iii) of subparagraph (B) and subparagraph (C) shall apply in the case of any early retirement benefit or retirement-type subsidy (within the meaning of section 411(d)(6)(B)(i)).''.

(c) ASSUMPTIONS USED IN COMPUTING PRESENT VALUE OF ACCRUED BENEFIT.—

(1) AMENDMENT OF ERISA.—Section 205(g)(3) of such Act (29 U.S.C. 1055(g)(3)), is amended—

(A) by striking ''or (B)'' in subparagraph (A)(i) and inserting '', (B), or (C)'', and

(B) by adding at the end the following new subparagraph:

''(C) PRESENT VALUE OF ACCRUED BENEFIT UNDER CASH BALANCE PLAN.—Except as provided in regulations, in the case of a qualified cash balance plan (as defined in section 204(g)(6)(B)), the present value of the accrued benefit of any participant shall, for purposes of paragraphs (1) and (2), be equal to the balance in the participant's accumulation account (or its equivalent) as of the time the present value determination is being made.''.

(2) AMENDMENT OF INTERNAL REVENUE CODE.—Section 417(e)(3) of such Code, is amended—

(A) by striking ''or (B)'' in subparagraph (A)(i) and inserting '', (B), or (C)'', and

(B) by adding at the end the following new subparagraph:

''(C) PRESENT VALUE OF ACCRUED BENEFIT UNDER CASH BALANCE PLAN.—Except as provided in regulations, in the case of a qualified cash balance plan (as defined in section 411(d)(7)(B)), the present value of the accrued benefit of any participant shall, for purposes of paragraphs (1) and (2), be equal to the balance in the participant's accumulation account (or its equivalent) as of the time the present value determination is being made.''

(d) NO INFERENCE.—Nothing in the amendments made by this section shall be construed to infer the proper treatment of cash balance plans or conversions to cash balance plans under sections 204(b)(1)(H) of the Employee Retirement Income Security Act of 1974, 4(i)(1) of the Age Discrimination in Employment Act of 1967, and 411(b)(1)(H) of the Internal Revenue Code of 1986, as in effect before such amendments.

(e) EFFECTIVE DATES.—

(1) AGE DISCRIMINATION AND LUMP-SUM DISTRIBUTIONS.—

(A) IN GENERAL.—The amendments made by subsections (a) and (c) shall apply to periods after July 31, 2005.

(B) VESTING AND INTEREST CREDIT REQUIREMENTS.—In the case of a plan in existence on July 31, 2005, the requirements of clauses (ii) and (iii) of section 411(b)(5)(B) of the Internal Revenue Code of 1986, and of clauses (ii) and (iii) of 204(b)(5)(B) of the Employee Retirement Income Security Act of 1974 shall, for purposes of applying the amendments made by subsections (a) and (c), apply to years beginning after December 31, 2006, unless the plan sponsor elects the application of such requirements for any period after July 31, 2005, and before the first year beginning after December 31, 2006.

(C) SPECIAL RULE FOR COLLECTIVELY BARGAINED PLANS.—In the case of a plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified on or before the date of the enactment of this Act, the requirements described in subparagraph (B) shall, for purposes of applying the amendments made by subsections (a) and (c), not apply to plan years beginning before—

(i) the earlier of—

(I) the date on which the last of such collective bargaining agreements terminates (determined without regard to any extension thereof on or after such date of enactment), or

(II) January 1, 2007, or

(ii) January 1, 2009.

(2) CONVERSIONS.—The amendments made by subsection (b) shall apply to plan amendments adopted after, and taking effect after, July 31, 2005, except that the plan sponsor may elect to have such amendments apply to plan amendments adopted before, and taking effect after, such date.

SEC. 602. REGULATIONS RELATING TO MERGERS AND ACQUISITIONS.

The Secretary of the Treasury or his delegate shall, not later than 12 months after the date of the enactment of this Act, prescribe regulations for the application of the amendments made by, and the provisions of, this title in cases where the conversion of a plan to a cash balance plan is made with respect to a group of employees who become employees by reason of a merger, acquisition, or similar transaction.

TITLE VII—DIVERSIFICATION RIGHTS AND OTHER PARTICIPANT PROTECTIONS UNDER DEFINED CONTRIBUTION PLANS

SEC. 701. DEFINED CONTRIBUTION PLANS REQUIRED TO PROVIDE EMPLOYEES WITH FREEDOM TO INVEST THEIR PLAN ASSETS.

(a) AMENDMENTS OF INTERNAL REVENUE CODE.—

(1) QUALIFICATION REQUIREMENT.—Section 401(a) of the Internal Revenue Code of 1986 (relating to qualified pension, profit-sharing, and stock bonus plans), as amended by section 115 of this Act, is amended by inserting after paragraph (34) the following new paragraph:

''(35) DIVERSIFICATION REQUIREMENTS FOR CERTAIN DEFINED CONTRIBUTION PLANS.—

''(A) IN GENERAL.—A trust which is part of an applicable defined contribution plan shall not be treated as a qualified trust unless the plan meets the diversification requirements of subparagraphs (B), (C), and (D).

''(B) EMPLOYEE CONTRIBUTIONS AND ELECTIVE DEFERRALS INVESTED IN EMPLOYER SECURITIES OR REAL PROPERTY.—In the case of the portion of an applicable individual's account attributable to employee contributions and elective deferrals which is invested in employer securities or employer real property, a plan meets the requirements of this subparagraph if the applicable individual may elect to direct the plan to divest any such securities or real property and to reinvest an equivalent amount in other investment options meeting the requirements of subparagraph (D).

''(C) EMPLOYER CONTRIBUTIONS INVESTED IN EMPLOYER SECURITIES OR REAL PROPERTY.—In the case of the portion of the account attributable to employer contributions other than elective deferrals which is invested in employer securities or employer real property, a plan meets the requirements of this subparagraph if each applicable individual who—

''(i) is a participant who has completed at least 3 years of service, or

''(ii) is a beneficiary of a participant described in clause (i) or of a deceased participant,

may elect to direct the plan to divest any such securities or real property and to reinvest an equivalent amount in other investment options meeting the requirements of subparagraph (D).

''(D) INVESTMENT OPTIONS.—

''(i) IN GENERAL.—The requirements of this subparagraph are met if the plan offers not less than 3 investment options, other than employer securities or employer real property, to which an applicable individual may direct the proceeds from the divestment of employer securities or employer real property pursuant to this paragraph, each of which is diversified and has materially different risk and return characteristics.

''(ii) TREATMENT OF CERTAIN RESTRICTIONS AND CONDITIONS.—

''(I) TIME FOR MAKING INVESTMENT CHOICES.—A plan shall not be treated as failing to meet the requirements of this subparagraph merely because the plan limits the time for divestment and reinvestment to periodic, reasonable opportunities occurring no less frequently than quarterly.

''(II) CERTAIN RESTRICTIONS AND CONDITIONS NOT ALLOWED.—Except as provided in regulations, a plan shall not meet the requirements of this subparagraph if the plan imposes restrictions or conditions with respect to the investment of employer securities or employer real property which are not imposed on the investment of other assets of the plan. This subclause shall not apply to any restrictions or conditions imposed by reason of the application of securities laws.

''(E) APPLICABLE DEFINED CONTRIBUTION PLAN.—For purposes of this paragraph—

''(i) IN GENERAL.—The term 'applicable defined contribution plan' means any defined contribution plan which holds any publicly traded employer securities.

''(ii) EXCEPTION FOR CERTAIN ESOPS.—Such term does not include an employee stock ownership plan if—

''(I) there are no contributions to such plan (or earnings thereunder) which are held within such plan and are subject to subsection (k) or (m), and

''(II) such plan is a separate plan for purposes of section 414(l) with respect to any other defined benefit plan or defined contribution plan maintained by the same employer or employers.

''(iii) EXCEPTION FOR ONE PARTICIPANT PLANS.—Such term does not include a one-participant retirement plan.

''(iv) ONE-PARTICIPANT RETIREMENT PLAN.—For purposes of clause (iii), the term 'one-participant retirement plan' means a retirement plan that—

''(I) on the first day of the plan year covered only one individual (or the individual and the individual's spouse) and the individual owned 100 percent of the plan sponsor (whether or not incorporated), or covered only one or more partners (or partners and their spouses) in the plan sponsor,

''(II) meets the minimum coverage requirements of section 410(b) without being combined with any other plan of the business that covers the employees of the business,

''(III) does not provide benefits to anyone except the individual (and the individual's spouse) or the partners (and their spouses),

''(IV) does not cover a business that is a member of an affiliated service group, a controlled group of corporations, or a group of businesses under common control, and

''(V) does not cover a business that uses the services of leased employees (within the meaning of section 414(n)).

For purposes of this clause, the term 'partner' includes a 2-percent shareholder (as defined in section 1372(b)) of an S corporation.

''(F) CERTAIN PLANS TREATED AS HOLDING PUBLICLY TRADED EMPLOYER SECURITIES.—

''(i) IN GENERAL.—Except as provided in regulations or in clause (ii), a plan holding employer securities which are not publicly traded employer securities shall be treated as holding publicly traded employer securities if any employer corporation, or any member of a controlled group of corporations which includes such employer corporation, has issued a class of stock which is a publicly traded employer security.

''(ii) EXCEPTION FOR CERTAIN CONTROLLED GROUPS WITH PUBLICLY TRADED SECURITIES.—Clause (i) shall not apply to a plan if—

''(I) no employer corporation, or parent corporation of an employer corporation, has issued any publicly traded employer security, and

''(II) no employer corporation, or parent corporation of an employer corporation, has issued any special class of stock which grants particular rights to, or bears particular risks for, the holder or issuer with respect to any corporation described in clause (i) which has issued any publicly traded employer security.

''(iii) DEFINITIONS.—For purposes of this subparagraph, the term—

''(I) 'controlled group of corporations' has the meaning given such term by section 1563(a), except that '50 percent' shall be substituted for '80 percent' each place it appears,

''(II) 'employer corporation' means a corporation which is an employer maintaining the plan, and

''(III) 'parent corporation' has the meaning given such term by section 424(e).

''(G) OTHER DEFINITIONS.—For purposes of this paragraph—

''(i) APPLICABLE INDIVIDUAL.—The term 'applicable individual' means—

''(I) any participant in the plan, and

''(II) any beneficiary who has an account under the plan with respect to which the beneficiary is entitled to exercise the rights of a participant.

''(ii) ELECTIVE DEFERRAL.—The term 'elective deferral' means an employer contribution described in section 402(g)(3)(A).

''(iii) EMPLOYER SECURITY.—The term 'employer security' has the meaning given such term by section 407(d)(1) of the Employee Retirement Income Security Act of 1974.

''(iv) EMPLOYER REAL PROPERTY.—The term 'employer real property' has the meaning given such term by section 407(d)(2) of the Employee Retirement Income Security Act of 1974.

''(v) EMPLOYEE STOCK OWNERSHIP PLAN.—The term 'employee stock ownership plan' has the meaning given such term by section 4975(e)(7).

''(vi) PUBLICLY TRADED EMPLOYER SECURITIES.—The term 'publicly traded employer securities' means employer securities which are readily tradable on an established securities market.

''(vii) YEAR OF SERVICE.—The term 'year of service' has the meaning given such term by section 411(a)(5).

''(H) TRANSITION RULE FOR SECURITIES OR REAL PROPERTY ATTRIBUTABLE TO EMPLOYER CONTRIBUTIONS.—

''(i) RULES PHASED IN OVER 3 YEARS.—

''(I) IN GENERAL.—In the case of the portion of an account to which subparagraph (C) applies and which consists of employer securities or employer real property acquired in a plan year beginning before January 1, 2006, subparagraph (C) shall only apply to the applicable percentage of such securities or real property. This subparagraph shall be applied separately with respect to each class of securities and employer real property.

''(II) EXCEPTION FOR CERTAIN PARTICIPANTS AGED 55 OR OVER.—Subclause (I) shall not apply to an applicable individual who is a participant who has attained age 55 and completed at least 3 years of service before the first plan year beginning after December 31, 2005.

''(ii) APPLICABLE PERCENTAGE.—For purposes of clause (i), the applicable percentage shall be determined as follows:

Plan year to which subparagraph (C) applies:	The applicable percentage is:
1st	33
2d	66
3d and following	100.''.

(2) CONFORMING AMENDMENTS.—

(A) Section 401(a)(28)(B) of such Code (relating to additional requirements relating to employee stock ownership plans) is amended by adding at the end the following new clause:

''(v) EXCEPTION.—This subparagraph shall not apply to an applicable defined contribution plan (as defined in paragraph (35)(E)).''

(B) Section 409(h)(7) of such Code is amended by inserting ''or subparagraph (B) or (C) of section 401(a)(35)'' before the period at the end.

(C) Section 4980(c)(3)(A) of such Code is amended by striking ''if—'' and all that follows and inserting ''if the requirements of subparagraphs (B), (C), and (D) are met.''

(b) AMENDMENTS OF ERISA.—

(1) IN GENERAL.—Section 204 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1054) is amended by redesignating subsection (j) as subsection (k) and by inserting after subsection (i) the following new subsection:

''(j) DIVERSIFICATION REQUIREMENTS FOR CERTAIN INDIVIDUAL ACCOUNT PLANS.—

''(1) IN GENERAL.—An applicable individual account plan shall meet the diversification requirements of paragraphs (2), (3), and (4).

''(2) EMPLOYEE CONTRIBUTIONS AND ELECTIVE DEFERRALS INVESTED IN EMPLOYER SECURITIES OR REAL PROPERTY.—In the case of the portion of an applicable individual's account attributable to employee contributions and elective deferrals which is invested in employer securities or employer real property, a plan meets the requirements of this paragraph if the applicable individual may elect to direct the plan to divest any such securities or real property and to reinvest an equivalent amount in other investment options meeting the requirements of paragraph (4).

''(3) EMPLOYER CONTRIBUTIONS INVESTED IN EMPLOYER SECURITIES OR REAL PROPERTY.—In the case of the portion of the account attributable to employer contributions other than elective deferrals which is invested in employer securities or employer real property, a plan meets the requirements of this paragraph if each applicable individual who—

''(A) is a participant who has completed at least 3 years of service, or

''(B) is a beneficiary of a participant described in subparagraph (A) or of a deceased participant,

may elect to direct the plan to divest any such securities or real property and to reinvest an equivalent amount in other investment options meeting the requirements of paragraph (4).

''(4) INVESTMENT OPTIONS.—

''(A) IN GENERAL.—The requirements of this paragraph are met if the plan offers not less than 3 investment options, other than employer securities or employer real property, to which an applicable individual may direct the proceeds from the divestment of employer securities or employer real property pursuant to this subsection, each of which is diversified and has materially different risk and return characteristics.

''(B) TREATMENT OF CERTAIN RESTRICTIONS AND CONDITIONS.—

''(i) TIME FOR MAKING INVESTMENT CHOICES.—A plan shall not be treated as failing to meet the requirements of this paragraph merely because the plan limits the time for divestment and reinvestment to periodic, reasonable opportunities occurring no less frequently than quarterly.

''(ii) CERTAIN RESTRICTIONS AND CONDITIONS NOT ALLOWED.—Except as provided in regulations, a plan shall not meet the requirements of this paragraph if the plan imposes restrictions or conditions with respect to the investment of employer securities or employer real property which are not imposed on the investment of other assets of the plan. This subparagraph shall not apply to any restrictions or conditions imposed by reason of the application of securities laws.

''(5) APPLICABLE INDIVIDUAL ACCOUNT PLAN.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'applicable individual account plan' means any individual account plan (as defined in section 3(34)) which holds any publicly traded employer securities.

''(B) EXCEPTION FOR CERTAIN ESOPS.—Such term does not include an employee stock ownership plan if—

''(i) there are no contributions to such plan (or earnings thereunder) which are held within such plan and are subject to subsection (k) or (m) of section 401 of the Internal Revenue Code of 1986, and

''(ii) such plan is a separate plan (for purposes of section 414(l) of such Code) with respect to any other defined benefit plan or individual account plan maintained by the same employer or employers.

''(C) EXCEPTION FOR ONE PARTICIPANT PLANS.—Such term shall not include a one-participant retirement plan (as defined in section 101(i)(8)(B)).

''(D) CERTAIN PLANS TREATED AS HOLDING PUBLICLY TRADED EMPLOYER SECURITIES.—

''(i) IN GENERAL.—Except as provided in regulations or in clause (ii), a plan holding employer securities which are not publicly traded employer securities shall be treated as holding publicly traded employer securities if any employer corporation, or any member of a controlled group of corporations which includes such employer corporation, has issued a class of stock which is a publicly traded employer security.

''(ii) EXCEPTION FOR CERTAIN CONTROLLED GROUPS WITH PUBLICLY TRADED SECURITIES.—Clause (i) shall not apply to a plan if—

''(I) no employer corporation, or parent corporation of an employer corporation, has issued any publicly traded employer security, and

''(II) no employer corporation, or parent corporation of an employer corporation, has issued any special class of stock which grants particular rights to, or bears particular risks for, the holder or issuer with respect to any corporation described in clause (i) which has issued any publicly traded employer security.

''(iii) DEFINITIONS.—For purposes of this subparagraph, the term—

''(I) 'controlled group of corporations' has the meaning given such term by section 1563(a) of the Internal Revenue Code of 1986, except that '50 percent' shall be substituted for '80 percent' each place it appears,

''(II) 'employer corporation' means a corporation which is an employer maintaining the plan, and

''(III) 'parent corporation' has the meaning given such term by section 424(e) of such Code.

''(6) OTHER DEFINITIONS.—For purposes of this paragraph—

''(A) APPLICABLE INDIVIDUAL.—The term 'applicable individual' means—

''(i) any participant in the plan, and

''(ii) any beneficiary who has an account under the plan with respect to which the beneficiary is entitled to exercise the rights of a participant.

''(B) ELECTIVE DEFERRAL.—The term 'elective deferral' means an employer contribution described in section 402(g)(3)(A) of the Internal Revenue Code of 1986.

''(C) EMPLOYER SECURITY.—The term 'employer security' has the meaning given such term by section 407(d)(1).

''(D) EMPLOYER REAL PROPERTY.—The term 'employer real property' has the meaning given such term by section 407(d)(2).

''(E) EMPLOYEE STOCK OWNERSHIP PLAN.—The term 'employee stock ownership plan' has the meaning given such term by section 4975(e)(7) of such Code.

''(F) PUBLICLY TRADED EMPLOYER SECURITIES.—The term 'publicly traded employer securities' means employer securities which are readily tradable on an established securities market.

''(G) YEAR OF SERVICE.—The term 'year of service' has the meaning given such term by section 203(b)(2).

''(7) TRANSITION RULE FOR SECURITIES OR REAL PROPERTY ATTRIBUTABLE TO EMPLOYER CONTRIBUTIONS.—

''(A) RULES PHASED IN OVER 3 YEARS.—

''(i) IN GENERAL.—In the case of the portion of an account to which paragraph (3) applies and which consists of employer securities or employer real property acquired in a plan year beginning before January 1, 2006, paragraph (3) shall only apply to the applicable percentage of such securities or real property. This subparagraph shall be applied separately with respect to each class of securities and employer real property.

''(ii) EXCEPTION FOR CERTAIN PARTICIPANTS AGED 55 OR OVER.—Clause (i) shall not apply to an applicable individual who is a participant who has attained age 55 and completed at least 3 years of service before the first plan year beginning after December 31, 2005.

''(B) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A), the applicable percentage shall be determined as follows:

Plan year to which paragraph (3) applies:	The applicable percentage is:
1st	33
2d	66
3d and following	100.''.

(2) CONFORMING AMENDMENT.—Section 407(b)(3) of such Act (29 U.S.C. 1107(b)(3)) is amended by adding at the end the following:

''(D) For diversification requirements for qualifying employer securities and qualifying real property held in certain individual account plans, see section 204(j).''

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the amendments made by this section shall apply to plan years beginning after December 31, 2005.

(2) SPECIAL RULE FOR COLLECTIVELY BARGAINED AGREEMENTS.—In the case of a plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified on or before the date of the enactment of this Act, paragraph (1) shall be applied to benefits pursuant to, and individuals covered by, any such agreement by substituting for ''December 31, 2005'' the earlier of—

(A) the later of—

(i) December 31, 2006, or

(ii) the date on which the last of such collective bargaining agreements terminates (determined without regard to any extension thereof after such date of enactment), or

(B) December 31, 2007.

(3) SPECIAL RULE FOR CERTAIN EMPLOYER SECURITIES HELD IN AN ESOP.—

(A) IN GENERAL.—In the case of employer securities to which this paragraph applies, the amendments made by this section shall apply to plan years beginning after the earlier of—

(i) December 31, 2006, or

(ii) the first date on which the fair market value of such securities exceeds the guaranteed minimum value described in subparagraph (B)(ii).

(B) APPLICABLE SECURITIES.—This paragraph shall apply to employer securities which are attributable to employer contributions other than elective deferrals, and which, on September 17, 2003—

(i) consist of preferred stock, and

(ii) are within an employee stock ownership plan (as defined in section 4975(e)(7) of the Internal Revenue Code of 1986), the terms of which provide that the value of the securities cannot be less than the guaranteed minimum value specified by the plan on such date.

(C) COORDINATION WITH TRANSITION RULE.—In applying section 401(a)(35)(H) of the Internal Revenue Code of 1986 and section 204(j)(7) of the Employee Retirement Income Security Act of 1974 (as added by this section) to employer securities to which this paragraph applies, the applicable percentage shall be determined without regard to this paragraph.

SEC. 702. NOTICE OF FREEDOM TO DIVEST EMPLOYER SECURITIES OR REAL PROPERTY.

(a) IN GENERAL.—Section 101 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1021), as amended by this Act, is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following:

''(m) NOTICE OF RIGHT TO DIVEST.—Not later than 30 days before the first date on which an applicable individual of an applicable individual account plan is eligible to exercise the right under section 204(j) to direct the proceeds from the divestment of employer securities or employer real property with respect to any type of contribution, the administrator shall provide to such individual a notice—

''(1) setting forth such right under such section, and

''(2) describing the importance of diversifying the investment of retirement account assets.

The notice required by this subsection shall be written in a manner calculated to be understood by the average plan participant and may be delivered in written, electronic, or other appropriate form to the extent that such form is reasonably accessible to the recipient.''

(b) PENALTIES.—Section 502(c)(7) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132(c)(7)) is amended by striking ''section 101(i)'' and inserting ''subsection (i) or (m) of section 101''.

(c) MODEL NOTICE.—The Secretary of the Treasury shall, within 180 days after the date of the enactment of this subsection, prescribe a model notice for purposes of satisfying the requirements of the amendments made by this section.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to plan years beginning after December 31, 2005.

(2) TRANSITION RULE.—If notice under section 101(m) of the Employee Retirement Income Security Act of 1974 (as added by this section) would otherwise be required to be provided before the 90th day after the date of the enactment of this Act, such notice shall not be required to be provided until such 90th day.

SEC. 703. PERIODIC PENSION BENEFIT STATEMENTS.

(a) AMENDMENTS OF ERISA.—

(1) IN GENERAL.—Section 105(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1025(a)) is amended to read as follows:

''(a) REQUIREMENTS TO PROVIDE PENSION BENEFIT STATEMENTS.—

''(1) REQUIREMENTS.—

''(A) INDIVIDUAL ACCOUNT PLAN.—The administrator of an individual account plan (other than a one-participant retirement plan described in section 101(i)(8)(B)) shall furnish a pension benefit statement—

''(i) at least once each calendar quarter to a participant or beneficiary who has the right to direct the investment of assets in his or her account under the plan,

''(ii) at least once each calendar year to a participant or beneficiary who has his or her own account under the plan but does not have the right to direct the investment of assets in that account, and

''(iii) upon written request to a plan beneficiary not described in clause (i) or (ii).

''(B) DEFINED BENEFIT PLAN.—The administrator of a defined benefit plan (other than a one-participant retirement plan described in section 101(i)(8)(B)) shall furnish a pension benefit statement—

''(i) at least once every 3 years to each participant with a nonforfeitable accrued benefit and who is employed by the employer maintaining the plan at the time the statement is to be furnished, and

''(ii) to a participant or beneficiary of the plan upon written request.

Information furnished under clause (i) to a participant may be based on reasonable estimates determined under regulations prescribed by the Secretary, in consultation with the Pension Benefit Guaranty Corporation.

''(2) STATEMENTS.—

''(A) IN GENERAL.—A pension benefit statement under paragraph (1)—

''(i) shall indicate, on the basis of the latest available information—

''(I) the total benefits accrued, and

''(II) the nonforfeitable pension benefits, if any, which have accrued, or the earliest date on which benefits will become nonforfeitable,

''(ii) shall include an explanation of any permitted disparity under section 401(l) of the Internal Revenue Code of 1986 or any floor-offset arrangement that may be applied in determining any accrued benefits described in clause (i),

''(iii) shall be written in a manner calculated to be understood by the average plan participant, and

''(iv) may be delivered in written, electronic, or other appropriate form to the extent such form is reasonably accessible to the participant or beneficiary.

''(B) ADDITIONAL INFORMATION.—In the case of an individual account plan, any pension benefit statement under clause (i) or (ii) of paragraph (1)(A) shall include—

''(i) the value of each investment to which assets in the individual account have been allocated, determined as of the most recent valuation date under the plan, including the value of any assets held in the form of employer securities or employer real property, without regard to whether such securities or real property were contributed by the plan sponsor or acquired at the direction of the plan or of the participant or beneficiary, and

''(ii) in the case of a pension benefit statement under paragraph (1)(A)(i)—

''(I) an explanation of any limitations or restrictions on any right of the participant or beneficiary under the plan to direct an investment, and

''(II) a notice that investments in any individual account may not be adequately diversified if the value of any investment in the account exceeds 20 percent of the fair market value of all investments in the account.

''(C) ALTERNATIVE NOTICE.—The requirements of subparagraph (A)(i)(II) are met if, at least annually and in accordance with requirements of the Secretary, the plan—

''(i) updates the information described in such paragraph which is provided in the pension benefit statement, or

''(ii) provides in a separate statement such information as is necessary to enable a participant or beneficiary to determine their nonforfeitable vested benefits.

''(3) DEFINED BENEFIT PLANS.—

''(A) ALTERNATIVE NOTICE.—In the case of a defined benefit plan, the requirements of paragraph (1)(B)(i) shall be treated as met with respect to a participant if at least once each year the administrator provides to the participant notice of the availability of the pension benefit statement and the ways in which the participant may obtain such statement. Such notice may be delivered in written, electronic, or other appropriate form to the extent such form is reasonably accessible to the participant.

''(B) YEARS IN WHICH NO BENEFITS ACCRUE.—The Secretary may provide that years in which no employee or former employee benefits (within the meaning of section 410(b) of the Internal Revenue Code of 1986) under the plan need not be taken into account in determining the 3-year period under paragraph (1)(B)(i).''

(2) CONFORMING AMENDMENTS.—

(A) Section 105 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1025) is amended by striking subsection (d).

(B) Section 105(b) of such Act (29 U.S.C. 1025(b)) is amended to read as follows:

''(b) LIMITATION ON NUMBER OF STATEMENTS.—In no case shall a participant or beneficiary of a plan be entitled to more than 1 statement described in subparagraph (A)(iii) or (B)(ii) of subsection (a)(1), whichever is applicable, in any 12-month period.''

(C) Section 502(c)(1) of such Act (29 U.S.C. 1132(c)(1)) is amended by striking ''or section 101(f)'' and inserting ''section 101(f), or section 105(a)''.

(b) MODEL STATEMENTS.—

(1) IN GENERAL.—The Secretary of Labor shall, within 180 days after the date of the enactment of this section, develop 1 or more model benefit statements that are written in a manner calculated to be understood by the average plan participant and that may be used by plan administrators in complying with the requirements of section 105 of the Employee Retirement Income Security Act of 1974.

(2) INTERIM FINAL RULES.—The Secretary of Labor may promulgate any interim final rules as the Secretary determines appropriate to carry out the provisions of this subsection.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to plan years beginning after December 31, 2006.

(2) SPECIAL RULE FOR COLLECTIVELY BARGAINED AGREEMENTS.—In the case of a plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified on or before the date of the enactment of this Act, paragraph (1) shall be applied to benefits pursuant to, and individuals covered by, any such agreement by substituting for ''December 31, 2006'' the earlier of—

(A) the later of—

(i) December 31, 2007, or

(ii) the date on which the last of such collective bargaining agreements terminates (determined without regard to any extension thereof after such date of enactment), or

(B) December 31, 2008.

SEC. 704. NOTICE TO PARTICIPANTS OR BENEFICIARIES OF BLACKOUT PERIODS.

(a) AMENDMENTS OF ERISA.—

(1) IN GENERAL.—Section 101(i) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1021(i)) is amended—

(A) by striking clauses (i) through (iv) of paragraph (8)(B) and inserting:

''(i) on the first day of the plan year—

''(I) covered only one individual (or the individual and the individual's spouse) and the individual (or the individual and the individual's spouse) owned 100 percent of the plan sponsor (whether or not incorporated), or

''(II) covered only one or more partners (or partners and their spouses) in the plan sponsor, and'', and

(B) in paragraph (8)(B), by redesignating clause (v) as clause (ii).

(2) EFFECTIVE DATE.—The amendments made by this subsection shall take effect as if included in the provisions of section 306 of Public Law 107–204 (116 Stat. 745 et seq.).

SEC. 705. ALLOWANCE OF, AND CREDIT FOR, ADDITIONAL IRA PAYMENTS IN CERTAIN BANKRUPTCY CASES.

(a) ALLOWANCE OF CONTRIBUTIONS.—Section 219(b)(5) of the Internal Revenue Code of 1986 (relating to deductible amount) is amended by redesignating subparagraph (C) as subparagraph (D) and by inserting after subparagraph (B) the following new subparagraph:

''(C) CATCHUP CONTRIBUTIONS FOR CERTAIN INDIVIDUALS.—

''(i) IN GENERAL.—In the case of an applicable individual who elects to make a qualified retirement contribution in addition to the deductible amount determined under subparagraph (A)—

''(I) the deductible amount for any taxable year shall be increased by an amount equal to 3 times the applicable amount determined under subparagraph (B) for such taxable year, and

''(II) subparagraph (B) shall not apply.

''(ii) APPLICABLE INDIVIDUAL.—For purposes of this subparagraph, the term 'applicable individual' means, with respect to any taxable year, any individual who was a qualified participant in a qualified cash or deferred arrangement (as defined in section 401(k)) of an employer described in clause (iii) under which the employer matched at least 50 percent of the employee's contributions to such arrangement with stock of such employer.

''(iii) EMPLOYER DESCRIBED.—An employer is described in this clause if, in any taxable year preceding the taxable year described in clause (ii)—

''(I) such employer (or any controlling corporation of such employer) was a debtor in a case under title 11 of the United States Code, or similar Federal or State law, and

''(II) such employer (or any other person) was subject to an indictment or conviction resulting from business transactions related to such case.

''(iv) QUALIFIED PARTICIPANT.—For purposes of clause (ii), the term 'qualified participant' means any applicable individual who was a participant in the cash or deferred arrangement described in clause (i) on the date that is 6 months before the filing of the case described in clause (iii).

''(v) TERMINATION.—This subparagraph shall not apply to taxable years beginning after December 31, 2009.''

(b) SAVER'S CREDIT EXPANDED TO INCLUDE CATCHUP CONTRIBUTIONS.—

(1) IN GENERAL.—Section 25B of the Internal Revenue Code of 1986 (relating to credit for elective deferrals and IRA contributions by certain individuals) is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

''(h) ADDITIONAL CREDIT FOR CERTAIN CATCHUP CONTRIBUTIONS.—

''(1) IN GENERAL.—In the case of an eligible individual who is an applicable individual under section 219(b)(5)(C) for any taxable year, the amount of the credit allowable under subsection (a) for the taxable year shall be increased by 50 percent of so much of the qualified retirement contributions (as defined in section 219(e)) of the individual for the taxable year as exceeds the deductible amount for the taxable year under section 219(b)(5) (without regard to subparagraphs (B) and (C) thereof).

''(2) COORDINATION WITH OTHER CONTRIBUTIONS.—For purposes of this section—

''(A) any contribution to which this subsection applies shall not be taken into account in determining the amount of the credit allowable under subsection (a) without regard to this subsection, and

''(B) in applying any reduction in qualified retirement savings contributions under subsection (d)(2), the reduction shall be applied first to qualified retirement savings contributions other than contributions to which this subsection applies.''.

(2) EXTENSION OF TERMINATION DATE FOR CATCHUP CREDIT.—Section 25B(i) of such Code, as redesignated by paragraph (1), is amended by inserting ''(December 31, 2007, in the case of the portion of the credit allowed under subsection (h))'' after ''2006''.

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

SEC. 706. INAPPLICABILITY OF RELIEF FROM FIDUCIARY LIABILITY DURING SUSPENSION OF ABILITY OF PARTICIPANT OR BENEFICIARY TO DIRECT INVESTMENTS.

(a) IN GENERAL.—Section 404(c)(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1104(c)(1)) is amended—

(1) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively, and by inserting ''(A)'' after ''(c)(1)'',

(2) in subparagraph (A)(ii) (as redesignated by paragraph (1)), by inserting before the period the following: '', except that this clause shall not apply in connection with such participant or beneficiary for any blackout period during which the ability of such participant or beneficiary to direct the investment of the assets in his or her account is suspended by a plan sponsor or fiduciary'', and

(3) by adding at the end the following new subparagraphs:

''(B)(i) If a person referred to in subparagraph (A)(ii) meets the requirements of this title in connection with authorizing and implementing the blackout period, any person who is otherwise a fiduciary shall not be liable under this title for any loss occurring during such period as a result of any exercise by the participant or beneficiary of control over assets in his or her account before the period. Matters to be considered in determining whether such person has satisfied the requirements of this title include, but are not limited to, whether such person—

''(I) has considered the reasonableness of the expected blackout period,

''(II) has provided the notice required under section 101(i)(1), and

''(III) has acted in accordance with the requirements of subsection (a) in determining whether to enter into the blackout period.

''(ii) For purposes of this subsection, if a blackout period arises in connection with a

change in the investment options offered under the plan, a participant or beneficiary shall be deemed to have exercised control over the assets in his or her account prior to the blackout period if, after notice of the change in investment options is given to such participant or beneficiary, assets in the account of the participant or beneficiary are transferred—

''(I) to plan investment options in accordance with the affirmative election of the participant or beneficiary; or

''(II) in the absence of such an election and in the case in which fiduciary relief was provided under this subsection for the prior investment options, to plan investment options in the manner set forth in such notice.

''(C) For purposes of this paragraph, the term 'blackout period' has the meaning given such term by section 101(i)(7).''

(b) GUIDANCE.—Not later than 180 days after the date of enactment of this Act, the Secretary of Labor, in consultation with the Secretary of the Treasury, shall issue interim final regulations providing guidance, including safe harbors, on how plan sponsors or any other affected fiduciaries can satisfy their fiduciary responsibilities during any blackout period during which the ability of a participant or beneficiary to direct the investment of assets in his or her individual account is suspended.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to plan years beginning after December 31, 2005.

(2) SPECIAL RULE FOR COLLECTIVELY BARGAINED AGREEMENTS.—In the case of a plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified on or before the date of the enactment of this Act, paragraph (1) shall be applied to benefits pursuant to, and individuals covered by, any such agreement by substituting for ''December 31, 2005'' the earlier of—

(A) the later of—

(i) December 31, 2006, or

(ii) the date on which the last of such collective bargaining agreements terminates (determined without regard to any extension thereof after such date of enactment), or

(B) December 31, 2007.

SEC. 707. INCREASE IN MAXIMUM BOND AMOUNT.

(a) IN GENERAL.—Section 412(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1112) is amended by adding at the end the following: ''In the case of a plan that holds employer securities (within the meaning of section 407(d)(1)), this subsection shall be applied by substituting '$1,000,000' for '$500,000' each place it appears.''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to plan years beginning after December 31, 2005.

TITLE VIII—INFORMATION TO ASSIST PENSION PLAN PARTICIPANTS

SEC. 801. DEFINED CONTRIBUTION PLANS REQUIRED TO PROVIDE ADEQUATE INVESTMENT EDUCATION TO PARTICIPANTS.

(a) ADEQUATE INVESTMENT EDUCATION.—

(1) IN GENERAL.—Section 101 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1024), as amended by this Act, is amended by redesignating subsection (n) as subsection (o) and by inserting after subsection (m) the following:

''(n) BASIC INVESTMENT GUIDELINES.—

''(1) IN GENERAL.—The administrator of an individual account plan (other than a one-participant retirement plan described in subsection (i)(8)(B)) shall furnish at least once each year to each participant or beneficiary who has the right to direct the investment of assets in his or her account the model form relating to basic investment guidelines which is described in paragraph (2).

''(2) MODEL FORM.—

''(A) IN GENERAL.—The Secretary shall, in consultation with the Secretary of Treasury, develop and make available to individual account plans for distribution under paragraph (1) a model form containing basic guidelines for investing for retirement. Except as otherwise provided by the Secretary, such guidelines shall include—

''(i) information on the benefits of diversification,

''(ii) information on the essential differences, in terms of risk and return, of pension plan investments, including stocks, bonds, mutual funds, and money market investments,

''(iii) information on how an individual's pension plan investment allocations may differ depending on the individual's age and years to retirement and on other factors determined by the Secretary,

''(iv) sources of information where individuals may learn more about pension rights, individual investing, and investment advice, and

''(v) such other information related to individual investing as the Secretary determines appropriate.

''(B) CALCULATION INFORMATION.—The model form under subparagraph (A) shall include addresses for Internet sites, and a worksheet, which a participant or beneficiary may use to calculate—

''(i) the retirement age value of the participant's or beneficiary's nonforfeitable pension benefits under the plan (expressed as an annuity amount and determined by reference to varied historical annual rates of return and annuity interest rates), and

''(ii) other important amounts relating to retirement savings, including the amount which a participant or beneficiary would be required to save annually to provide a retirement income equal to various percentages of their current salary (adjusted for expected growth prior to retirement).

The Secretary shall develop an Internet site which an individual may use in making such calculations and the address for such site shall be included with the form.

''(C) PUBLIC COMMENT.—The Secretary of Labor shall provide at least 90 days for public comment before publishing final notice of the model form.

''(3) RULES RELATING TO FORM AND STATEMENT.—The model form under paragraph (2)—

''(A) shall be written in a manner calculated to be understood by the average plan participant, and

''(B) may be delivered in written, electronic, or other appropriate form to the extent such form is reasonably accessible to participants and beneficiaries.''

(2) ENFORCEMENT.—Section 502(c)(7) of such Act (29 U.S.C. 1132(c)(7)), as amended by this Act, is amended by striking ''or (l)'' and inserting '', (l), or (n)''.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to plan years beginning after December 31, 2006.

(2) SPECIAL RULE FOR COLLECTIVELY BARGAINED AGREEMENTS.—In the case of a plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified on or before the date of the enactment of this Act, paragraph (1) shall be applied to benefits pursuant to, and individuals covered by, any such agreement by substituting for ''December 31, 2006'' the earlier of—

(A) the later of—

(i) December 31, 2007, or

(ii) the date on which the last of such collective bargaining agreements terminates (determined without regard to any extension thereof after such date of enactment), or

(B) December 31, 2008.

SEC. 802. INDEPENDENT INVESTMENT ADVICE PROVIDED TO PLAN PARTICIPANTS.

(a) IN GENERAL.—Section 404 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1104) is amended by adding at the end the following new subsection:

''(e) INDEPENDENT INVESTMENT ADVISER.—

''(1) IN GENERAL.—In the case of an individual account plan which permits a plan participant or beneficiary to direct the investment of the assets in his or her account, if a plan sponsor or other person who is a fiduciary designates and monitors a qualified investment adviser pursuant to the requirements of paragraph (3), such fiduciary—

''(A) shall be deemed to have satisfied the requirements under this section for the prudent designation and periodic review of an investment adviser with whom the plan sponsor or other person who is a fiduciary enters into an arrangement for the provision of advice referred to in section 3(21)(A)(ii),

''(B) shall not be liable under this section for any loss, or by reason of any breach, with respect to the provision of investment advice given by such adviser to any plan participant or beneficiary, and

''(C) shall not be liable for any co-fiduciary liability under subsections (a)(2) and (b) of section 405 with respect to the provision of investment advice given by such adviser to any plan participant or beneficiary.

''(2) QUALIFIED INVESTMENT ADVISER.—

''(A) IN GENERAL.—For purposes of this subsection, the term 'qualified investment adviser' means, with respect to a plan, a person—

''(i) who is a fiduciary of the plan by reason of the provision of investment advice by such person to a plan participant or beneficiary;

''(ii) who—

''(I) is registered as an investment adviser under the Investment Advisers Act of 1940 (15 U.S.C. 80b–1 et seq.),

''(II) is registered as an investment adviser under the laws of the State in which such adviser maintains the principal office and place of business of such adviser, but only if such State laws are consistent with section 203A of the Investment Advisers Act of 1940 (15 U.S.C. 80b–3a),

''(III) is a bank or similar financial institution referred to in section 408(b)(4),

''(IV) is an insurance company qualified to do business under the laws of a State, or

''(V) is any other comparably qualified entity which satisfies such criteria as the Secretary determines appropriate, consistent with the purposes of this subsection, and

''(iii) who meets the requirements of subparagraph (B).

''(B) ADVISER REQUIREMENTS.—The requirements of this subparagraph are met if every individual employed (or otherwise compensated) by a person described in subparagraph (A)(ii) who provides investment advice on behalf of such person to any plan participant or beneficiary is—

''(i) an individual described in subclause (I) of subparagraph (A)(ii),

''(ii) an individual described in subclause (II) of subparagraph (A)(ii), but only if such State has an examination requirement to qualify for registration,

''(iii) registered as a broker or dealer under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.),

''(iv) a registered representative as described in section 3(a)(18) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(18)) or section 202(a)(17) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–2(a)(17)), or

''(v) any other comparably qualified individual who satisfies such criteria as the Secretary determines appropriate, consistent with the purposes of this subsection.

''(3) VERIFICATION REQUIREMENTS.—The requirements of this paragraph are met if—

''(A) the plan sponsor or other person who is a fiduciary in designating a qualified investment adviser receives at the time of the designation, and annually thereafter, a written verification from the qualified investment adviser that the investment adviser—

''(i) is and remains a qualified investment adviser,

''(ii) acknowledges that the investment adviser is a fiduciary with respect to the plan and is solely responsible for its investment advice,

''(iii) has reviewed the plan documents (including investment options) and has determined that its relationship with the plan and the investment advice provided to any plan participant or beneficiary, including any fees or other compensation it will receive, will not constitute a violation of section 406,

''(iv) will, in providing investment advice to any participant or beneficiary, consider any employer securities or employer real property allocated to his or her account, and

''(v) has the necessary insurance coverage (as determined by the Secretary) for any claim by any plan participant or beneficiary,

''(B) the plan sponsor or other person who is a fiduciary in designating a qualified investment adviser reviews the documents described in paragraph (4) provided by such adviser and determines that there is no material reason not to enter into an arrangement for the provision of advice by such qualified investment adviser, and

''(C) the plan sponsor or other person who is a fiduciary in designating a qualified investment adviser, within 30 days of having information brought to its attention that the investment adviser is no longer qualified or that a substantial number of plan participants or beneficiaries have raised concerns about the services being provided by the investment adviser—

''(i) investigates such information and concerns, and

''(ii) determines that there is no material reason not to continue the designation of the adviser as a qualified investment adviser.

''(4) DOCUMENTATION.—A qualified investment adviser shall provide the following documents to the plan sponsor or other person who is a fiduciary in designating the adviser:

''(A) The contract with the plan sponsor or other person who is a fiduciary for the services to be provided by the investment adviser to the plan participants and beneficiaries.

''(B) A disclosure as to any fees or other compensation that will be received by the investment adviser for the provision of such investment advice and as to any fees and other compensation that will be received as a result of a participant's investment election.

''(C) The Uniform Application for Investment Adviser Registration as filed with the Securities and Exchange Commission or a substantially similar disclosure application as determined by and filed with the Secretary.

''(5) TREATMENT AS FIDUCIARY.—Any qualified investment adviser that acknowledges it is a fiduciary pursuant to paragraph (3)(A)(ii) shall be deemed a fiduciary under this part with respect to the provision of investment advice to a plan participant or beneficiary.''

(b) FIDUCIARY LIABILITY.—Section 404(c)(1)(B) of such Act is amended by inserting ''(other than a qualified investment adviser)'' after ''fiduciary''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to investment advisers designated after the date of the enactment of this Act.

SEC. 803. TREATMENT OF QUALIFIED RETIREMENT PLANNING SERVICES.

(a) IN GENERAL.—Subsection (m) of section 132 of the Internal Revenue Code of 1986 (defining qualified retirement services) is amended by adding at the end the following new paragraph:

''(4) NO CONSTRUCTIVE RECEIPT.—

''(A) IN GENERAL.—No amount shall be included in the gross income of any employee solely because the employee may choose between any qualified retirement planning services provided by an eligible investment advisor and compensation which would otherwise be includible in the gross income of such employee. The preceding sentence shall apply to highly compensated employees only if the choice described in such sentence is available on substantially the same terms to each member of the group of employees normally provided education and information regarding the employer's qualified employer plan.

''(B) LIMITATION.—The maximum amount which may be excluded under subparagraph (A) with respect to any employee for any taxable year shall not exceed $1,000.

''(C) ELIGIBLE INVESTMENT ADVISER.—For purposes of this paragraph, the term 'eligible investment adviser' means, with respect to a plan, a person—

''(i) who—

''(I) is registered as an investment adviser under the Investment Advisers Act of 1940 (15 U.S.C. 80b–1 et seq.),

''(II) is registered as an investment adviser under the laws of the State in which such adviser maintains the principal office and place of business of such adviser, but only if such State laws are consistent with section 203A of the Investment Advisers Act of 1940 (15 U.S.C. 80b–3a),

''(III) is a bank or similar financial institution referred to in section 408(b)(4),

''(IV) is an insurance company qualified to do business under the laws of a State, or

''(V) is any other comparably qualified entity which satisfies such criteria as the Secretary determines appropriate, consistent with the purposes of this subsection, and

''(ii) who meets the requirements of subparagraph (D).

''(D) ADVISER REQUIREMENTS.—The requirements of this subparagraph are met if every individual employed (or otherwise compensated) by a person described in subparagraph (C)(i) who provides investment advice on behalf of such person to any plan participant or beneficiary is—

''(i) an individual described in subclause (I) of subparagraph (C)(i),

''(ii) an individual described in subclause (II) of subparagraph (C)(i), but only if such State has an examination requirement to qualify for registration,

''(iii) registered as a broker or dealer under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.),

''(iv) a registered representative as described in section 3(a)(18) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(18)) or section 202(a)(17) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–2(a)(17)), or

''(v) any other comparably qualified individual who satisfies such criteria as the Secretary determines appropriate, consistent with the purposes of this paragraph.

''(E) TERMINATION.—This paragraph shall not apply to taxable years beginning after December 31, 2010.''

(b) CONFORMING AMENDMENTS.—

(1) Section 403(b)(3)(B) of such Code is amended by inserting ''132(m)(4),'' after ''132(f)(4),''.

(2) Section 414(s)(2) of such Code is amended by inserting ''132(m)(4),'' after ''132(f)(4),''.

(3) Section 415(c)(3)(D)(ii) of such Code is amended by inserting ''132(m)(4),'' after ''132(f)(4),''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2005.

SEC. 804. INCREASE IN PENALTIES FOR COERCIVE INTERFERENCE WITH EXERCISE OF ERISA RIGHTS.

(a) IN GENERAL.—Section 511 of the Employment Retirement Income Security Act of 1974 (29 U.S.C. 1141) is amended—

(1) by striking ''$10,000'' and inserting ''$100,000'', and

(2) by striking ''one year'' and inserting ''10 years''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to violations occurring on and after the date of the enactment of this Act.

SEC. 805. ADMINISTRATIVE PROVISION.

The Secretary of the Treasury shall have the authority to prescribe rules applicable to the statements required under sections 101(j) and 101(m) of the Employee Retirement Income Security Act of 1974 (as added by this Act).

TITLE IX—PROVISIONS RELATING TO SPOUSAL PENSION PROTECTION

SEC. 901. REGULATIONS ON TIME AND ORDER OF ISSUANCE OF DOMESTIC RELATIONS ORDERS.

Not later than 1 year after the date of the enactment of this Act, the Secretary of Labor shall issue regulations under section 206(d)(3) of the Employee Retirement Security Act of 1974 and section 414(p) of the Internal Revenue Code of 1986 which clarify that—

(1) a domestic relations order otherwise meeting the requirements to be a qualified domestic relations order, including the requirements of section 206(d)(3)(D) of such Act and section 414(p)(3) of such Code, shall not fail to be treated as a qualified domestic relations order solely because—

(A) the order is issued after, or revises, another domestic relations order or qualified domestic relations order; or

(B) of the time at which it is issued; and

(2) any order described in paragraph (1) shall be subject to the same requirements and protections which apply to qualified domestic relations orders, including the provisions of section 206(d)(3)(H) of such Act and section 414(p)(7) of such Code.

SEC. 902. ENTITLEMENT OF DIVORCED SPOUSES TO RAILROAD RETIREMENT ANNUITIES INDEPENDENT OF ACTUAL ENTITLEMENT OF EMPLOYEE.

(a) IN GENERAL.—Section 2 of the Railroad Retirement Act of 1974 (45 U.S.C. 231a) is amended—

(1) in subsection (c)(4)(i), by striking ''(A) is entitled to an annuity under subsection (a)(1) and (B)''; and

(2) in subsection (e)(5), by striking ''or divorced wife'' the second place it appears.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect 1 year after the date of the enactment of this Act.

SEC. 903. EXTENSION OF TIER II RAILROAD RETIREMENT BENEFITS TO SURVIVING FORMER SPOUSES PURSUANT TO DIVORCE AGREEMENTS.

(a) IN GENERAL.—Section 5 of the Railroad Retirement Act of 1974 (45 U.S.C. 231d) is amended by adding at the end the following:

''(d) Notwithstanding any other provision of law, the payment of any portion of an annuity computed under section 3(b) to a surviving former spouse in accordance with a court decree of divorce, annulment, or legal separation or the terms of any court-approved property settlement incident to any such court decree shall not be terminated upon the death of the individual who performed the service with respect to which

such annuity is so computed unless such termination is otherwise required by the terms of such court decree.''

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect 1 year after the date of the enactment of this Act.

SEC. 904. REQUIREMENT FOR ADDITIONAL SURVIVOR ANNUITY OPTION.

(a) AMENDMENTS TO INTERNAL REVENUE CODE.—

(1) ELECTION OF SURVIVOR ANNUITY.—Section 417(a)(1)(A) of the Internal Revenue Code of 1986 is amended—

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

(B) by redesignating clause (ii) as clause (iii); and

(C) by inserting after clause (i) the following:

''(ii) if the participant elects a waiver under clause (i), may elect the qualified optional survivor annuity at any time during the applicable election period, and''.

(2) DEFINITION.—Section 417 of such Code is amended by adding at the end the following:

''(g) DEFINITION OF QUALIFIED OPTIONAL SURVIVOR ANNUITY.—

''(1) IN GENERAL.—For purposes of this section, the term 'qualified optional survivor annuity' means an annuity—

''(A) for the life of the participant with a survivor annuity for the life of the spouse which is equal to the applicable percentage of the amount of the annuity which is payable during the joint lives of the participant and the spouse, and

''(B) which is the actuarial equivalent of a single annuity for the life of the participant. Such term also includes any annuity in a form having the effect of an annuity described in the preceding sentence.

''(2) APPLICABLE PERCENTAGE.—

''(A) IN GENERAL.—For purposes of paragraph (1), if the survivor annuity percentage—

''(i) is less than 75 percent, the applicable percentage is 75 percent, and

''(ii) is greater than or equal to 75 percent, the applicable percentage is 50 percent.

''(B) SURVIVOR ANNUITY PERCENTAGE.—For purposes of subparagraph (A), the term 'survivor annuity percentage' means the percentage which the survivor annuity under the plan's qualified joint and survivor annuity bears to the annuity payable during the joint lives of the participant and the spouse.''

(3) NOTICE.—Section 417(a)(3)(A)(i) of such Code is amended by inserting ''and of the qualified optional survivor annuity'' after ''annuity''.

(b) AMENDMENTS TO ERISA.—

(1) ELECTION OF SURVIVOR ANNUITY.—Section 205(c)(1)(A) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1055(c)(1)(A)) is amended—

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

(B) by redesignating clause (ii) as clause (iii); and

(C) by inserting after clause (i) the following:

''(ii) if the participant elects a waiver under clause (i), may elect the qualified optional survivor annuity at any time during the applicable election period, and''.

(2) DEFINITION.—Section 205(d) of such Act (29 U.S.C. 1055(d)) is amended—

(A) by inserting ''(1)'' after ''(d)'';

(B) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively; and

(C) by adding at the end the following:

''(2)(A) For purposes of this section, the term 'qualified optional survivor annuity' means an annuity—

''(i) for the life of the participant with a survivor annuity for the life of the spouse which is equal to the applicable percentage of the amount of the annuity which is payable during the joint lives of the participant and the spouse, and

''(ii) which is the actuarial equivalent of a single annuity for the life of the participant. Such term also includes any annuity in a form having the effect of an annuity described in the preceding sentence.

''(B)(i) For purposes of subparagraph (A), if the survivor annuity percentage—

''(I) is less than 75 percent, the applicable percentage is 75 percent, and

''(II) is greater than or equal to 75 percent, the applicable percentage is 50 percent.

''(ii) For purposes of clause (i), the term 'survivor annuity percentage' means the percentage which the survivor annuity under the plan's qualified joint and survivor annuity bears to the annuity payable during the joint lives of the participant and the spouse.''

(3) NOTICE.—Section 205(c)(3)(A)(i) of such Act (29 U.S.C. 1055(c)(3)(A)(i)) is amended by inserting ''and of the qualified optional survivor annuity'' after ''annuity''.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to plan years beginning after December 31, 2005.

(2) SPECIAL RULE FOR COLLECTIVELY BARGAINED PLANS.—In the case of a plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified on or before the date of the enactment of this Act, the amendments made by this section shall apply to the first plan year beginning on or after the earlier of—

(A) the later of—

(i) January 1, 2006, or

(ii) the date on which the last of such collective bargaining agreements terminates (determined without regard to any extension thereof after the date of enactment of this Act), or

(B) January 1, 2007.

TITLE X—IMPROVEMENTS IN PORTABILITY AND DISTRIBUTION RULES

SEC. 1001. CLARIFICATIONS REGARDING PURCHASE OF PERMISSIVE SERVICE CREDIT.

(a) IN GENERAL.—Section 415(n) of the Internal Revenue Code of 1986 (relating to special rules for the purchase of permissive service credit) is amended—

(1) by striking ''an employee'' in paragraph (1) and inserting ''a participant'', and

(2) by adding at the end of paragraph (3)(A) the following new flush sentence

''Such term may include service credit for periods for which there is no performance of service, and notwithstanding clause (ii), may include service credited in order to provide an increased benefit for service credit which a participant is receiving under the plan.''

(b) SPECIAL RULES FOR TRUSTEE-TO-TRUSTEE TRANSFERS.—Section 415(n)(3) of such Code is amended by adding at the end the following new subparagraph:

''(D) SPECIAL RULES FOR TRUSTEE-TO-TRUSTEE TRANSFERS.—In the case of a trustee-to-trustee transfer to which section 403(b)(13)(A) or 457(e)(17)(A) applies (without regard to whether the transfer is made between plans maintained by the same employer)—

''(i) the limitations of subparagraph (B) shall not apply in determining whether the transfer is for the purchase of permissive service credit, and

''(ii) the distribution rules applicable under this title to the defined benefit governmental plan to which any amounts are so transferred shall apply to such amounts and any benefits attributable to such amounts.''

(c) NONQUALIFIED SERVICE.—Section 415(n)(3) of such Code is amended—

(1) by striking ''permissive service credit attributable to nonqualified service'' each place it appears in subparagraph (B) and inserting ''nonqualified service credit'',

(2) by striking so much of subparagraph (C) as precedes clause (i) and inserting:

''(C) NONQUALIFIED SERVICE CREDIT.—For purposes of subparagraph (B), the term 'nonqualified service credit' means permissive service credit other than that allowed with respect to—'', and

(3) by striking ''elementary or secondary education (through grade 12), as determined under State law'' and inserting ''elementary or secondary education (through grade 12), or a comparable level of education, as determined under the applicable law of the jurisdiction in which the service was performed''.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by subsections (a) and (c) shall take effect as if included in the amendments made by section 1526 of the Taxpayer Relief Act of 1997.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall take effect as if included in the amendments made by section 647 of the Economic Growth and Tax Relief Reconciliation Act of 2001.

SEC. 1002. ALLOW ROLLOVER OF AFTER-TAX AMOUNTS IN ANNUITY CONTRACTS.

(a) IN GENERAL.—Subparagraph (A) of section 402(c)(2) (relating to the maximum amount which may be rolled over) is amended—

(1) by striking ''which is part of a plan which is a defined contribution plan and which agrees to separately account'' and inserting ''or to an annuity contract described in section 403(b) and such trust or contract provides for separate accounting''; and

(2) by inserting ''(and earnings thereon)'' after ''so transferred''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 2005.

SEC. 1003. CLARIFICATION OF MINIMUM DISTRIBUTION RULES FOR GOVERNMENTAL PLANS.

The Secretary of the Treasury shall issue regulations under which a governmental plan (as defined in section 414(d) of the Internal Revenue Code of 1986) shall, for all years to which section 401(a)(9) of such Code applies to such plan, be treated as having complied with such section 401(a)(9) if such plan complies with a reasonable good faith interpretation of such section 401(a)(9).

SEC. 1004. WAIVER OF 10 PERCENT EARLY WITHDRAWAL PENALTY TAX ON CERTAIN DISTRIBUTIONS OF PENSION PLANS FOR PUBLIC SAFETY EMPLOYEES.

(a) IN GENERAL.—Section 72(t) of the Internal Revenue Code of 1986 (relating to subsection not to apply to certain distributions) is amended by adding at the end the following new paragraph:

''(10) DISTRIBUTIONS TO QUALIFIED PUBLIC SAFETY EMPLOYEES IN GOVERNMENTAL PLANS.—

''(A) IN GENERAL.—In the case of a distribution to a qualified public safety employee from a governmental plan (within the meaning of section 414(d)) which is a defined benefit plan, paragraph (2)(A)(v) shall be applied by substituting 'age 50' for 'age 55'.

''(B) QUALIFIED PUBLIC SAFETY EMPLOYEE.—For purposes of this paragraph, the term 'qualified public safety employee' means any employee of a State or political subdivision of a State who provides police protection, firefighting services, or emergency medical services for any area within the jurisdiction of such State or political subdivision.''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to distributions after the date of the enactment of this Act.

SEC. 1005. ALLOW ROLLOVERS BY NONSPOUSE BENEFICIARIES OF CERTAIN RETIREMENT PLAN DISTRIBUTIONS.

(a) IN GENERAL.—

(1) QUALIFIED PLANS.—Section 402(c) of the Internal Revenue Code of 1986 (relating to rollovers from exempt trusts) is amended by adding at the end the following new paragraph:

''(11) DISTRIBUTIONS TO INHERITED INDIVIDUAL RETIREMENT PLAN OF NONSPOUSE BENEFICIARY.—

''(A) IN GENERAL.—If, with respect to any portion of a distribution from an eligible retirement plan of a deceased employee, a direct trustee-to-trustee transfer is made to an individual retirement plan described in clause (i) or (ii) of paragraph (8)(B) established for the purposes of receiving the distribution on behalf of an individual who is a designated beneficiary (as defined by section 401(a)(9)(E)) of the employee and who is not the surviving spouse of the employee—

''(i) the transfer shall be treated as an eligible rollover distribution for purposes of this subsection,

''(ii) the individual retirement plan shall be treated as an inherited individual retirement account or individual retirement annuity (within the meaning of section 408(d)(3)(C)) for purposes of this title, and

''(iii) section 401(a)(9)(B) (other than clause (iv) thereof) shall apply to such plan.

''(B) CERTAIN TRUSTS TREATED AS BENEFICIARIES.—For purposes of this paragraph, to the extent provided in rules prescribed by the Secretary, a trust maintained for the benefit of one or more designated beneficiaries shall be treated in the same manner as a designated beneficiary.''

(2) SECTION 403(a) PLANS.—Subparagraph (B) of section 403(a)(4) of such Code (relating to rollover amounts) is amended by striking ''and (9)'' and inserting '', (9), and (11)''.

(3) SECTION 403(b) PLANS.—Subparagraph (B) of section 403(b)(8) of such Code (relating to rollover amounts) is amended by striking ''and (9)'' and inserting '', (9), and (11)''.

(4) SECTION 457 PLANS.—Subparagraph (B) of section 457(e)(16) of such Code (relating to rollover amounts) is amended by striking ''and (9)'' and inserting '', (9), and (11)''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions after December 31, 2005.

SEC. 1006. FASTER VESTING OF EMPLOYER NONELECTIVE CONTRIBUTIONS.

(a) AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986.—

(1) IN GENERAL.—Paragraph (2) of section 411(a) of the Internal Revenue Code of 1986 (relating to employer contributions) is amended to read as follows:

''(2) EMPLOYER CONTRIBUTIONS.—

''(A) DEFINED BENEFIT PLANS.—

''(i) IN GENERAL.—In the case of a defined benefit plan, a plan satisfies the requirements of this paragraph if it satisfies the requirements of clause (ii) or (iii).

''(ii) 5-YEAR VESTING.—A plan satisfies the requirements of this clause if an employee who has completed at least 5 years of service has a nonforfeitable right to 100 percent of the employee's accrued benefit derived from employer contributions.

''(iii) 3 TO 7 YEAR VESTING.—A plan satisfies the requirements of this clause if an employee has a nonforfeitable right to a percentage of the employee's accrued benefit derived from employer contributions determined under the following table:

''Years of service:	The nonforfeitable percentage is:
3	20
4	40
5	60
6	80
7 or more	100.

''(B) DEFINED CONTRIBUTION PLANS.—

''(i) IN GENERAL.—In the case of a defined contribution plan, a plan satisfies the requirements of this paragraph if it satisfies the requirements of clause (ii) or (iii).

''(ii) 3-YEAR VESTING.—A plan satisfies the requirements of this clause if an employee who has completed at least 3 years of service has a nonforfeitable right to 100 percent of the employee's accrued benefit derived from employer contributions.

''(iii) 2 TO 6 YEAR VESTING.—A plan satisfies the requirements of this clause if an employee has a nonforfeitable right to a percentage of the employee's accrued benefit derived from employer contributions determined under the following table:

''Years of service:	The nonforfeitable percentage is:
2	20
3	40
4	60
5	80
6 or more	100.''.

(2) CONFORMING AMENDMENT.—Section 411(a) of such Code (relating to general rule for minimum vesting standards) is amended by striking paragraph (12).

(b) AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—

(1) IN GENERAL.—Paragraph (2) of section 203(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1053(a)(2)) is amended to read as follows:

''(2)(A)(i) In the case of a defined benefit plan, a plan satisfies the requirements of this paragraph if it satisfies the requirements of clause (ii) or (iii).

''(ii) A plan satisfies the requirements of this clause if an employee who has completed at least 5 years of service has a nonforfeitable right to 100 percent of the employee's accrued benefit derived from employer contributions.

''(iii) A plan satisfies the requirements of this clause if an employee has a nonforfeitable right to a percentage of the employee's accrued benefit derived from employer contributions determined under the following table:

''Years of service:	The nonforfeitable percentage is:
3	20
4	40
5	60
6	80
7 or more	100.

''(B)(i) In the case of an individual account plan, a plan satisfies the requirements of this paragraph if it satisfies the requirements of clause (ii) or (iii).

''(ii) A plan satisfies the requirements of this clause if an employee who has completed at least 3 years of service has a nonforfeitable right to 100 percent of the employee's accrued benefit derived from employer contributions.

''(iii) A plan satisfies the requirements of this clause if an employee has a nonforfeitable right to a percentage of the employee's accrued benefit derived from employer contributions determined under the following table:

''Years of service:	The nonforfeitable percentage is:
2	20
3	40
4	60
5	80
6 or more	100.''.

(2) CONFORMING AMENDMENT.—Section 203(a) of such Act is amended by striking paragraph (4).

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (4), the amendments made by this section shall apply to contributions for plan years beginning after December 31, 2005.

(2) COLLECTIVE BARGAINING AGREEMENTS.—In the case of a plan maintained pursuant to one or more collective bargaining agreements between employee representatives and one or more employers ratified before the date of the enactment of this Act, the amendments made by this section shall not apply to contributions on behalf of employees covered by any such agreement for plan years beginning before the earlier of—

(A) the later of—

(i) the date on which the last of such collective bargaining agreements terminates (determined without regard to any extension thereof on or after such date of the enactment); or

(ii) January 1, 2006; or

(B) January 1, 2008.

(3) SERVICE REQUIRED.—With respect to any plan, the amendments made by this section shall not apply to any employee before the date that such employee has 1 hour of service under such plan in any plan year to which the amendments made by this section apply.

(4) SPECIAL RULE FOR STOCK OWNERSHIP PLANS.—Notwithstanding paragraph (1) or (2), in the case of an employee stock ownership plan (as defined in section 4975(e)(7) of the Internal Revenue Code of 1986) which had outstanding on September 26, 2005, a loan incurred for the purpose of acquiring qualifying employer securities (as defined in section 4975(e)(8) of such Code), the amendments made by this section shall not apply to any plan year beginning before the earlier of—

(A) the date on which the loan is fully repaid, or

(B) the date on which the loan was, as of September 26, 2005, scheduled to be fully repaid.

SEC. 1007. ALLOW DIRECT ROLLOVERS FROM RETIREMENT PLANS TO ROTH IRAS.

(a) IN GENERAL.—Subsection (e) of section 408A of the Internal Revenue Code of 1986 (defining qualified rollover contribution) is amended to read as follows:

''(e) QUALIFIED ROLLOVER CONTRIBUTION.—For purposes of this section, the term 'qualified rollover contribution' means a rollover contribution—

''(1) to a Roth IRA from another such account,

''(2) from an eligible retirement plan, but only if—

''(A) in the case of an individual retirement plan, such rollover contribution meets the requirements of section 408(d)(3), and

''(B) in the case of any eligible retirement plan (as defined in section 402(c)(8)(B) other than clauses (i) and (ii) thereof), such rollover contribution meets the requirements of section 402(c), 403(b)(8), or 457(e)(16), as applicable.

For purposes of section 408(d)(3)(B), there shall be disregarded any qualified rollover contribution from an individual retirement plan (other than a Roth IRA) to a Roth IRA.''

(b) CONFORMING AMENDMENTS.—

(1) Section 408A(c)(3)(B) of such Code is amended—

(A) in the text by striking ''individual retirement plan'' and inserting ''an eligible retirement plan (as defined by section 402(c)(8)(B))'', and

(B) in the heading by striking ''IRA'' and inserting ''ELIGIBLE RETIREMENT PLAN''.

(2) Section 408A(d)(3) of such Code is amended—

(A) in subparagraph (A), by striking ''section 408(d)(3)'' inserting ''sections 402(c), 403(b)(8), 408(d)(3), and 457(e)(16)'',

(B) in subparagraph (B), by striking ''individual retirement plan'' and inserting ''eligible retirement plan (as defined by section 402(c)(8)(B))'',

(C) in subparagraph (D), by inserting ''or 6047'' after ''408(i)'',

(D) in subparagraph (D), by striking ''or both'' and inserting ''persons subject to section 6047(d)(1), or all of the foregoing persons'', and

(E) in the heading, by striking ''IRA'' and inserting ''ELIGIBLE RETIREMENT PLAN''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions after December 31, 2005.

SEC. 1008. ELIMINATION OF HIGHER PENALTY ON CERTAIN SIMPLE PLAN DISTRIBUTIONS.

(a) IN GENERAL.—Subsection (t) of section 72 of the Internal Revenue Code of 1986 (relating to 10-percent additional tax on early distributions from qualified retirement plans), as amended by section 1004, is amended by striking paragraph (6) and redesignating paragraphs (7), (8), (9), and (10) as paragraphs (6), (7), (8), and (9), respectively.

(b) CONFORMING AMENDMENTS.—

(1) Section 72(t)(2)(E) of such Code is amended by striking ''paragraph (7)'' and inserting ''paragraph (6)''.

(2) Section 72(t)(2)(F) of such Code is amended by striking ''paragraph (8)'' and inserting ''paragraph (7)''.

(3) Section 408(d)(3)(G) of such Code is amended by striking ''applies'' and inserting ''applied on the day before the date of the enactment of the Pension Security and Transparency Act of 2005)''.

(4) Section 457(a)(2) of such Code is amended by striking ''section 72(t)(9)'' and inserting ''section 72(t)(8)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 2005.

SEC. 1009. SIMPLE PLAN PORTABILITY.

(a) REPEAL OF LIMITATION.—Paragraph (3) of section 408(d) of the Internal Revenue Code of 1986 (relating to rollover contributions), as amended by this Act, is amended by striking subparagraph (G) and redesignating subparagraphs (H) and (I) as subparagraphs (G) and (H), respectively.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to years beginning after December 31, 2005.

SEC. 1010. ELIGIBILITY FOR PARTICIPATION IN RETIREMENT PLANS.

An individual shall not be precluded from participating in an eligible deferred compensation plan by reason of having received a distribution under section 457(e)(9) of the Internal Revenue Code of 1986, as in effect prior to the enactment of the Small Business Job Protection Act of 1996.

SEC. 1011. TRANSFERS TO THE PBGC.

(a) MANDATORY DISTRIBUTIONS TO PBGC.—Clause (i) of section 401(a)(31)(B) of the Internal Revenue Code of 1986 (relating to general rule for certain mandatory distributions) is amended by inserting ''to the Pension Benefit Guaranty Corporation in accordance with section 4050(e) of the Employee Retirement Income Security Act of 1974 or'' after ''such transfer''.

(b) TAX TREATMENT OF DISTRIBUTIONS.—Subparagraph (B) of section 401(a)(31) of such Code is amended by adding at the end the following new clause:

''(iii) INCOME TAX TREATMENT OF TRANSFERS TO PBGC.—For purposes of determining the income tax treatment relating to transfers to the Pension Benefit Guaranty Corporation under clause (i)—

''(I) the transfer of amounts to the Pension Benefit Guaranty Corporation pursuant to clause (i) shall be treated as a transfer to an individual retirement plan under such clause, and

''(II) the distribution of such amounts from the Pension Benefit Guaranty Corporation shall be treated as a distribution from an individual retirement plan.''

(c) MISSING PARTICIPANTS AND BENEFICIARIES.—Section 4050 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1350), as amended by section 1012, is amended by redesignating subsection (e) as subsection (g) and by inserting after subsection (d) the following new subsections:

''(e) INVOLUNTARY CASHOUTS.—

''(1) PAYMENT BY THE CORPORATION.—If benefits under a plan described in paragraph (3) were transferred to the corporation under section 401(a)(31)(B) of the Internal Revenue Code of 1986, the corporation shall, upon application filed by the participant or beneficiary with the corporation in such form and manner as may be prescribed in regulations of the corporation, pay to the participant or beneficiary the amount transferred (or the appropriate survivor benefit) either—

''(A) in a single sum (plus interest), or

''(B) in such other form as is specified in regulations of the corporation.

''(2) INFORMATION TO THE CORPORATION.—To the extent provided in regulations, the plan administrator of a plan described in paragraph (3) shall, upon a transfer of benefits to the corporation under section 401(a)(31)(B) of such Code, provide the corporation information with respect to benefits of the participant or beneficiary so transferred.

''(3) PLANS DESCRIBED.—A plan is described in this paragraph if the plan is a pension plan (within the meaning of section 3(2))—

''(A) which provides for mandatory distributions under section 401(a)(31)(B) of the Internal Revenue Code of 1986, and

''(B) which is not a plan described in paragraphs (2) through (11) of section 4021(b).

''(4) CERTAIN PROVISIONS NOT TO APPLY.—Subsections (a)(1) and (a)(3) shall not apply to a plan described in paragraph (3).

''(f) AUTHORITY TO CHARGE FEE.—The corporation may charge a reasonable fee for costs incurred in connection with the transfer and management of amounts transferred to the corporation under this section. Such fee may be imposed on the transferor and may be deducted from amounts so transferred.''

(d) EFFECTIVE DATES.—

(1) INTERNAL REVENUE CODE PROVISIONS.—The amendments made by subsections (a) and (b) shall take effect as if included in the amendments made by section 657 of the Economic Growth and Tax Relief Reconciliation Act of 2001.

(2) EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974 PROVISIONS.—The amendments made by subsection (c) shall apply to distributions made after final regulations implementing subsections (e) and (f) of section 4050 of the Employee Retirement Income Security Act of 1974 (as added by subsection (c)) are prescribed.

(3) REGULATIONS.—The Pension Benefit Guaranty Corporation shall issue regulations necessary to carry out the amendments made by subsection (c) not later than December 31, 2006.

SEC. 1012. MISSING PARTICIPANTS.

(a) IN GENERAL.—Section 4050 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1350) is amended by redesignating subsection (c) as subsection (e) and by inserting after subsection (b) the following new subsections:

''(c) MULTIEMPLOYER PLANS.—The corporation shall prescribe rules similar to the rules in subsection (a) for multiemployer plans covered by this title that terminate under section 4041A.

''(d) PLANS NOT OTHERWISE SUBJECT TO TITLE.—

''(1) TRANSFER TO CORPORATION.—The plan administrator of a plan described in paragraph (4) may elect to transfer a missing participant's benefits to the corporation upon termination of the plan.

''(2) INFORMATION TO THE CORPORATION.—To the extent provided in regulations, the plan administrator of a plan described in paragraph (4) shall, upon termination of the plan, provide the corporation information with respect to benefits of a missing participant if the plan transfers such benefits—

''(A) to the corporation, or

''(B) to an entity other than the corporation or a plan described in paragraph (4)(B)(ii).

''(3) PAYMENT BY THE CORPORATION.—If benefits of a missing participant were transferred to the corporation under paragraph (1), the corporation shall, upon location of the participant or beneficiary, pay to the participant or beneficiary the amount transferred (or the appropriate survivor benefit) either—

''(A) in a single sum (plus interest), or

''(B) in such other form as is specified in regulations of the corporation.

''(4) PLANS DESCRIBED.—A plan is described in this paragraph if—

''(A) the plan is a pension plan (within the meaning of section 3(2))—

''(i) to which the provisions of this section do not apply (without regard to this subsection), and

''(ii) which is not a plan described in paragraphs (2) through (11) of section 4021(b), and

''(B) at the time the assets are to be distributed upon termination, the plan—

''(i) has missing participants, and

''(ii) has not provided for the transfer of assets to pay the benefits of all missing participants to another pension plan (within the meaning of section 3(2)).

''(5) CERTAIN PROVISIONS NOT TO APPLY.—Subsections (a)(1) and (a)(3) shall not apply to a plan described in paragraph (4).''

(b) CONFORMING AMENDMENTS.—Section 206(f) of such Act (29 U.S.C. 1056(f)) is amended—

(1) by striking ''title IV'' and inserting ''section 4050''; and

(2) by striking ''the plan shall provide that,''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions made after final regulations implementing subsections (c) and (d) of section 4050 of the Employee Retirement Income Security Act of 1974 (as added by subsection (a)), respectively, are prescribed.

SEC. 1013. MODIFICATIONS OF RULES GOVERNING HARDSHIPS AND UNFORSEEN FINANCIAL EMERGENCIES.

Within 180 days after the date of the enactment of this Act, the Secretary of the Treasury shall modify the rules for determining whether a participant has had a hardship for purposes of section 401(k)(2)(B)(i)(IV) of the Internal Revenue Code of 1986 to provide that if an event (including the occurrence of a medical expense) would constitute a hardship under the plan if it occurred with respect to the participant's spouse or dependent (as defined in section 152 of such Code), such event shall, to the extent permitted under a plan, constitute a hardship if it occurs with respect to a person who is a beneficiary under the plan with respect to the participant. The Secretary of the Treasury shall issue similar rules for purposes of determining whether a participant has had—

(1) a hardship for purposes of section 403(b)(11)(B) of such Code; or

(2) an unforeseen financial emergency for purposes of sections 409A(a)(2)(A)(vi), 409A(a)(2)(B)(ii), and 457(d)(1)(A)(iii) of such Code.

TITLE XI—ADMINISTRATIVE PROVISIONS

SEC. 1101. EMPLOYEE PLANS COMPLIANCE RESOLUTION SYSTEM.

(a) IN GENERAL.—The Secretary of the Treasury shall have full authority to establish and implement the Employee Plans Compliance Resolution System (or any successor program) and any other employee plans correction policies, including the authority to waive income, excise, or other taxes to ensure that any tax, penalty, or sanction is not excessive and bears a reasonable relationship to the nature, extent, and severity of the failure.

(b) IMPROVEMENTS.—The Secretary of the Treasury shall continue to supdate and improve the Employee Plans Compliance Resolution System (or any successor program), giving special attention to—

(1) increasing the awareness and knowledge of small employers concerning the availability and use of the program;

(2) taking into account special concerns and circumstances that small employers face with respect to compliance and correction of compliance failures;

(3) extending the duration of the self-correction period under the Self-Correction Program for significant compliance failures;

(4) expanding the availability to correct insignificant compliance failures under the Self-Correction Program during audit; and

(5) assuring that any tax, penalty, or sanction that is imposed by reason of a compliance failure is not excessive and bears a reasonable relationship to the nature, extent, and severity of the failure.

SEC. 1102. NOTICE AND CONSENT PERIOD REGARDING DISTRIBUTIONS.

(a) EXPANSION OF PERIOD.—

(1) AMENDMENT OF INTERNAL REVENUE CODE.—

(A) IN GENERAL.—Section 417(a)(6)(A) of the Internal Revenue Code of 1986 is amended by striking ''90-day'' and inserting ''180-day''.

(B) MODIFICATION OF REGULATIONS.—The Secretary of the Treasury shall modify the regulations under sections 402(f), 411(a)(11), and 417 of the Internal Revenue Code of 1986 by substituting ''180 days'' for ''90 days'' each place it appears in Treasury Regulations sections 1.402(f)–1, 1.411(a)–11(c), and 1.417(e)–1(b).

(2) AMENDMENT OF ERISA.—

(A) IN GENERAL.—Section 205(c)(7)(A) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1055(c)(7)(A)) is amended by striking ''90-day'' and inserting ''180-day''.

(B) MODIFICATION OF REGULATIONS.—The Secretary of the Treasury shall modify the regulations under part 2 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 relating to sections 203(e) and 205 of such Act by substituting ''180 days'' for ''90 days'' each place it appears.

(3) EFFECTIVE DATE.—The amendments and modifications made or required by this subsection shall apply to years beginning after December 31, 2005.

(b) NOTIFICATION OF RIGHT TO DEFER.—

(1) IN GENERAL.—The Secretary of the Treasury shall modify the regulations under section 411(a)(11) of the Internal Revenue Code of 1986 and under section 205 of the Employee Retirement Income Security Act of 1974 to provide that the description of a participant's right, if any, to defer receipt of a distribution shall also describe the consequences of failing to defer such receipt.

(2) EFFECTIVE DATE.—

(A) IN GENERAL.—The modifications required by paragraph (1) shall apply to years beginning after December 31, 2005.

(B) REASONABLE NOTICE.—A plan shall not be treated as failing to meet the requirements of section 411(a)(11) of such Code or section 205 of such Act with respect to any description of consequences described in paragraph (1) made within 90 days after the Secretary of the Treasury issues the modifications required by paragraph (1) if the plan administrator makes a reasonable attempt to comply with such requirements.

SEC. 1103. REPORTING SIMPLIFICATION.

(a) SIMPLIFIED ANNUAL FILING REQUIREMENT FOR OWNERS AND THEIR SPOUSES.—

(1) IN GENERAL.—The Secretary of the Treasury shall modify the requirements for filing annual returns with respect to one-participant retirement plans to ensure that such plans with assets of $250,000 or less as of the close of the plan year need not file a return for that year.

(2) ONE-PARTICIPANT RETIREMENT PLAN DEFINED.—For purposes of this subsection, the term ''one-participant retirement plan'' means a retirement plan with respect to which the following requirements are met:

(A) on the first day of the plan year—

(i) the plan covered only one individual (or the individual and the individual's spouse) and the individual owned 100 percent of the plan sponsor (whether or not incorporated), or

(ii) the plan covered only one or more partners (or partners and their spouses) in the plan sponsor;

(B) the plan meets the minimum coverage requirements of section 410(b) of the Internal Revenue Code of 1986 without being combined with any other plan of the business that covers the employees of the business;

(C) the plan does not provide benefits to anyone except the individual (and the individual's spouse) or the partners (and their spouses);

(D) the plan does not cover a business that is a member of an affiliated service group, a controlled group of corporations, or a group of businesses under common control; and

(E) the plan does not cover a business that uses the services of leased employees (within the meaning of section 414(n) of such Code).

For purposes of this paragraph, the term ''partner'' includes a 2-percent shareholder (as defined in section 1372(b) of such Code) of an S corporation.

(3) OTHER DEFINITIONS.—Terms used in paragraph (2) which are also used in section 414 of the Internal Revenue Code of 1986 shall have the respective meanings given such terms by such section.

(4) EFFECTIVE DATE.—The provisions of this subsection shall apply to plan years beginning on or after January 1, 2006.

(b) SIMPLIFIED ANNUAL FILING REQUIREMENT FOR PLANS WITH FEWER THAN 25 PARTICIPANTS.—In the case of plan years beginning after December 31, 2006, the Secretary of the Treasury and the Secretary of Labor shall provide for the filing of a simplified annual return for any retirement plan which covers less than 25 participants on the first day of a plan year and which meets the requirements described in subparagraphs (B), (D), and (E) of subsection (a)(2).

SEC. 1104. VOLUNTARY EARLY RETIREMENT INCENTIVE AND EMPLOYMENT RETENTION PLANS MAINTAINED BY LOCAL EDUCATIONAL AGENCIES AND OTHER ENTITIES.

(a) VOLUNTARY EARLY RETIREMENT INCENTIVE PLANS.—

(1) TREATMENT AS PLAN PROVIDING SEVERANCE PAY.—Section 457(e)(11) of the Internal Revenue Code of 1986 (relating to certain plans excluded) is amended by adding at the end the following new subparagraph:

''(D) CERTAIN VOLUNTARY EARLY RETIREMENT INCENTIVE PLANS.—

''(i) IN GENERAL.—If an applicable voluntary early retirement incentive plan—

''(I) makes payments or supplements as an early retirement benefit, a retirement-type subsidy, or a benefit described in the last sentence of section 411(a)(9), and

''(II) such payments or supplements are made in coordination with a defined benefit plan which is described in section 401(a) and includes a trust exempt from tax under section 501(a) and which is maintained by an eligible employer described in paragraph (1)(A) or by an education association described in clause (ii)(II),

such applicable plan shall be treated for purposes of subparagraph (A)(i) as a bona fide severance pay plan with respect to such payments or supplements to the extent such payments or supplements could otherwise have been provided under such defined benefit plan (determined as if section 411 applied to such defined benefit plan).

''(ii) APPLICABLE VOLUNTARY EARLY RETIREMENT INCENTIVE PLAN.—For purposes of this subparagraph, the term 'applicable voluntary early retirement incentive plan' means a voluntary early retirement incentive plan maintained by—

''(I) a local educational agency (as defined in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801)), or

''(II) an education association which principally represents employees of 1 or more agencies described in subclause (I) and which is described in section 501(c) (5) or (6) and exempt from tax under section 501(a).''

(2) AGE DISCRIMINATION IN EMPLOYMENT ACT.—Section 4(*l*)(1) of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 623(*l*)(1)) is amended—

(A) by inserting ''(A)'' after ''(1)'',

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

(C) by redesignating clauses (i) and (ii) of subparagraph (B) (as in effect before the amendments made by subparagraph (B)) as subclauses (I) and (II), respectively, and

(D) by adding at the end the following:

''(B) A voluntary early retirement incentive plan that—

''(i) is maintained by—

''(I) a local educational agency (as defined in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801), or

''(II) an education association which principally represents employees of 1 or more agencies described in subclause (I) and which is described in section 501(c) (5) or (6) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of such Code, and

''(ii) makes payments or supplements described in subclauses (I) and (II) of subparagraph (A)(ii) in coordination with a defined benefit plan (as so defined) maintained by an eligible employer described in section 457(e)(1)(A) of such Code or by an education association described in clause (i)(II),

shall be treated solely for purposes of subparagraph (A)(ii) as if it were a part of the defined benefit plan with respect to such payments or supplements. Payments or supplements under such a voluntary early retirement incentive plan shall not constitute severance pay for purposes of section 4(l)(2) of the Age Discrimination in Employment Act (29 U.S.C. 623(l)(2)).''

(b) EMPLOYMENT RETENTION PLANS.—

(1) IN GENERAL.—Section 457(f)(2) of the Internal Revenue Code of 1986 (relating to exceptions) is amended by striking ''and'' at the end of subparagraph (D), by striking the period at the end of subparagraph (E) and inserting '', and'', and by adding at the end the following:

''(F) that portion of any applicable employment retention plan described in paragraph (4) with respect to any participant.''

(2) DEFINITIONS AND RULES RELATING TO EMPLOYMENT RETENTION PLANS.—Section 457(f)

of such Code is amended by adding at the end the following new paragraph:

''(4) EMPLOYMENT RETENTION PLANS.—For purposes of paragraph (2)(F)—

''(A) IN GENERAL.—The portion of an applicable employment retention plan described in this paragraph with respect to any participant is that portion of the plan which provides benefits payable to the participant not in excess of twice the applicable dollar limit determined under subsection (e)(15).

''(B) OTHER RULES.—

''(i) LIMITATION.—Paragraph (2)(F) shall only apply to the portion of the plan described in subparagraph (A) for years preceding the year in which such portion is paid or otherwise made available to the participant.

''(ii) TREATMENT.—A plan shall not be treated for purposes of this title as providing for the deferral of compensation for any year with respect to the portion of the plan described in subparagraph (A).

''(C) APPLICABLE EMPLOYMENT RETENTION PLAN.—The term 'applicable employment retention plan' means an employment retention plan maintained by—

''(i) a local educational agency (as defined in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801), or

''(ii) an education association which principally represents employees of 1 or more agencies described in clause (i) and which is described in section 501(c) (5) or (6) and exempt from taxation under section 501(a).

''(D) EMPLOYMENT RETENTION PLAN.—The term 'employment retention plan' means a plan to pay, upon termination of employment, compensation to an employee of a local educational agency or education association described in subparagraph (C) for purposes of—

''(i) retaining the services of the employee, or

''(ii) rewarding such employee for the employee's service with 1 or more such agencies or associations.''

(c) COORDINATION WITH ERISA.—Section 3(2)(B) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(2)(B)) is amended by adding at the end the following: ''An applicable voluntary early retirement incentive plan (as defined in section 457(e)(11)(D)(ii) of the Internal Revenue Code of 1986) making payments or supplements described in section 457(e)(11)(D)(i) of such Code, and an applicable employment retention plan (as defined in section 457(f)(4)(C) of such Code) making payments of benefits described in section 457(f)(4)(A) of such Code, shall, for purposes of this title, be treated as a welfare plan (and not a pension plan) with respect to such payments and supplements.''

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this Act shall take effect on the date of the enactment of this Act.

(2) TAX AMENDMENTS.—The amendments made by subsections (a)(1) and (b) shall apply to taxable years ending after the date of the enactment of this Act.

(3) ERISA AMENDMENTS.—The amendment made by subsection (c) shall apply to plan years ending after the date of the enactment of this Act.

(4) CONSTRUCTION.—Nothing in the amendments made by this section shall alter or affect the construction of the Internal Revenue Code of 1986, the Employee Retirement Income Security Act of 1974, or the Age Discrimination in Employment Act of 1967 as applied to any plan, arrangement, or conduct to which such amendments do not apply.

SEC. 1105. NO REDUCTION IN UNEMPLOYMENT COMPENSATION AS A RESULT OF PENSION ROLLOVERS.

(a) IN GENERAL.—Section 3304(a) of the Internal Revenue Code of 1986 (relating to requirements for State unemployment laws) is amended by adding at the end the following new flush sentence:

''Compensation shall not be reduced under paragraph (15) for any pension, retirement or retired pay, annuity, or similar payment which is not includible in gross income of the individual for the taxable year in which paid because it was part of a rollover distribution.''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to weeks beginning on or after the date of the enactment of this Act.

SEC. 1106. WITHHOLDING ON DISTRIBUTIONS FROM GOVERNMENTAL SECTION 457 PLANS.

(a) IN GENERAL.—Section 641(f) of the Economic Growth and Tax Relief Reconciliation Act of 2001 is amended by adding at the end the following new paragraph:

''(4) TRANSITION RULE FOR CERTAIN GOVERNMENTAL PLANS.—In the case of distributions from an eligible deferred compensation plan of an employer described in section 457(e)(1)(A) of the Internal Revenue Code of 1986 which are made after December 31, 2001, and which are part of a series of distributions which—

''(A) began before January 1, 2002, and

''(B) are payable for 10 years or less, the Internal Revenue Code of 1986 may be applied to such distributions without regard to the amendments made by subsection (a)(1)(D).''

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in the provisions of section 641 of the Economic Growth and Tax Relief Reconciliation Act of 2001.

SEC. 1107. TREATMENT OF DEFINED BENEFIT PLAN AS GOVERNMENTAL PLAN.

(a) IN GENERAL.—For purposes of the Internal Revenue Code of 1986 and the Employee Retirement Income Security Act of 1974, an eligible defined benefit plan shall be treated as a governmental plan (within the meaning of section 414(d) of such Code and section 3(32) of such Act).

(b) ELIGIBLE DEFINED BENEFIT PLAN.—For purposes of this section, an eligible defined benefit plan is a defined benefit plan maintained by a nonprofit corporation which was—

(1) incorporated on September 16, 1998, under a State nonprofit corporation statute; and

(2) organized for the express purpose of supporting the missions and goals of a public corporation which—

(A) was created by a State statute effective on July 1, 1995;

(B) is a governmental entity under State law; and

(C) is a member of the nonprofit corporation.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to any year beginning before, on, or after the date of the enactment of this Act.

SEC. 1108. INCREASING PARTICIPATION IN CASH OR DEFERRED PLANS THROUGH AUTOMATIC CONTRIBUTION ARRANGEMENTS.

(a) IN GENERAL.—Section 401(k) of the Internal Revenue Code of 1986 (relating to cash or deferred arrangement) is amended by adding at the end the following new paragraph:

''(13) NONDISCRIMINATION REQUIREMENTS FOR AUTOMATIC CONTRIBUTION TRUSTS.—

''(A) IN GENERAL.—A cash or deferred arrangement shall be treated as meeting the requirements of paragraph (3)(A)(ii) if such arrangement constitutes an automatic contribution trust.

''(B) AUTOMATIC CONTRIBUTION TRUST.—

''(i) IN GENERAL.—For purposes of this paragraph, the term 'automatic contribution trust' means an arrangement—

''(I) except as provided in clauses (ii) and (iii), under which each employee eligible to participate in the arrangement is treated as having elected to have the employer make elective contributions in an amount equal to the applicable percentage of the employee's compensation, and

''(II) which meets the requirements of subparagraphs (C), (D), (E), and (F).

''(ii) EXCEPTION FOR EXISTING EMPLOYEES.—In the case of any employee—

''(I) who was eligible to participate in the arrangement (or a predecessor arrangement) immediately before the first date on which the arrangement is an automatic contribution trust, and

''(II) whose rate of contribution immediately before such first date was less than the applicable percentage for the employee,

clause (i)(I) shall not apply to such employee until the date which is 1 year after such first date (or such earlier date as the employee may elect).

''(iii) ELECTION OUT.—Each employee eligible to participate in the arrangement may specifically elect not to have contributions made under clause (i), and such clause shall cease to apply to compensation paid on or after the effective date of the election.

''(iv) APPLICABLE PERCENTAGE.—For purposes of this subparagraph—

''(I) IN GENERAL.—The term 'applicable percentage' means, with respect to any employee, the uniform percentage (not less than 3 percent) determined under the arrangement. In the case of an employee who was eligible to participate in the arrangement (or a predecessor arrangement) immediately before the first date on which the arrangement is an automatic contribution trust, the initial applicable percentage shall in no event be less than the percentage in effect with respect to the employee under the arrangement immediately before the employee first begins participation in the automatic contribution trust.

''(II) INCREASE IN PERCENTAGE.—In the case of the second plan year beginning after the first date on which the election under clause (i)(I) is in effect with respect to the employee and any succeeding plan year, the applicable percentage shall be a percentage (not greater than 10 percent or such higher uniform percentage determined under the arrangement) equal to the sum of the applicable percentage for the employee as of the close of the preceding plan year plus 1 percentage point (or such higher percentage specified by the plan). A plan may elect to provide that, in lieu of any increase under the preceding sentence, the increase in the applicable percentage required under this subclause shall occur after each increase in compensation an employee receives on or after the first day of such second plan year and that the applicable percentage after each such increase in compensation shall be equal to the applicable percentage for the employee immediately before such increase in compensation plus 1 percentage point (or such higher percentage specified by the plan).

''(C) MATCHING OR NONELECTIVE CONTRIBUTIONS.—

''(i) IN GENERAL.—The requirements of this subparagraph are met if, under the arrangement, the employer—

''(I) makes matching contributions on behalf of each employee who is not a highly compensated employee in an amount equal to 50 percent of the elective contributions of the employee to the extent such elective contributions do not exceed 7 percent of compensation; or

''(II) is required, without regard to whether the employee makes an elective contribution or employee contribution, to make a contribution to a defined contribution plan on behalf of each employee who is not a highly compensated employee and who is eligible to participate in the arrangement in an amount equal to at least 3 percent of the employee's compensation,

The rules of clauses (ii) and (iii) of paragraph (12)(B) shall apply for purposes of subclause (I). The rules of paragraph (12)(E)(ii) shall apply for purposes of subclauses (I) and (II).

''(ii) OTHER PLANS.—An arrangement shall be treated as meeting the requirements under clause (i) if any other plan maintained by the employer meets such requirements with respect to employees eligible under the arrangement.

''(D) NOTICE REQUIREMENTS.—

''(i) IN GENERAL.—The requirements of this subparagraph are met if the requirements of clauses (ii) and (iii) are met.

''(ii) REASONABLE PERIOD TO MAKE ELECTION.—The requirements of this clause are met if each employee to whom subparagraph (B)(i) applies—

''(I) receives a notice explaining the employee's right under the arrangement to elect not to have elective contributions made on the employee's behalf, and how contributions made under the arrangement will be invested in the absence of any investment election by the employee, and

''(II) has a reasonable period of time after receipt of such notice and before the first elective contribution is made to make such election.

''(iii) ANNUAL NOTICE OF RIGHTS AND OBLIGATIONS.—The requirements of this clause are met if each employee eligible to participate in the arrangement is, within a reasonable period before any year (or if the plan elects to change the applicable percentage after any increase in compensation, before the increase), given notice of the employee's rights and obligations under the arrangement.

The requirements of clauses (i) and (ii) of paragraph (12)(D) shall be met with respect to the notices described in clauses (ii) and (iii) of this subparagraph.

''(E) PARTICIPATION, WITHDRAWAL, AND VESTING REQUIREMENTS.—The requirements of this subparagraph are met if—

''(i) the arrangement requires that each employee eligible to participate in the arrangement (determined without regard to any minimum service requirement otherwise applicable under section 410(a) or the plan) commences participation in the arrangement no later than the 1st day of the 1st calendar quarter beginning after the date on which employee first becomes so eligible,

''(ii) the withdrawal requirements of paragraph (2)(B) are met with respect to all employer contributions (including matching and elective contributions) taken into account in determining whether the arrangement meets the requirements of subparagraph (C), and

''(iii) the arrangement requires that an employee's right to the accrued benefit derived from employer contributions described in clause (ii) (other than elective contributions) is nonforfeitable after the employee has completed at least 2 years of service.

''(F) CERTAIN WITHDRAWALS MUST BE ALLOWED.—Notwithstanding any other provision of this subsection, the requirements of this subparagraph are met if the arrangement allows employees to elect to make permissible withdrawals in accordance with section 414(w).''

(b) MATCHING CONTRIBUTIONS.—Section 401(m) of the Internal Revenue Code of 1986 (relating to nondiscrimination test for matching contributions and employee contributions) is amended by redesignating paragraph (12) as paragraph (13) and by inserting after paragraph (11) the following new paragraph:

''(12) ALTERNATE METHOD FOR AUTOMATIC CONTRIBUTION TRUSTS.—A defined contribution plan shall be treated as meeting the requirements of paragraph (2) with respect to matching contributions if the plan—

''(A) meets the contribution requirements of subparagraphs (B)(i) and (C) of subsection (k)(13);

''(B) meets the notice requirements of subparagraph (D) of subsection (k)(13); and

''(C) meets the requirements of paragraph (11)(B) (ii) and (iii).''.

(c) EXCLUSION FROM DEFINITION OF TOP-HEAVY PLANS.—

(1) ELECTIVE CONTRIBUTION RULE.—Clause (i) of section 416(g)(4)(H) of the Internal Revenue Code of 1986 is amended by inserting ''or 401(k)(13)'' after ''section 401(k)(12)''.

(2) MATCHING CONTRIBUTION RULE.—Clause (ii) of section 416(g)(4)(H) of such Code is amended by inserting ''or 401(m)(12)'' after ''section 401(m)(11)''.

(d) SECTION 403(b) CONTRACTS.—Paragraph (11) of section 401(m) of the Internal Revenue Code of 1986 is amended by adding at the end the following:

''(C) SECTION 403(b) CONTRACTS.—An annuity contract under section 403(b) shall be treated as meeting the requirements of paragraph (2) with respect to matching contributions if such contract meets requirements similar to the requirements under subparagraph (A).''.

(e) PREEMPTION OF CONFLICTING STATE REGULATION.—Section 514 of the Employee Retirement Income Security of 1974 (29 U.S.C. 1144) is amended by inserting at the end the following new subsection:

''(e) AUTOMATIC CONTRIBUTION ARRANGEMENTS.—

''(1) IN GENERAL.—Notwithstanding any other provision of this section, any law of a State shall be superseded if it would directly or indirectly prohibit or restrict the inclusion in any plan of an eligible automatic contribution arrangement.

''(2) ELIGIBLE AUTOMATIC CONTRIBUTION ARRANGEMENT.—For purposes of this subsection, the term 'eligible automatic contribution arrangement' means an arrangement—

''(A) under which a participant may elect to have the employer make payments as contributions under the plan on behalf of the participant, or to the participant directly in cash,

''(B) under which the participant is treated as having elected to have the employer make such contributions in an amount equal to a uniform percentage of compensation provided under the plan until the participant specifically elects not to have such contributions made (or specifically elects to have such contributions made at a different percentage),

''(C) under which contributions described in subparagraph (B) are invested in accordance with regulations prescribed by the Secretary under section 404(c)(4), and

''(D) which meets the requirements of paragraph (3).

''(3) NOTICE REQUIREMENTS.—

''(A) IN GENERAL.—The administrator of an individual account plan shall, within a reasonable period before each plan year, give to each employee to whom an arrangement described in paragraph (2) applies for such plan year notice of the employee's rights and obligations under the arrangement which—

''(i) is sufficiently accurate and comprehensive to apprise the employee of such rights and obligations, and

''(ii) is written in a manner calculated to be understood by the average employee to whom the arrangement applies.

''(B) TIME AND FORM OF NOTICE.—A notice shall not be treated as meeting the requirements of subparagraph (A) with respect to an employee unless—

''(i) the notice includes a notice explaining the employee's right under the arrangement to elect not to have elective contributions made on the employee's behalf (or to elect to have such contributions made at a different percentage),

''(ii) the employee has a reasonable period of time after receipt of the notice described in clause (i) and before the first elective contribution is made to make such election, and

''(iii) the notice explains how contributions made under the arrangement will be invested in the absence of any investment election by the employee.''.

(f) TREATMENT OF WITHDRAWALS OF CONTRIBUTIONS DURING FIRST 60 DAYS.—Section 414 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

''(w) SPECIAL RULES FOR CERTAIN WITHDRAWALS FROM ELIGIBLE AUTOMATIC CONTRIBUTION ARRANGEMENTS.—

''(1) IN GENERAL.—If an eligible automatic contribution arrangement allows an employee to elect to make permissible withdrawals—

''(A) the amount of any such withdrawal shall be includible in the gross income of the employee for the taxable year of the employee in which the distribution is made,

''(B) no tax shall be imposed under section 72(t) with respect to the distribution, and

''(C) the arrangement shall not be treated as violating any restriction on distributions under this title solely by reason of allowing the withdrawal.

In the case of any distribution to an employee by reason of an election under this paragraph, employer matching contributions shall be forfeited or subject to such other treatment as the Secretary may prescribe.

''(2) PERMISSIBLE WITHDRAWAL.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'permissible withdrawal' means any withdrawal from an eligible automatic contribution arrangement meeting the requirements of this paragraph which—

''(i) is made pursuant to an election by an employee, and

''(ii) consists of elective contributions described in paragraph (3)(B) (and earnings attributable thereto).

''(B) TIME FOR MAKING ELECTION.—Subparagraph (A) shall not apply to an election by an employee unless the election is made no later than the date which is 60 days after the date of the first elective contribution with respect to the employee under the arrangement.

''(C) AMOUNT OF DISTRIBUTION.—Subparagraph (A) shall not apply to any election by an employee unless the amount of any distribution by reason of the election is equal to the amount of elective contributions made with respect to the first payroll period to which the eligible automatic contribution arrangement applies to the employee and any succeeding payroll period beginning before the effective date of the election (and earnings attributable thereto).

''(3) ELIGIBLE AUTOMATIC CONTRIBUTION ARRANGEMENT.—For purposes of this subsection, the term 'eligible automatic contribution arrangement' means an arrangement—

''(A) under which a participant may elect to have the employer make payments as contributions under the plan on behalf of the participant, or to the participant directly in cash,

''(B) under which the participant is treated as having elected to have the employer make such contributions in an amount equal to a

uniform percentage of compensation provided under the plan until the participant specifically elects not to have such contributions made (or specifically elects to have such contributions made at a different percentage),

''(C) under which contributions described in subparagraph (B) are invested in accordance with regulations prescribed by the Secretary of Labor under section 404(c)(4) of the Employee Retirement Income Security Act of 1974, and

''(D) which meets the requirements of paragraph (4).

''(4) NOTICE REQUIREMENTS.—

''(A) IN GENERAL.—The administrator of a plan containing an arrangement described in paragraph (3) shall, within a reasonable period before each plan year, give to each employee to whom an arrangement described in paragraph (3) applies for such plan year notice of the employee's rights and obligations under the arrangement which—

''(i) is sufficiently accurate and comprehensive to apprise the employee of such rights and obligations, and

''(ii) is written in a manner calculated to be understood by the average employee to whom the arrangement applies.

''(B) TIME AND FORM OF NOTICE.—A notice shall not be treated as meeting the requirements of subparagraph (A) with respect to an employee unless—

''(i) the notice includes a notice explaining the employee's right under the arrangement to elect not to have elective contributions made on the employee's behalf (or to elect to have such contributions made at a different percentage),

''(ii) the employee has a reasonable period of time after receipt of the notice described in clause (i) and before the first elective contribution is made to make such election, and

''(iii) the notice explains how contributions made under the arrangement will be invested in the absence of any investment election by the employee.''.

(g) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided by paragraph (2), the amendments made by this section shall apply to plan years beginning after December 31, 2005.

(2) SECTION 403(b) CONTRACTS.—The amendments made by subsection (d) shall apply to years ending after the date of the enactment of this Act.

SEC. 1109. TREATMENT OF INVESTMENT OF ASSETS BY PLAN WHERE PARTICIPANT FAILS TO EXERCISE INVESTMENT ELECTION.

(a) IN GENERAL.—Section 404(c) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1104(c)) is amended by adding at the end the following new paragraph:

''(4) DEFAULT INVESTMENT ARRANGEMENTS.—

''(A) IN GENERAL.—For purposes of paragraph (1), a participant in an individual account plan meeting the notice requirements of subparagraph (B) shall be treated as exercising control over the assets in the account with respect to the amount of contributions and earnings which, in the absence of an investment election by the participant, are invested by the plan in accordance with regulations prescribed by the Secretary. The regulations under this subparagraph shall provide guidance on the appropriateness of designating default investments that include a mix of asset classes consistent with capital preservation, long-term capital appreciation, or a blend of both.

''(B) NOTICE REQUIREMENTS.—

''(i) IN GENERAL.—The requirements of this subparagraph are met if each participant—

''(I) receives, within a reasonable period of time before each plan year, a notice explaining the employee's right under the plan to designate how contributions and earnings will be invested and explaining how, in the absence of any investment election by the participant, such contributions and earnings will be invested, and

''(II) has a reasonable period of time after receipt of such notice and before the beginning of the plan year to make such designation.

''(ii) FORM OF NOTICE.—The requirements of clauses (i) and (ii) of section 401(k)(12)(D) of the Internal Revenue Code of 1986 shall be met with respect to the notices described in this subparagraph.''.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to plan years beginning after December 31, 2005.

(2) REGULATIONS.—Final regulations under section 404(c)(4)(A) of the Employee Retirement Income Security Act of 1974 (as added by this section) shall be issued no later than 6 months after the date of the enactment of this Act.

SEC. 1110. CLARIFICATION OF FIDUCIARY RULES.

(a) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Labor shall issue final regulations clarifying that the selection of an annuity contract as an optional form of distribution from an individual account plan to a participant or beneficiary—

(1) is not subject to the safest available annuity standard under Interpretive Bulletin 95–1 (29 C.F.R. 2509.95–1), and

(2) is subject to all otherwise applicable fiduciary standards.

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

TITLE XII—UNITED STATES TAX COURT MODERNIZATION

SEC. 1200. AMENDMENT OF 1986 CODE.

Except as otherwise expressly provided, whenever in this title 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 a section or other provision of the Internal Revenue Code of 1986.

SEC. 1201. ANNUITIES FOR SURVIVORS OF TAX COURT JUDGES WHO ARE ASSASSINATED.

(a) ELIGIBILITY IN CASE OF DEATH BY ASSASSINATION.—Subsection (h) of section 7448 (relating to annuities to surviving spouses and dependent children of judges) is amended to read as follows:

''(h) ENTITLEMENT TO ANNUITY.—

''(1) IN GENERAL.—

''(A) ANNUITY TO SURVIVING SPOUSE.—If a judge described in paragraph (2) is survived by a surviving spouse but not by a dependent child, there shall be paid to such surviving spouse an annuity beginning with the day of the death of the judge or following the surviving spouse's attainment of the age of 50 years, whichever is the later, in an amount computed as provided in subsection (m).

''(B) ANNUITY TO CHILD.—If such a judge is survived by a surviving spouse and a dependent child or children, there shall be paid to such surviving spouse an immediate annuity in an amount computed as provided in subsection (m), and there shall also be paid to or on behalf of each such child an immediate annuity equal to the lesser of—

''(i) 10 percent of the average annual salary of such judge (determined in accordance with subsection (m)), or

''(ii) 20 percent of such average annual salary, divided by the number of such children.

''(C) ANNUITY TO SURVIVING DEPENDENT CHILDREN.—If such a judge leaves no surviving spouse but leaves a surviving dependent child or children, there shall be paid to or on behalf of each such child an immediate annuity equal to the lesser of—

''(i) 20 percent of the average annual salary of such judge (determined in accordance with subsection (m)), or

''(ii) 40 percent of such average annual salary, divided by the number of such children.

''(2) COVERED JUDGES.—Paragraph (1) applies to any judge electing under subsection (b)—

''(A) who dies while a judge after having rendered at least 5 years of civilian service computed as prescribed in subsection (n), for the last 5 years of which the salary deductions provided for by subsection (c)(1) or the deposits required by subsection (d) have actually been made or the salary deductions required by the civil service retirement laws have actually been made, or

''(B) who dies by assassination after having rendered less than 5 years of civilian service computed as prescribed in subsection (n) if, for the period of such service, the salary deductions provided for by subsection (c)(1) or the deposits required by subsection (d) have actually been made.

''(3) TERMINATION OF ANNUITY.—

''(A) IN THE CASE OF A SURVIVING SPOUSE.—The annuity payable to a surviving spouse under this subsection shall be terminable upon such surviving spouse's death or such surviving spouse's remarriage before attaining age 55.

''(B) IN THE CASE OF A CHILD.—The annuity payable to a child under this subsection shall be terminable upon (i) the child attaining the age of 18 years, (ii) the child's marriage, or (iii) the child's death, whichever first occurs, except that if such child is incapable of self-support by reason of mental or physical disability the child's annuity shall be terminable only upon death, marriage, or recovery from such disability.

''(C) IN THE CASE OF A DEPENDENT CHILD AFTER DEATH OF SURVIVING SPOUSE.—In case of the death of a surviving spouse of a judge leaving a dependent child or children of the judge surviving such spouse, the annuity of such child or children shall be recomputed and paid as provided in paragraph (1)(C).

''(D) RECOMPUTATION.—In any case in which the annuity of a dependent child is terminated under this subsection, the annuities of any remaining dependent child or children, based upon the service of the same judge, shall be recomputed and paid as though the child whose annuity was so terminated had not survived such judge.

''(4) SPECIAL RULE FOR ASSASSINATED JUDGES.—In the case of a survivor or survivors of a judge described in paragraph (2)(B), there shall be deducted from the annuities otherwise payable under this section an amount equal to—

''(A) the amount of salary deductions provided for by subsection (c)(1) that would have been made if such deductions had been made for 5 years of civilian service computed as prescribed in subsection (n) before the judge's death, reduced by

''(B) the amount of such salary deductions that were actually made before the date of the judge's death.''

(b) DEFINITION OF ASSASSINATION.—Section 7448(a) (relating to definitions) is amended by adding at the end the following new paragraph:

''(8) The terms 'assassinated' and 'assassination' mean the killing of a judge that is motivated by the performance by that judge of his or her official duties.''

(c) DETERMINATION OF ASSASSINATION.—Subsection (i) of section 7448 is amended—

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

''(i) DETERMINATIONS BY CHIEF JUDGE.—

''(1) DEPENDENCY AND DISABILITY.—'',

(2) by moving the text 2 ems to the right, and

(3) by adding at the end the following new paragraph:

''(2) ASSASSINATION.—The chief judge shall determine whether the killing of a judge was an assassination, subject to review only by the Tax Court. The head of any Federal agency that investigates the killing of a judge shall provide information to the chief judge that would assist the chief judge in making such a determination.''

(d) COMPUTATION OF ANNUITIES.—Subsection (m) of section 7448 is amended—

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

''(m) COMPUTATION OF ANNUITIES.—

''(1) IN GENERAL.—'',

(2) by moving the text 2 ems to the right, and

(3) by adding at the end the following new paragraph:

''(2) ASSASSINATED JUDGES.—In the case of a judge who is assassinated and who has served less than 3 years, the annuity of the surviving spouse of such judge shall be based upon the average annual salary received by such judge for judicial service.''

(e) OTHER BENEFITS.—Section 7448 is amended by adding at the end the following:

''(u) OTHER BENEFITS.—In the case of a judge who is assassinated, an annuity shall be paid under this section notwithstanding a survivor's eligibility for or receipt of benefits under chapter 81 of title 5, United States Code, except that the annuity for which a surviving spouse is eligible under this section shall be reduced to the extent that the total benefits paid under this section and chapter 81 of that title for any year would exceed the current salary for that year of the office of the judge.''

SEC. 1202. COST-OF-LIVING ADJUSTMENTS FOR TAX COURT JUDICIAL SURVIVOR ANNUITIES.

(a) IN GENERAL.—Subsection (s) of section 7448 (relating to annuities to surviving spouses and dependent children of judges) is amended to read as follows:

''(s) INCREASES IN SURVIVOR ANNUITIES.—Each time that an increase is made under section 8340(b) of title 5, United States Code, in annuities payable under subchapter III of chapter 83 of that title, each annuity payable from the survivors annuity fund under this section shall be increased at the same time by the same percentage by which annuities are increased under such section 8340(b).''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to increases made under section 8340(b) of title 5, United States Code, in annuities payable under subchapter III of chapter 83 of that title, taking effect after the date of the enactment of this Act.

SEC. 1203. LIFE INSURANCE COVERAGE FOR TAX COURT JUDGES.

(a) IN GENERAL.—Section 7447 (relating to retirement of judges) is amended by adding at the end the following new subsection:

''(j) LIFE INSURANCE COVERAGE.—For purposes of chapter 87 of title 5, United States Code (relating to life insurance), any individual who is serving as a judge of the Tax Court or who is retired under this section is deemed to be an employee who is continuing in active employment.''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to any individual serving as a judge of the United States Tax Court or to any retired judge of the United States Tax Court on the date of the enactment of this Act.

SEC. 1204. COST OF LIFE INSURANCE COVERAGE FOR TAX COURT JUDGES AGE 65 OR OVER.

Section 7472 (relating to expenditures) is amended by inserting after the first sentence the following new sentence: ''Notwithstanding any other provision of law, the Tax Court is authorized to pay on behalf of its judges, age 65 or over, any increase in the cost of Federal Employees' Group Life Insurance imposed after April 24, 1999, including any expenses generated by such payments, as authorized by the chief judge in a manner consistent with such payments authorized by the Judicial Conference of the United States pursuant to section 604(a)(5) of title 28, United States Code.''

SEC. 1205. MODIFICATION OF TIMING OF LUMP-SUM PAYMENT OF JUDGES' ACCRUED ANNUAL LEAVE.

(a) IN GENERAL.—Section 7443 (relating to membership of the Tax Court) is amended by adding at the end the following new subsection:

''(h) LUMP-SUM PAYMENT OF JUDGES' ACCRUED ANNUAL LEAVE.—Notwithstanding the provisions of sections 5551 and 6301 of title 5, United States Code, when an individual subject to the leave system provided in chapter 63 of that title is appointed by the President to be a judge of the Tax Court, the individual shall be entitled to receive, upon appointment to the Tax Court, a lump-sum payment from the Tax Court of the accumulated and accrued current annual leave standing to the individual's credit as certified by the agency from which the individual resigned.''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to any judge of the United States Tax Court who has an outstanding leave balance on the date of the enactment of this Act and to any individual appointed by the President to serve as a judge of the United States Tax Court after such date.

SEC. 1206. PARTICIPATION OF TAX COURT JUDGES IN THE THRIFT SAVINGS PLAN.

(a) IN GENERAL.—Section 7447 (relating to retirement of judges), as amended by this Act, is amended by adding at the end the following new subsection:

''(k) THRIFT SAVINGS PLAN.—

''(1) ELECTION TO CONTRIBUTE.—

''(A) IN GENERAL.—A judge of the Tax Court may elect to contribute to the Thrift Savings Fund established by section 8437 of title 5, United States Code.

''(B) PERIOD OF ELECTION.—An election may be made under this paragraph only during a period provided under section 8432(b) of title 5, United States Code, for individuals subject to chapter 84 of such title.

''(2) APPLICABILITY OF TITLE 5 PROVISIONS.—Except as otherwise provided in this subsection, the provisions of subchapters III and VII of chapter 84 of title 5, United States Code, shall apply with respect to a judge who makes an election under paragraph (1).

''(3) SPECIAL RULES.—

''(A) AMOUNT CONTRIBUTED.—The amount contributed by a judge to the Thrift Savings Fund in any pay period shall not exceed the maximum percentage of such judge's basic pay for such period as allowable under section 8440f of title 5, United States Code. Basic pay does not include any retired pay paid pursuant to this section.

''(B) CONTRIBUTIONS FOR BENEFIT OF JUDGE.—No contributions may be made for the benefit of a judge under section 8432(c) of title 5, United States Code.

''(C) APPLICABILITY OF SECTION 8433(b) OF TITLE 5 WHETHER OR NOT JUDGE RETIRES.—Section 8433(b) of title 5, United States Code, applies with respect to a judge who makes an election under paragraph (1) and who either—

''(i) retires under subsection (b), or

''(ii) ceases to serve as a judge of the Tax Court but does not retire under subsection (b).

Retirement under subsection (b) is a separation from service for purposes of subchapters III and VII of chapter 84 of that title.

''(D) APPLICABILITY OF SECTION 8351(b)(5) OF TITLE 5.—The provisions of section 8351(b)(5) of title 5, United States Code, shall apply with respect to a judge who makes an election under paragraph (1).

''(E) EXCEPTION.—Notwithstanding subparagraph (C), if any judge retires under this section, or resigns without having met the age and service requirements set forth under subsection (b)(2), and such judge's nonforfeitable account balance is less than an amount that the Executive Director of the Office of Personnel Management prescribes by regulation, the Executive Director shall pay the nonforfeitable account balance to the participant in a single payment.''

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act, except that United States Tax Court judges may only begin to participate in the Thrift Savings Plan at the next open season beginning after such date.

SEC. 1207. EXEMPTION OF TEACHING COMPENSATION OF RETIRED JUDGES FROM LIMITATION ON OUTSIDE EARNED INCOME.

(a) IN GENERAL.—Section 7447 (relating to retirement of judges), as amended by this Act, is amended by adding at the end the following new subsection:

''(l) TEACHING COMPENSATION OF RETIRED JUDGES.—For purposes of the limitation under section 501(a) of the Ethics in Government Act of 1978 (5 U.S.C. App.), any compensation for teaching approved under section 502(a)(5) of such Act shall not be treated as outside earned income when received by a judge of the Tax Court who has retired under subsection (b) for teaching performed during any calendar year for which such a judge has met the requirements of subsection (c), as certified by the chief judge of the Tax Court.''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to any individual serving as a retired judge of the United States Tax Court on or after the date of the enactment of this Act.

SEC. 1208. GENERAL PROVISIONS RELATING TO MAGISTRATE JUDGES OF THE TAX COURT.

(a) TITLE OF SPECIAL TRIAL JUDGE CHANGED TO MAGISTRATE JUDGE OF THE TAX COURT.—The heading of section 7443A is amended to read as follows:

''SEC. 7443A. MAGISTRATE JUDGES OF THE TAX COURT.''

(b) APPOINTMENT, TENURE, AND REMOVAL.—Subsection (a) of section 7443A is amended to read as follows:

''(a) APPOINTMENT, TENURE, AND REMOVAL.—

''(1) APPOINTMENT.—The chief judge may, from time to time, appoint and reappoint magistrate judges of the Tax Court for a term of 8 years. The magistrate judges of the Tax Court shall proceed under such rules as may be promulgated by the Tax Court.

''(2) REMOVAL.—Removal of a magistrate judge of the Tax Court during the term for which he or she is appointed shall be only for incompetency, misconduct, neglect of duty, or physical or mental disability, but the office of a magistrate judge of the Tax Court shall be terminated if the judges of the Tax Court determine that the services performed by the magistrate judge of the Tax Court are no longer needed. Removal shall not occur unless a majority of all the judges of the Tax Court concur in the order of removal. Before any order of removal shall be entered, a full specification of the charges shall be furnished to the magistrate judge of the Tax Court, and he or she shall be accorded by the judges of the Tax Court an opportunity to be heard on the charges.''

(c) SALARY.—Section 7443A(d) (relating to salary) is amended by striking ''90'' and inserting ''92''.

(d) EXEMPTION FROM FEDERAL LEAVE PROVISIONS.—Section 7443A is amended by adding at the end the following new subsection:

''(f) EXEMPTION FROM FEDERAL LEAVE PROVISIONS.—

''(1) IN GENERAL.—A magistrate judge of the Tax Court appointed under this section shall be exempt from the provisions of subchapter I of chapter 63 of title 5, United States Code.

''(2) TREATMENT OF UNUSED LEAVE.—

''(A) AFTER SERVICE AS MAGISTRATE JUDGE.—If an individual who is exempted under paragraph (1) from the subchapter referred to in such paragraph was previously subject to such subchapter and, without a break in service, again becomes subject to such subchapter on completion of the individual's service as a magistrate judge, the unused annual leave and sick leave standing to the individual's credit when such individual was exempted from this subchapter is deemed to have remained to the individual's credit.

''(B) COMPUTATION OF ANNUITY.—In computing an annuity under section 8339 of title 5, United States Code, the total service of an individual specified in subparagraph (A) who retires on an immediate annuity or dies leaving a survivor or survivors entitled to an annuity includes, without regard to the limitations imposed by subsection (f) of such section 8339, the days of unused sick leave standing to the individual's credit when such individual was exempted from subchapter I of chapter 63 of title 5, United States Code, except that these days will not be counted in determining average pay or annuity eligibility.

''(C) LUMP SUM PAYMENT.—Any accumulated and current accrued annual leave or vacation balances credited to a magistrate judge as of the date of the enactment of this subsection shall be paid in a lump sum at the time of separation from service pursuant to the provisions and restrictions set forth in section 5551 of title 5, United States Code, and related provisions referred to in such section.''

(e) CONFORMING AMENDMENTS.—

(1) The heading of subsection (b) of section 7443A is amended by striking ''SPECIAL TRIAL JUDGES'' and inserting ''Magistrate Judges of the Tax Court''.

(2) Section 7443A(b) is amended by striking ''special trial judges of the court'' and inserting ''magistrate judges of the Tax Court''.

(3) Subsections (c) and (d) of section 7443A are amended by striking ''special trial judge'' and inserting ''magistrate judge of the Tax Court'' each place it appears.

(4) Section 7443A(e) is amended by striking ''special trial judges'' and inserting ''magistrate judges of the Tax Court''.

(5) Section 7456(a) is amended by striking ''special trial judge'' each place it appears and inserting ''magistrate judge''.

(6) Subsection (c) of section 7471 is amended—

(A) by striking the subsection heading and inserting ''MAGISTRATE JUDGES OF THE TAX COURT.—'', and

(B) by striking ''special trial judges'' and inserting ''magistrate judges''.

SEC. 1209. ANNUITIES TO SURVIVING SPOUSES AND DEPENDENT CHILDREN OF MAGISTRATE JUDGES OF THE TAX COURT.

(a) DEFINITIONS.—Section 7448(a) (relating to definitions), as amended by this Act, is amended by redesignating paragraphs (5), (6), (7), and (8) as paragraphs (7), (8), (9), and (10), respectively, and by inserting after paragraph (4) the following new paragraphs:

''(5) The term 'magistrate judge' means a judicial officer appointed pursuant to section 7443A, including any individual receiving an annuity under section 7443B, or chapters 83 or 84, as the case may be, of title 5, United States Code, whether or not performing judicial duties under section 7443C.

''(6) The term 'magistrate judge's salary' means the salary of a magistrate judge received under section 7443A(d), any amount received as an annuity under section 7443B, or chapters 83 or 84, as the case may be, of title 5, United States Code, and compensation received under section 7443C.''

(b) ELECTION.—Subsection (b) of section 7448 (relating to annuities to surviving spouses and dependent children of judges) is amended—

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

''(b) ELECTION.—

''(1) JUDGES.—'',

(2) by moving the text 2 ems to the right, and

(3) by adding at the end the following new paragraph:

''(2) MAGISTRATE JUDGES.—Any magistrate judge may by written election filed with the chief judge bring himself or herself within the purview of this section. Such election shall be filed not later than the later of 6 months after—

''(A) 6 months after the date of the enactment of this paragraph,

''(B) the date the judge takes office, or

''(C) the date the judge marries.''

(c) CONFORMING AMENDMENTS.—

(1) The heading of section 7448 is amended by inserting ''**AND MAGISTRATE JUDGES**'' after ''**JUDGES**''.

(2) The item relating to section 7448 in the table of sections for part I of subchapter C of chapter 76 is amended by inserting ''and magistrate judges'' after ''judges''.

(3) Subsections (c)(1), (d), (f), (g), (h), (j), (m), (n), and (u) of section 7448, as amended by this Act, are each amended—

(A) by inserting ''or magistrate judge'' after ''judge'' each place it appears other than in the phrase ''chief judge'', and

(B) by inserting ''or magistrate judge's'' after ''judge's'' each place it appears.

(4) Section 7448(c) is amended—

(A) in paragraph (1), by striking ''Tax Court judges'' and inserting ''Tax Court judicial officers'',

(B) in paragraph (2)—

(i) in subparagraph (A), by inserting ''and section 7443A(d)'' after ''(a)(4)'', and

(ii) in subparagraph (B), by striking ''subsection (a)(4)'' and inserting ''subsections (a)(4) and (a)(6)''.

(5) Section 7448(g) is amended by inserting ''or section 7443B'' after ''section 7447'' each place it appears, and by inserting ''or an annuity'' after ''retired pay''.

(6) Section 7448(j)(1) is amended—

(A) in subparagraph (A), by striking ''service or retired'' and inserting ''service, retired'', and by inserting '', or receiving any annuity under section 7443B or chapters 83 or 84 of title 5, United States Code,'' after ''section 7447'', and

(B) in the last sentence, by striking ''subsections (a) (6) and (7)'' and inserting ''paragraphs (8) and (9) of subsection (a)''.

(7) Section 7448(m)(1), as amended by this Act, is amended—

(A) by inserting ''or any annuity under section 7443B or chapters 83 or 84 of title 5, United States Code'' after ''7447(d)'', and

(B) by inserting ''or 7443B(m)(1)(B) after ''7447(f)(4)''.

(8) Section 7448(n) is amended by inserting ''his years of service pursuant to any appointment under section 7443A,'' after ''of the Tax Court,''.

(9) Section 3121(b)(5)(E) is amended by inserting ''or magistrate judge'' before ''of the United States Tax Court''.

(10) Section 210(a)(5)(E) of the Social Security Act is amended by inserting ''or magistrate judge'' before ''of the United States Tax Court''.

SEC. 1210. RETIREMENT AND ANNUITY PROGRAM.

(a) RETIREMENT AND ANNUITY PROGRAM.—Part I of subchapter C of chapter 76 is amended by inserting after section 7443A the following new section:

''SEC. 7443B. RETIREMENT FOR MAGISTRATE JUDGES OF THE TAX COURT.

''(a) RETIREMENT BASED ON YEARS OF SERVICE.—A magistrate judge of the Tax Court to whom this section applies and who retires from office after attaining the age of 65 years and serving at least 14 years, whether continuously or otherwise, as such magistrate judge shall, subject to subsection (f), be entitled to receive, during the remainder of the magistrate judge's lifetime, an annuity equal to the salary being received at the time the magistrate judge leaves office.

''(b) RETIREMENT UPON FAILURE OF REAPPOINTMENT.—A magistrate judge of the Tax Court to whom this section applies who is not reappointed following the expiration of the term of office of such magistrate judge and who retires upon the completion of the term shall, subject to subsection (f), be entitled to receive, upon attaining the age of 65 years and during the remainder of such magistrate judge's lifetime, an annuity equal to that portion of the salary being received at the time the magistrate judge leaves office which the aggregate number of years of service, not to exceed 14, bears to 14, if—

''(1) such magistrate judge has served at least 1 full term as a magistrate judge, and

''(2) not earlier than 9 months before the date on which the term of office of such magistrate judge expires, and not later than 6 months before such date, such magistrate judge notified the chief judge of the Tax Court in writing that such magistrate judge was willing to accept reappointment to the position in which such magistrate judge was serving.

''(c) SERVICE OF AT LEAST 8 YEARS.—A magistrate judge of the Tax Court to whom this section applies and who retires after serving at least 8 years, whether continuously or otherwise, as such a magistrate judge shall, subject to subsection (f), be entitled to receive, upon attaining the age of 65 years and during the remainder of the magistrate judge's lifetime, an annuity equal to that portion of the salary being received at the time the magistrate judge leaves office which the aggregate number of years of service, not to exceed 14, bears to 14. Such annuity shall be reduced by ⅙ of 1 percent for each full month such magistrate judge was under the age of 65 at the time the magistrate judge left office, except that such reduction shall not exceed 20 percent.

''(d) RETIREMENT FOR DISABILITY.—A magistrate judge of the Tax Court to whom this section applies, who has served at least 5 years, whether continuously or otherwise, as such a magistrate judge and who retires or is removed from office upon the sole ground of mental or physical disability shall, subject to subsection (f), be entitled to receive, during the remainder of the magistrate judge's lifetime, an annuity equal to 40 percent of the salary being received at the time of retirement or removal or, in the case of a magistrate judge who has served for at least 10 years, an amount equal to that proportion of the salary being received at the time of retirement or removal which the aggregate number of years of service, not to exceed 14, bears to 14.

''(e) COST-OF-LIVING ADJUSTMENTS.—A magistrate judge of the Tax Court who is entitled to an annuity under this section is

also entitled to a cost-of-living adjustment in such annuity, calculated and payable in the same manner as adjustments under section 8340(b) of title 5, United States Code, except that any such annuity, as increased under this subsection, may not exceed the salary then payable for the position from which the magistrate judge retired or was removed.

''(f) ELECTION; ANNUITY IN LIEU OF OTHER ANNUITIES.—

''(1) IN GENERAL.—A magistrate judge of the Tax Court shall be entitled to an annuity under this section if the magistrate judge elects an annuity under this section by notifying the chief judge of the Tax Court not later than the later of—

''(A) 5 years after the magistrate judge of the Tax Court begins judicial service, or

''(B) 5 years after the date of the enactment of this subsection.

Such notice shall be given in accordance with procedures prescribed by the Tax Court.

''(2) ANNUITY IN LIEU OF OTHER ANNUITY.—A magistrate judge who elects to receive an annuity under this section shall not be entitled to receive—

''(A) any annuity to which such magistrate judge would otherwise have been entitled under subchapter III of chapter 83, or under chapter 84 (except for subchapters III and VII), of title 5, United States Code, for service performed as a magistrate or otherwise,

''(B) an annuity or salary in senior status or retirement under section 371 or 372 of title 28, United States Code,

''(C) retired pay under section 7447, or

''(D) retired pay under section 7296 of title 38, United States Code.

''(3) COORDINATION WITH TITLE 5.—A magistrate judge of the Tax Court who elects to receive an annuity under this section—

''(A) shall not be subject to deductions and contributions otherwise required by section 8334(a) of title 5, United States Code,

''(B) shall be excluded from the operation of chapter 84 (other than subchapters III and VII) of such title 5, and

''(C) is entitled to a lump-sum credit under section 8342(a) or 8424 of such title 5, as the case may be.

''(g) CALCULATION OF SERVICE.—For purposes of calculating an annuity under this section—

''(1) service as a magistrate judge of the Tax Court to whom this section applies may be credited, and

''(2) each month of service shall be credited as 1/12 of a year, and the fractional part of any month shall not be credited.

''(h) COVERED POSITIONS AND SERVICE.—This section applies to any magistrate judge of the Tax Court or special trial judge of the Tax Court appointed under this subchapter, but only with respect to service as such a magistrate judge or special trial judge after a date not earlier than 9½ years before the date of the enactment of this subsection.

''(i) PAYMENTS PURSUANT TO COURT ORDER.—

''(1) IN GENERAL.—Payments under this section which would otherwise be made to a magistrate judge of the Tax Court based upon his or her service shall be paid (in whole or in part) by the chief judge of the Tax Court to another person if and to the extent expressly provided for in the terms of any court decree of divorce, annulment, or legal separation, or the terms of any court order or court-approved property settlement agreement incident to any court decree of divorce, annulment, or legal separation. Any payment under this paragraph to a person bars recovery by any other person.

''(2) REQUIREMENTS FOR PAYMENT.—Paragraph (1) shall apply only to payments made by the chief judge of the Tax Court after the date of receipt by the chief judge of written notice of such decree, order, or agreement, and such additional information as the chief judge may prescribe.

''(3) COURT DEFINED.—For purposes of this subsection, the term 'court' means any court of any State, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Northern Mariana Islands, or the Virgin Islands, and any Indian tribal court or courts of Indian offense.

''(j) DEDUCTIONS, CONTRIBUTIONS, AND DEPOSITS.—

''(1) DEDUCTIONS.—Beginning with the next pay period after the chief judge of the Tax Court receives a notice under subsection (f) that a magistrate judge of the Tax Court has elected an annuity under this section, the chief judge shall deduct and withhold 1 percent of the salary of such magistrate judge. Amounts shall be so deducted and withheld in a manner determined by the chief judge. Amounts deducted and withheld under this subsection shall be deposited in the Treasury of the United States to the credit of the Tax Court Judicial Officers' Retirement Fund. Deductions under this subsection from the salary of a magistrate judge shall terminate upon the retirement of the magistrate judge or upon completion of 14 years of service for which contributions under this section have been made, whether continuously or otherwise, as calculated under subsection (g), whichever occurs first.

''(2) CONSENT TO DEDUCTIONS; DISCHARGE OF CLAIMS.—Each magistrate judge of the Tax Court who makes an election under subsection (f) shall be deemed to consent and agree to the deductions from salary which are made under paragraph (1). Payment of such salary less such deductions (and any deductions made under section 7448) is a full and complete discharge and acquittance of all claims and demands for all services rendered by such magistrate judge during the period covered by such payment, except the right to those benefits to which the magistrate judge is entitled under this section (and section 7448).

''(k) DEPOSITS FOR PRIOR SERVICE.—Each magistrate judge of the Tax Court who makes an election under subsection (f) may deposit, for service performed before such election for which contributions may be made under this section, an amount equal to 1 percent of the salary received for that service. Credit for any period covered by that service may not be allowed for purposes of an annuity under this section until a deposit under this subsection has been made for that period.

''(l) INDIVIDUAL RETIREMENT RECORDS.—The amounts deducted and withheld under subsection (j), and the amounts deposited under subsection (k), shall be credited to individual accounts in the name of each magistrate judge of the Tax Court from whom such amounts are received, for credit to the Tax Court Judicial Officers' Retirement Fund.

''(m) ANNUITIES AFFECTED IN CERTAIN CASES.—

''(1) 1-YEAR FORFEITURE FOR FAILURE TO PERFORM JUDICIAL DUTIES.—Subject to paragraph (3), any magistrate judge of the Tax Court who retires under this section and who fails to perform judicial duties required of such individual by section 7443C shall forfeit all rights to an annuity under this section for a 1-year period which begins on the 1st day on which such individual fails to perform such duties.

''(2) PERMANENT FORFEITURE OF RETIRED PAY WHERE CERTAIN NON-GOVERNMENT SERVICES PERFORMED.—Subject to paragraph (3), any magistrate judge of the Tax Court who retires under this section and who thereafter performs (or supervises or directs the performance of) legal or accounting services in the field of Federal taxation for the individual's client, the individual's employer, or any of such employer's clients, shall forfeit all rights to an annuity under this section for all periods beginning on or after the first day on which the individual performs (or supervises or directs the performance of) such services. The preceding sentence shall not apply to any civil office or employment under the Government of the United States.

''(3) FORFEITURES NOT TO APPLY WHERE INDIVIDUAL ELECTS TO FREEZE AMOUNT OF ANNUITY.—

''(A) IN GENERAL.—If a magistrate judge of the Tax Court makes an election under this paragraph—

''(i) paragraphs (1) and (2) (and section 7443C) shall not apply to such magistrate judge beginning on the date such election takes effect, and

''(ii) the annuity payable under this section to such magistrate judge, for periods beginning on or after the date such election takes effect, shall be equal to the annuity to which such magistrate judge is entitled on the day before such effective date.

''(B) ELECTION REQUIREMENTS.—An election under subparagraph (A)—

''(i) may be made by a magistrate judge of the Tax Court eligible for retirement under this section, and

''(ii) shall be filed with the chief judge of the Tax Court.

Such an election, once it takes effect, shall be irrevocable.

''(C) EFFECTIVE DATE OF ELECTION.—Any election under subparagraph (A) shall take effect on the first day of the first month following the month in which the election is made.

''(4) ACCEPTING OTHER EMPLOYMENT.—Any magistrate judge of the Tax Court who retires under this section and thereafter accepts compensation for civil office or employment under the United States Government (other than for the performance of functions as a magistrate judge of the Tax Court under section 7443C) shall forfeit all rights to an annuity under this section for the period for which such compensation is received. For purposes of this paragraph, the term 'compensation' includes retired pay or salary received in retired status.

''(n) LUMP-SUM PAYMENTS.—

''(1) ELIGIBILITY.—

''(A) IN GENERAL.—Subject to paragraph (2), an individual who serves as a magistrate judge of the Tax Court and—

''(i) who leaves office and is not reappointed as a magistrate judge of the Tax Court for at least 31 consecutive days,

''(ii) who files an application with the chief judge of the Tax Court for payment of a lump-sum credit,

''(iii) is not serving as a magistrate judge of the Tax Court at the time of filing of the application, and

''(iv) will not become eligible to receive an annuity under this section within 31 days after filing the application,

is entitled to be paid the lump-sum credit. Payment of the lump-sum credit voids all rights to an annuity under this section based on the service on which the lump-sum credit is based, until that individual resumes office as a magistrate judge of the Tax Court.

''(B) PAYMENT TO SURVIVORS.—Lump-sum benefits authorized by subparagraphs (C), (D), and (E) of this paragraph shall be paid to the person or persons surviving the magistrate judge of the Tax Court and alive on the date title to the payment arises, in the order of precedence set forth in subsection (o) of section 376 of title 28, United States Code, and in accordance with the last 2 sentences of paragraph (1) of that subsection. For purposes of the preceding sentence, the term 'judicial official' as used in subsection (o) of such section 376 shall be deemed to

mean 'magistrate judge of the Tax Court' and the terms 'Administrative Office of the United States Courts' and 'Director of the Administrative Office of the United States Courts' shall be deemed to mean 'chief judge of the Tax Court'.

''(C) PAYMENT UPON DEATH OF JUDGE BEFORE RECEIPT OF ANNUITY.—If a magistrate judge of the Tax Court dies before receiving an annuity under this section, the lump-sum credit shall be paid.

''(D) PAYMENT OF ANNUITY REMAINDER.—If all annuity rights under this section based on the service of a deceased magistrate judge of the Tax Court terminate before the total annuity paid equals the lump-sum credit, the difference shall be paid.

''(E) PAYMENT UPON DEATH OF JUDGE DURING RECEIPT OF ANNUITY.—If a magistrate judge of the Tax Court who is receiving an annuity under this section dies, any accrued annuity benefits remaining unpaid shall be paid.

''(F) PAYMENT UPON TERMINATION.—Any accrued annuity benefits remaining unpaid on the termination, except by death, of the annuity of a magistrate judge of the Tax Court shall be paid to that individual.

''(G) PAYMENT UPON ACCEPTING OTHER EMPLOYMENT.—Subject to paragraph (2), a magistrate judge of the Tax Court who forfeits rights to an annuity under subsection (m)(4) before the total annuity paid equals the lump-sum credit shall be entitled to be paid the difference if the magistrate judge of the Tax Court files an application with the chief judge of the Tax Court for payment of that difference. A payment under this subparagraph voids all rights to an annuity on which the payment is based.

''(2) SPOUSES AND FORMER SPOUSES.—

''(A) IN GENERAL.—Payment of the lump-sum credit under paragraph (1)(A) or a payment under paragraph (1)(G)—

''(i) may be made only if any current spouse and any former spouse of the magistrate judge of the Tax Court are notified of the magistrate judge's application, and

''(ii) shall be subject to the terms of a court decree of divorce, annulment, or legal separation, or any court or court approved property settlement agreement incident to such decree, if—

''(I) the decree, order, or agreement expressly relates to any portion of the lump-sum credit or other payment involved, and

''(II) payment of the lump-sum credit or other payment would extinguish entitlement of the magistrate judge's spouse or former spouse to any portion of an annuity under subsection (i).

''(B) NOTIFICATION.—Notification of a spouse or former spouse under this paragraph shall be made in accordance with such procedures as the chief judge of the Tax Court shall prescribe. The chief judge may provide under such procedures that subparagraph (A)(i) may be waived with respect to a spouse or former spouse if the magistrate judge establishes to the satisfaction of the chief judge that the whereabouts of such spouse or former spouse cannot be determined.

''(C) RESOLUTION OF 2 OR MORE ORDERS.—The chief judge shall prescribe procedures under which this paragraph shall be applied in any case in which the chief judge receives 2 or more orders or decrees described in subparagraph (A).

''(3) DEFINITION.—For purposes of this subsection, the term 'lump-sum credit' means the unrefunded amount consisting of—

''(A) retirement deductions made under this section from the salary of a magistrate judge of the Tax Court,

''(B) amounts deposited under subsection (k) by a magistrate judge of the Tax Court covering earlier service, and

''(C) interest on the deductions and deposits which, for any calendar year, shall be equal to the overall average yield to the Tax Court Judicial Officers' Retirement Fund during the preceding fiscal year from all obligations purchased by the Secretary during such fiscal year under subsection (o); but does not include interest—

''(i) if the service covered thereby aggregates 1 year or less, or

''(ii) for the fractional part of a month in the total service.

''(o) TAX COURT JUDICIAL OFFICERS' RETIREMENT FUND.—

''(1) ESTABLISHMENT.—There is established in the Treasury a fund which shall be known as the 'Tax Court Judicial Officers' Retirement Fund'. Amounts in the Fund are authorized to be appropriated for the payment of annuities, refunds, and other payments under this section.

''(2) INVESTMENT OF FUND.—The Secretary shall invest, in interest bearing securities of the United States, such currently available portions of the Tax Court Judicial Officers' Retirement Fund as are not immediately required for payments from the Fund. The income derived from these investments constitutes a part of the Fund.

''(3) UNFUNDED LIABILITY.—

''(A) IN GENERAL.—There are authorized to be appropriated to the Tax Court Judicial Officers' Retirement Fund amounts required to reduce to zero the unfunded liability of the Fund.

''(B) UNFUNDED LIABILITY.—For purposes of subparagraph (A), the term 'unfunded liability' means the estimated excess, determined on an annual basis in accordance with the provisions of section 9503 of title 31, United States Code, of the present value of all benefits payable from the Tax Court Judicial Officers' Retirement Fund over the sum of—

''(i) the present value of deductions to be withheld under this section from the future basic pay of magistrate judges of the Tax Court, plus

''(ii) the balance in the Fund as of the date the unfunded liability is determined.

''(p) PARTICIPATION IN THRIFT SAVINGS PLAN.—

''(1) ELECTION TO CONTRIBUTE.—

''(A) IN GENERAL.—A magistrate judge of the Tax Court who elects to receive an annuity under this section or under section 611 of the Pension Security and Transparency Act of 2005 may elect to contribute an amount of such individual's basic pay to the Thrift Savings Fund established by section 8437 of title 5, United States Code.

''(B) PERIOD OF ELECTION.—An election may be made under this paragraph only during a period provided under section 8432(b) of title 5, United States Code, for individuals subject to chapter 84 of such title.

''(2) APPLICABILITY OF TITLE 5 PROVISIONS.—Except as otherwise provided in this subsection, the provisions of subchapters III and VII of chapter 84 of title 5, United States Code, shall apply with respect to a magistrate judge who makes an election under paragraph (1).

''(3) SPECIAL RULES.—

''(A) AMOUNT CONTRIBUTED.—The amount contributed by a magistrate judge to the Thrift Savings Fund in any pay period shall not exceed the maximum percentage of such judge's basic pay for such pay period as allowable under section 8440f of title 5, United States Code.

''(B) CONTRIBUTIONS FOR BENEFIT OF JUDGE.—No contributions may be made for the benefit of a magistrate judge under section 8432(c) of title 5, United States Code.

''(C) APPLICABILITY OF SECTION 8433(b) OF TITLE 5.—Section 8433(b) of title 5, United States Code, applies with respect to a magistrate judge who makes an election under paragraph (1) and—

''(i) who retires entitled to an immediate annuity under this section (including a disability annuity under subsection (d) of this section) or section 611 of the Pension Security and Transparency Act of 2005,

''(ii) who retires before attaining age 65 but is entitled, upon attaining age 65, to an annuity under this section or section 611 of the Pension Security and Transparency Act of 2005, or

''(iii) who retires before becoming entitled to an immediate annuity, or an annuity upon attaining age 65, under this section or section 611 of the Pension Security and Transparency Act of 2005.

''(D) SEPARATION FROM SERVICE.—With respect to a magistrate judge to whom this subsection applies, retirement under this section or section 611 of the Pension Security and Transparency Act of 2005 is a separation from service for purposes of subchapters III and VII of chapter 84 of title 5, United States Code.

''(4) DEFINITIONS.—For purposes of this subsection, the terms 'retirement' and 'retire' include removal from office under section 7443A(a)(2) on the sole ground of mental or physical disability.

''(5) OFFSET.—In the case of a magistrate judge who receives a distribution from the Thrift Savings Fund and who later receives an annuity under this section, that annuity shall be offset by an amount equal to the amount which represents the Government's contribution to that person's Thrift Savings Account, without regard to earnings attributable to that amount. Where such an offset would exceed 50 percent of the annuity to be received in the first year, the offset may be divided equally over the first 2 years in which that person receives the annuity.

''(6) EXCEPTION.—Notwithstanding clauses (i) and (ii) of paragraph (3)(C), if any magistrate judge retires under circumstances making such magistrate judge eligible to make an election under subsection (b) of section 8433 of title 5, United States Code, and such magistrate judge's nonforfeitable account balance is less than an amount that the Executive Director of the Office of Personnel Management prescribes by regulation, the Executive Director shall pay the nonforfeitable account balance to the participant in a single payment.''

(b) CONFORMING AMENDMENT.—The table of sections for part I of subchapter C of chapter 76 is amended by inserting after the item relating to section 7443A the following new item:

''Sec. 7443B. Retirement for magistrate judges of the Tax Court.''.

SEC. 1211. INCUMBENT MAGISTRATE JUDGES OF THE TAX COURT.

(a) RETIREMENT ANNUITY UNDER TITLE 5 AND SECTION 7443B OF THE INTERNAL REVENUE CODE OF 1986.—A magistrate judge of the United States Tax Court in active service on the date of the enactment of this Act shall, subject to subsection (b), be entitled, in lieu of the annuity otherwise provided under the amendments made by this title, to—

(1) an annuity under subchapter III of chapter 83, or under chapter 84 (except for subchapters III and VII), of title 5, United States Code, as the case may be, for creditable service before the date on which service would begin to be credited for purposes of paragraph (2), and

(2) an annuity calculated under subsection (b) or (c) and subsection (g) of section 7443B of the Internal Revenue Code of 1986, as added by this Act, for any service as a magistrate judge of the United States Tax Court or special trial judge of the United States Tax Court but only with respect to service as

such a magistrate judge or special trial judge after a date not earlier than 9½ years prior to the date of the enactment of this Act (as specified in the election pursuant to subsection (b)) for which deductions and deposits are made under subsections (j) and (k) of such section 7443B, as applicable, without regard to the minimum number of years of service as such a magistrate judge of the United States Tax Court, except that—

(A) in the case of a magistrate judge who retired with less than 8 years of service, the annuity under subsection (c) of such section 7443B shall be equal to that proportion of the salary being received at the time the magistrate judge leaves office which the years of service bears to 14, subject to a reduction in accordance with subsection (c) of such section 7443B if the magistrate judge is under age 65 at the time he or she leaves office, and

(B) the aggregate amount of the annuity initially payable on retirement under this subsection may not exceed the rate of pay for the magistrate judge which is in effect on the day before the retirement becomes effective.

(b) FILING OF NOTICE OF ELECTION.—A magistrate judge of the United States Tax Court shall be entitled to an annuity under this section only if the magistrate judge files a notice of that election with the chief judge of the United States Tax Court specifying the date on which service would begin to be credited under section 7443B of the Internal Revenue Code of 1986, as added by this Act, in lieu of chapter 83 or chapter 84 of title 5, United States Code. Such notice shall be filed in accordance with such procedures as the chief judge of the United States Tax Court shall prescribe.

(c) LUMP-SUM CREDIT UNDER TITLE 5.—A magistrate judge of the United States Tax Court who makes an election under subsection (b) shall be entitled to a lump-sum credit under section 8342 or 8424 of title 5, United States Code, as the case may be, for any service which is covered under section 7443B of the Internal Revenue Code of 1986, as added by this Act, pursuant to that election, and with respect to which any contributions were made by the magistrate judge under the applicable provisions of title 5, United States Code.

(d) RECALL.—With respect to any magistrate judge of the United States Tax Court receiving an annuity under this section who is recalled to serve under section 7443C of the Internal Revenue Code of 1986, as added by this Act—

(1) the amount of compensation which such recalled magistrate judge receives under such section 7443C shall be calculated on the basis of the annuity received under this section, and

(2) such recalled magistrate judge of the United States Tax Court may serve as a reemployed annuitant to the extent otherwise permitted under title 5, United States Code. Section 7443B(m)(4) of the Internal Revenue Code of 1986, as added by this Act, shall not apply with respect to service as a reemployed annuitant described in paragraph (2).

SEC. 1212. PROVISIONS FOR RECALL.

(a) IN GENERAL.—Part I of subchapter C of chapter 76, as amended by this Act, is amended by inserting after section 7443B the following new section:

"SEC. 7443C. RECALL OF MAGISTRATE JUDGES OF THE TAX COURT.

''(a) RECALLING OF RETIRED MAGISTRATE JUDGES.—Any individual who has retired pursuant to section 7443B or the applicable provisions of title 5, United States Code, upon reaching the age and service requirements established therein, may at or after retirement be called upon by the chief judge of the Tax Court to perform such judicial duties with the Tax Court as may be requested of such individual for any period or periods specified by the chief judge; except that in the case of any such individual—

''(1) the aggregate of such periods in any 1 calendar year shall not (without such individual's consent) exceed 90 calendar days, and

''(2) such individual shall be relieved of performing such duties during any period in which illness or disability precludes the performance of such duties.

Any act, or failure to act, by an individual performing judicial duties pursuant to this subsection shall have the same force and effect as if it were the act (or failure to act) of a magistrate judge of the Tax Court.

''(b) COMPENSATION.—For the year in which a period of recall occurs, the magistrate judge shall receive, in addition to the annuity provided under the provisions of section 7443B or under the applicable provisions of title 5, United States Code, an amount equal to the difference between that annuity and the current salary of the office to which the magistrate judge is recalled. The annuity of the magistrate judge who completes that period of service, who is not recalled in a subsequent year, and who retired under section 7443B, shall be equal to the salary in effect at the end of the year in which the period of recall occurred for the office from which such individual retired.

''(c) RULEMAKING AUTHORITY.—The provisions of this section may be implemented under such rules as may be promulgated by the Tax Court.''

(b) CONFORMING AMENDMENT.—The table of sections for part I of subchapter C of chapter 76, as amended by this Act, is amended by inserting after the item relating to section 7443B the following new item:

''Sec. 7443C. Recall of magistrate judges of the Tax Court.''.

SEC. 1213. EFFECTIVE DATE.

Except as otherwise provided, the amendments made by this subtitle shall take effect on the date of the enactment of this Act.

TITLE XIII—OTHER PROVISIONS

Subtitle A—Administrative Provision

SEC. 1301. PROVISIONS RELATING TO PLAN AMENDMENTS.

(a) IN GENERAL.—If this section applies to any plan or contract amendment—

(1) such plan or contract shall be treated as being operated in accordance with the terms of the plan during the period described in subsection (b)(2)(A), and

(2) except as provided by the Secretary of the Treasury, such plan shall not fail to meet the requirements of section 411(d)(6) of the Internal Revenue Code of 1986 and section 204(g) of the Employee Retirement Income Security Act of 1974 by reason of such amendment.

(b) AMENDMENTS TO WHICH SECTION APPLIES.—

(1) IN GENERAL.—This section shall apply to any amendment to any plan or annuity contract which is made—

(A) pursuant to any amendment made by this Act or the Economic Growth and Tax Relief Reconciliation Act of 2001, or pursuant to any regulation issued by the Secretary of the Treasury or the Secretary of Labor under such Acts, and

(B) on or before the last day of the first plan year beginning on or after January 1, 2007, or such later date as the Secretary of the Treasury may prescribe.

In the case of a governmental plan (as defined in section 414(d) of the Internal Revenue Code of 1986), subparagraph (B) shall be applied by substituting the date which is 2 years after the date otherwise applied under subparagraph (B).

(2) CONDITIONS.—This section shall not apply to any amendment unless—

(A) during the period—

(i) beginning on the date the legislative or regulatory amendment described in paragraph (1)(A) takes effect (or in the case of a plan or contract amendment not required by such legislative or regulatory amendment, the effective date specified by the plan), and

(ii) ending on the date described in paragraph (1)(B) (or, if earlier, the date the plan or contract amendment is adopted),

the plan or contract is operated as if such plan or contract amendment were in effect; and

(B) such plan or contract amendment applies retroactively for such period.

SEC. 1302. AUTHORITY TO THE SECRETARY OF LABOR, SECRETARY OF THE TREASURY, AND THE PENSION BENEFIT GUARANTY CORPORATION TO POSTPONE CERTAIN DEADLINES.

The Secretary of Labor, the Secretary of the Treasury, and the Executive Director of the Pension Benefit Guaranty Corporation shall exercise their authority under section 518 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1148) and section 7508A of the Internal Revenue Code of 1986 to postpone certain deadlines by reason of the Presidentially declared disaster areas in Louisiana, Mississippi, Alabama, Texas, Florida, or elsewhere, due to the effect of Hurricane Katrina, Rita, or Wilma. The Secretaries and the Executive Director of the Corporation shall issue guidance as soon as is practicable to plan sponsors and participants regarding extension of deadlines and rules applicable to these extraordinary circumstances. Nothing in this section shall be construed to relieve any plan sponsor from any requirement to pay benefits or make contributions under the plan of the sponsor.

Subtitle B—Governmental Pension Plan Equalization

SEC. 1311. DEFINITION OF GOVERNMENTAL PLAN.

(a) AMENDMENT TO INTERNAL REVENUE CODE OF 1986.—Section 414(d) of the Internal Revenue Code of 1986 (definition of governmental plan) is amended by adding at the end the following: ''The term 'governmental plan' includes a plan established or maintained for its employees by an Indian tribal government (as defined in section 7701(a)(40)), a subdivision of an Indian tribal government (determined in accordance with section 7871(d)), an agency instrumentality (or subdivision) of an Indian tribal government, or an entity established under Federal, State, or tribal law which is wholly owned or controlled by any of the foregoing.''

(b) AMENDMENT TO EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—Section 3(32) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(32)) is amended by adding at the end the following: ''The term 'governmental plan' includes a plan established or maintained for its employees by an Indian tribal government (as defined in section 7701(a)(40)), a subdivision of an Indian tribal government (determined in accordance with section 7871(d)), an agency instrumentality (or subdivision) of an Indian tribal government, or an entity established under Federal, State, or tribal law that is wholly owned or controlled by any of the foregoing.''

SEC. 1312. EXTENSION TO ALL GOVERNMENTAL PLANS OF CURRENT MORATORIUM ON APPLICATION OF CERTAIN NONDISCRIMINATION RULES APPLICABLE TO STATE AND LOCAL PLANS.

(a) IN GENERAL.—

(1) Subparagraph (G) of section 401(a)(5) and subparagraph (G) of section 401(a)(26) of the Internal Revenue Code of 1986 are each amended by striking ''section 414(d))'' and all that follows and inserting ''section 414(d)).''.

(2) Subparagraph (G) of section 401(k)(3) of such Code and paragraph (2) of section 1505(d) of the Taxpayer Relief Act of 1997 (Public Law 105–34; 111 Stat. 1063) are each amended by striking ''maintained by a State or local government or political subdivision thereof (or agency or instrumentality thereof)''.

(b) CONFORMING AMENDMENTS.—

(1) The heading of subparagraph (G) of section 401(a)(5) of the Internal Revenue Code of 1986 is amended by striking ''STATE AND LOCAL GOVERNMENTAL'' and inserting ''GOVERNMENTAL''.

(2) The heading of subparagraph (G) of section 401(a)(26) of such Code is amended by striking ''EXCEPTION FOR STATE AND LOCAL'' and inserting ''EXCEPTION FOR''.

(3) Section 401(k)(3)(G) of such Code is amended by inserting ''GOVERNMENTAL PLAN.—'' after ''(G)''.

SEC. 1313. CLARIFICATION THAT TRIBAL GOVERNMENTS ARE SUBJECT TO THE SAME DEFINED BENEFIT PLAN RULES AND REGULATIONS APPLIED TO STATE AND OTHER LOCAL GOVERNMENTS, THEIR POLICE AND FIREFIGHTERS.

(a) AMENDMENTS TO INTERNAL REVENUE CODE OF 1986.—

(1) POLICE AND FIREFIGHTERS.—Subparagraph (H) section 415(b)(2) of the Internal Revenue Code of 1986 (defining participant) is amended—

(A) in clause (i), by striking ''State or political subdivision'' and inserting ''State, Indian tribal government (as defined in section 7701(a)(40)), or any political subdivision''; and

(B) in clause (ii)(I), by striking ''State or political subdivision'' each place it appears and inserting ''State, Indian tribal government (as so defined), or any political subdivision''.

(2) STATE AND LOCAL GOVERNMENT PLANS.—

(A) IN GENERAL.—Subparagraph (A) of section 415(b)(10) of such Code (relating to limitation to equal accrued benefit) is amended—

(i) by inserting '', Indian tribal government (as defined in section 7701(a)(40)),'' after ''State'';

(ii) by inserting ''any'' before ''political subdivision''; and

(iii) by inserting ''any of'' before ''the foregoing''.

(B) CONFORMING AMENDMENT.—The heading of paragraph (1) of section 415(b) of such Code is amended by striking ''SPECIAL RULE FOR STATE AND'' and inserting ''SPECIAL RULE FOR STATE, INDIAN TRIBAL, AND''.

(3) GOVERNMENT PICK UP CONTRIBUTIONS.—Paragraph (2) of section 414(h) of such Code (relating to designation by units of government) is amended by striking ''State or political subdivision'' and inserting ''State, Indian tribal government (as defined in section 7701(a)(40)), or any political subdivision''.

(b) AMENDMENTS TO EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—Section 4021(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1321(b)) is amended—

(1) in paragraph (12), by striking ''or'' at the end;

(2) in paragraph (13), by striking ''plan.'' and inserting ''plan; or''; and

(3) by adding at the end the following:

''(14) established and maintained for its employees by an Indian tribal government (as defined in section 7701(a)(40) of the Internal Revenue Code of 1986), a subdivision of an Indian tribal government (determined in accordance with section 7871(d) of such Code), an agency or instrumentality of an Indian tribal government or subdivision thereof, or an entity established under Federal, State, or tribal law that is wholly owned or controlled by any of the foregoing.''.

SEC. 1314. EFFECTIVE DATE.

The amendments made by this subtitle shall apply to any year beginning before, on, or after the date of the enactment of this Act.

Subtitle C—Miscellaneous Provisions

SEC. 1321. TRANSFER OF EXCESS FUNDS FROM BLACK LUNG DISABILITY TRUSTS TO UNITED MINE WORKERS OF AMERICA COMBINED BENEFIT FUND.

(a) IN GENERAL.—So much of section 501(c)(21)(C) of the Internal Revenue Code of 1986 (relating to black lung disability trusts) as precedes the last sentence is amended to read as follows:

''(C) Payments described in subparagraph (A)(i)(IV) may be made from such trust during a taxable year only to the extent that the aggregate amount of such payments during such taxable year does not exceed the excess (if any), as of the close of the preceding taxable year, of—

''(i) the fair market value of the assets of the trust, over

''(ii) 110 percent of the present value of the liability described in subparagraph (A)(i)(I) of such person.''

(b) TRANSFER.—Section 9705 of such Code (relating to transfer) is amended by adding at the end the following new subsection:

''(c) TRANSFER FROM BLACK LUNG DISABILITY TRUSTS.—

''(1) IN GENERAL.—The Secretary shall transfer each fiscal year to the Fund from the general fund of the Treasury an amount which the Secretary estimates to be the additional amounts received in the Treasury for that fiscal year by reason of the amendment made by section 1321(a) of the Pension Security and Transparency Act of 2005. The Secretary shall adjust the amount transferred for any year to the extent necessary to correct errors in any estimate for any prior year.

''(2) USE OF FUNDS.—Any amount transferred to the Combined Fund under paragraph (1) shall be used to proportionately reduce the unassigned beneficiary premium under section 9704(a)(3) of each assigned operator for any plan year beginning after December 31, 2002.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2002.

SEC. 1322. TREATMENT OF DEATH BENEFITS FROM CORPORATE-OWNED LIFE INSURANCE.

(a) IN GENERAL.—Section 101 of the Internal Revenue Code of 1986 (relating to certain death benefits) is amended by adding at the end the following new subsection:

''(j) TREATMENT OF CERTAIN EMPLOYER-OWNED LIFE INSURANCE CONTRACTS.—

''(1) GENERAL RULE.—In the case of an employer-owned life insurance contract, the amount excluded from gross income of an applicable policyholder by reason of paragraph (1) of subsection (a) shall not exceed an amount equal to the sum of the premiums and other amounts paid by the policyholder for the contract.

''(2) EXCEPTIONS.—In the case of an employer-owned life insurance contract with respect to which the notice and consent requirements of paragraph (4) are met, paragraph (1) shall not apply to any of the following:

''(A) EXCEPTIONS BASED ON INSURED'S STATUS.—Any amount received by reason of the death of an insured who, with respect to an applicable policyholder—

''(i) was an employee at any time during the 12-month period before the insured's death, or

''(ii) is, at the time the contract is issued—

''(I) a director,

''(II) a highly compensated employee within the meaning of section 414(q) (without regard to paragraph (1)(B)(ii) thereof), or

''(III) a highly compensated individual within the meaning of section 105(h)(5), except that '35 percent' shall be substituted for '25 percent' in subparagraph (C) thereof.

''(B) EXCEPTION FOR AMOUNTS PAID TO INSURED'S HEIRS.—Any amount received by reason of the death of an insured to the extent—

''(i) the amount is paid to a member of the family (within the meaning of section 267(c)(4)) of the insured, any individual who is the designated beneficiary of the insured under the contract (other than the applicable policyholder), a trust established for the benefit of any such member of the family or designated beneficiary, or the estate of the insured, or

''(ii) the amount is used to purchase an equity (or capital or profits) interest in the applicable policyholder from any person described in clause (i).

''(3) EMPLOYER-OWNED LIFE INSURANCE CONTRACT.—

''(A) IN GENERAL.—For purposes of this subsection, the term 'employer-owned life insurance contract' means a life insurance contract which—

''(i) is owned by a person engaged in a trade or business and under which such person (or a related person described in subparagraph (B)(ii)) is directly or indirectly a beneficiary under the contract, and

''(ii) covers the life of an insured who is an employee with respect to the trade or business of the applicable policyholder on the date the contract is issued.

For purposes of the preceding sentence, if coverage for each insured under a master contract is treated as a separate contract for purposes of sections 817(h), 7702, and 7702A, coverage for each such insured shall be treated as a separate contract.

''(B) APPLICABLE POLICYHOLDER.—For purposes of this subsection—

''(i) IN GENERAL.—The term 'applicable policyholder' means, with respect to any employer-owned life insurance contract, the person described in subparagraph (A)(i) which owns the contract.

''(ii) RELATED PERSONS.—The term 'applicable policyholder' includes any person which—

''(I) bears a relationship to the person described in clause (i) which is specified in section 267(b) or 707(b)(1), or

''(II) is engaged in trades or businesses with such person which are under common control (within the meaning of subsection (a) or (b) of section 52).

''(4) NOTICE AND CONSENT REQUIREMENTS.—The notice and consent requirements of this paragraph are met if, before the issuance of the contract, the employee—

''(A) is notified in writing that the applicable policyholder intends to insure the employee's life and the maximum face amount for which the employee could be insured at the time the contract was issued,

''(B) provides written consent to being insured under the contract and that such coverage may continue after the insured terminates employment, and

''(C) is informed in writing that an applicable policyholder will be a beneficiary of any proceeds payable upon the death of the employee.

''(5) DEFINITIONS.—For purposes of this subsection—

''(A) EMPLOYEE.—The term 'employee' includes an officer, director, and highly compensated employee (within the meaning of section 414(q)).

''(B) INSURED.—The term 'insured' means, with respect to an employer-owned life insurance contract, an individual covered by the contract who is a United States citizen or resident. In the case of a contract covering the joint lives of 2 individuals, references to an insured include both of the individuals.''.

(b) REPORTING REQUIREMENTS.—Subpart A of part III of subchapter A of chapter 61 of the Internal Revenue Code of 1986 (relating to information concerning persons subject to special provisions) is amended by inserting after section 6039H the following new section:

"SEC. 6039I. RETURNS AND RECORDS WITH RESPECT TO EMPLOYER-OWNED LIFE INSURANCE CONTRACTS.

''(a) IN GENERAL.—Every applicable policyholder owning 1 or more employer-owned life insurance contracts issued after the date of the enactment of this section shall file a return (at such time and in such manner as the Secretary shall by regulations prescribe) showing for each year such contracts are owned—

''(1) the number of employees of the applicable policyholder at the end of the year,

''(2) the number of such employees insured under such contracts at the end of the year,

''(3) the total amount of insurance in force at the end of the year under such contracts,

''(4) the name, address, and taxpayer identification number of the applicable policyholder and the type of business in which the policyholder is engaged, and

''(5) that the applicable policyholder has a valid consent for each insured employee (or, if all such consents are not obtained, the number of insured employees for whom such consent was not obtained).

''(b) RECORDKEEPING REQUIREMENT.—Each applicable policyholder owning 1 or more employer-owned life insurance contracts during any year shall keep such records as may be necessary for purposes of determining whether the requirements of this section and section 101(j) are met.

''(c) DEFINITIONS.—Any term used in this section which is used in section 101(j) shall have the same meaning given such term by section 101(j).''.

(c) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 101(a) of the Internal Revenue Code of 1986 is amended by striking ''and subsection (f)'' and inserting ''subsection (f), and subsection (j)''.

(2) The table of sections for subpart A of part III of subchapter A of chapter 61 of such Code is amended by inserting after the item relating to section 6039H the following new item:

''Sec. 6039I. Returns and records with respect to employer-owned life insurance contracts.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to life insurance contracts issued after the date of the enactment of this Act, except for a contract issued after such date pursuant to an exchange described in section 1035 of the Internal Revenue Code of 1986 for a contract issued on or prior to that date. For purposes of the preceding sentence, any material increase in the death benefit or other material change shall cause the contract to be treated as a new contract except that, in the case of a master contract (within the meaning of section 264(f)(4)(E) of such Code), the addition of covered lives shall be treated as a new contract only with respect to such additional covered lives.

Subtitle D—Other Related Pension Provisions

PART I—HEALTH AND MEDICAL BENEFITS

SEC. 1331. USE OF EXCESS PENSION ASSETS FOR FUTURE RETIREE HEALTH BENEFITS.

(a) IN GENERAL.—Section 420 of the Internal Revenue Code of 1986 (relating to transfers of excess pension assets to retiree health accounts), as amended by this Act, is amended by adding at the end the following new subsection:

''(f) QUALIFIED TRANSFER TO COVER FUTURE RETIREE HEALTH COSTS.—

''(1) IN GENERAL.—An employer maintaining a defined benefit plan (other than a multiemployer plan) may elect for any taxable year to have the plan make a qualified future transfer rather than a qualified transfer for the taxable year. Except as provided in this subsection, a qualified future transfer shall be treated for purposes of this title and the Employee Retirement Income Security Act of 1974 as if it were a qualified transfer.

''(2) QUALIFIED FUTURE TRANSFER.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'qualified future transfer' means a transfer which meets all of the requirements for a qualified transfer, except that—

''(i) the determination of excess pension assets shall be made under subparagraph (B),

''(ii) the limitation on the amount transferred shall be made under subparagraph (C), and

''(iii) the minimum cost requirements of subsection (c)(3) shall be modified as provided under subparagraph (D).

''(B) EXCESS PENSION ASSETS.—

''(i) IN GENERAL.—In determining excess pension assets for purposes of this subsection, subsection (e)(2) shall be applied by substituting '115 percent' for '125 percent'.

''(ii) REQUIREMENT TO MAINTAIN FUNDED STATUS.—If, as of any valuation date of any plan year in the transfer period, the amount determined under subsection (e)(2)(B) (after application of clause (i)) exceeds the amount determined under subsection (e)(2)(A), either—

''(I) the employer maintaining the plan shall make contributions to the plan in an amount not less than the amount required to reduce such excess to zero as of such date, or

''(II) there is transferred from the health benefits account to the plan an amount not less than the amount required to reduce such excess to zero as of such date.

''(C) LIMITATION ON AMOUNT TRANSFERRED.—Notwithstanding subsection (b)(3), the amount of the excess pension assets which may be transferred in a qualified future transfer shall be equal to the sum of—

''(i) if the transfer period includes the taxable year of the transfer, the amount determined under subsection (b)(3) for such taxable year, plus

''(ii) in the case of all other taxable years in the transfer period, the sum of the qualified current retiree health liabilities which the plan reasonably estimates, in accordance with guidance issued by the Secretary, will be incurred for each of such years.

''(D) MINIMUM COST REQUIREMENTS.—

''(i) IN GENERAL.—The requirements of subsection (c)(3) shall be treated as met if each group health plan or arrangement under which applicable health benefits are provided provides applicable health benefits during the period beginning with the first year of the transfer period and ending with the last day of the 4th year following the transfer period such that the annual average amount of such benefits provided during such period is not less than the applicable employer cost determined under subsection (c)(3)(A) with respect to the transfer.

''(ii) ELECTION TO MAINTAIN BENEFITS.—An employer may elect, in lieu of the requirements of clause (i), to meet the requirements of subsection (c)(3) by meeting the requirements of such subsection (as in effect before the amendments made by section 535 of the Tax Relief Extension Act of 1999) for each of the years described in the period under clause (i).

''(3) COORDINATION WITH OTHER TRANSFERS.—In applying subsection (b)(3) to any subsequent transfer during a taxable year in a transfer period, qualified current retiree health liabilities shall be reduced by any such liabilities taken into account with respect to the qualified future transfer to which such period relates.

''(4) TRANSFER PERIOD.—For purposes of this subsection, the term 'transfer period' means, with respect to any transfer, a period of consecutive taxable years specified in the election under paragraph (1) which begins and ends during the 10-taxable-year period beginning with the taxable year of the transfer.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers after the date of the enactment of this Act.

SEC. 1332. SPECIAL RULES FOR FUNDING OF COLLECTIVELY BARGAINED RETIREE HEALTH BENEFITS.

(a) COLLECTIVELY BARGAINED TRANSFER TREATED AS A QUALIFIED TRANSFER.—

(1) IN GENERAL.—Section 420(b) of the Internal Revenue Code of 1986 (defining qualified transfer) is amended by redesignating paragraph (5) as paragraph (6) and by inserting after paragraph (4) the following new paragraph:

''(5) A collectively bargained transfer (as defined in subsection (e)(5)) shall be treated as a qualified transfer.''.

(2) CONFORMING AMENDMENTS.—

(A) Subparagraph (B) of section 420(b)(2) of such Code is amended by inserting ''or a collectively bargained transfer'' after ''paragraph (4)''.

(B) Paragraph (3) of section 420(b) of such Code is amended to read as follows:

''(3) LIMITATION ON AMOUNT TRANSFERRED.—

''(A) IN GENERAL.—The amount of excess pension assets which may be transferred in a qualified transfer (other than a collectively bargained transfer) shall not exceed the amount which is reasonably estimated to be the amount the employer maintaining the plan will pay (whether directly or through reimbursement) out of such account during the taxable year of the transfer for qualified current retiree health liabilities.

''(B) EXCEPTION FOR COLLECTIVELY BARGAINED TRANSFERS.—The amount of excess pension assets which may be transferred in a collectively bargained transfer shall not exceed the amount which is reasonably estimated, in accordance with the provisions of the collective bargaining agreement and generally accepted accounting principles, to be the amount the employer maintaining the plan will pay (whether directly or through reimbursement) out of such account during the collectively bargained cost maintenance period for collectively bargained retiree health liabilities.''.

(b) REQUIREMENTS OF PLANS MAKING COLLECTIVELY BARGAINED TRANSFERS.—

(1) IN GENERAL.—Paragraph (1) of section 420(c) of the Internal Revenue Code of 1986 (relating to requirements of plan transferring assets) is amended to read as follows:

''(1) USE OF TRANSFERRED ASSETS.—

''(A) IN GENERAL.—Except in the case of a collectively bargained transfer, any assets transferred to a health benefits account in a qualified transfer (and any income allocable thereto) shall be used only to pay qualified current retiree health liabilities (other than liabilities of key employees not taken into account under subsection (e)(1)(D)) for the taxable year of the transfer (whether directly or through reimbursement).

''(B) COLLECTIVELY BARGAINED TRANSFER.—Any assets transferred to a health benefits account in a collectively bargained transfer (and any income allocable thereto) shall be used only to pay collectively bargained retiree health liabilities (other than liabilities of key employees not taken into account under subsection (e)(6)(D)) for the taxable year of the transfer or for any subsequent taxable year during the collectively bargained cost maintenance period (whether directly or through reimbursement).

''(C) AMOUNTS NOT USED TO PAY FOR HEALTH BENEFITS.—

''(i) IN GENERAL.—Any assets transferred to a health benefits account in a qualified transfer (and any income allocable thereto) which are not used as provided in subparagraph (A) (in the case of a qualified transfer other than a collectively bargained transfer) or cannot be used as provided in subparagraph (B) (in the case of a collectively bargained transfer) shall be transferred out of the account to the transferor plan.

''(ii) TAX TREATMENT OF AMOUNTS.—Any amount transferred out of an account under clause (i)—

''(I) shall not be includible in the gross income of the employer, but

''(II) shall be treated as an employer reversion for purposes of section 4980 (without regard to subsection (d) thereof).

''(D) ORDERING RULE.—For purposes of this section, any amount paid out of a health benefits account shall be treated as paid first out of the assets and income described in subparagraph (A) (in the case of a qualified transfer other than a collectively bargained transfer) or subparagraph (B) (in the case of a collectively bargained transfer).''.

(2) CONFORMING AMENDMENTS.—

(A) Subparagraph (A) of section 420(c)(3) of such Code is amended to read as follows:

''(A) IN GENERAL.—The requirements of this paragraph are met if—

''(i) except as provided in clause (ii), each group health plan or arrangement under which applicable health benefits are provided provides that the applicable employer cost for each taxable year during the cost maintenance period shall not be less than the higher of the applicable employer costs for each of the 2 taxable years immediately preceding the taxable year of the qualified transfer, and

''(ii) in the case of a collectively bargained transfer, each collectively bargained group health plan under which collectively bargained health benefits are provided provides that the collectively bargained employer cost for each taxable year during the collectively bargained cost maintenance period shall not be less than the amount specified by the collective bargaining agreement.''.

(B) Section 420(c)(3) of such Code is amended by redesignating subparagraphs (C), (D), and (E) as subparagraphs (D), (E), and (F), respectively, and by inserting after subparagraph (B) the following new subparagraph:

''(C) COLLECTIVELY BARGAINED EMPLOYER COST.—For purposes of this paragraph, the term 'collectively bargained employer cost' means the average cost per covered individual of providing collectively bargained retiree health benefits as determined in accordance with the applicable collective bargaining agreement. Such agreement may provide for an appropriate reduction in the collectively bargained employer cost to take into account any portion of the collectively bargained retiree health benefits that is provided or financed by a government program or other source.''.

(C) Subparagraph (E) of section 420(c)(3) of such Code (as redesignated by subparagraph (B)) is amended to read as follows:

''(E) MAINTENANCE PERIOD.—For purposes of this paragraph—

''(i) COST MAINTENANCE PERIOD.—The term 'cost maintenance period' means the period of 5 taxable years beginning with the taxable year in which the qualified transfer occurs. If a taxable year is in 2 or more overlapping cost maintenance periods, this paragraph shall be applied by taking into account the highest applicable employer cost required to be provided under subparagraph (A)(i) for such taxable year.

''(ii) COLLECTIVELY BARGAINED COST MAINTENANCE PERIOD.—The term 'collectively bargained cost maintenance period' means, with respect to each covered retiree and his covered spouse and dependents, the shorter of—

''(I) the remaining lifetime of such covered retiree and his covered spouse and dependents, or

''(II) the period of coverage provided by the collectively bargained health plan (determined as of the date of the collectively bargained transfer) with respect to such covered retiree and his covered spouse and dependents.''.

(c) LIMITATIONS ON EMPLOYER.—Subsection (d) of section 420 of the Internal Revenue Code of 1986 is amended to read as follows:

''(d) LIMITATIONS ON EMPLOYER.—For purposes of this title—

''(1) DEDUCTION LIMITATIONS.—No deduction shall be allowed—

''(A) for the transfer of any amount to a health benefits account in a qualified transfer (or any retransfer to the plan under subsection (c)(1)(C)),

''(B) for qualified current retiree health liabilities or collectively bargained retiree health liabilities paid out of the assets (and income) described in subsection (c)(1), or

''(C) except in the case of a collectively bargained transfer, for any amounts to which subparagraph (B) does not apply and which are paid for qualified current retiree health liabilities for the taxable year to the extent such amounts are not greater than the excess (if any) of—

''(i) the amount determined under subparagraph (A) (and income allocable thereto), over

''(ii) the amount determined under subparagraph (B).

''(2) OTHER LIMITATIONS.—

''(A) NO CONTRIBUTIONS ALLOWED.—Except as provided in subparagraph (B), an employer may not contribute after December 31, 1990, any amount to a health benefits account or welfare benefit fund (as defined in section 419(e)(1)) with respect to qualified current retiree health liabilities for which transferred assets are required to be used under subsection (c)(1)(A).

''(B) EXCEPTION.—An employer may contribute an amount to a health benefits account or welfare benefit fund (as defined in section 419(e)(1)) with respect to collectively bargained retiree health liabilities for which transferred assets are required to be used under subsection (c)(1)(B), and the deductibility of any such contribution shall be governed by the limits applicable to the deductibility of contributions to a welfare benefit fund under a collective bargaining agreement (as determined under section 419A(f)(5)(A)) without regard to whether such contributions are made to a health benefits account or welfare benefit fund and without regard to the provisions of section 404 or the other provisions of this section. The Secretary shall provide rules to ensure that the application of this section does not result in a deduction being allowed more than once for the same contribution or for 2 or more contributions or expenditures relating to the same collectively bargained retiree health liabilities.''.

(d) DEFINITIONS.—Section 420(e) of the Internal Revenue Code of 1986 (relating to definition and special rules) is amended by adding at the end the following new paragraphs:

''(5) COLLECTIVELY BARGAINED TRANSFER.—The term 'collectively bargained transfer' means a transfer—

''(A) of excess pension assets to a health benefits account which is part of such plan in a taxable year beginning after December 31, 2005, and

''(B) which does not contravene any other provision of law,

''(C) with respect to which are met in connection with the plan—

''(i) the use requirements of subsection (c)(1),

''(ii) the vesting requirements of subsection (c)(2), and

''(iii) the minimum cost requirements of subsection (c)(3),

''(D) which is made in accordance with a collective bargaining agreement,

''(E) which, before the transfer, the employer designates, in a written notice delivered to each employee organization that is a party to the collective bargaining agreement, as a collectively bargained transfer in accordance with this section, and

''(F) which involves—

''(i) a plan maintained by an employer which, in its taxable year ending in 2005, provided health benefits or coverage to retirees and their spouses and dependents under all of the benefit plans maintained by the employer, but only if the aggregate cost (including administrative expenses) of such benefits or coverage which would have been allowable as a deduction to the employer (if such benefits or coverage had been provided directly by the employer and the employer used the cash receipts and disbursements method of accounting) is at least 5 percent of the gross receipts of the employer (determined in accordance with the last sentence of subsection (c)(2)(E)(ii)(II)) for such taxable year,

''(ii) or a plan maintained by a successor to such employer.

Such term shall not include a transfer after December 31, 2013.

''(6) COLLECTIVELY BARGAINED RETIREE HEALTH LIABILITIES.—

''(A) IN GENERAL.—The term 'collectively bargained retiree health liabilities' means the present value, as of the beginning of a taxable year and determined in accordance with the applicable collective bargaining agreement, of all collectively bargained health benefits (including administrative expenses) for such taxable year and all subsequent taxable years during the collectively bargained cost maintenance period.

''(B) REDUCTION FOR AMOUNTS PREVIOUSLY SET ASIDE.—The amount determined under subparagraph (A) shall be reduced by the value (as of the close of the plan year preceding the year of the collectively bargained transfer) of the assets in all health benefits accounts or welfare benefit funds (as defined in section 419(e)(1)) set aside to pay for the collectively bargained retiree health liabilities.

''(C) KEY EMPLOYEES EXCLUDED.—If an employee is a key employee (within the meaning of section 416(I)(1)) with respect to any plan year ending in a taxable year, such employee shall not be taken into account in computing collectively bargained retiree health liabilities for such taxable year or in calculating collectively bargained employer cost under subsection (c)(3)(C).

''(7) COLLECTIVELY BARGAINED HEALTH BENEFITS.—The term 'collectively bargained health benefits' means health benefits or coverage which are provided to—

''(A) retired employees who, immediately before the collectively bargained transfer, are entitled to receive such benefits upon retirement and who are entitled to pension benefits under the plan, and their spouses and dependents, and

''(B) if specified by the provisions of the collective bargaining agreement governing the collectively bargained transfer, active employees who, following their retirement, are entitled to receive such benefits and who are entitled to pension benefits under the plan, and their spouses and dependents.

''(8) COLLECTIVELY BARGAINED HEALTH PLAN.—The term 'collectively bargained health plan' means a group health plan or arrangement for retired employees and their

spouses and dependents that is maintained pursuant to 1 or more collective bargaining agreements.''.

(e) CONFORMING AMENDMENT.—The last sentence of section 401(h) of the Internal Revenue Code of 1986 is amended by inserting ''(other than contributions with respect to collectively bargained retiree health liabilities within the meaning of section 420(e)(6))'' after ''medical benefits''.

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

SEC. 1333. ALLOWANCE OF RESERVE FOR MEDICAL BENEFITS OF PLANS SPONSORED BY BONA FIDE ASSOCIATIONS.

(a) IN GENERAL.—Section 419A(c) of the Internal Revenue Code of 1986 (relating to account limit) is amended by adding at the end the following new paragraph:

''(6) ADDITIONAL RESERVE FOR MEDICAL BENEFITS OF BONA FIDE ASSOCIATION PLANS.—

''(A) IN GENERAL.—An applicable account limit for any taxable year may include a reserve in an amount not to exceed 35 percent of the sum of—

''(i) the qualified direct costs, and

''(ii) the change in claims incurred but unpaid,

for such taxable year with respect to medical benefits (other than post-retirement medical benefits).

''(B) APPLICABLE ACCOUNT LIMIT.—For purposes of this subsection, the term 'applicable account limit' means an account limit for a qualified asset account with respect to medical benefits provided through a plan maintained by a bona fide association (as defined in section 2791(d)(3) of the Public Health Service Act (42 U.S.C. 300gg–91(d)(3))''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years ending after December 31, 2005.

PART II—CASH OR DEFERRED ARRANGEMENTS

SEC. 1336. TREATMENT OF ELIGIBLE COMBINED DEFINED BENEFIT PLANS AND QUALIFIED CASH OR DEFERRED ARRANGEMENTS.

(a) AMENDMENTS OF INTERNAL REVENUE CODE.—Section 414 of the Internal Revenue Code of 1986, as amended by this Act, is amended by adding at the end the following new subsection:

''(x) SPECIAL RULES FOR ELIGIBLE COMBINED DEFINED BENEFIT PLANS AND QUALIFIED CASH OR DEFERRED ARRANGEMENTS.—

''(1) GENERAL RULE.—Except as provided in this subsection, the requirements of this title shall be applied to any defined benefit plan or applicable defined contribution plan which are part of an eligible combined plan in the same manner as if each such plan were not a part of the eligible combined plan.

''(2) ELIGIBLE COMBINED PLAN.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'eligible combined plan' means a plan—

''(i) which is maintained by an employer which, at the time the plan is established, is a small employer,

''(ii) which consists of a defined benefit plan and an applicable defined contribution plan,

''(iii) the assets of which are held in a single trust forming part of the plan and are clearly identified and allocated to the defined benefit plan and the applicable defined contribution plan to the extent necessary for the separate application of this title under paragraph (1), and

''(iv) with respect to which the benefit, contribution, vesting, and nondiscrimination requirements of subparagraphs (B), (C), (D), (E), and (F) are met.

For purposes of this subparagraph, the term 'small employer' has the meaning given such term by section 4980D(d)(2), except that such section shall be applied by substituting '500' for '50' each place it appears.

''(B) BENEFIT REQUIREMENTS.—

''(i) IN GENERAL.—The benefit requirements of this subparagraph are met with respect to the defined benefit plan forming part of the eligible combined plan if the accrued benefit of each participant derived from employer contributions, when expressed as an annual retirement benefit, is not less than the applicable percentage of the participant's final average pay. For purposes of this clause, final average pay shall be determined using the period of consecutive years (not exceeding 5) during which the participant had the greatest aggregate compensation from the employer.

''(ii) APPLICABLE PERCENTAGE.—For purposes of clause (i), the applicable percentage is the lesser of—

''(I) 1 percent multiplied by the number of years of service with the employer, or

''(II) 20 percent.

''(iii) SPECIAL RULE FOR CASH BALANCE PLANS.—If the defined benefit plan under clause (i) is a qualified cash balance plan (within the meaning of section 411(b)(5)), the plan shall be treated as meeting the requirements of clause (i) with respect to any plan year if each participant receives pay credit for the year which is not less than the percentage of compensation determined in accordance with the following table:

''If the participant's age as of the beginning of the year is—	**The percentage is—**
30 or less	2
Over 30 but less than 40	4
40 or over but less than 50	6
50 or over	8.

''(iv) YEARS OF SERVICE.—For purposes of this subparagraph, years of service shall be determined under the rules of paragraphs (4), (5), and (6) of section 411(a), except that the plan may not disregard any year of service because of a participant making, or failing to make, any elective deferral with respect to the qualified cash or deferred arrangement to which subparagraph (C) applies.

''(C) CONTRIBUTION REQUIREMENTS.—

''(i) IN GENERAL.—The contribution requirements of this subparagraph with respect to any applicable defined contribution plan forming part of eligible combined plan are met if—

''(I) the qualified cash or deferred arrangement included in such plan constitutes an automatic contribution arrangement, and

''(II) the employer is required to make matching contributions on behalf of each employee eligible to participate in the arrangement in an amount equal to 50 percent of the elective contributions of the employee to the extent such elective contributions do not exceed 4 percent of compensation.

Rules similar to the rules of clauses (ii) and (iii) of section 401(k)(12)(B) shall apply for purposes of this clause.

''(ii) NONELECTIVE CONTRIBUTIONS.—An applicable defined contribution plan shall not be treated as failing to meet the requirements of clause (i) because the employer makes nonelective contributions under the plan but such contributions shall not be taken into account in determining whether the requirements of clause (i)(II) are met.

''(D) VESTING REQUIREMENTS.—The vesting requirements of this subparagraph are met if—

''(i) in the case of a defined benefit plan forming part of an eligible combined plan an employee who has completed at least 3 years of service has a nonforfeitable right to 100 percent of the employee's accrued benefit under the plan derived from employer contributions, and

''(ii) in the case of an applicable defined contribution plan forming part of eligible combined plan—

''(I) an employee has a nonforfeitable right to any matching contribution made under the qualified cash or deferred arrangement included in such plan by an employer with respect to any elective contribution, including matching contributions in excess of the contributions required under subparagraph (C)(i)(II), and

''(II) an employee who has completed at least 3 years of service has a nonforfeitable right to 100 percent of the employee's accrued benefit derived under the arrangement from nonelective contributions of the employer.

For purposes of this subparagraph, the rules of section 411 shall apply to the extent not inconsistent with this subparagraph.

''(E) UNIFORM PROVISION OF BENEFITS.—In the case of a defined benefit plan or applicable defined contribution plan forming part of an eligible combined plan, the requirements of this subparagraph are met if all benefits under each such plan, and all rights and features under each such plan, must be provided uniformly to all participants.

''(F) REQUIREMENTS MUST BE MET WITHOUT TAKING INTO ACCOUNT SOCIAL SECURITY AND SIMILAR CONTRIBUTIONS AND BENEFITS OR OTHER PLANS.—

''(i) IN GENERAL.—The requirements of this subparagraph are met if the requirements of clauses (ii) and (iii) are met.

''(ii) SOCIAL SECURITY AND SIMILAR CONTRIBUTIONS.—The requirements of this clause are met if—

''(I) the requirements of subparagraphs (B) and (C) are met without regard to section 401(l), and

''(II) the requirements of sections 401(a)(4) and 410(b) are met with respect to both the applicable defined contribution plan and defined benefit plan forming part of an eligible combined plan without regard to section 401(l).

''(iii) OTHER PLANS AND ARRANGEMENTS.—The requirements of this clause are met if the applicable defined contribution plan and defined benefit plan forming part of an eligible combined plan meet the requirements of sections 401(a)(4) and 410(b) without being combined with any other plan.

''(3) NONDISCRIMINATION REQUIREMENTS FOR QUALIFIED CASH OR DEFERRED ARRANGEMENT.—

''(A) IN GENERAL.—A qualified cash or deferred arrangement which is included in an applicable defined contribution plan forming part of an eligible combined plan shall be treated as meeting the requirements of section 401(k)(3)(A)(ii) if the requirements of paragraph (2)(C) are met with respect to such arrangement.

''(B) MATCHING CONTRIBUTIONS.—In applying section 401(m)(11) to any matching contribution with respect to a contribution to which paragraph (2)(C) applies, the contribution requirement of paragraph (2)(C) and the notice requirements of paragraph (5)(B) shall be substituted for the requirements otherwise applicable under clauses (i) and (ii) of section 401(m)(11)(A).

''(4) SATISFACTION OF TOP-HEAVY RULES.—A defined benefit plan and applicable defined contribution plan forming part of an eligible combined plan for any plan year shall be treated as meeting the requirements of section 416 for the plan year.

''(5) AUTOMATIC CONTRIBUTION ARRANGEMENT.—For purposes of this subsection—

''(A) IN GENERAL.—A qualified cash or deferred arrangement shall be treated as an automatic contribution arrangement if the arrangement—

''(i) provides that each employee eligible to participate in the arrangement is treated as

having elected to have the employer make elective contributions in an amount equal to 4 percent of the employee's compensation unless the employee specifically elects not to have such contributions made or to have such contributions made at a different rate, and

''(ii) meets the notice requirements under subparagraph (B).

''(B) NOTICE REQUIREMENTS.—

''(i) IN GENERAL.—The requirements of this subparagraph are met if the requirements of clauses (ii) and (iii) are met.

''(ii) REASONABLE PERIOD TO MAKE ELECTION.—The requirements of this clause are met if each employee to whom subparagraph (A)(i) applies—

''(I) receives a notice explaining the employee's right under the arrangement to elect not to have elective contributions made on the employee's behalf or to have the contributions made at a different rate, and

''(II) has a reasonable period of time after receipt of such notice and before the first elective contribution is made to make such election.

''(iii) ANNUAL NOTICE OF RIGHTS AND OBLIGATIONS.—The requirements of this clause are met if each employee eligible to participate in the arrangement is, within a reasonable period before any year, given notice of the employee's rights and obligations under the arrangement.

The requirements of clauses (i) and (ii) of section 401(k)(12)(D) shall be met with respect to the notices described in clauses (ii) and (iii) of this subparagraph.

''(6) COORDINATION WITH OTHER REQUIREMENTS.—

''(A) TREATMENT OF SEPARATE PLANS.—Section 414(k) shall not apply to an eligible combined plan.

''(B) REPORTING.—An eligible combined plan shall be treated as a single plan for purposes of sections 6058 and 6059.

''(7) APPLICABLE DEFINED CONTRIBUTION PLAN.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'applicable defined contribution plan' means a defined contribution plan which includes a qualified cash or deferred arrangement.

''(B) QUALIFIED CASH OR DEFERRED ARRANGEMENT.—The term 'qualified cash or deferred arrangement' has the meaning given such term by section 401(k)(2).''.

(b) AMENDMENTS OF ERISA.—

(1) IN GENERAL.—Section 210 of the Employee Retirement Income Security Act of 1974 is amended by adding at the end the following new subsection:

''(e) SPECIAL RULES FOR ELIGIBLE COMBINED DEFINED BENEFIT PLANS AND QUALIFIED CASH OR DEFERRED ARRANGEMENTS.—

''(1) GENERAL RULE.—Except as provided in this subsection, this Act shall be applied to any defined benefit plan or applicable individual account plan which are part of an eligible combined plan in the same manner as if each such plan were not a part of the eligible combined plan.

''(2) ELIGIBLE COMBINED PLAN.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'eligible combined plan' means a plan—

''(i) which, at the time the plan is established, is maintained by a small employer,

''(ii) which consists of a defined benefit plan and an applicable individual account plan each of which qualifies under section 401(a) of the Internal Revenue Code of 1986,

''(iii) the assets of which are held in a single trust forming part of the plan and are clearly identified and allocated to the defined benefit plan and the applicable individual account plan to the extent necessary for the separate application of this Act under paragraph (1), and

''(iv) with respect to which the benefit, contribution, vesting, and nondiscrimination requirements of subparagraphs (B), (C), (D), (E), and (F) are met.

For purposes of this subparagraph, the term 'small employer' has the meaning given such term by section 4980D(d)(2), except that such section shall be applied by substituting '500' for '50' each place it appears.

''(B) BENEFIT REQUIREMENTS.—

''(i) IN GENERAL.—The benefit requirements of this subparagraph are met with respect to the defined benefit plan forming part of the eligible combined plan if the accrued benefit of each participant derived from employer contributions, when expressed as an annual retirement benefit, is not less than the applicable percentage of the participant's final average pay. For purposes of this clause, final average pay shall be determined using the period of consecutive years (not exceeding 5) during which the participant had the greatest aggregate compensation from the employer.

''(ii) APPLICABLE PERCENTAGE.—For purposes of clause (i), the applicable percentage is the lesser of—

''(I) 1 percent multiplied by the number of years of service with the employer, or

''(II) 20 percent.

''(iii) SPECIAL RULE FOR CASH BALANCE PLANS.—If the defined benefit plan under clause (i) is a qualified cash balance plan (within the meaning of section 204(b)(5)), the plan shall be treated as meeting the requirements of clause (i) with respect to any plan year if each participant receives pay credit for the year which is not less than the percentage of compensation determined in accordance with the following table:

If the participant's age as of the beginning of the year is—	**The percentage is—**
30 or less	2
Over 30 but less than 40	4
40 or over but less than 50	6
50 or over	8.

''(iv) YEARS OF SERVICE.—For purposes of this subparagraph, years of service shall be determined under the rules of paragraphs (1), (2), and (3) of section 203(b), except that the plan may not disregard any year of service because of a participant making, or failing to make, any elective deferral with respect to the qualified cash or deferred arrangement to which subparagraph (C) applies.

''(C) CONTRIBUTION REQUIREMENTS.—

''(i) IN GENERAL.—The contribution requirements of this subparagraph with respect to any applicable individual account plan forming part of eligible combined plan are met if—

''(I) the qualified cash or deferred arrangement included in such plan constitutes an automatic contribution arrangement, and

''(II) the employer is required to make matching contributions on behalf of each employee eligible to participate in the arrangement in an amount equal to 50 percent of the elective contributions of the employee to the extent such elective contributions do not exceed 4 percent of compensation.

Rules similar to the rules of clauses (ii) and (iii) of section 401(k)(12)(B) of the Internal Revenue Code of 1986 shall apply for purposes of this clause.

''(ii) NONELECTIVE CONTRIBUTIONS.—An applicable individual account plan shall not be treated as failing to meet the requirements of clause (i) because the employer makes nonelective contributions under the plan but such contributions shall not be taken into account in determining whether the requirements of clause (i)(II) are met.

''(D) VESTING REQUIREMENTS.—The vesting requirements of this subparagraph are met if—

''(i) in the case of a defined benefit plan forming part of an eligible combined plan an employee who has completed at least 3 years of service has a nonforfeitable right to 100 percent of the employee's accrued benefit under the plan derived from employer contributions, and

''(ii) in the case of an applicable individual account plan forming part of eligible combined plan—

''(I) an employee has a nonforfeitable right to any matching contribution made under the qualified cash or deferred arrangement included in such plan by an employer with respect to any elective contribution, including matching contributions in excess of the contributions required under subparagraph (C)(i)(II), and

''(II) an employee who has completed at least 3 years of service has a nonforfeitable right to 100 percent of the employee's accrued benefit derived under the arrangement from nonelective contributions of the employer.

For purposes of this subparagraph, the rules of section 203 shall apply to the extent not inconsistent with this subparagraph.

''(E) UNIFORM PROVISION OF BENEFITS.—In the case of a defined benefit plan or applicable individual account plan forming part of an eligible combined plan, the requirements of this subparagraph are met if all benefits under each such plan, and all rights and features under each such plan, must be provided uniformly to all participants.

''(F) REQUIREMENTS MUST BE MET WITHOUT TAKING INTO ACCOUNT SOCIAL SECURITY AND SIMILAR CONTRIBUTIONS AND BENEFITS OR OTHER PLANS.—

''(i) IN GENERAL.—The requirements of this subparagraph are met if the requirements of clauses (ii) and (iii) are met.

''(ii) SOCIAL SECURITY AND SIMILAR CONTRIBUTIONS.—The requirements of this clause are met if—

''(I) the requirements of subparagraphs (B) and (C) are met without regard to section 401(l) of the Internal Revenue Code of 1986, and

''(II) the requirements of sections 401(a)(4) and 410(b) of the Internal Revenue Code of 1986 are met with respect to both the applicable defined contribution plan and defined benefit plan forming part of an eligible combined plan without regard to section 401(l) of the Internal Revenue Code of 1986.

''(iii) OTHER PLANS AND ARRANGEMENTS.—The requirements of this clause are met if the applicable defined contribution plan and defined benefit plan forming part of an eligible combined plan meet the requirements of sections 401(a)(4) and 410(b) of the Internal Revenue Code of 1986 without being combined with any other plan.

''(3) NONDISCRIMINATION REQUIREMENTS FOR QUALIFIED CASH OR DEFERRED ARRANGEMENT.—

''(A) IN GENERAL.—A qualified cash or deferred arrangement which is included in an applicable individual account plan forming part of an eligible combined plan shall be treated as meeting the requirements of section 401(k)(3)(A)(ii) of the Internal Revenue Code of 1986 if the requirements of subparagraph (C) are met with respect to such arrangement.

''(B) MATCHING CONTRIBUTIONS.—In applying section 401(m)(11) of such Code to any matching contribution with respect to a contribution to which paragraph (2)(C) applies, the contribution requirement of paragraph (2)(C) and the notice requirements of paragraph (5)(B) shall be substituted for the requirements otherwise applicable under clauses (i) and (ii) of section 401(m)(11)(A) of such Code.

''(4) AUTOMATIC CONTRIBUTION ARRANGEMENT.—For purposes of this subsection—

''(A) IN GENERAL.—A qualified cash or deferred arrangement shall be treated as an automatic contribution arrangement if the arrangement—

''(i) provides that each employee eligible to participate in the arrangement is treated as having elected to have the employer make elective contributions in an amount equal to 4 percent of the employee's compensation unless the employee specifically elects not to have such contributions made or to have such contributions made at a different rate, and

''(ii) meets the notice requirements under subparagraph (B).

''(B) NOTICE REQUIREMENTS.—

''(i) IN GENERAL.—The requirements of this subparagraph are met if the requirements of clauses (ii) and (iii) are met.

''(ii) REASONABLE PERIOD TO MAKE ELECTION.—The requirements of this clause are met if each employee to whom subparagraph (A)(i) applies—

''(I) receives a notice explaining the employee's right under the arrangement to elect not to have elective contributions made on the employee's behalf or to have the contributions made at a different rate, and

''(II) has a reasonable period of time after receipt of such notice and before the first elective contribution is made to make such election.

''(iii) ANNUAL NOTICE OF RIGHTS AND OBLIGATIONS.—The requirements of this clause are met if each employee eligible to participate in the arrangement is, within a reasonable period before any year, given notice of the employee's rights and obligations under the arrangement.

The requirements of clauses (i) and (ii) of section 401(k)(12)(D) of the Internal Revenue Code of 1986 shall be met with respect to the notices described in clauses (ii) and (iii) of this subparagraph.

''(5) COORDINATION WITH OTHER REQUIREMENTS.—

''(A) TREATMENT OF SEPARATE PLANS.—Section 414(k) of the Internal Revenue Code of 1986 shall not apply to an eligible combined plan.

''(B) REPORTING.—An eligible combined plan shall be treated as a single plan for purposes of section 103.

''(6) APPLICABLE INDIVIDUAL ACCOUNT PLAN.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'applicable individual account plan' means an individual account plan which includes a qualified cash or deferred arrangement.

''(B) QUALIFIED CASH OR DEFERRED ARRANGEMENT.—The term 'qualified cash or deferred arrangement' has the meaning given such term by section 401(k)(2) of the Internal Revenue Code of 1986.''.

(2) CONFORMING CHANGES.—

(A) The heading for section 210 of such Act is amended to read as follows:

''SEC. 210. MULTIPLE EMPLOYER PLANS AND OTHER SPECIAL RULES.''.

(B) The table of contents in section 1 of such Act is amended by striking the item relating to section 210 and inserting the following new item:

''Sec. 210. Multiple employer plans and other special rules''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after December 31, 2008.

SEC. 1337. STATE AND LOCAL GOVERNMENTS ELIGIBLE TO MAINTAIN SECTION 401(k) PLANS.

(a) IN GENERAL.—Clause (ii) of section 401(k)(4)(B) of the Internal Revenue Code of 1986 (relating to governments ineligible) is amended to read as follows:

''(ii) GOVERNMENTS ELIGIBLE.—A State or local government or political subdivision thereof, or any agency or instrumentality thereof, may include a qualified cash or deferred arrangement as part of a plan maintained by it.''

(b) COORDINATION WITH SECTION 457 LIMITS.—Section 402(g) of the Internal Revenue Code of 1986 is amended by adding at the end the following:

''(9) COORDINATION OF SECTION 457 LIMITS FOR STATE AND LOCAL GOVERNMENTAL PLANS.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), in the case of an individual who is a participant in 1 or more qualified cash or deferred arrangements maintained by a governmental entity described in section 401(k)(4)(B)(ii), the amount excludable from gross income under paragraph (1) with respect to the individual for any taxable year with respect to elective deferrals under such arrangements shall be reduced by the aggregate amounts deferred under section 457 with respect to the individual for the taxable year under 1 or more eligible deferred compensation plans (as defined in section 457(b)) maintained by an employer described in section 457(e)(1)(A).

''(B) SPECIAL RULE FOR PRE-1986 GRANDFATHERED PLANS.—Subparagraph (A) shall not apply to any qualified cash or deferred arrangement maintained by a governmental entity described in section 401(k)(4)(B)(ii) if the arrangement (or any predecessor) was adopted by the entity before May 6, 1986, or treated as so adopted under section 1116(f)(2)(B) of the Tax Reform Act of 1986.''

(c) EFFECTIVE DATES.—The amendments made by this section shall apply to plan years beginning after December 31, 2005.

PART III—EXCESS CONTRIBUTIONS

SEC. 1339. EXCESS CONTRIBUTIONS.

(a) EXPANSION OF CORRECTIVE DISTRIBUTION PERIOD FOR AUTOMATIC CONTRIBUTION ARRANGEMENTS.—Subsection (f) of section 4979 of the Internal Revenue Code of 1986 is amended—

(1) by and inserting ''(6 months in the case of an excess contribution or excess aggregate contribution to an eligible automatic contribution arrangement (as defined in section 414(w)(3)))'' after ''2½ months'' in paragraph (1), and

(2) by striking ''2½ MONTHS OF'' in the heading and inserting ''SPECIFIED PERIOD AFTER''.

(b) YEAR OF INCLUSION.—Paragraph (2) of section 4979(f) of such Code is amended to read as follows:

''(2) YEAR OF INCLUSION.—Any amount distributed as provided in paragraph (1) shall be treated as earned and received by the recipient in the recipient's taxable year in which such distributions were made.''.

(c) SIMPLIFICATION OF ALLOCABLE EARNINGS.—

(1) SECTION 4979.—Subsection (f) of section 4979 of such Code is amended—

(A) by adding ''through the end of the plan year for which the contribution was made'' after ''thereto'' in paragraph (1), and

(B) by adding ''through the end of the plan year for which the contributions were made'' after ''thereto'' in paragraph (2)(B).

(2) SECTION 401(k) AND 401(M).—

(A) Clause (i) of section 401(k)(8)(A) is amended by adding ''through the end of such year'' after ''such contributions''.

(B) Subparagraph (A) of section 401(m)(6) of such Code is amended by adding ''through the end of such year'' after ''to such contributions''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 2005.

PART IV—OTHER PROVISIONS

SEC. 1341. AMENDMENTS RELATING TO PROHIBITED TRANSACTIONS.

(a) EXEMPTION FOR BLOCK TRADING.—

(1) IN GENERAL.—Section 408(b) of the Employee Retirement Income Security Act (29 U.S.C. 1108(b)) is amended by adding at the end the following new paragraph:

''(14) BLOCK TRADING.—

''(A) IN GENERAL.—Any transaction involving the purchase or sale of securities between a plan and a party in interest (other than a fiduciary who has investment discretion or control with respect to the assets involved in the transaction or is providing investment advice as a fiduciary for purposes of this title to enter into the transaction) with respect to a plan if—

''(i) the transaction involves a block trade,

''(ii) at the time of the transaction, the interest of the plan (together with the interests of any other plans maintained by the same plan sponsor) does not exceed 10 percent of the aggregate size of the block trade,

''(iii) the terms of the transaction, including the price, are at least as favorable to the plan as an arm's length transaction, and

''(iv) compensation associated with the purchase and sale is not greater than an arm's length transaction with an unrelated party.

''(B) BLOCK TRADE.—For purposes of this paragraph, the term 'block trade' includes any trade of at least 10,000 shares or with a market value of at least $200,000 which will be allocated across two or more unrelated client accounts of a fiduciary.''.

(2) CONFORMING AMENDMENTS.—

(A) Section 4975(d) of such Code is amended—

(i) by striking ''or'' at the end of paragraph (15),

(ii) by striking the period at the end of paragraph (16)(F) and inserting ''; or'', and

(iii) by adding at the end the following new paragraph:

''(17) any transaction involving the purchase or sale of securities between a plan and a disqualified person (other than a fiduciary who has investment discretion or control over the transaction or is providing investment advice as a fiduciary for purposes of title I of the Employee Retirement Income Security Act to enter into the transaction) with respect to a plan if—

''(A) the transaction involves a block trade,

''(B) at the time of the transaction, the interest of the plan (together with the interests of any other plans maintained by the same plan sponsor) does not exceed 10 percent of the aggregate size of the block trade,

''(C) the terms of the transaction, including the price, are at least as favorable to the plan as an arm's length transaction, and

''(D) compensation associated with the purchase and sale is not greater than an arm's length transaction with an unrelated party.''.

(B) Section 4975(e) of such Code is amended by adding at the end the following new paragraph:

''(11) BLOCK TRADE.—The term 'block trade' includes any trade of at least 10,000 shares or with a market value of at least $200,000 which will be allocated across two or more unrelated client accounts of a fiduciary.''.

(b) BONDING RELIEF.—Section 412(a) of such Act (29 U.S.C. 1112(a)) is amended—

(1) by redesignating paragraph (2) as paragraph (3),

(2) by striking ''and'' at the end of paragraph (1), and

(3) by inserting after paragraph (1) the following new paragraph:

''(2) no bond shall be required of any entity which is registered as a broker or a dealer under section 15(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(b)) if the broker or dealer is subject to the fidelity

bond requirements of a self-regulatory organization (within the meaning of section 3(a)(26) of such Act (15 U.S.C. 78c(a)(26)).''.

(c) EXEMPTION FOR FINANCIAL MARKETS TRADING SYSTEMS.—

(1) IN GENERAL.—Section 408(b) of such Act, as amended by subsection (b)(1), is amended by adding at the end the following new paragraph:

''(15) FINANCIAL MARKETS TRADING SYSTEMS.—Any transaction involving the purchase and sale of securities between a plan and a fiduciary or a party in interest if—

''(A) the transaction is executed through—

''(i) a national securities exchange or a trading system owned by a national securities association registered with the Securities and Exchange Commission, regardless of whether such fiduciary or party in interest (or any affiliate of either) has an interest in such exchange or trading system,

''(ii) an alternative trading system or electronic communication network subject to regulation and oversight by the Securities and Exchange Commission, regardless of whether such fiduciary or party in interest (or any affiliate of either) has an interest in such alternative trading system or electronic communications network, or

''(iii) any other trading system for securities or other property approved by the Secretary through regulatory or exemptive relief,

''(B) the price associated with the purchase and sale is at least as favorable as an arm's length transaction with an unrelated party,

''(C) the compensation associated with the purchase and sale is not greater than an arm's length transaction with an unrelated party,

''(D) in the event the fiduciary or party in interest directing the transaction (or any affiliate of either) has an ownership interest in the trading system (other than an exchange or trading system described in subparagraph (A)(i)), the execution of transactions on such system is annually authorized by a plan fiduciary,

''(E) the transaction is executed in accordance with the nondiscretionary rules and procedures adopted by such trading system to match offsetting orders, and

''(F) in the event the transaction is not executed on an exchange or trading system described in subparagraph (A)(i)—

''(i) neither the trading system nor the parties to the transaction take into account the identity of the parties in the execution of trades, and the parties to the transaction do not actually know the identity of the other at the time that the terms and price of the transaction are agreed to, or

''(ii) the transaction is effected pursuant to rules designed to match purchases and sales at the best price available through the trading system.''.

(2) CONFORMING AMENDMENT.—Section 4975(d) of such Code (as amended by subsection (b)(2)) is amended—

(A) by striking ''or'' at the end of paragraph (16),

(B) by striking the period at the end of paragraph (17)(E) and inserting ''; or'', and

(C) by adding at the end the following new paragraph:

''(18) any transaction involving the purchase and sale of securities or other property between a plan and a fiduciary or a disqualified person if—

''(A) the transaction is executed through—

''(i) a national securities exchange or a trading system owned by a national securities association registered with the Securities and Exchange Commission, regardless of whether such fiduciary or disqualified person (or any affiliate of either) has an interest in such exchange or trading system,

''(ii) an alternative trading system or electronic communication network subject to regulation and oversight by the Securities and Exchange Commission, regardless of whether such fiduciary or disqualified person (or any affiliate of either) has an interest in such alternative trading system or electronic communications network, or

''(iii) any other trading system for securities or other property approved by the Secretary through regulatory or exemptive relief,

''(B) the price associated with the purchase and sale is at least as favorable as an arm's length transaction with an unrelated party,

''(C) the compensation associated with the purchase and sale is not greater than an arm's length transaction with an unrelated party,

''(D) in the event the fiduciary or disqualified person directing the transaction (or any affiliate of either) has an ownership interest in the trading system (other than an exchange or trading system described in subparagraph (A)(i)), the execution of transactions on such system is annually authorized by a plan fiduciary,

''(E) the transaction is executed in accordance with the nondiscretionary rules and procedures adopted by such trading system to match offsetting orders, and

''(F) in the event the transaction is not executed on an exchange or trading system described in subparagraph (A)(i)—

''(i) neither the trading system nor the parties to the transaction take into account the identity of the parties in the execution of trades, and the parties to the transaction do not actually know the identity of the other at the time that the terms and price of the transaction are agreed to, or

''(ii) the transaction is effected pursuant to rules designed to match purchases and sales at the best price available through the trading system.''.

(d) RELIEF FOR FOREIGN EXCHANGE TRANSACTIONS.—

(1) IN GENERAL.—Section 408(b) of such Act (29 U.S.C. 1108(b)), as amended by subsection (c)(1), is amended by adding at the end the following new paragraph:

''(16) Any foreign exchange transactions, between a bank or broker-dealer (or any affiliate of either), and a plan or an individual retirement account (within the meaning of section 408 of the Internal Revenue Code of 1986) with respect to which such bank or broker-dealer (or affiliate) is a trustee, custodian, fiduciary, or other party in interest, if—

''(A) the transaction is in connection with the purchase, holding, or sale of securities,

''(B) at the time the foreign exchange transaction is entered into, the terms of the transaction are not less favorable to the plan than the terms generally available in comparable arm's length foreign exchange transactions between unrelated parties, or the terms afforded by the bank or broker-dealer (or any affiliate of either) in comparable arm's-length foreign exchange transactions involving unrelated parties,

''(C) the exchange rate used by such bank or broker-dealer (or affiliate) for a particular foreign exchange transaction does not deviate by more or less than 3 percent from the interbank bid and asked rates at the time of the transaction as displayed on an independent service that reports rates of exchange in the foreign currency market for such currency, and

''(D) the bank or broker-dealer (or any affiliate of either) does not have investment discretion, or provide investment advice, with respect to the transaction.''.

(2) CONFORMING AMENDMENT.—Section 4975(d) of such Code, as amended by subsection (c)(2), is amended—

(A) by striking ''or'' at the end of paragraph (17)(E),

(B) by striking the period at the end of paragraph (18)(F)(ii) and inserting ''; or'', and

(C) by adding at the end the following new paragraph:

''(19) any foreign exchange transactions, between a bank or broker-dealer (or any affiliate of either) and a plan or an individual retirement account (within the meaning of section 408) with respect to which such bank or broker-dealer (or affiliate) is a trustee, custodian, fiduciary, or disqualified person, if—

''(A) the transaction is in connection with the purchase, holding, or sale of securities,

''(B) at the time the foreign exchange transaction is entered into, the terms of the transaction are not less favorable to the plan than the terms generally available in comparable arm's length foreign exchange transactions between unrelated parties, or the terms afforded by the bank or broker-dealer (or any affiliate of either) in comparable arm's-length foreign exchange transactions involving unrelated parties,

''(C) the exchange rate used by such bank or broker-dealer (or affiliate) for a particular foreign exchange transaction does not deviate by more or less than 3 percent from the interbank bid and asked rates at the time of the transaction as displayed on an independent service that reports rates of exchange in the foreign currency market for such currency, and

''(D) the bank or broker-dealer (or any affiliate of either) does not have investment discretion, or provide investment advice, with respect to the transaction.''.

(e) CORRECTION PERIOD FOR CERTAIN TRANSACTIONS INVOLVING SECURITIES AND COMMODITIES.—

(1) IN GENERAL.—Section 408(b) of such Act (29 U.S.C. 1108(b)), as amended by subsection (d)(1), is amended by adding at the end the following new paragraph:

''(17) CORRECTION PERIOD FOR CERTAIN TRANSACTIONS INVOLVING SECURITIES AND COMMODITIES.—

''(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), a transaction described in section 406(a) in connection with the acquisition, holding, or disposition of any security or commodity, if the transaction is corrected before the end of the correction period.

''(B) EXCEPTION FOR EMPLOYER SECURITIES AND REAL PROPERTY.—Subparagraph (A) does not apply to any transaction between a plan and a plan sponsor or its affiliates that involves the acquisition or sale of an employer security (as defined in section 407(d)(1)) or the acquisition, sale, or lease of employer real property (as defined in section 407(d)(2)).

''(C) EXCEPTION FOR KNOWING VIOLATIONS.—In the case of any fiduciary or other party in interest (or any other person knowingly participating in such transaction), subparagraph (A) does not apply to any prohibited transaction if, at the time such transaction occurs, such fiduciary or party in interest (or other person) knew that the transaction would (without regard to this paragraph) constitute a violation of section 406(a).

''(D) CORRECTION PERIOD.—For purposes of this paragraph, the term 'correction period' means the 14-day period beginning on the date on which such transaction occurs.

''(E) OTHER DEFINITIONS.—For purposes of this paragraph—

''(i) the term 'security' has the meaning given such term by section 475(c)(2) of the Internal Revenue Code of 1986 (without regard to subparagraph (F)(iii) and the last sentence thereof),

''(ii) the term 'commodity' has the meaning given such term by section 475(e)(2) of

such Code (without regard to subparagraph (D)(iii) thereof), and

''(iii) the terms 'correction' and 'correct' mean, with respect to a transaction, undoing the transaction to the extent possible, but in any case, making good to the plan or affected account any losses resulting from the transaction and restoring to the plan or affected account any profits made through use of the plan.''.

(2) CONFORMING AMENDMENTS.—

(A) Section 4975(d) of such Code, as amended by subsection (d)(2), is amended—

(i) by striking ''or'' at the end of paragraph (18)(F)(2),

(ii) by striking the period at the end of paragraph (19)(D) and inserting ''; or'', and

(iii) by adding at the end the following new paragraph:

''(20) except as provided in subparagraph (B) or (C) of subsection (f)(8), a transaction described in subparagraph (A), (B), (C), or (D) of subsection (c)(1) in connection with the acquisition, holding, or disposition of any security or commodity, if the transaction is corrected before the end of the correction period.''.

(B) Section 4975(f) of such Code is amended by adding at the end the following new paragraph:

''(8) CORRECTION PERIOD.—

''(A) IN GENERAL.—For purposes of subsection (d)(20), the term 'correction period' means the 14-day period beginning on the date on which such transaction occurs.

''(B) EXCEPTION FOR EMPLOYER SECURITIES AND REAL PROPERTY.—Subsection (d)(20) does not apply to any transaction between a plan and a plan sponsor or its affiliates that involves the acquisition or sale of an employer security (as defined in section 407(d)(1) of the Employee Retirement Income Security Act) or the acquisition, sale, or lease of employer real property (as defined in section 407(d)(2) of such Act).

''(C) EXCEPTION FOR KNOWING VIOLATIONS.—In the case of any fiduciary or other disqualified person (or any other person knowingly participating in such transaction), subsection (d)(20) does not apply to any prohibited transaction if, at the time such transaction occurs, such fiduciary or disqualified person (or other person) knew that the transaction would (without regard to subsection (d)(20) or this paragraph) constitute a violation of subparagraph (A), (B), (C), or (D) of subsection (c)(1).

''(D) ABATEMENT OF TAX WHERE THERE IS A CORRECTION.—If a transaction is not treated as a prohibited transaction by reason of subsection (d)(20), then no tax under subsections (a) and (b) shall be assessed with respect to such transaction, and, if assessed, the assessment shall be abated, and, if collected, shall be credited or refunded as an overpayment.

''(E) OTHER DEFINITIONS.—For purposes of this paragraph and subsection (d)(20)—

''(i) the term 'security' has the meaning given such term by section 475(c)(2) (without regard to subparagraph (F)(iii) and the last sentence thereof),

''(ii) the term 'commodity' has the meaning given such term by section 475(e)(2) (without regard to subparagraph (D)(iii) thereof), and

''(iii) the terms 'correction' and 'correct' mean, with respect to a transaction, undoing the transaction to the extent possible, but in any case, making good to the plan or affected account any losses resulting from the transaction and restoring to the plan or affected account any profits made through use of the plan.''.

(C) Section 4975(f)(5) of such Code is amended by striking ''The terms'' and inserting ''Except as provided in paragraph (8)(E)(iii), the terms''.

(f) CROSS TRADES STUDY.—Not later than 2 years after the date of the enactment of this Act, the Secretary of Labor, in consultation with the President's Working Group on Financial Markets, shall report to the President and Congress the results of a study on the implications for pension plans, plan sponsors, plan fiduciaries, and plan participants of a prohibited transaction exemption for active cross trades and the impact that such a prohibited transaction exemption could have on the safety and security of pension plan assets. The study shall review and include recommendations regarding—

(1) the regulation and practice of passive and active cross trades in United States securities markets,

(2) the potential benefits and drawbacks of permitting active cross trades for retirement funds, and

(3) the ease or difficulty in policing cross trading activities for plan sponsors, plan fiduciaries, and any Federal agency charged with safeguarding the Nation's retirement funds.

(g) GAO STUDY.—The Comptroller General of the United States shall prepare a preliminary report not later than 2 years after the date of the enactment of this Act and a final report not later than 3 years after such date regarding the effects of the amendments made by this section, focusing on the effect of electronic communication networks and block trading on plan investments and on the oversight and enforcement activities of the Department of Labor to protect the rights of plan participants and beneficiaries. The Comptroller General of the United States shall submit the reports required under the preceding sentence to the Committees on Finance and Health, Education, Labor, and Pensions of the Senate and the Committees on Ways and Means and Education and the Workforce of the House of Representatives.

(h) EFFECTIVE DATE.—The amendments made by this section shall apply to any transaction after the date of the enactment of this Act.

SEC. 1342. FEDERAL TASK FORCE ON OLDER WORKERS.

(a) ESTABLISHMENT.—Not later than 90 days after the date of enactment of this section, the Secretary of Labor shall establish a Federal Task Force on Older Workers (referred to in this section as the ''Task Force'').

(b) MEMBERSHIP.—The Task Force established pursuant to subsection (a) shall be composed of representatives from all relevant Federal agencies that have regulatory jurisdiction over, or a clear policy interest in, pension issues relating to older workers, including the Internal Revenue Service and the Equal Employment Opportunity Commission.

(c) ACTIVITIES.—

(1) IN GENERAL.—Not later than 1 year after the date of establishment of the Task Force, the Task Force shall—

(A) identify statutory and regulatory provisions in current pension law that are disincentives to work and develop legislative and regulatory proposals to address such disincentives; and

(B) identify best pension practices in the private sector for hiring and retaining older workers, and serve as a clearinghouse of such information.

(2) REPORT.—Not later than 1 year after the date of establishment of the Task Force, the Task Force shall submit a report to Congress on the activities of the Task Force pursuant to paragraph (1). Such report shall be made available to the public.

(d) CONSULTATION.—In carrying out activities pursuant to this section, the Task Force shall consult with senior, business, labor, and other interested organizations.

(e) APPLICABILITY OF FACA; TERMINATION OF TASK FORCE.—

(1) FACA.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Task Force established pursuant to this section.

(2) TERMINATION.—The Task Force shall terminate 30 days after the date the Task Force completes all of its duties under this section.

SEC. 1343. TECHNICAL CORRECTIONS TO SAVER ACT.

Section 517 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1147) is amended—

(1) in subsection (a), by striking ''2001 and 2005 on or after September 1 of each year involved'' and inserting ''2006 and 2010'';

(2) in subsection (b), by adding at the end the following new sentence: ''To effectuate the purposes of this paragraph, the Secretary may enter into a cooperative agreement, pursuant to the Federal Grant and Cooperative Agreement Act of 1977 (31 U.S.C. 6301 et seq.), with any appropriate, qualified entity.'';

(3) in subsection (e)(2)—

(A) by striking ''Committee on Labor and Human Resources'' in subparagraph (D) and inserting ''Committee on Health, Education, Labor, and Pensions'';

(B) by striking subparagraph (F) and inserting the following:

''(F) the Chairman and Ranking Member of the Subcommittee on Labor, Health and Human Services, and Education of the Committee on Appropriations of the House of Representatives and the Chairman and Ranking Member of the Subcommittee on Labor, Health and Human Services, and Education of the Committee on Appropriations of the Senate;'';

(C) by redesignating subparagraph (G) as subparagraph (J); and

(D) by inserting after subparagraph (F) the following new subparagraphs:

''(G) the Chairman and Ranking Member of the Committee on Finance of the Senate;

''(H) the Chairman and Ranking Member of the Committee on Ways and Means of the House of Representatives;

''(I) the Chairman and Ranking Member of the Subcommittee on Employer-Employee Relations of the Committee on Education and the Workforce of the House of Representatives; and'';

(4) in subsection (e)(3)(B), by striking ''January 31, 1998'' and inserting ''3 months before the convening of each summit;'';

(5) in subsection (f)(1)(C), by inserting '', no later than 90 days prior to the date of the commencement of the National Summit,'' after ''comment'';

(6) in subsection (g), by inserting '', in consultation with the congressional leaders specified in subsection (e)(2),'' after ''report'' the first place it appears in the text;

(7) in subsection (i)—

(A) by striking ''for fiscal years beginning on or after October 1, 1997,''; and

(B) by adding at the end the following new paragraph:

''(3) RECEPTION AND REPRESENTATION AUTHORITY.—The Secretary is hereby granted reception and representation authority limited specifically to the events at the National Summit. The Secretary shall use any private contributions accepted in connection with the National Summit prior to using funds appropriated for purposes of the National Summit pursuant to this paragraph.''; and

(8) in subsection (k)—

(A) by striking ''shall enter into a contract on a sole-source basis'' and inserting ''may enter into a contract on a sole-source basis''; and

(B) by striking ''in fiscal year 1998''.

SA 2582. Mr. ISAKSON (for himself, Mr. NELSON of Florida, Mr. LOTT, Mr. COLEMAN, Mr. ROCKEFELLER, Mr. DEWINE, Mr. ALEXANDER, Mr. BENNETT, Mr. BURNS, Mr. HATCH, Mr. CHAMBLISS, Mr. CARPER, and Mr. SALAZAR) proposed an amendment to the bill S. 1783, to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to reform the pension funding rules, and for other purposes; as follows:

Strike section 403 and insert the following:

SEC. 403. SPECIAL FUNDING RULES FOR PLANS MAINTAINED BY COMMERCIAL AIRLINES THAT ARE AMENDED TO CEASE FUTURE BENEFIT ACCRUALS.

(a) IN GENERAL.—If an election is made to have this section apply to an eligible plan—

(1) in the case of any applicable plan year beginning before January 1, 2007, the plan shall not have an accumulated funding deficiency for purposes of section 302 of the Employee Retirement Income Security Act of 1974 and sections 412 and 4971 of the Internal Revenue Code of 1986 if contributions to the plan for the plan year are not less than the minimum required contribution determined under subsection (d) for the plan for the plan year, and

(2) in the case of any applicable plan year beginning on or after January 1, 2007, the minimum required contribution determined under sections 303 of such Act and 430 of such Code shall, for purposes of sections 302 and 303 of such Act and sections 412, 430, and 4971 of such Code, be equal to the minimum required contribution determined under subsection (d) for the plan for the plan year.

(b) ELIGIBLE PLAN.—For purposes of this section—

(1) IN GENERAL.—The term ''eligible plan'' means a defined benefit plan (other than a multiemployer plan) to which sections 302 of such Act and 412 of such Code applies—

(A) which is sponsored by an employer—

(i) which is a commercial airline passenger airline, or

(ii) the principal business of which is providing catering services to a commercial passenger airline, and

(B) with respect to which the requirements of paragraphs (2) and (3) are met.

(2) ACCRUAL RESTRICTIONS.—

(A) IN GENERAL.—The requirements of this paragraph are met if, effective as of the first day of the first applicable plan year and at all times thereafter while an election under this section is in effect, the plan provides that—

(i) the accrued benefit, any death or disability benefit, and any social security supplement described in the last sentence of section 411(a)(9) of such Code and section 204(b)(1)(G) of such Act, of each participant are frozen at the amount of such benefit or supplement immediately before such first day, and

(ii) all other benefits under the plan are eliminated,

but only to the extent the freezing or elimination of such benefits would have been permitted under section 411(d)(6) of such Code and section 204(g) of such Act if they had been implemented by a plan amendment adopted immediately before such first day.

(B) INCREASES IN SECTION 415 LIMITS DISREGARDED.—If a plan provides that an accrued benefit of a participant which has been subject to any limitation under section 415 of such Code will be increased if such limitation is increased, the plan shall not be treated as meeting the requirements of this paragraph unless, effective as of the first day of the first applicable plan year and at all times thereafter while an election under this section is in effect, the plan provides that any such increase shall not take effect. A plan shall not fail to meet the requirements of section 411(d)(6) of such Code and section 204(g) of such Act solely because the plan is amended to meet the requirements of this subparagraph.

(3) RESTRICTION ON APPLICABLE BENEFIT INCREASES.—

(A) IN GENERAL.—The requirements of this paragraph are met if no applicable benefit increase takes effect at any time during the period beginning on July 26, 2005, and ending on the day before the first day of the first applicable plan year.

(B) APPLICABLE BENEFIT INCREASE.—For purposes of this paragraph, the term ''applicable benefit increase'' means, with respect to any plan year, any increase in liabilities of the plan by plan amendment (or otherwise provided in regulations provided by the Secretary) which, but for this paragraph, would occur during the plan year by reason of—

(i) any increase in benefits,

(ii) any change in the accrual of benefits, or

(iii) any change in the rate at which benefits become nonforfeitable under the plan.

(4) EXCEPTION FOR IMPUTED DISABILITY SERVICE.—Paragraphs (2) and (3) shall not apply to any accrual or increase with respect to imputed service provided to a participant during any period of the participant's disability occurring on or after the effective date of the plan amendment providing the restrictions under paragraph (2) if the participant—

(A) was receiving disability benefits as of such date, or

(B) was receiving sick pay and subsequently determined to be eligible for disability benefits as of such date.

(c) ELECTIONS AND RELATED TERMS.—

(1) IN GENERAL.—A plan sponsor shall make the election under subsection (a) at such time and in such manner as the Secretary of the Treasury may prescribe. Except as provided in subsection (h)(5), such election, once made, may be revoked only with the consent of such Secretary.

(2) YEARS FOR WHICH ELECTION MADE.—

(A) IN GENERAL.—The plan sponsor may select the first plan year to which the election under subsection (a) applies from among plan years ending after the date of the election. The election shall apply to such plan year and all subsequent years.

(B) ELECTION OF NEW PLAN YEAR.—The plan sponsor may specify a new plan year in the election under subsection (a) and the plan year of the plan may be changed to such new plan year without the approval of the Secretary of the Treasury.

(3) APPLICABLE PLAN YEAR.—The term ''applicable plan year'' means each plan year to which the election under subsection (a) applies under paragraph (1).

(d) MINIMUM REQUIRED CONTRIBUTION.—

(1) IN GENERAL.—In the case of any applicable plan year during the amortization period, the minimum required contribution shall be the amount necessary to amortize the unfunded liability of the plan, determined as of the first day of the plan year, in equal annual installments (until fully amortized) over the remainder of the amortization period. Such amount shall be separately determined for each applicable plan year.

(2) YEARS AFTER AMORTIZATION PERIOD.—In the case of any plan year beginning after the end of the amortization period, section 302(a)(2)(A) of such Act and section 412(a)(2)(A) of such Code shall apply to such plan, but the prefunding balance as of the first day of the first of such years under section 303(f) of such Act and section 430(f) of such Code shall be zero.

(3) DEFINITIONS.—For purposes of this section—

(A) UNFUNDED LIABILITY.—The term ''unfunded liability'' means the unfunded accrued liability under the plan, determined under the unit credit funding method.

(B) AMORTIZATION PERIOD.—The term ''amortization period'' means the 20-plan year period beginning with the first applicable plan year.

(4) OTHER RULES.—In determining the minimum required contribution and amortization amount under this subsection—

(A) the provisions of section 302(c)(3) of such Act and section 412(c)(3) of such Code, as in effect before the date of enactment of this section, shall apply,

(B) the rate of interest under section 302(b) of such Act and section 412(b) of such Code, as so in effect, shall be used for all calculations requiring an interest rate, and

(C) the value of plan assets shall be equal to their fair market value.

(5) SPECIAL RULE FOR CERTAIN PLAN SPINOFFS.—For purposes of subsection (a), if, with respect to any eligible plan to which this subsection applies—

(A) any applicable plan year includes the date of the enactment of this Act,

(B) a plan was spun off from the eligible plan during the plan year but before such date of enactment,

the minimum required contribution under subsection (a)(1) for the eligible plan for such applicable plan year shall be determined as if the plans were a single plan for that plan year (based on the full 12-month plan year in effect prior to the spin-off). The employer shall designate the allocation of the minimum required contribution between such plans for the applicable plan year and direct the appropriate reallocation between the plans of any contributions for the applicable plan year.

(e) FUNDING STANDARD ACCOUNT AND PREFUNDING BALANCE.—Any charge or credit in the funding standard account under section 302 of such Act or section 412 of such Code, and any prefunding balance under section 303 of such Act or section 430 of such Code, as of the day before the first day of the first applicable plan year, shall be reduced to zero.

(f) AMENDMENTS TO OTHER PROVISIONS.—

(1) QUALIFICATION REQUIREMENT.—Section 401(a)(36) of the Internal Revenue Code of 1986, as added by section 402 of this Act, is amended by adding at the end the following: ''This paragraph shall also apply to any plan during any period during which an amortization schedule under section 403 of the Pension Security and Transparency Act of 2005 is in effect.''

(2) PBGC LIABILITY LIMITED.—Section 4022 of the Employee Retirement Income Security Act of 1974, as amended by this Act, is amended by adding at the end the following new subsection:

''(h) SPECIAL RULE FOR PLANS ELECTING CERTAIN FUNDING REQUIREMENTS.—During any period in which an election by a plan under section 403 of the Pension Security and Transparency Act of 2005 is in effect, then this section and section 4044(a)(3) shall be applied by treating the first day of the first applicable plan year as the termination date of the plan. This subsection shall not apply to any plan for which an election under section 403(h) of such Act is in effect.''.

(3) LIMITATION ON DEDUCTIONS UNDER CERTAIN PLANS.—Section 404(a)(7)(C)(iii) of the Internal Revenue Code of 1986, as added by this Act, is amended by adding at the end the following new sentence: ''This clause shall also apply to any plan for a plan year if an election under section 403 of the Pension Security and Transparency Act of 2005 is in effect for such year.''

(4) NOTICE.—In the case of a plan amendment adopted in order to comply with this section, any notice required under section 204(h) of such Act or section 4980F(e) of such Code shall be provided within 15 days of the effective date of such plan amendment. This subsection shall not apply to any plan unless such plan is maintained pursuant to one or more collective bargaining agreements between employee representatives and 1 or more employers.

(g) SPECIAL RULES FOR TERMINATION OF ELIGIBLE PLANS.—During any period an election is in effect under this section with respect to an eligible plan, the Pension Benefit Guaranty Corporation shall, before it seeks or approves a termination of such plan under section 4041(c) or 4042 of the Employee Retirement Income Security Act of 1974—

(1) make a determination under section 4041(c)(4) or 4042(i) of such Act whether the termination would be necessary if the Secretary of the Treasury were to enter into an agreement under section 4047(a) of such Act which provides an alternative funding agreement to replace the amortization schedule under this section, and

(2) if the Corporation determines such an agreement would make such termination unnecessary, take all necessary actions to ensure the agreement is entered into.

The Pension Benefit Guaranty Corporation shall make the determination under paragraph (1) within 90 days of receiving all information needed in connection with a request for a termination (or if no such request is made, within 90 days of consideration of the termination by the Corporation).

(h) CERTAIN BENEFIT ACCRUALS AND INCREASES ALLOWED IF ADDITIONAL CONTRIBUTIONS MADE TO COVER COSTS.—

(1) IN GENERAL.—If an employer elects the application of this subsection—

(A) the requirements of paragraphs (2) and (3) of subsection (b) shall not apply with respect to any eligible plan maintained by the employer and specified in the election, and

(B) the minimum required contribution under subsection (d) for any plan year with respect to the plan shall be increased by the amounts described in paragraphs (2) and (3).

Any liabilities and assets taken into account under this subsection shall not be taken into account in determining the unfunded liability of the plan for purposes of subsection (d).

(2) CURRENT FUNDING OF ACCRUALS AND INCREASES.—The amount determined under this paragraph for any plan year is the target normal cost which would occur under section 303(b) of such Act and 430(b) of such Code if—

(A) any benefit accrual, or benefit increase taking effect, during the plan year by reason of this subsection were treated as having been accrued or earned during the plan year, and

(B) the plan were treated as if it were in at-risk status.

(3) FUNDING MUST BE MAINTAINED.—The amount determined under this paragraph for any plan year is the amount of any increase in the shortfall amortization charge which would occur under section 303(c) of such Act and 430(c) of such Code if—

(A) the funding target were determined by only taking into account benefits to which paragraph (2) applied for preceding plan years,

(B) the only assets taken into account were the contributions required under this paragraph and paragraph (2) for preceding plan years (and any earnings thereon),

(C) the amortization period included only the plan year,

(D) the transition rule under section 303(c)(4)(B) of such Act and section 430(c)(4)(B) of such Code did not apply, and

(E) the plan were treated as if it were in at-risk status.

(4) SPECIAL RULES FOR YEARS BEFORE 2007.—Notwithstanding any other provision of this Act, in the case of an applicable plan year of an eligible plan to which this subsection applies which begins before January 1, 2007, in determining the amounts described in paragraphs (2) and (3) for such plan year—

(A) the provisions of, and amendments made by, sections 101, 102, 111, and 112 shall apply to such plan year, except that

(B) the interest rate used under section 303 of such Act and section 430 of such Code for purposes of applying paragraphs (2) and (3) to such plan year shall be the interest rate determined under section 302(b)(5) of such Act and section 412(b)(5) of such Code, as in effect for plan years beginning in 2005.

(5) ELECTION OUT OF SECTION.—An employer maintaining an eligible plan to which this subsection applies may make a one-time election with respect to any applicable plan year not to have this section apply to such plan year and all subsequent plan years. Subject to subsection (d)(2), the minimum required contribution under section 303 of such Act and 430 of such Code for all such plan years shall be determined without regard to this section.

(i) EXCLUSION OF CERTAIN EMPLOYEES FROM MINIMUM COVERAGE REQUIREMENTS.—

(1) IN GENERAL.—Section 410(b)(3) of such Code is amended by striking the last sentence and inserting the following: ''For purposes of subparagraph (B), management pilots who are not represented in accordance with title II of the Railway Labor Act shall be treated as covered by a collective bargaining agreement described in such subparagraph if the management pilots manage the flight operations of air pilots who are so represented and the management pilots are, pursuant to the terms of the agreement, included in the group of employees benefitting under the trust described in such subparagraph. Subparagraph (B) shall not apply in the case of a plan which provides contributions or benefits for employees whose principal duties are not customarily performed aboard an aircraft in flight (other than management pilots described in the preceding sentence).''

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to years beginning before, on, or after the date of the enactment of this Act.

(j) EFFECTIVE DATE.—Except as otherwise provided in this section, the amendments made by this section shall apply to plan years ending after the date of the enactment of this Act.

SA 2583. Mr. AKAKA (for himself, Mr. SPECTER, Mr. DURBIN, Mr. SALAZAR, Mr. INOUYE, and Mrs. FEINSTEIN) proposed an amendment to the bill S. 1783, to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to reform the pension funding rules, and for other purposes; as follows:

At the end of title IV, add the following:

SEC. 4___. AGE REQUIREMENT FOR EMPLOYERS.

(a) SINGLE-EMPLOYER PLAN BENEFITS GUARANTEED.—Section 4022(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1322(b)) is amended in the flush matter following paragraph (3), by adding at the end the following: ''If, at the time of termination of a plan under this title, regulations prescribed by the Federal Aviation Administration require an individual to separate from service as a commercial airline pilot after attaining any age before age 65, paragraph (3) shall be applied to an individual who is a participant in the plan by reason of such service by substituting such age for age 65.''.

(b) MULTIEMPLOYER PLAN BENEFITS GUARANTEED.—Section 4022B(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1322b(a)) is amended by adding at the end the following: ''If, at the time of termination of a plan under this title, regulations prescribed by the Federal Aviation Administration require an individual to separate from service as a commercial airline pilot after attaining any age before age 65, this subsection shall be applied to an individual who is a participant in the plan by reason of such service by substituting such age for age 65.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to benefits payable on or after the date of enactment of this Act.

SA 2584. Mr. ISAKSON (for Mr. CRAIG) proposed an amendment to the bill S. 1234, to increase, effective as of December 1, 2005, the rates of compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for the survivors of certain disabled veterans; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the '' Veterans' Compensation Cost-of-Living Adjustment Act of 2005''.

SEC. 2. INCREASE IN RATES OF DISABILITY COMPENSATION AND DEPENDENCY AND INDEMNITY COMPENSATION.

(a) VETERANS' DISABILITY COMPENSATION.—Section 1114 of title 38, United States Code, is amended—

(1) in subsection (a), by striking ''$106'' and inserting ''$112'';

(2) in subsection (b), by striking ''$205'' and inserting ''$218'';

(3) in subsection (c), by striking ''$316'' and inserting ''$337'';

(4) in subsection (d), by striking ''$454'' and inserting ''$485'';

(5) in subsection (e), by striking ''$646'' and inserting ''$690'';

(6) in subsection (f), by striking ''$817'' and inserting ''$873'';

(7) in subsection (g), by striking ''$1,029'' and inserting ''$1,099'';

(8) in subsection (h), by striking ''$1,195'' and inserting ''$1,277'';

(9) in subsection (i), by striking ''$1,344'' and inserting ''$1,436'';

(10) in subsection (j), by striking ''$2,239'' and inserting ''$2,393'';

(11) in subsection (k)—

(A) by striking ''$82'' both places it appears and inserting ''$87''; and

(B) by striking ''$2,785'' and ''$3,907'' and inserting ''$2,977'' and ''$4,176'', respectively;

(12) in subsection (l), by striking ''$2,785'' and inserting ''$2,977'';

(13) in subsection (m), by striking ''$3,073'' and inserting ''$3,284'';

(14) in subsection (n), by striking ''$3,496'' and inserting ''$3,737'';

(15) in subsections (o) and (p), by striking ''$3,907'' each place it appears and inserting ''$4,176'';

(16) in subsection (r), by striking ''$1,677'' and ''$2,497'' and inserting ''$1,792'' and ''$2,669'', respectively; and

(17) in subsection (s), by striking ''$2,506'' and inserting ''$2,678''.

(b) ADDITIONAL COMPENSATION FOR DEPENDENTS.—Section 1115(1) of such title is amended—

(1) in subparagraph (A), by striking ''$127'' and inserting ''$135'';

(2) in subparagraph (B), by striking ''$219'' and ''$65'' and inserting ''$233'' and ''$68'', respectively;

(3) in subparagraph (C), by striking ''$86'' and ''$65'' and inserting ''$91'' and ''$68'', respectively;

(4) in subparagraph (D), by striking ''$103'' and inserting ''$109'';

(5) in subparagraph (E), by striking ''$241'' and inserting ''$257''; and

(6) in subparagraph (F), by striking ''$202'' and inserting ''$215''.

(c) CLOTHING ALLOWANCE FOR CERTAIN DISABLED VETERANS.—Section 1162 of such title is amended by striking ''$600'' and inserting ''$641''.

(d) DEPENDENCY AND INDEMNITY COMPENSATION FOR SURVIVING SPOUSES.—

(1) NEW LAW DIC.—Section 1311(a) of such title is amended—

(A) in paragraph (1), by striking ''$967'' and inserting ''$1,033''; and

(B) in paragraph (2), by striking ''$208'' and inserting ''$221''.

(2) OLD LAW DIC.—The table in paragraph (3) of such section is amended to read as follows:

''Pay grade	Monthly rate	Pay grade	Monthly rate
E–1	$1,033	W–4	$1,236
E–2	$1,033	O–1	$1,092
E–3	$1,033	O–2	$1,128
E–4	$1,033	O–3	$1,207
E–5	$1,033	O–4	$1,277
E–6	$1,033	O–5	$1,406
E–7	$1,069	O–6	$1,585
E–8	$1,128	O–7	$1,712
E–9	$1,177[1]	O–8	$1,879
W–1	$1,092	O–9	$2,010
W–2	$1,135	O–10	$2,204[2]
W–3	$1,169		

[1] If the veteran served as sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard, at the applicable time designated by section 1302 of this title, the surviving spouse's rate shall be $1,271.

[2] If the veteran served as Chairman or Vice-Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, Commandant of the Marine Corps, or Commandant of the Coast Guard, at the applicable time designated by section 1302 of this title, the surviving spouse's rate shall be $2,365.''.

(3) ADDITIONAL DIC FOR CHILDREN OR DISABILITY.—Section 1311 of such title is amended—

(A) in subsection (b), by striking ''$241'' and inserting ''$257'';

(B) in subsection (c), by striking ''$241'' and inserting ''$257''; and

(C) in subsection (d), by striking ''$115'' and inserting ''$122''.

(e) DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN.—

(1) DIC WHEN NO SURVIVING SPOUSE.—Section 1313(a) of such title is amended—

(A) in paragraph (1), by striking ''$410'' and inserting ''$438'';

(B) in paragraph (2), by striking ''$590'' and inserting ''$629'';

(C) in paragraph (3), by striking ''$767'' and inserting ''$819''; and

(D) in paragraph (4), by striking ''$767'' and ''$148'' and inserting ''$819'' and ''$157'', respectively.

(2) SUPPLEMENTAL DIC FOR CERTAIN CHILDREN.—Section 1314 of such title is amended—

(A) in subsection (a), by striking ''$241'' and inserting ''$257'';

(B) in subsection (b), by striking ''$410'' and inserting ''$438''; and

(C) in subsection (c), by striking ''$205'' and inserting ''$218''.

(f) EFFECTIVE DATE.—The amendments made by this section shall take effect on December 1, 2005.

(g) SPECIAL RULE.—The Secretary may adjust administratively, consistent with the increases made under subsection (a), the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85–857 (72 Stat. 1263) who are not in receipt of compensation payable pursuant to chapter 11 of title 38, United States Code.

SA 2585. Mr. ISAKSON (for Mr. DODD (for himself and Mr. MCCONNELL)) proposed an amendment to the concurrent resolution S. Con. Res. 62, directing the Joint Committee on the Library to procure a statue of Rosa Parks for placement in the Capitol; as follows:

On page 1, line 7, at the end add the following:

''The Joint Committee on the Library shall consider all locations in the Capitol, including Statuary Hall, the Rotunda, and the Capitol Visitor Center.''

SA 2586. Mr. SMITH (for himself, Mrs. LINCOLN, Mr. PRYOR, Mr. BUNNING, Mr. BURR, Mr. CHAMBLISS, Mrs. DOLE, Mrs. MURRAY, and Ms. CANTWELL) submitted an amendment intended to be proposed by him to the bill S. 2020, to provide for reconciliation pursuant to section 202(b) of the concurrent resolution on the budget for fiscal year 2006; which was ordered to lie on the table; as follows:

At the end of title IV, add the following:

SEC. ___. DEDUCTION FOR QUALIFIED TIMBER GAIN.

(a) IN GENERAL.—Part I of subchapter P of chapter 1 is amended by adding at the end the following new section:

''SEC. 1203. DEDUCTION FOR QUALIFIED TIMBER GAIN.

''(a) IN GENERAL.—In the case of a taxpayer which elects the application of this section for a taxable year, there shall be allowed a deduction against gross income equal to 60 percent of the lesser of—

''(1) the taxpayer's qualified timber gain for such year, or

''(2) the taxpayer's net capital gain for such year.

''(b) QUALIFIED TIMBER GAIN.—For purposes of this section, the term 'qualified timber gain' means, with respect to any taxpayer for any taxable year, the excess (if any) of—

''(1) the sum of the taxpayer's gains described in subsections (a) and (b) of section 631 for such year, over

''(2) the sum of the taxpayer's losses described in such subsections for such year.

''(c) SPECIAL RULES FOR PASS-THRU ENTITIES.—In the case of any qualified timber gain of a pass-thru entity (as defined in section 1(h)(10)), the election under this section shall be made separately by each taxpayer subject to tax on such gain.''.

(b) COORDINATION WITH MAXIMUM CAPITAL GAINS RATES.—

(1) TAXPAYERS OTHER THAN CORPORATIONS.—Paragraph (2) of section 1(h) is amended to read as follows:

''(2) REDUCTION OF NET CAPITAL GAIN.—For purposes of this subsection, the net capital gain for any taxable year shall be reduced (but not below zero) by the sum of—

''(A) the amount which the taxpayer takes into account as investment income under section 163(d)(4)(B)(iii), and

''(B) the lesser of—

''(i) the amount described in paragraph (1) of section 1203(a), or

''(ii) the amount described in paragraph (2) of such section.''.

(2) CORPORATIONS.—Section 1201 is amended by redesignating subsection (b) as subsection (c) and inserting after subsection (a) the following new subsection:

''(b) QUALIFIED TIMBER GAIN NOT TAKEN INTO ACCOUNT.—For purposes of this section, in the case of a corporation with respect to which an election is in effect under section 1203, the net capital gain for any taxable year shall be reduced (but not below zero) by the corporation's qualified timber gain (as defined in section 1203(b)).''.

(c) DEDUCTION ALLOWED WHETHER OR NOT INDIVIDUAL ITEMIZES OTHER DEDUCTIONS.—Subsection (a) of section 62 is amended by inserting before the last sentence the following new paragraph:

''(21) QUALIFIED TIMBER GAINS.—The deduction allowed by section 1203.''.

(d) DEDUCTION ALLOWED IN COMPUTING ADJUSTED CURRENT EARNINGS.—Subparagraph (C) of section 56(g)(4) is amended by adding at the end the following new clause:

''(vii) DEDUCTION FOR QUALIFIED TIMBER GAIN.—Clause (i) shall not apply to any deduction allowed under section 1203.''.

(e) DEDUCTION ALLOWED IN COMPUTING TAXABLE INCOME OF ELECTING SMALL BUSINESS TRUSTS.—Subparagraph (C) of section 641(c)(2) is amended by inserting after clause (iii) the following new clause:

''(iv) The deduction allowed under section 1203.''.

(f) CONFORMING AMENDMENTS.—

(1) Subparagraph (B) of section 172(d)(2) is amended to read as follows:

''(B) the exclusion under section 1202 and the deduction under section 1203 shall not be allowed.''.

(2) Paragraph (4) of section 642(c) is amended by striking the first sentence and inserting the following: ''To the extent that the amount otherwise allowable as a deduction under this subsection consists of gain described in section 1202(a) or qualified timber gain (as defined in section 1203(b)), proper adjustment shall be made for any exclusion allowable to the estate or trust under section 1202 and for any deduction allowable to the estate or trust under section 1203.''

(3) Paragraph (3) of section 643(a) is amended by striking the last sentence and inserting the following: ''The exclusion under section 1202 and the deduction under section 1203 shall not be taken into account.''

(4) Subparagraph (C) of section 643(a)(6) is amended to read as follows:

''(C) Paragraph (3) shall not apply to a foreign trust. In the case of such a trust—

''(i) there shall be included gains from the sale or exchange of capital assets, reduced by losses from such sales or exchanges to the extent such losses do not exceed gains from such sales or exchanges, and

''(ii) the deduction under section 1203 shall not be taken into account.''.

(5) Paragraph (4) of section 691(c) is amended by inserting ''1203,'' after ''1202,''.

(6) Paragraph (2) of section 871(a) is amended by inserting ''and 1203'' after ''section 1202''.

(7) The table of sections for part I of subchapter P of chapter 1 is amended by adding at the end the following new item:

''Sec. 1203. Deduction for qualified timber gain.''.

(g) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years ending after December 31, 2005, and before January 1, 2007.

(2) TAXABLE YEARS WHICH INCLUDE DATE OF ENACTMENT.—In the case of any taxable year which includes the date of the enactment of this Act, for purposes of the Internal Revenue Code of 1986, the taxpayer's qualified timber gain shall not exceed the excess that would be described in section 1203(b) of such Code, as added by this section, if only dispositions of timber after such date were taken into account.

SA 2587. Mr. DORGAN (for himself, Mr. DODD, Mrs. BOXER, Mr. REED, Mr. LIEBERMAN, and Mr. KOHL) proposed an amendment to the bill S. 2020, to provide for reconciliation pursuant to section 202(b) of the concurrent resolution on the budget for fiscal year 2006; as follows:

At the end of title IV, add the following:

SEC. ___. WINDFALL PROFITS TAX; ENERGY CONSUMER REBATE.

(a) WINDFALL PROFITS TAX.—

(1) IN GENERAL.—Subtitle E (relating to alcohol, tobacco, and certain other excise taxes) is amended by adding at the end thereof the following new chapter:

"CHAPTER 56—WINDFALL PROFITS ON CRUDE OIL

"SEC. 5896. IMPOSITION OF TAX.

''(a) IN GENERAL.—In addition to any other tax imposed under this title, there is hereby imposed on any integrated oil company (as defined in section 291(b)(4)) an excise tax equal to the excess of—

''(1) the amount equal to 50 percent of the windfall profit from all barrels of taxable crude oil removed from the property during each taxable year, over

''(2) the amount of qualified investment by such company during such taxable year.

''(b) FRACTIONAL PART OF BARREL.—In the case of a fraction of a barrel, the tax imposed by subsection (a) shall be the same fraction of the amount of such tax imposed on the whole barrel.

''(c) TAX PAID BY PRODUCER.—The tax imposed by this section shall be paid by the producer of the taxable crude oil.

"SEC. 5897. WINDFALL PROFIT; REMOVAL PRICE; ADJUSTED BASE PRICE; QUALIFIED INVESTMENT.

''(a) GENERAL RULE.—For purposes of this chapter, the term 'windfall profit' means the excess of the removal price of the barrel of taxable crude oil over the adjusted base price of such barrel.

''(b) REMOVAL PRICE.—For purposes of this chapter—

''(1) IN GENERAL.—Except as otherwise provided in this subsection, the term 'removal price' means the amount for which the barrel of taxable crude oil is sold.

''(2) SALES BETWEEN RELATED PERSONS.—In the case of a sale between related persons, the removal price shall not be less than the constructive sales price for purposes of determining gross income from the property under section 613.

''(3) OIL REMOVED FROM PROPERTY BEFORE SALE.—If crude oil is removed from the property before it is sold, the removal price shall be the constructive sales price for purposes of determining gross income from the property under section 613.

''(4) REFINING BEGUN ON PROPERTY.—If the manufacture or conversion of crude oil into refined products begins before such oil is removed from the property—

''(A) such oil shall be treated as removed on the day such manufacture or conversion begins, and

''(B) the removal price shall be the constructive sales price for purposes of determining gross income from the property under section 613.

''(5) PROPERTY.—The term 'property' has the meaning given such term by section 614.

''(c) ADJUSTED BASE PRICE DEFINED.—

''(1) IN GENERAL.—For purposes of this chapter, the term 'adjusted base price' means $40 for each barrel of taxable crude oil plus an amount equal to—

''(A) such base price, multiplied by

''(B) the inflation adjustment for the calendar year in which the taxable crude oil is removed from the property.

The amount determined under the preceding sentence shall be rounded to the nearest cent.

''(2) INFLATION ADJUSTMENT.—

''(A) IN GENERAL.—For purposes of paragraph (1), the inflation adjustment for any calendar year after 2006 is the percentage by which—

''(i) the implicit price deflator for the gross national product for the preceding calendar year, exceeds

''(ii) such deflator for the calendar year ending December 31, 2005.

''(B) FIRST REVISION OF PRICE DEFLATOR USED.—For purposes of subparagraph (A), the first revision of the price deflator shall be used.

''(d) QUALIFIED INVESTMENT.—For purposes of this chapter—

''(1) IN GENERAL.—The term 'qualified investment' means any amount paid or incurred with respect to—

''(A) section 263(c) costs,

''(B) qualified refinery property (as defined in section 179C(c) and determined without regard to any termination date),

''(C) any qualified facility described in paragraph (1), (2), (3), or (4) of section 45(d) (determined without regard to any placed in service date),

''(D) any facility for the production of alcohol used as a fuel (within the meaning of section 40) or biodiesel or agri-biodiesel used as a fuel (within the meaning of section 40A).

''(2) SECTION 263(c) COSTS.—For purposes of this subsection, the term 'section 263(c) costs' means intangible drilling and development costs incurred by the taxpayer which (by reason of an election under section 263(c)) may be deducted as expenses for purposes of this title (other than this paragraph). Such term shall not include costs incurred in drilling a nonproductive well.

"SEC. 5898. SPECIAL RULES AND DEFINITIONS .

''(a) WITHHOLDING AND DEPOSIT OF TAX.—The Secretary shall provide such rules as are necessary for the withholding and deposit of the tax imposed under section 5896 on any taxable crude oil.

''(b) RECORDS AND INFORMATION.—Each taxpayer liable for tax under section 5896 shall keep such records, make such returns, and furnish such information (to the Secretary and to other persons having an interest in the taxable crude oil) with respect to such oil as the Secretary may by regulations prescribe.

''(c) RETURN OF WINDFALL PROFIT TAX.—The Secretary shall provide for the filing and the time of such filing of the return of the tax imposed under section 5896.

''(d) DEFINITIONS.—For purposes of this chapter—

''(1) PRODUCER.—The term 'producer' means the holder of the economic interest with respect to the crude oil.

''(2) CRUDE OIL.—

''(A) IN GENERAL.—The term 'crude oil' includes crude oil condensates and natural gasoline.

''(B) EXCLUSION OF NEWLY DISCOVERED OIL.—Such term shall not include any oil produced from a well drilled after the date of the enactment of the Windfall Profits Rebate Act of 2005, except with respect to any oil produced from a well drilled after such date on any proven oil or gas property (within the meaning of section 613A(c)(9)(A)).

''(3) BARREL.—The term 'barrel' means 42 United States gallons.

''(e) ADJUSTMENT OF REMOVAL PRICE.—In determining the removal price of oil from a property in the case of any transaction, the Secretary may adjust the removal price to reflect clearly the fair market value of oil removed.

''(f) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this chapter.

''(g) TERMINATION.—This section shall not apply to taxable crude oil removed after the date which is 3 years after the date of the enactment of this section.''.

(2) CLERICAL AMENDMENT.—The table of chapters for subtitle E is amended by adding at the end the following new item:

''CHAPTER 56. Windfall Profit on Crude Oil.''.

(3) DEDUCTIBILITY OF WINDFALL PROFIT TAX.—The first sentence of section 164(a) (relating to deduction for taxes) is amended by inserting after paragraph (5) the following new paragraph:

''(6) The windfall profit tax imposed by section 5896.''.

(4) EFFECTIVE DATE.—

(A) IN GENERAL.—The amendments made by this subsection shall apply to crude oil removed after the date of the enactment of this Act, in taxable years ending after such date.

(B) TRANSITIONAL RULES.—For the period ending December 31, 2005, the Secretary of the Treasury or the Secretary's delegate shall prescribe rules relating to the administration of chapter 56 of the Internal Revenue Code of 1986. To the extent provided in such rules, such rules shall supplement or supplant for such period the administrative provisions contained in chapter 56 of such Code (or in so much of subtitle F of such Code as relates to such chapter 56).

(b) ENERGY CONSUMER REBATE.—

(1) IN GENERAL.—Subchapter B of chapter 65 (relating to rules of special application in the case of abatements, credits, and refunds) is amended by adding at the end the following new section:

"SEC. 6430. ENERGY CONSUMER REBATE.

''(a) GENERAL RULE.—Except as otherwise provided in this section, each individual shall be treated as having made a payment against the tax imposed by chapter 1 for each taxable year beginning after December 31, 2005, in an amount equal to the lesser of—

''(1) the amount of the taxpayer's liability for tax for such taxpayer's preceding taxable year, or

''(2) the applicable amount.

''(b) LIABILITY FOR TAX.—For purposes of this section, the liability for tax for any taxable year shall be the excess (if any) of—

''(1) the sum of—

''(A) the taxpayer's regular tax liability (within the meaning of section 26(b)) for the taxable year,

''(B) the tax imposed by section 55(a) with respect to such taxpayer for the taxable year, and

''(C) the taxpayer's social security taxes (within the meaning of section 24(d)(2)) for the taxable year, over

''(2) the sum of the credits allowable under part IV of subchapter A of chapter 1 (other than the credits allowable under subpart C thereof, relating to refundable credits) for the taxable year.

''(c) APPLICABLE AMOUNT.—For purposes of this section, the applicable amount for any taxpayer shall be determined by the Secretary not later than the date specified in subsection (d)(1) taking into account the number of such taxpayers and the amount of revenues in the Treasury resulting from the tax imposed by section 5896 for the calendar year preceding the taxable year.

''(d) DATE PAYMENT DEEMED MADE.—

''(1) IN GENERAL.—The payment provided by this section shall be deemed made on February 1 of the calendar year ending with or within the taxable year.

''(2) REMITTANCE OF PAYMENT.—The Secretary shall remit to each taxpayer the payment described in paragraph (1) not later that the date which is 30 days after the date specified in paragraph (1).

''(e) CERTAIN PERSONS NOT ELIGIBLE.—This section shall not apply to—

''(1) any individual with respect to whom a deduction under section 151 is allowable to another taxpayer for a taxable year beginning in the calendar year in which such individual's taxable year begins,

''(2) any estate or trust, or

''(3) any nonresident alien individual.''.

(2) CONFORMING AMENDMENT.—Section 1324(b)(2) of title 31, United States Code, is amended by inserting before the period '', or enacted by the Windfall Profits Rebate Act of 2005''.

(3) CLERICAL AMENDMENT.—The table of sections for subchapter B of chapter 65 is amended by adding at the end the following new item:

''Sec. 6430. Energy consumer rebate.''.

(4) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the date of the enactment of this Act.

SA 2588. Mr. KENNEDY (for himself, Ms. LANDRIEU, Mr. DURBIN, and Mr. JOHNSON) submitted an amendment intended to be proposed by him to the bill S. 2020, to provide for reconciliation pursuant to section 202(b) of the concurrent resolution on the budget for fiscal year 2006; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE ____—ELIMINATING CHILD POVERTY

SEC. ___1. SHORT TITLE.

This title may be cited as the ''End Child Poverty Act''.

SEC. ___2. FINDINGS.

Congress makes the following findings:

(1) More than 13,000,000 children in the United States who are younger than 18 live below the poverty line.

(2) Most parents of poor children are playing by the rules by working to support their families. Despite their efforts, many of these parents still cannot help their children get ahead. Seven out of 10 poor children live in a working family and 1 poor child in 3 lives with a full-time year-around worker.

(3) Poor children are at least twice as likely as non-poor children to suffer stunted growth or lead poisoning, or to be kept back in school. Poor children score significantly lower on reading, mathematics, and vocabulary tests when compared with otherwise similar non-poor children. In more than half of poor households with children in the United States, the members of the households experience serious deprivations during the year, including lack of adequate food, utility shutoffs, crowded or substandard housing, or lack of needed medical care.

(4) Over 8,000,000 children under age 18 in the United States lack health insurance. With a 2004 uninsured rate of 18.9 percent, poor children are more likely to be uninsured than children generally.

(5)(A) The members of 1 in 6 households with children in the United States are hungry or on the verge of hunger, largely due to inadequate household income.

(B) Hungry children—

(i) tend to lack nutrients vital to healthy brain development;

(ii) tend to have difficulty focusing their attention and concentrating in school; and

(iii) often have greater emotional and behavioral problems, have weaker immune systems, and are more susceptible to infections, including anemia, than other children.

(6) Child poverty has risen significantly, by 1,440,000 since 2000.

(7) The poverty rate for children in the United States is substantially higher than that in most other wealthy industrialized nations.

(8) Children in the United States are more likely to live in poverty than any other age group in the United States.

(9) African-American and Latino children are much more likely to live in poverty than White children. One third of African-American children are low-income, as are nearly a third of Latino children.

(10) Great Britain made a public commitment to cut child poverty in half in 10 years, and end child poverty by 2020, and it has already successfully lifted 2,000,000 children out of poverty.

(11) Poverty is a moral issue and Congress has a moral obligation to address it.

SEC. ____3. PURPOSES.

The purposes of this title are—

(1) to set a national goal of cutting child poverty in half within a decade, and eliminating child poverty entirely as soon as possible; and

(2) to establish a Child Poverty Elimination Trust Fund as an initial measure to fund Federal programs to achieve that goal.

SEC. ____4. DEVELOPMENT OF PLAN BY CHILD POVERTY ELIMINATION BOARD.

(a) IN GENERAL.—There is established a board to be known as the Child Poverty Elimination Board (referred to in this title as the ''Board'').

(b) COMPOSITION.—

(1) APPOINTMENTS.—The Board shall be composed of 12 voting members, to be appointed not later than 60 days after the date of enactment of this Act, as follows:

(A) SENATORS.—One Senator shall be appointed by the majority leader of the Senate, and one Senator shall be appointed by the minority leader of the Senate.

(B) MEMBERS OF THE HOUSE OF REPRESENTATIVES.—One Member of the House of Representatives shall be appointed by the Speaker of the House of Representatives, and one Member of the House of Representatives shall be appointed by the minority leader of the House of Representatives.

(C) ADDITIONAL MEMBERS.—

(i) APPOINTMENT.—Two members each shall be appointed by—

(I) the Speaker of the House of Representatives;

(II) the majority leader of the Senate;

(III) the minority leader of the House of Representatives; and

(IV) the minority leader of the Senate.

(ii) EXPERTISE.—Members appointed under this subparagraph shall be appointed on the basis of demonstrated expertise in child poverty issues.

(2) PERIOD OF APPOINTMENT; VACANCIES.—Members shall be appointed for the life of the Board. Any vacancy on the Board shall be filled in the manner in which the original appointment was made. The vacancy shall not affect the power of the remaining members to execute the duties of the Board.

(3) CHAIRPERSON AND VICE CHAIRMAN.—The Board shall elect a chairperson and a vice chairperson from among the members of the Board.

(4) MEETINGS.—The Board shall first meet not later than 30 days after the date on which all members are appointed, and the Board shall meet thereafter at the call of the chairperson or vice chairperson or a majority of the members.

(c) PLAN AND REPORT.—

(1) PLAN.—The Board shall meet regularly to develop a plan for cutting child poverty in half within a decade, and eliminating child poverty entirely as soon as possible. The plan shall include recommendations for allocations of funds from the Child Poverty Elimination Trust Fund established in section 9511 of the Internal Revenue Code of 1986, to carry out the plan.

(2) REPORT.—Not later than 1 year after the date of enactment of this Act, the Board shall prepare and submit a report containing the plan to the Committee on Education and the Workforce of the House of Representatives, the Committee on Health, Education, Labor, and Pensions of the Senate, and the President.

(d) POWERS.—

(1) HEARINGS AND SESSIONS.—The Board may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Board considers appropriate. The Board may administer oaths or affirmations to witnesses appearing before it.

(2) ACCESS TO INFORMATION.—The Board may secure directly from any Federal agency information necessary to enable the Board to carry out this title, if the information may be disclosed under section 552 of title 5, United States Code. Subject to the previous sentence, on the request of the chairperson or vice chairperson of the Board, the head of such agency shall furnish such information to the Board.

(3) USE OF FACILITIES AND SERVICES.—Upon the request of the Board, the head of any Federal agency may make available to the Board any of the facilities and services of such agency.

(4) PERSONNEL FROM OTHER AGENCIES.—On the request of the Board, the head of any Federal agency may detail any of the personnel of such agency to serve as an Executive Director of the Board or assist the Board in carrying out the duties of the Board. Any detail shall not interrupt or otherwise affect the civil service status or privileges of the Federal employee.

(5) VOLUNTARY SERVICE.—Notwithstanding section 1342 of title 31, United States Code, the chairperson of the Board may accept for the Board voluntary services provided by a member of the Board.

(e) COMPENSATION.—

(1) PAY.—Members of the Board shall serve without compensation.

(2) TRAVEL EXPENSES.—Members of the Board shall be allowed reasonable travel expenses, including a per diem allowance, in accordance with section 5703 of title 5, United States Code, when performing duties of the Board.

SEC. ____5. ISSUANCE AND IMPLEMENTATION OF PLAN.

(a) ISSUANCE.—Not later than 90 days after receiving the report containing the plan developed by the Board under section ____4(c), the President shall review the report, and shall issue a plan for cutting child poverty in half within a decade, and eliminating child poverty entirely as soon as possible. The plan shall include specifications and allocations of funds to be made from the Child Poverty Elimination Trust Fund, to carry out the plan.

(b) RELATIONSHIP TO BOARD PLAN.—The plan issued under subsection (a) shall be the same as the plan developed by the Board under section ____4(c) except insofar as the President may determine, for good cause shown and stated together with the plan issued under subsection (a), that a modification of the Board's plan would be more effective for eliminating child poverty.

(c) IMPLEMENTATION.—Not later than 90 days after issuing a plan under subsection (a), the President shall ensure the implementation of the plan issued under subsection (a), and shall work with Congress to ensure funding for the implementation of the plan.

SEC. _____6. IMPOSITION OF INDIVIDUAL INCOME TAX SURCHARGE TO FUND CHILD POVERTY ELIMINATION FUND.

(a) IN GENERAL.—Section 1 of the Internal Revenue Code of 1986 (relating to imposition of tax on individuals) is amended by adding at the end the following new subsection:

''(j) ADDITIONAL INCOME TAX.—

''(1) IN GENERAL.—If the adjusted gross income of an individual exceeds the threshold amount, the tax imposed by this section (determined without regard to this subsection) shall be increased by an amount equal to 1 percent of so much of the adjusted gross income as exceeds the threshold amount.

''(2) THRESHOLD AMOUNTS.—For purposes of this subsection, the term 'threshold amount' means—

''(A) $1,000,000 in the case of a joint return, and

''(B) $500,000 in the case of any other return.

''(3) TAX NOT TO APPLY TO ESTATES AND TRUSTS.—This subsection shall not apply to an estate or trust.''.

(b) COORDINATION WITH MINIMUM TAX.—Section 55(c) of the Internal Revenue Code of 1986 (defining regular tax) is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

''(3) COORDINATION WITH MINIMUM TAX.—Solely for purposes of this section, section 1(j) shall not apply in computing the regular tax.''.

(c) ESTABLISHMENT OF CHILD POVERTY ELIMINATION FUND.—

(1) IN GENERAL.—Subchapter A of chapter 98 of the Internal Revenue Code of 1986 (relating to trust fund code) is amended by adding at the end the following:

''SEC. 9511. CHILD POVERTY ELIMINATION TRUST FUND.

''(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the 'Child Poverty Elimination Trust Fund' (referred to in this section as the 'Trust Fund'), consisting of such amounts as may be appropriated or credited to the Trust Fund as provided in this section or section 9602(b).

''(b) TRANSFERS TO TRUST FUND.—There is hereby appropriated to the Trust Fund an amount equivalent to the increase in revenues received in the Treasury as the result of the surtax imposed under section 1(j).

''(c) DISTRIBUTION OF AMOUNTS IN TRUST FUND.—Amounts in the Trust Fund shall be available, as provided by appropriation Acts, to make expenditures in connection with Federal programs designed to carry out the plan issued by the President under section _____5 of the End Child Poverty Act, to eliminate child poverty.''.

(2) CONFORMING AMENDMENT.—The table of sections for subchapter A of chapter 98 of such Code is amended by adding at the end the following:

''Sec. 9511. Child Poverty Elimination Trust Fund.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2005.

(e) SECTION 15 NOT TO APPLY.—The amendment made by subsection (a) shall not be treated as a change in a rate of tax for purposes of section 15 of the Internal Revenue Code of 1986.

SA 2589. Mr. MARTINEZ submitted an amendment intended to be proposed by him to the bill S. 2020, to provide for reconciliation pursuant to section 202(b) of the concurrent resolution on the budget for fiscal year 2006; which was ordered to lie on the table; as follows:

On page 16, line 23, strike ''or Mississippi'' and insert ''Mississippi, Florida, or Texas''

SA 2590. Mr. KOHL (for himself and Mr. HARKIN) submitted an amendment intended to be proposed by him to the bill S. 2020, to provide for reconciliation pursuant to section 202(b) of the concurrent resolution on the budget for fiscal year 2006; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. TAX-EXEMPT INTEREST ON FEDERALLY GUARANTEED WATER, WASTEWATER, AND FEDERALLY GUARANTEED ESSENTIAL COMMUNITY FACILITIES LOANS.

(a) IN GENERAL.—Section 149(b)(3)(A) (relating to certain insurance programs) is amended by striking ''or'' at the end of clause (ii), by striking period at the end of clause (iii) and inserting '', or'', and by adding at the end the following new clause:

''(iv) any guarantee by the Secretary of Agriculture pursuant to section 306(a)(1) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)(1)) to finance water, wastewater, and essential community facilities.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds issued after the date of the enactment of this Act.

SA 2591. Mr. MCCONNELL (for Mr. DOMENICI (for himself and Mr. BINGAMAN)) proposed an amendment to the bill S. 1238, to amend the Public Lands Corps Act of 1993 to provide for the conduct of projects that protect forests, and for other purposes; as follows:

On page 8, line 15, strike ''$15,000,000'' and insert ''$12,000,000''.

On page 8, line 16, strike ''$10,000,000'' and insert ''$8,000,000''.

On page 8, line 17, after ''projects'' insert the following: ''and $4,000,000 of which is authorized to carry out other appropriate conservation projects''.

SA 2592. Mr. MCCONNELL (for Mr. DOMENICI (for himself and Mr. BINGAMAN)) proposed an amendment to the bill S. 485, to reauthorize and amend the National Geologic Mapping Act of 1992; as follows:

On page 7, line 11, strike ''2010'' and insert ''2015''.

SA 2593. Mr. MCCONNELL (for Mr. DOMENICI (for himself and Mr. BINGAMAN)) proposed an amendment to the bill S. 1170, an act to establish the Fort Stanton-Snowy River Cave National Conservation Area; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Fort Stanton-Snowy River Cave National Conservation Area Act''.

SEC. 2. DEFINITIONS.

In this Act:

(1) CONSERVATION AREA.—The term ''Conservation Area'' means the Fort Stanton-Snowy River Cave National Conservation Area established by section 3(a).

(2) MANAGEMENT PLAN.—The term ''management plan'' means the management plan developed for the Conservation Area under section 4(c).

(3) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior, acting through the Director of the Bureau of Land Management.

SEC. 3. ESTABLISHMENT OF FORT STANTON-SNOWY RIVER CAVE NATIONAL CONSERVATION AREA.

(a) ESTABLISHMENT; PURPOSES.—There is established the Fort Stanton–Snowy River Cave National Conservation Area in Lincoln County, New Mexico, to protect, conserve, and enhance the unique and nationally important historic, cultural, scientific, archaeological, natural, and educational subterranean cave resources of the Fort Stanton–Snowy River cave system.

(b) AREA INCLUDED.—The Conservation Area shall include the area within the boundaries depicted on the map entitled ''Fort Stanton–Snowy River Cave National Conservation Area'' and dated November 2005.

(c) MAP AND LEGAL DESCRIPTION.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary shall submit to Congress a map and legal description of the Conservation Area.

(2) EFFECT.—The map and legal description of the Conservation Area shall have the same force and effect as if included in this Act, except that the Secretary may correct any minor errors in the map and legal description.

(3) PUBLIC AVAILABILITY.—The map and legal description of the Conservation Area shall be available for public inspection in the appropriate offices of the Bureau of Land Management.

SEC. 4. MANAGEMENT OF THE CONSERVATION AREA.

(a) MANAGEMENT.—

(1) IN GENERAL.—The Secretary shall manage the Conservation Area—

(A) in a manner that conserves, protects, and enhances the resources and values of the Conservation Area, including the resources and values described in section 3(a); and

(B) in accordance with—

(i) this Act;

(ii) the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.); and

(iii) any other applicable laws.

(2) USES.—The Secretary shall only allow uses of the Conservation Area that are consistent with the protection of the cave resources.

(3) REQUIREMENTS.—In administering the Conservation Area, the Secretary shall provide for—

(A) the conservation and protection of the natural and unique features and environs for scientific, educational, and other appropriate public uses of the Conservation Area;

(B) public access, as appropriate, while providing for the protection of the cave resources and for public safety;

(C) the continuation of other existing uses or other new uses of the Conservation Area that do not impair the purposes for which the Conservation Area is established;

(D) management of the surface area of the Conservation Area in accordance with the Fort Stanton Area of Critical Environmental Concern Final Activity Plan dated March, 2001, or any amendments to the plan, consistent with this Act; and

(E) scientific investigation and research opportunities within the Conservation Area, including through partnerships with colleges, universities, schools, scientific institutions, researchers, and scientists to conduct research and provide educational and interpretive services within the Conservation Area.

(b) WITHDRAWALS.—Subject to valid existing rights, all Federal surface and subsurface land within the Conservation Area and all land and interests in the land that are acquired by the United States after the date of

enactment of this Act for inclusion in the Conservation Area, are withdrawn from—

(1) all forms of entry, appropriation, or disposal under the general land laws;

(2) location, entry, and patent under the mining laws; and

(3) operation under the mineral leasing and geothermal leasing laws.

(c) MANAGEMENT PLAN.—

(1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary shall develop a comprehensive plan for the long-term management of the Conservation Area.

(2) PURPOSES.—The management plan shall—

(A) describe the appropriate uses and management of the Conservation Area;

(B) incorporate, as appropriate, decisions contained in any other management or activity plan for the land within or adjacent to the Conservation Area;

(C) take into consideration any information developed in studies of the land and resources within or adjacent to the Conservation Area; and

(D) provide for a cooperative agreement with Lincoln County, New Mexico, to address the historical involvement of the local community in the interpretation and protection of the resources of the Conservation Area.

(d) ACTIVITIES OUTSIDE CONSERVATION AREA.—The establishment of the Conservation Area shall not—

(1) create a protective perimeter or buffer zone around the Conservation Area; or

(2) preclude uses or activities outside the Conservation Area that are permitted under other applicable laws, even if the uses or activities are prohibited within the Conservation Area.

(e) RESEARCH AND INTERPRETIVE FACILITIES.—

(1) IN GENERAL.—The Secretary may establish facilities for—

(A) the conduct of scientific research; and

(B) the interpretation of the historical, cultural, scientific, archaeological, natural, and educational resources of the Conservation Area.

(2) COOPERATIVE AGREEMENTS.—The Secretary may, in a manner consistent with this Act, enter into cooperative agreements with the State of New Mexico and other institutions and organizations to carry out the purposes of this Act.

(f) WATER RIGHTS.—Nothing in this Act constitutes an express or implied reservation of any water right.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

SA 2594. Mr. MCCONNELL (for Mr. DOMENICI) proposed an amendment to the bill S. 1170, An act to establish the Fort Stanton-Snowy River Cave National Conservation Area; as follows:

Amend the title so as to read: ''To establish the Fort Stanton-Snowy River Cave National Conservation Area''.

SA 2595. Mr. SCHUMER (for himself, Mrs. CLINTON, Mr. SMITH, and Mr. WYDEN) submitted an amendment intended to be proposed by him to the bill S. 2020, to provide for reconciliation pursuant to section 202(b) of the concurrent resolution on the budget for fiscal year 2006; which was ordered to lie on the table; as follows:

At the end of title IV, add the following:

SEC. ___. ALLOWANCE OF SPECIAL DEDUCTION FOR CERTAIN NOT-FOR-PROFIT HEALTH INSURANCE OR HEALTH SERVICE TYPE ORGANIZATIONS FOR PURPOSES OF DETERMINING AMT.

(a) IN GENERAL.—Paragraph (3) of section 56(c) (relating to adjustments applicable to organizations) is amended—

(1) by striking ''The deduction'' and inserting the following:

''(A) IN GENERAL.—Except as provided in subparagraph (B), the deduction''; and

(2) by adding at the end the following:

''(B) EXCEPTION FOR CERTAIN NOT-FOR PROFIT HEALTH INSURANCE OR HEALTH SERVICE TYPE ORGANIZATIONS.—Subparagraph (A) shall not apply to an organization described in subparagraph (B) of section 833(c)(4).''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2005.

SA 2596. Mr. DURBIN proposed an amendment to the bill S. 2020,to provide for reconciliation pursuant to section 202(b) of the concurrent resolution on the budget for fiscal year 2006; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. SENSE OF THE SENATE CONCERNING HEALTH CARE FOR CHILDREN BEFORE TAX CUTS FOR THE WEALTHY.

(a) FINDINGS.—The Senate makes the following findings:

(1) There are more than 9,000,000 children in the United States with no health insurance coverage.

(2) Sixty-seven percent of uninsured children live in families with at least one full-time worker.

(3) According to the Center for Studying Health System Change, uninsured children, when compared to privately insured children, are—

(A) 3.5 times more likely to have gone without needed medical, dental, or other health care;

(B) 4 times more likely to have delayed seeking medical care;

(C) 5 times more likely to go without needed prescription drugs; and

(D) 6.5 times less likely to have a usual source of care.

(4) More than half of these children are eligible for coverage under either the State Children's Health Insurance Program (SCHIP) or Medicaid, but are not enrolled in those safety net programs.

(5) Most States, struggling with budget deficits, have curtailed outreach efforts.

(6) A focus on simple and convenient enrollment and renewal systems, as well as proactive outreach and educational efforts, could help reach these children and reduce the number of uninsured American children.

(7) Some States, seeing that the Federal Government is not providing assistance to middle class families who can't afford health insurance, are trying to extend coverage to some or all children.

(8) State efforts to cover all children will not be successful without financial assistance from the Federal Government.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the Senate should not vote to extend the capital gains and dividend tax cuts, a majority of the benefits of which go to households with incomes over $1,000,000, until Congress has taken steps to ensure that all children in America have access to affordable, quality health insurance;

(2) the Senate should vote instead to use the funds generated by the expiration of the capital gains and dividend tax cuts to further the goal of ensuring that children have access to health insurance coverage by—

(A) awarding grants to States, faith-based organizations, safety net providers, schools, and other community and non-profit organizations to facilitate the enrollment of the 6,800,000 children who are currently eligible for enrollment in the State Children's Health Insurance Program but who are not enrolled;

(B) paying to each State with an approved State Children's Health Insurance Program or Medicaid plan, an amount equal to 90 percent of the sums expended for the design, development, implementation, and evaluation of enrollment systems determined likely to provide more efficient and effective administration of the plan's enrollment and retention of eligible children; and

(C) establishing a grant program under which a State may apply under section 1115 of the Social Security Act to provide medical assistance under the State Children's Health Insurance Program to all children in their State.

SA 2597. Mr. LAUTENBERG submitted an amendment intended to be proposed by him to the bill S. 2020, to provide for reconciliation pursuant to section 202(b) of the concurrent resolution on the budget for fiscal year 2006; which was ordered to lie on the table; as follows:

In section 1(a), strike ''Tax Relief Act of 2005'' and insert ''More Debt for Our Grandchildren Act of 2005''.

AUTHORITIES FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. ENZI. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Wednesday, November 16, 2005, at 10:30 a.m. to mark up S. 467, ''Terrorism Risk Insurance Extension Act of 2005,'' and an original bill entitled ''Public Transportation Terrorism Prevention Act of 2005''.

The PRESIDING OFFICER. Without obligation, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE AND TRANSPORTATION

Mr. ENZI. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Wednesday, November 16, 2005, at 10 a.m., on the Magnuson-Stevens Fishery Conservation Reauthorization.

The PRESIDING OFFICER. Without obligation, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. ENZI. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Wednesday, November 16 at 11:30 a.m. The purpose of this meeting is to consider pending calendar business.

Agenda Item 1: To consider the nomination of Jeffrey D. Jarrett to be Assistant Secretary for Fossil Energy, Department of Energy.

Agenda Item 2: To consider the nomination of Edward F. Sproat III to be

Director, Office of Civilian Radioactive Waste Management, Department of Energy.

In addition, the Committee will consider noncontroversial items that have been agreed to on both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. ENZI. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to hold an oversight hearing to examine transportation fuels of the future on November 16, 2005 at 9:30 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. ENZI. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, November 16, 2005, at 9:30 a.m. to hold a hearing on ''The High Costs of Crude: The New Currency of Foreign Policy.''

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

Mr. ENZI. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs be authorized to meet on Wednesday, November 16, 2005, at 10 a.m. for a hearing titled, ''Hurricane Katrina: What Can Government Learn from the Private Sector's Response?''.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. ENZI. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a hearing on ''Habeas Reform: The Streamlined Procedures Act'' on Wednesday, November 16, 2005 at 9:30 a.m. in the Dirksen Senate Office Building Room 226.

Witness List

Panel I: Ronald Eisenberg, Esq., Deputy District Attorney, Philadelphia District Attorney's Office, Philadelphia, PA; The Honorable Seth Waxman, former Solicitor General of the United States, Partner, Wilmer, Cutler, Pickering, Hale and Dorr, Washington, DC; The Honorable Howard D. McKibben, Senior United States District Judge for the District of Nevada, Chairman of the Judicial Conference Committee on Federal-State Jurisdiction, Reno, NV.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. ENZI. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on November 16, 2005, at 2:30 p.m. to hold a closed briefing.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ADMINISTRATIVE OVERSIGHT AND THE COURTS

Mr. ENZI. Mr. President, I ask unanimous consent that the Subcommittee on Administrative Oversight and the Courts be authorized to meet to conduct a hearing on ''Creating New Federal Judgeships: The Systematic or Piecemeal Approach'' on Wednesday, November 16, 2005 at 2:30 p.m. in Room 226 of the Dirksen Senate Office Building.

Witness List

Panel I: The Honorable W. Royal Furgeson, Jr., District Judge for the Western District of Texas, Chairman of the Judicial Conference Committee on Judicial Resources, San Antonio, TX; The Honorable William H. Steele, U.S. District Judge for the Southern District of Alabama, Mobile, AL; Robyn J. Spalter, Esq., President, Federal Bar Association, Miami, FL.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON CONSUMER AFFAIRS, PRODUCT LIABILITY, AND INSURANCE

Mr. ENZI. Mr. President, I ask unanimous consent that the Subcommittee on Consumer Affairs, Product Liability, and Insurance be authorized to meet on Wednesday, November 16, 2005, at 2:30 p.m., on Protecting the Consumer from Flooded and Salvage Vehicle Fraud.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. BAUCUS. Mr. President, I ask unanimous consent that Stuart Sirkin, a detailee with the Finance Committee, be granted the privilege of the floor during consideration of the pension bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. AKAKA. I ask unanimous consent a fellow in my office, William Ferraro, be granted floor privileges for the remainder of the debate on the pension bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the following fellows and interns of the staff of the Finance Committee be allowed floor privileges for the duration of the debate on the tax reconciliation bill: Brian Townsend, Mary Baker, Stuart Sirkin, Richard Litsey, Jorlie Cruz, James Reavis, Jennifer Alwood, Ray Campbell, Will Larson, Andreas Datsopoulos, Mandy Cisneros, and David Hain.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUNNING. Mr. President, I ask unanimous consent that Dustin Vande Hoef of Senator GRASSLEY's office be granted the privileges of the floor for the duration of deliberation on S. 2020, the Tax Relief Act of 2005.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CORNYN. Mr. President, I ask unanimous consent, on behalf of Senator GRASSLEY, that his staff member, Theresa Pattara, be allowed access to the Senate floor for the duration of the debate on the Tax Relief Act of 2005.

The PRESIDING OFFICER. Without objection, it is so ordered.

DIRECTING THE JOINT COMMITTEE ON THE LIBRARY TO PROCURE A STATUE OF ROSA PARKS FOR PLACEMENT IN THE CAPITOL

Mr. ISAKSON. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be discharged from further consideration and the Senate now proceed to S. Con. Res. 62.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 62) directing the Joint Committee on the Library to procure a statue of Rosa Parks for placement in the Capitol.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. MCCONNELL. Mr. President, the Senator from Connecticut and I wish to address a matter that just passed the Senate a few hours ago.

Mr. President, it is the honor and duty of this Senate to recognize the greatness of extraordinary Americans. I am very proud that we have done so today for Rosa Parks. With the passage of S. Con. Res. 62, the Senate has directed the Joint Committee on the Library to commission a statue of Ms. Parks and place it here in the Nation's Capitol, so that Americans who visit this place 100 years from now can see it, and reflect on how one woman's courage altered a nation.

Rosa Parks did not set out to become a hero on the evening of December 1, 1955. She was, like millions of other Americans, merely on her way home after a long day's work. She was a seamstress in Montgomery, AL. But her simple, profound act of civil disobedience was the spark that ignited the modern civil rights movement.

I say to my friend from Connecticut that I was a teenager at the time, living in Augusta, GA. The first 8 years of my life I lived in Alabama. In those days, I think the stereotypical reaction to white southerners was that they all must surely have been against what began that evening with Rosa Parks's appropriate act of defiance. My parents are both deceased, but I remember how inspired they were as white southerners by the act of Rosa Parks. As I make my remarks tonight and listen subsequently to the remarks of my good friend from Connecticut, I remember my parents, who were white southerners born into southern culture who realized that this was not right, and who admired greatly not only Rosa Parks's act of defiance, but the later civil-rights bills that were to come.

For far too many African Americans at that time, America did not live up

to its promise of liberty and justice for all. But thanks to Rosa Parks, America was forced to look itself in the mirror, admit its failing, and recommit itself to its founding ideals.

Rosa Parks was headed home that winter night on the Montgomery City bus system, which was segregated. Front-row seats were reserved for white passengers. Blacks were restricted to the back of the bus, and sometimes the middle. But if a white passenger demanded a black person give up his or her seat, they were required to do so.

But on that first day in December 50 years ago, the white bus driver demanded that four African Americans give up their seats so a single white man could sit. Three of them complied. Rosa Parks did not.

''If you don't stand up, I'm going to call the police and have you arrested,'' said the bus driver. But Rosa Parks had had enough. She replied to the driver, ''You may do that.''

With this simple refusal, Rosa Parks set into motion a crusade that would eventually awaken the conscience of our country.

Perhaps the time was right for a nation like America to erase the stain of segregation. But it was not preordained that the struggle would start on that day, in that town, lit by one woman's courage and conviction. We will always thank Rosa Parks that it did.

Rosa Parks' life proved that one American with courage can unshackle millions. Her passing on October 24, just a few weeks ago, left us with sadness, but also with deep gratitude for the gift she left all of us. By honoring her in the Capitol, we show our gratitude.

I wish to thank my many colleagues who cosponsored this bill on both sides of the aisle, and particularly my good friend from Connecticut, Senator DODD, with whom I have collaborated on a number of issues over the years.

Dr. Martin Luther King, Jr. once wrote that ''human progress never rolls in on wheels of inevitability; it comes through the tireless efforts of men.''

This bill helps ensure that Rosa Parks' efforts will never be forgotten.

I yield the floor.

Mr. DODD. Mr. President, let me begin by commending my colleague from Kentucky. I am pleased to be the lead sponsor with him on this resolution and he rightly points out that there are a number of colleagues on both sides of the aisle who have been very supportive of this effort. In fact, I think we might leave this open this evening so that others who wish to be cosponsors may do so before this evening is complete.

I want to particularly thank, in this Chamber this evening, Senator KERRY of Massachusetts who was very interested in this issue and announced his strong support early on of recognizing Rosa Parks. I also want to thank Representative JESSE JACKSON of the House and others on the House side who are also interested in this issue. The House sponsors have taken a different approach to authorizing a statue of Rosa Parks, but that bill has not yet been brought before the House for debate. The action we take today is one way that we can guarantee that Congress can authorize, and immediately have funds to pay for, the commissioning of this statue. I strongly support the efforts of my colleague, Senator MCCONNELL, to expedite this legislation.

I was honored to attend the funeral services here in Washington, DC for Mrs. Parks. The words spoken that day by numerous people were far more eloquent than anything I could add at this particular juncture. But I was struck by the fact that this woman, who refused to give up her seat, who caused a nation to stand up and take note, was physically a rather diminutive, quiet individual who had a long interest in civil rights. Her nonviolent act of defiance was not just a coincidental act. She had been involved in the civil rights movements and had worked with the NAACP and other organizations for sometime.

But as the Senator from Kentucky points out, on that particular day, she was just not going to tolerate any longer a behavior that was so repugnant to the founding principles of this democracy—that was a denial of everything we stood for as a nation. With full recognition of the consequences, her course of action precipitated a year-long boycott in Birmingham of the public bus system. And that was a great sacrifice for the people of the city at that time. To sustain that effort for over a year is really quite a remarkable and significant effort.

It all began on that day some 50 years ago when this wonderful American lady, on her own, decided to take an action that would awaken the interest and collective conscience of a country to recognize, and acknowledge, the great scar of segregation that still existed in some parts of our Nation. And we realize that we have perhaps not yet reached that perfect union that our Founders intended and that each generation of Americans must be newly challenged to achieve it. Rosa Parks was that challenge for her generation and by her solitary, nonviolent act, she changed the course of human history.

This is a long journey. It has been a painful one for many but because of people like Rosa Parks, we are getting closer to our Founders' goal of a perfect union. And that is why it is not only important to preserve and honor her legacy for future generations, but to hold her up as an example of what can be achieved when we challenge ourselves to do better. She is an example to those oppressed in nations around the world that one person, in standing up for what is just and right, can make a difference.

Nelson Mandela once called her ''the David who challenged Goliath.'' People of nations across this globe owe a debt of gratitude to this remarkable woman for her courage that day, for her determination, and for the inspiration she has provided. Now, when visitors come to the Capitol, they, too, can be inspired by this heroic American whose courageous act sparked the flame of liberty and equality for African Americans and minority groups in this country and around the world.

Oprah Winfrey spoke at the funeral services about what it meant to her as a young black woman to hear about Rosa Parks and what she had done. By honoring Rosa Parks with a statue, placed in the most public places of honor in the Capitol, we will have a living symbol of that hope that Rosa Parks brought to millions of young black children 50 years ago. And so generations of children can pass by her statue and be inspired by her story and courage and identify with her greatness.

We honored Rosa Parks by allowing her remains to lie in honor in the Capitol Rotunda. I was priveleged to have been a part of that most appropriate effort. It was an unprecedented event and the first time that a woman had been so recognized. There have been others who have been so honored because of their service as President, or as a general or distinguished military officer, or some connection to the Congress, but only once before had we honored a private citizen. To recognize this extraordinary lady was a noble act and a proud achievement of the leadership of this Congress. Both Democrats and Republicans took time to honor this symbol of freedom by paying their last respects to her in the most public of places, the Capitol Rotunda. And the American people were invited in to share in her struggles and triumphs and pay their respect to this great American, too.

The statue of Rosa Parks will be placed in a very hallowed location in the Capitol. The site has not yet been established, but it may be that location will be in the National Statuary Hall. This resolution authorizes, and indeed requires, that the Joint Committee on the Library consider that option. But it must be in a prominent place where the public can be inspired by her, where Congress and staff can be reminded of her act of courage and her challenge to our leaders to do better. And each of us will be reminded of the opportunities in our lives to make a difference. Maybe not with the same dramatic results as Rosa Parks achieved with her act, but every single citizen of this country will know that he or she has an opportunity to make a difference, in a moment of challenge, to rise and to be courageous, to stand up for what is right.

It is a wonderful lesson for the younger generation to be reminded that one person can make a difference. I often cite individuals who have made a difference, such as the mother who lost a child as a result of a drunk driver and went on to found an organization in her basement called Mothers

Against Drunk Driving, or Lech Walesa, or now Rosa Parks.

Rosa Parks caused this Nation to take note of what it needed to do to end the scourge of segregation. She is not just a national hero, she is the embodiment of our social and human conscience. It is an appropriate and fitting thing that we do here today. I am proud to be a part of it and I hope that generations to come for many, many years will walk past the statue of Rosa Parks in our Nation's Capitol and make a quiet determination to find a moment when they may be as courageous and as noble as this wonderful woman.

Mr. KERRY. Mr. President, it is important that today the Senate is honoring a true national hero, Mrs. Rosa Parks. As you know, I introduced legislation to honor Rosa Parks with a statue in National Statuary Hall. I thank the chair of the Rules Committee, Senator MCCONNELL, and the ranking member, Senator DODD, for amending their legislation to designate Statuary Hall as a venue for a tribute to this great American. I think it is important we ensure that the memory of Rosa Parks is honored by placing a statue of her in the U.S. Capitol so future generations can understand her monumental efforts for civil rights and know the importance of living by her example still today.

I thank Senators MCCONNELL and DODD for working with me and amending their resolution to ensure that Statuary Hall is considered as a possible location for the statue of Mrs. Parks. I also thank the numerous Senators who supported my legislation, S. 1959. I am supporting Mr. MCCONNELL's and Mr. DODD's measure today because I believe it is paramount that we honor Rosa Parks in our Capitol, but I want to be very clear that her statue should be in Statuary Hall.

On November 3, 2005, I introduced legislation to place a statue of Rosa Parks in Statuary Hall in the Capitol. This is a location of great significance, particularly on this occasion and particularly with this individual. While there are memorials for prominent African Americans in the Capitol Collection, none of those are located in the hall that gives a state-by-state account of our country's history. In the struggle for civil rights, some were called to stand up to Bull Connor's fire hoses and police dogs—some to stand up to Klan terrorism—and some to stand up to state sponsored acts of violence. But some were called simply to sit down—at lunch counters in Greensboro and Nashville and Atlanta—or on a bus in Montgomery. This simple action of peaceful opposition to existing rules had a significant impact on the lives of all Americans. Her act of courage on December 1, 1955, inspired a movement that eventually brought about laws to end segregation, ensure voting rights, end discrimination in housing, and create a greater equality throughout this Nation.

It should be noted that I have been working closely with my colleagues in the House of Representatives, particularly with Representative JESSE JACKSON JR. from Illinois, whose bill has over 175 cosponsors to honor Rosa Parks in Statuary Hall. It is identical in content to my original bill, S. 1959, to ensure that Mrs. Parks' statue is placed in Statuary Hall. When the House passes Representative JACKSON's bill, it is my intention to bring that legislation up for a vote in the Senate to ensure that her memory is enshrined in the most hallowed halls of our Government.

This week, Representative JACKSON and I began a national week of action to pass our legislation honoring Rosa Parks with a statue in National Statuary Hall. Our goal is to have Congress pass both bills by December 1, 2005—the 50th anniversary of Rosa Parks' courageous decision not to move to the back of the bus.

Rosa Parks was one of our greatest American heroes, a woman whose quiet courage changed a country. She deserves the highest honors this country can give. I can think of no better way to honor the 50th anniversary of Rosa Parks' brave act against injustice than by passing legislation that ensures that schoolchildren, Members of Congress and presidents visiting the Capitol can see how highly our Nation thinks of her, and that we need to follow her example of refusing to go quietly to the back of the bus.

Mr. ISAKSON. I ask unanimous consent that the amendment at the desk be agreed to, the resolution, as amended, be agreed to, and the motion to reconsider be laid on the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 2585) was agreed to, as follows:

(Purpose: To make a technical correction)

On page 1, line 7, at the end add the following: ''The Joint Committee on the Library shall consider all locations in the Capital, including Statuary Hall, the Rotunda, and the Capitol Visitor Center.''

The concurrent resolution (S. Con. Res. 62), as amended, was agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, reads as follows:

(The resolution will be printed in a future edition of the RECORD.)

VETERANS' COMPENSATION COST-OF-LIVING ADJUSTMENT ACT OF 2005

Mr. ISAKSON. I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 217, S. 1234.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 1234) to increase, effective as of December 1, 2005, the rates of compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for the survivors of certain disabled veterans.

There being no objection, the Senate proceeded to consider the bill.

Mr. ISAKSON. I ask unanimous consent that the Craig amendment at the desk be agreed to, the bill, as amended, be read a third time and passed, the motions to reconsider be laid on the table, and any statements be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 2584) was agreed to, as follows:

(Purpose: In the nature of a substitute)

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the '' Veterans' Compensation Cost-of-Living Adjustment Act of 2005''.

SEC. 2. INCREASE IN RATES OF DISABILITY COMPENSATION AND DEPENDENCY AND INDEMNITY COMPENSATION.

(a) VETERANS' DISABILITY COMPENSATION.—Section 1114 of title 38, United States Code, is amended—

(1) in subsection (a), by striking ''$106'' and inserting ''$112'';

(2) in subsection (b), by striking ''$205'' and inserting ''$218'';

(3) in subsection (c), by striking ''$316'' and inserting ''$337'';

(4) in subsection (d), by striking ''$454'' and inserting ''$485'';

(5) in subsection (e), by striking ''$646'' and inserting ''$690'';

(6) in subsection (f), by striking ''$817'' and inserting ''$873'';

(7) in subsection (g), by striking ''$1,029'' and inserting ''$1,099'';

(8) in subsection (h), by striking ''$1,195'' and inserting ''$1,277'';

(9) in subsection (i), by striking ''$1,344'' and inserting ''$1,436'';

(10) in subsection (j), by striking ''$2,239'' and inserting ''$2,393'';

(11) in subsection (k)—

(A) by striking ''$82'' both places it appears and inserting ''$87''; and

(B) by striking ''$2,785'' and ''$3,907'' and inserting ''$2,977'' and ''$4,176'', respectively;

(12) in subsection (l), by striking ''$2,785'' and inserting ''$2,977'';

(13) in subsection (m), by striking ''$3,073'' and inserting ''$3,284'';

(14) in subsection (n), by striking ''$3,496'' and inserting ''$3,737'';

(15) in subsections (o) and (p), by striking ''$3,907'' each place it appears and inserting ''$4,176'';

(16) in subsection (r), by striking ''$1,677'' and ''$2,497'' and inserting ''$1,792'' and ''$2,669'', respectively; and

(17) in subsection (s), by striking ''$2,506'' and inserting ''$2,678''.

(b) ADDITIONAL COMPENSATION FOR DEPENDENTS.—Section 1115(1) of such title is amended—

(1) in subparagraph (A), by striking ''$127'' and inserting ''$135'';

(2) in subparagraph (B), by striking ''$219'' and ''$65'' and inserting ''$233'' and ''$68'', respectively;

(3) in subparagraph (C), by striking ''$86'' and ''$65'' and inserting ''$91'' and ''$68'', respectively;

(4) in subparagraph (D), by striking ''$103'' and inserting ''$109'';

(5) in subparagraph (E), by striking ''$241'' and inserting ''$257''; and

(6) in subparagraph (F), by striking ''$202'' and inserting ''$215''.

(c) CLOTHING ALLOWANCE FOR CERTAIN DISABLED VETERANS.—Section 1162 of such title is amended by striking ''$600'' and inserting ''$641''.

(d) DEPENDENCY AND INDEMNITY COMPENSATION FOR SURVIVING SPOUSES.—

(1) NEW LAW DIC.—Section 1311(a) of such title is amended—

(A) in paragraph (1), by striking ''$967'' and inserting ''$1,033''; and

(B) in paragraph (2), by striking ''$208'' and inserting ''$221''.

(2) OLD LAW DIC.—The table in paragraph (3) of such section is amended to read as follows:

''Pay grade	Monthly rate	Pay grade	Monthly rate
E–1	$1,033	W–4	$1,236
E–2	1,033	O–1	1,092
E–3	1,033	O–2	1,128
E–4	1,033	O–3	1,207
E–5	1,033	O–4	1,277
E–6	1,033	O–5	1,406
E–7	1,069	O–6	1,585
E–8	1,128	O–7	1,712
E–9	1,177 [1]	O–8	1,879
W–1	1,092	O–9	2,010
W–2	1,135	O–10	2,204 [2]
W–3	1,169		

[1] If the veteran served as sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard, at the applicable time designated by section 1302 of this title, the surviving spouse's rate shall be $1,271.

[2] If the veteran served as Chairman or Vice-Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, Commandant of the Marine Corps, or Commandant of the Coast Guard, at the applicable time designated by section 1302 of this title, the surviving spouse's rate shall be $2,365.''.

(3) ADDITIONAL DIC FOR CHILDREN OR DISABILITY.—Section 1311 of such title is amended—

(A) in subsection (b), by striking ''$241'' and inserting ''$257'';

(B) in subsection (c), by striking ''$241'' and inserting ''$257''; and

(C) in subsection (d), by striking ''$115'' and inserting ''$122''.

(e) DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN.—

(1) DIC WHEN NO SURVIVING SPOUSE.—Section 1313(a) of such title is amended—

(A) in paragraph (1), by striking ''$410'' and inserting ''$438'';

(B) in paragraph (2), by striking ''$590'' and inserting ''$629'';

(C) in paragraph (3), by striking ''$767'' and inserting ''$819''; and

(D) in paragraph (4), by striking ''$767'' and ''$148'' and inserting ''$819'' and ''$157'', respectively.

(2) SUPPLEMENTAL DIC FOR CERTAIN CHILDREN.—Section 1314 of such title is amended—

(A) in subsection (a), by striking ''$241'' and inserting ''$257'';

(B) in subsection (b), by striking ''$410'' and inserting ''$438''; and

(C) in subsection (c), by striking ''$205'' and inserting ''$218''.

(f) EFFECTIVE DATE.—The amendments made by this section shall take effect on December 1, 2005.

(g) SPECIAL RULE.—The Secretary may adjust administratively, consistent with the increases made under subsection (a), the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85–857 (72 Stat. 1263) who are not in receipt of compensation payable pursuant to chapter 11 of title 38, United States Code.

Mr. AKAKA. Mr. President, as ranking member of the Senate Committee on Veterans' Affairs, I am extremely pleased that the Senate will pass legislation that will authorize a cost-of-living adjustment, COLA, for veterans' compensation for next year.

The Veterans' Compensation Cost-of-Living Adjustment Act of 2005 directs the Secretary of Veterans Affairs to increase, as of December 1, 2005, the rates of veterans' disability compensation, additional compensation for dependents, the clothing allowance for certain disabled adult children, and dependency and indemnity compensation for surviving spouses and children.

This increase will be the same percentage as the increase provided to Social Security recipients. The increase this year is one of the largest in recent memory—4.1 percent. In my opinion, this increase could not have come at a more crucial time. The COLA is enormously important to veterans and their families. It is critical that veterans' disability compensation rates keep pace with the increasing cost-of-living. Without it, these people would be unable to afford the simple necessities of life. I note, it is well documented that home heating fuel costs will skyrocket this winter. The COLA increase goes a long way to ensuring no veterans are left out in the cold.

Mr. President, in closing, I thank all Senators that voted to support this Nation's veterans.

The bill (S. 1234), as amended, was read the third time and passed.

THE CALENDAR

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate en bloc consideration of the following bills reported out of the Energy Committee: Calendar Nos. 236 through 240; 242 through 249; 262 through 273; and H.R. 1972, which is at the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the amendments at the desk be agreed to, the committee-reported amendments, as amended, if amended, be agreed to, the bills, as amended, if amended, be read a third time and passed, and the title amendments be agreed to, all en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

ICE AGE FLOODS NATIONAL GEOLOGIC TRAIL DESIGNATION ACT

The Senate proceeded to consider the bill (S. 206) to designate the Ice Age Floods National Geologic Trail, and for other purposes, which had been reported from the Committee on Energy and Natural Resources, with an amendment, as follows:

[Strike the parts shown in black brackets and insert the parts shown in italic.]

S. 206

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 ''Ice Age Floods National Geologic Trail Designation Act of 2005''.

[SEC. 2. FINDINGS AND PURPOSE.

[(a) FINDINGS.—Congress finds that—

[(1) at the end of the last Ice Age, some 12,000 to 17,000 years ago, a series of cataclysmic floods occurred in what is now the northwest region of the United States, leaving a lasting mark of dramatic and distinguishing features on the landscape of parts of the States of Montana, Idaho, Washington and Oregon;

[(2) geological features that have exceptional value and quality to illustrate and interpret this extraordinary natural phenomenon are present on Federal, State, tribal, county, municipal, and private land in the region; and

[(3) in 2001, a joint study team headed by the National Park Service that included about 70 members from public and private entities completed a study endorsing the establishment of an Ice Age Floods National Geologic Trail—

[(A) to recognize the national significance of this phenomenon; and

[(B) to coordinate public and private sector entities in the presentation of the story of the Ice Age floods.

[(b) PURPOSE.—The purpose of this Act is to designate the Ice Age Floods National Geologic Trail in the States of Montana, Idaho, Washington, and Oregon, enabling the public to view, experience, and learn about the features and story of the Ice Age floods through the collaborative efforts of public and private entities.

[SEC. 3. DEFINITIONS.

[In this Act:

[(1) ICE AGE FLOODS; FLOODS.—The term ''Ice Age floods'' or ''floods'' means the cataclysmic floods that occurred in what is now the northwestern United States during the last Ice Age from massive, rapid and recurring drainage of Glacial Lake in Missoula, Montana.

[(2) PLAN.—The term ''plan'' means the cooperative management and interpretation plan authorized under section 5(f).

[(3) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

[(4) TRAIL.—The term ''Trail'' means the Ice Age Floods National Geologic Trail designated by section 4(a).

[SEC. 4. ICE AGE FLOODS NATIONAL GEOLOGIC TRAIL.

[(a) DESIGNATION.—In order to provide for public appreciation, understanding, and enjoyment of the nationally significant natural and cultural features of the Ice Age floods and to promote collaborative efforts for interpretation and education among public and private entities located along the pathways of the floods, there is designated the Ice Age Floods National Geologic Trail.

[(b) LOCATION.—

[(1) MAP.—The route of the Trail shall be generally depicted on the map entitled ''Ice Age Floods National Geologic Trail,'' numbered _____, and dated _____.

[(2) ROUTE.—The route shall generally follow public roads and highways—

[(A) from the vicinity of Missoula in western Montana;

[(B) across northern Idaho;

[(C) through eastern and southern sections of Washington;

[(D) across northern Oregon in the vicinity of the Willamette Valley and the Columbia River; and

[(E) to the Pacific Ocean.

[(3) REVISION.—The Secretary may revise the map by publication in the Federal Register of a notice of availability of a new map as part of the plan.

[(c) MAP AVAILABILITY.—Any map referred to in subsection (b) shall be on file and available for public inspection in the appropriate offices of the National Park Service.

[SEC. 5. ADMINISTRATION.

[(a) IN GENERAL.—The Secretary, acting through the Director of the National Park Service, shall administer the Trail in accordance with this Act.

[(b) TRAIL MANAGEMENT OFFICE.—In order for the National Park Service to manage the Trail and coordinate Trail activities with other public agencies and private entities, the Secretary may establish and operate a trail management office within the vicinity of the Trail.

[(c) LAND ACQUISITION.—

[(1) IN GENERAL.—If the acquisition is consistent with the plan, the Secretary may acquire land, in a quantity not to exceed 25 acres, for administrative and public information purposes to facilitate the geographic diversity of the Trail throughout the States of Montana, Idaho, Washington, and Oregon.

[(2) METHODS.—

[(A) PRIVATE LAND.—Private land may be acquired from a willing seller under this Act only by donation, purchase with donated or appropriated funds, or exchange.

[(B) NON-FEDERAL PUBLIC LAND.—Non-Federal public land may be acquired from a willing seller under this Act—

[(i) only by donation or exchange; and

[(ii) after consultation with the affected unit of local government.

[(d) INTERPRETIVE FACILITIES.—The Secretary may plan, design, and construct interpretive facilities for sites associated with the Trail if the facilities are constructed in partnership with State, local, tribal, or nonprofit entities and are consistent with the plan.

[(e) INTERAGENCY TECHNICAL COMMITTEE.—

[(1) IN GENERAL.—The Secretary shall establish an interagency technical committee to advise the trail management office on the technical planning for the development of the plan.

[(2) COMPOSITION.—The committee—

[(A) shall include—

[(i) representatives from Federal, State, local, and tribal agencies with interests in the floods; and

[(ii) representatives from the Ice Age Floods Institute; and

[(B) may include private property owners, business owners, and nonprofit organizations.

[(f) MANAGEMENT PLAN.—

[(1) IN GENERAL.—Not later than 3 years after funds are made available to carry out this Act under section 6, the Secretary shall prepare a cooperative management and interpretation plan for the Trail.

[(2) CONSULTATION.—The Secretary shall prepare the plan in consultation with—

[(A) State, local, and tribal governments;

[(B) the Ice Age Floods Institute;

[(C) private property owners; and

[(D) other interested parties.

[(3) CONTENTS.—The plan shall—

[(A) confirm and, if appropriate, expand on the inventory of features of the floods contained in the National Park Service study entitled ''Ice Age Floods, Study of Alternatives and Environmental Assessment'' (February 2001) by—

[(i) locating features more accurately;

[(ii) improving the description of features; and

[(iii) reevaluating the features in terms of their interpretive potential;

[(B) review and, if appropriate, modify the map of the Trail referred to in section 4(b);

[(C) describe strategies for the coordinated development of the Trail, including an interpretive plan for facilities, waysides, roadside pullouts, exhibits, media, and programs that present the story of the floods to the public effectively; and

[(D) identify potential partnering opportunities in the development of interpretive facilities and educational programs to educate the public about the story of the floods.

[(g) COOPERATIVE MANAGEMENT.—

[(1) IN GENERAL.—In order to facilitate the development of coordinated interpretation, education, resource stewardship, visitor facility development and operation, and scientific research associated with the Trail and to promote more efficient administration of the sites associated with the Trail, the Secretary may enter into cooperative management agreements with appropriate officials in the States of Montana, Idaho, Washington, and Oregon in accordance with the authority provided for units of the National Park System under section 3(l) of Public Law 91–383 (16 U.S.C. 1a–2(*l*)).

[(2) UNIT OF NATIONAL PARK SYSTEM.—For purposes of this subsection, the Trail shall be considered a unit of the National Park System.

[(h) COOPERATIVE AGREEMENTS.—The Secretary may enter into cooperative agreements with public or private entities to carry out this Act.

[(i) EFFECT ON PRIVATE PROPERTY RIGHTS.—Nothing in this Act—

[(1) requires any private property owner to allow public access (including Federal, State, or local government access) to private property; or

[(2) modifies any provision of Federal, State, or local law with respect to public access to or use of private land.

[(j) LIABILITY.—Designation of the Trail by section 4(a) does not create any liability for, or affect any liability under any law of, any private property owner with respect to any person injured on the private property.

[SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

[There are authorized to be appropriated such sums as are necessary to carry out this Act, of which not more than $500,000 may be used for each fiscal year for the administration of the Trail.]

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Ice Age Floods National Geologic Trail Designation Act''.

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) at the end of the last Ice Age, some 12,000 to 17,000 years ago, a series of cataclysmic floods occurred in what is now the northwest region of the United States, leaving a lasting mark of dramatic and distinguishing features on the landscape of parts of the States of Montana, Idaho, Washington and Oregon;

(2) geological features that have exceptional value and quality to illustrate and interpret this extraordinary natural phenomenon are present on Federal, State, tribal, county, municipal, and private land in the region; and

(3) in 2001, a joint study team headed by the National Park Service that included about 70 members from public and private entities completed a study endorsing the establishment of an Ice Age Floods National Geologic Trail—

(A) to recognize the national significance of this phenomenon; and

(B) to coordinate public and private sector entities in the presentation of the story of the Ice Age floods.

(b) PURPOSE.—The purpose of this Act is to designate the Ice Age Floods National Geologic Trail in the States of Montana, Idaho, Washington, and Oregon, enabling the public to view, experience, and learn about the features and story of the Ice Age floods through the collaborative efforts of public and private entities.

SEC. 3. DEFINITIONS.

In this Act:

(1) ICE AGE FLOODS; FLOODS.—The term ''Ice Age floods'' or ''floods'' means the cataclysmic floods that occurred in what is now the northwestern United States during the last Ice Age from massive, rapid and recurring drainage of Glacial Lake in Missoula, Montana.

(2) PLAN.—The term ''plan'' means the cooperative management and interpretation plan authorized under section 5(e).

(3) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(4) TRAIL.—The term ''Trail'' means the Ice Age Floods National Geologic Trail designated by section 4(a).

SEC. 4. ICE AGE FLOODS NATIONAL GEOLOGIC TRAIL.

(a) DESIGNATION.—In order to provide for public appreciation, understanding, and enjoyment of the nationally significant natural and cultural features of the Ice Age floods and to promote collaborative efforts for interpretation and education among public and private entities located along the pathways of the floods, there is designated the Ice Age Floods National Geologic Trail.

(b) LOCATION.—

(1) MAP.—The route of the Trail shall be generally depicted on the map entitled ''Ice Age Floods National Geologic Trail,'' numbered P43/80,000 and dated June 2004.

(2) ROUTE.—The route shall generally follow public roads and highways.

(3) REVISION.—The Secretary may revise the map by publication in the Federal Register of a notice of availability of a new map as part of the plan.

(c) MAP AVAILABILITY.—The map referred to in subsection (b) shall be on file and available for public inspection in the appropriate offices of the National Park Service.

SEC. 5. ADMINISTRATION.

(a) IN GENERAL.—The Secretary, acting through the Director of the National Park Service, shall administer the Trail in accordance with this Act.

(b) LIMITATION.—Except as provided in subsection (f)(2), the Trail shall not be considered to be a unit of the National Park System.

(c) TRAIL MANAGEMENT OFFICE.—To improve management of the Trail and coordinate Trail activities with other public agencies and private entities, the Secretary may establish and operate a trail management office at a central location within the vicinity of the Trail.

(d) INTERPRETIVE FACILITIES.—The Secretary may plan, design, and construct interpretive facilities for sites associated with the Trail if the facilities are constructed in partnership with State, local, tribal, or non-profit entities and are consistent with the plan.

(e) MANAGEMENT PLAN.—

(1) IN GENERAL.—Not later than 3 years after funds are made available to carry out this Act, the Secretary shall prepare a cooperative management and interpretation plan for the Trail.

(2) CONSULTATION.—The Secretary shall prepare the plan in consultation with—

(A) State, local, and tribal governments;

(B) the Ice Age Floods Institute;

(C) private property owners; and

(D) other interested parties.

(3) CONTENTS.—The plan shall—

(A) confirm and, if appropriate, expand on the inventory of features of the floods contained in the National Park Service study entitled ''Ice Age Floods, Study of Alternatives and Environmental Assessment'' (February 2001) by—

(i) locating features more accurately;

(ii) improving the description of features; and

(iii) reevaluating the features in terms of their interpretive potential;

(B) review and, if appropriate, modify the map of the Trail referred to in section 4(b);

(C) describe strategies for the coordinated development of the Trail, including an interpretive plan for facilities, waysides, roadside pullouts, exhibits, media, and programs that present the story of the floods to the public effectively; and

(D) identify potential partnering opportunities in the development of interpretive facilities and educational programs to educate the public about the story of the floods.

(f) COOPERATIVE MANAGEMENT.—

(1) IN GENERAL.—In order to facilitate the development of coordinated interpretation, education, resource stewardship, visitor facility development and operation, and scientific research associated with the Trail and to promote more efficient administration of the sites associated with the Trail, the Secretary may enter into cooperative management agreements with appropriate officials in the States of Montana, Idaho, Washington, and Oregon in accordance with the authority provided for units of the National Park System under section 3(l) of Public Law 91–383 (16 U.S.C. 1a–2(l)).

(2) AUTHORITY.—For purposes of this subsection only, the Trail shall be considered a unit of the National Park System.

(g) COOPERATIVE AGREEMENTS.—The Secretary may enter into cooperative agreements with public or private entities to carry out this Act.

(h) EFFECT ON PRIVATE PROPERTY RIGHTS.—Nothing in this Act—

(1) requires any private property owner to allow public access (including Federal, State, or local government access) to private property; or

(2) modifies any provision of Federal, State, or local law with respect to public access to or use of private land.

(i) LIABILITY.—Designation of the Trail by section 4(a) does not create any liability for, or affect any liability under any law of, any private property owner with respect to any person injured on the private property.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act, of which not more than $12,000,000 may be used for development of the Trail.

The committee amendment in the nature of a substitute was agreed to.

The bill (S. 206), as amended, was read the third time and passed.

COLUMBIA SPACE SHUTTLE MEMORIAL ACT OF 2005

The Senate proceeded to consider the bill (S. 242) to establish 4 memorials to the Space Shuttle *Columbia* in the State of Texas, which had been reported from the Committee on Energy and Natural Resources, with amendments, as follows:

[Strike the parts shown in black brackets and insert the parts shown in italic.]

S. 242

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 ''Columbia Space Shuttle Memorials Act of 2005''.

[SEC. 2. DEFINITIONS.

[In this Act:

[(1) MEMORIAL.—The term ''memorial'' means each of the memorials to the Space Shuttle Columbia established by section 3(a).

[(2) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior, acting through the Director of the National Park Service.

[SEC. 3. MEMORIALS TO THE SPACE SHUTTLE COLUMBIA.

[(a) ESTABLISHMENT.—There are established, as units of the National Park System, 4 memorials to the Space Shuttle Columbia to be located on the 4 parcels of land in the State of Texas described in subsection (b) on which large debris from the Space Shuttle Columbia was recovered.

[(b) DESCRIPTION OF LAND.—The parcels of land referred to in subsection (a) are—

[(1) the parcel of land owned by the Fredonia Corporation, located at the southeast corner of the intersection of East Hospital Street and North Fredonia Street, Nacogdoches, Texas;

[(2) the parcel of land owned by Temple Inland Inc., 10 acres of a 61-acre tract bounded by State Highway 83 and Bayou Bend Road, Hemphill, Texas;

[(3) the parcel of land owned by the city of Lufkin, Texas, located at City Hall Park, 301 Charlton Street, Lufkin, Texas; and

[(4) the parcel of land owned by San Augustine County, Texas, located at 1109 Oaklawn Street, San Augustine, Texas.

[(c) ADMINISTRATION.—The memorials shall be administered by the Secretary.

[(d) ADDITIONAL SITES.—The Secretary may recommend to Congress additional sites in the State of Texas related to the Space Shuttle Columbia for establishment as memorials to the Space Shuttle Columbia.]

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Columbia Space Shuttle Memorial Study Act of 2005''.

SEC. 2. DEFINITIONS.

In this Act:

(1) MEMORIAL.—The term ''memorial'' means a memorial to the Space Shuttle Columbia the suitability and feasibility of the establishment of which is a subject of the study under section 3(a).

(2) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior, acting through the Director of the National Park Service.

SEC. 3. STUDY OF SUITABILITY AND FEASIBILITY OF ESTABLISHING MEMORIALS TO THE SPACE SHUTTLE COLUMBIA.

(a) IN GENERAL.—Not later than 3 years after the date on which funds are made available to carry out this Act, the Secretary shall carry out a study to determine the suitability and feasibility of establishing, as units of the National Park System on land in the State of Texas described in subsection (b) (on which large debris from the Space Shuttle Columbia was recovered), memorials to the Space Shuttle Columbia.

(b) DESCRIPTION OF LAND.—The parcels of land referred to in subsection (a) are—

(1) the parcel of land owned by the Fredonia Corporation, located at the southeast corner of the intersection of East Hospital Street and North Fredonia Street, Nacogdoches, Texas;

(2) the parcel of land owned by Temple Inland Inc., 10 acres of a 61-acre tract bounded by State Highway 83 and Bayou Bend Road, Hemphill, Texas;

(3) the parcel of land owned by the city of Lufkin, Texas, located at City Hall Park, 301 Charlton Street, Lufkin, Texas; and

(4) the parcel of land owned by San Augustine County, Texas, located at 1109 Oaklawn Street, San Augustine, Texas.

(c) ADMINISTRATION.—In carrying out the study, the Secretary shall assume that, if established after completion of the study, each memorial shall be administered by the Secretary.

(d) ADDITIONAL SITES.—The Secretary may recommend to Congress additional sites in the State of Texas relating to the Space Shuttle Columbia for establishment as memorials to the Space Shuttle Columbia.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this Act.

Amend the title so as to read: ''To direct the Secretary of the Interior to carry out a study to determine the suitability and feasibility of establishing memorials to the Space Shuttle *Columbia* on parcels of land in the State of Texas.''.

The committee amendment in the nature of a substitute was agreed to.

The title amendment was agreed to.

The bill (S. 242), as amended, was read the third time and passed.

BETTY DICK RESIDENCE PROTECTION ACT

The Senate proceeded to consider the bill (S. 584) to require the Secretary of the Interior to allow the continued occupancy and use of certain land and improvements within Rocky Mountain National Park, which had been reported from the Committee on Energy and Natural Resources, with an amendment, as follows:

[Strike the parts shown in black brackets and insert the parts shown in italic.]

S. 584

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 ''Betty Dick Residence Protection Act''.

[SEC. 2. FINDINGS.

[Congress finds that—

[(1) before their divorce, Fred and Marilyn Dick, owned as tenants in common a tract of land that included the property described in section 5(b);

[(2) when Fred and Marilyn Dick divorced, Marilyn Dick became the sole owner of the tract of land, but Fred Dick retained the right of first refusal to acquire the tract of land;

[(3) in 1977, Marilyn Dick sold the tract to the United States for addition to Rocky Mountain National Park, but Fred Dick, asserting his right of first refusal, sued to cancel the transaction;

[(4) in 1980, the lawsuit was settled through an agreement between the National Park Service, Fred Dick, and the heirs, successors, and assigns of Fred Dick;

[(5) under the 1980 settlement agreement, Fred Dick and his wife, Betty Dick, were allowed to lease and occupy the 23 acres comprising the property described in section 5(b) for 25 years;

[(6) Fred Dick died in 1992, but Betty Dick has continued to lease and occupy the property described in section 5(b) under the terms of the settlement agreement;

[(7) Betty Dick's right to lease and occupy the property described in section 5(b) will expire on July 16, 2005, at which time Betty Dick will be 83 years old;

[(8) Betty Dick wishes to continue to occupy the property for the remainder of her life and has sought to enter into a new agreement with the National Park Service that would allow her to continue to occupy the property;

[(9) the National Park Service has not been willing to enter into a new agreement with Betty Dick and is demanding that she vacate the property by July 16, 2005;

[(10) since 1980, Betty Dick—

[(A) has consistently occupied the property described in section 5(b) as a summer residence;

[(B) has made the property available for community events; and

[(C) has been a good steward of the property;

[(11) Betty Dick's occupancy of the property has not—

[(A) been detrimental to the resources and values of Rocky Mountain National Park; or

[(B) created problems for the National Park Service or the public; and

[(12) under the circumstances, it is appropriate for Betty Dick to be allowed to continue her occupancy of the property described in section 5(b) for the remainder of her natural life under the terms and conditions applicable to her occupancy of the property since 1980.

[SEC. 3. PURPOSE.

[The purpose of this Act is to require the Secretary of the Interior to permit the continued occupancy and use of the property described in section 5(b) by Betty Dick for the remainder of her natural life.

[SEC. 4. DEFINITIONS.

[In this Act:

[(1) AGREEMENT.—The term ''Agreement'' means the agreement between the National Park Service and Fred Dick entitled ''Settlement Agreement'' and dated July 17, 1980.

[(2) MAP.—The term ''map'' means the map entitled ''Betty Dick Residence and Barn'' and dated January 2005.

[(3) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

[SEC. 5. RIGHT OF OCCUPANCY.

[(a) IN GENERAL.—The Secretary shall allow Betty Dick to continue to occupy and use the property described in subsection (b) for the remainder of the natural life of Betty Dick, subject to the requirements of this Act.

[(b) DESCRIPTION OF PROPERTY.—The property referred to in subsection (a) is the land and any improvements to the land within the boundaries of Rocky Mountain National Park identified on the map as ''residence'', ''occupancy area'', and ''barn''.

[(c) TERMS AND CONDITIONS.—

[(1) IN GENERAL.—Except as provided in paragraph (2), the occupancy and use of the property identified in subsection (b) by Betty Dick shall be subject to the same terms and conditions specified in the Agreement.

[(2) PAYMENT.—In exchange for the continued use and occupancy of the property, Betty Dick shall annually pay to the Secretary an amount equal to 1/25 of the amount specified in section 3(B) of the Agreement.

[(d) EFFECT.—Nothing in this Act—

[(1) allows the construction of any structure on the property described in subsection (b) not in existence on November 30, 2004; or

[(2) applies to the occupancy or use of the property described in subsection (b) by any person other than Betty Dick.]

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Betty Dick Residence Protection Act''.

SEC. 2. PURPOSE.

The purpose of this Act is to require the Secretary of the Interior to permit the continued occupancy and use of the property described in section 4(b) by Betty Dick for the remainder of her natural life.

SEC. 3. DEFINITIONS.

In this Act:

(1) AGREEMENT.—The term ''Agreement'' means the agreement between the National Park Service and Fred Dick entitled ''Settlement Agreement'' and dated July 17, 1980.

(2) MAP.—The term ''map'' means the map entitled ''RMNP Land Occupancy'' and dated September 2005, which identifies approximately 8 acres for the occupancy and use by the tenant.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(4) TENANT.—The term ''tenant'' means Betty Dick, widow of George Fredrick Dick, who held a 25-year reservation of occupancy and use at a property within the boundaries of Rocky Mountain National Park.

SEC. 4. RIGHT OF OCCUPANCY.

(a) IN GENERAL.—The Secretary shall allow the tenant to continue to occupy and use the property described in subsection (b) for the remainder of the natural life of the tenant, subject to the requirements of this Act.

(b) DESCRIPTION OF PROPERTY.—The property referred to in subsection (a) is the land and any improvements to the land within the boundaries of Rocky Mountain National Park identified on the map as ''residence'' and ''occupancy area''.

(c) TERMS AND CONDITIONS.—

(1) IN GENERAL.—Except as otherwise provided in this Act, the occupancy and use of the property identified in subsection (b) by the tenant shall be subject to the same terms and conditions specified in the Agreement.

(2) PAYMENTS.—

(A) IN GENERAL.—In exchange for the continued occupancy and use of the property, the tenant shall annually pay to the Secretary an amount equal to 1/25 of the amount specified in section 3(B) of the Agreement.

(B) ADVANCE PAYMENT REQUIRED.—The annual payments required under subparagraph (A) shall be paid in advance by not later than May 1 of each year.

(C) DISPOSITION.—Amounts received by the Secretary under this paragraph shall be—

(i) deposited in a special account in the Treasury of the United States; and

(ii) made available, without further appropriation, to the Rocky Mountain National Park until expended.

(3) PUBLIC ACCESS.—The public shall have access to both banks of the main channel of the Colorado River.

(d) TERMINATION.—The right of occupancy and use authorized under this Act—

(1) shall not be extended to any individual other than the tenant; and

(2) shall terminate—

(A) on the death of the tenant;

(B) if the tenant does not make a payment required under subsection (c)(2); or

(C) if the tenant otherwise fails to comply with the terms of this Act.

(e) EFFECT.—Nothing in this Act—

(1) allows the construction of any structure on the property described in subsection (b) not in existence on November 30, 2004; or

(2) applies to the occupancy or use of the property described in subsection (b) by any person other than the tenant.

The committee amendment in the nature of a substitute was agreed to.

The bill (S. 584), as amended, was read the third time and passed.

BENJAMIN FRANKLIN NATIONAL MEMORIAL COMMEMORATION ACT OF 2005

The bill (S. 652) to provide financial assistance for the rehabilitation of the Benjamin Franklin National Memorial in Philadelphia, Pennsylvania, and the development of an exhibit to commemorate the 300th anniversary of the birth of Benjamin Franklin, was read the third time and passed; as follows:

S. 652

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 ''Benjamin Franklin National Memorial Commemoration Act of 2005''.

SEC. 2. BENJAMIN FRANKLIN NATIONAL MEMORIAL.

The Secretary of the Interior may provide a grant to the Franklin Institute to—

(1) rehabilitate the Benjamin Franklin National Memorial (including the Franklin statue) in Philadelphia, Pennsylvania; and

(2) develop an interpretive exhibit relating to Benjamin Franklin, to be displayed at a museum adjacent to the Benjamin Franklin National Memorial.

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There is authorized to be appropriated to carry out this Act $10,000,000.

(b) REQUIRED MATCH.—The Secretary of the Interior shall require the Franklin Institute to match any amounts provided to the Franklin Institute under this Act.

RURAL WATER SUPPLY ACT OF 2005

The Senate proceeded to consider the bill (S. 895) to direct the Secretary of the Interior to establish a rural water supply program in the Reclamation States to provide a clean, safe, affordable, and reliable water supply to rural residents, which had been reported from the Committee on Energy and Natural Resources, with an amendment, as follows:

[Strike the parts shown in black brackets and insert the parts shown in italic.]

S. 895

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

[SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

[(a) SHORT TITLE.—This Act may be cited as the ''Rural Water Supply Act of 2005''.

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

[TITLE I—RECLAMATION RURAL WATER SUPPLY ACT OF 2005

[SEC. 101. SHORT TITLE.

[This title may be cited as the ''Reclamation Rural Water Supply Act of 2005''.

[SEC. 102. DEFINITIONS.

[In this title:

[(1) FEDERAL RECLAMATION LAW.—The term ''Federal reclamation law'' means the Act of June 17, 1902 (32 Stat. 388, chapter 1093), and Acts supplemental to and amendatory of that Act (43 U.S.C. 371 et seq.).

[(2) INDIAN.—The term ''Indian'' means an individual who is a member of an Indian tribe.

[(3) INDIAN TRIBE.—The term ''Indian tribe'' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

[(4) NON-FEDERAL PROJECT ENTITY.—The term ''non-Federal project entity'' means a State, regional, or local authority, Indian tribe or tribal organization, or other qualifying entity, such as a water conservation district, water conservancy district, or rural water district or association.

[(5) OPERATIONS, MAINTENANCE, AND REPLACEMENT COSTS.—

[(A) IN GENERAL.—The term ''operations, maintenance, and replacement costs'' means all costs for the operation of a rural water supply project that are necessary for the safe, efficient, and continued functioning of the project to produce the benefits described in a feasibility study.

[(B) INCLUSIONS.—The term ''operations, maintenance, and replacement costs'' includes—

[(i) repairs of a routine nature that maintain a rural water supply project in a well kept condition;

[(ii) replacement of worn-out project elements; and

[(iii) rehabilitation activities necessary to bring a deteriorated project back to the original condition of the project.

[(C) EXCLUSION.—The term ''operations, maintenance, and replacement costs'' does not include construction costs.

[(6) PROGRAM.—The term ''program'' means the rural water supply program established under section 103.

[(7) RECLAMATION STATES.—The term ''reclamation States'' means the States and areas referred to in the first section of the Act of June 17, 1902 (43 U.S.C. 391).

[(8) RURAL WATER SUPPLY PROJECT.—

[(A) IN GENERAL.—The term ''rural water supply project'' means a project that is designed to serve a group of communities, which may include Indian tribes and tribal organizations, dispersed homesites, or rural areas with domestic, industrial, municipal, and residential water, each of which has a population of not more than 50,000 inhabitants.

[(B) INCLUSION.—The term ''rural water supply project'' includes—

[(i) incidental noncommercial livestock watering and noncommercial irrigation of vegetation and small gardens of less than 1 acre; and

[(ii) a project to improve rural water infrastructure, including—

[(I) pumps, pipes, wells, and other diversions;

[(II) storage tanks and small impoundments;

[(III) water treatment facilities for potable water supplies;

[(IV) equipment and management tools for water conservation, groundwater recovery, and water recycling; and

[(V) appurtenances.

[(C) EXCLUSION.—The term ''rural water supply project'' does not include—

[(i) commercial irrigation; or

[(ii) major impoundment structures.

[(9) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

[(10) TRIBAL ORGANIZATION.—The term ''tribal organization'' means—

[(A) the recognized governing body of an Indian tribe; and

[(B) any legally established organization of Indians that is controlled, sanctioned, or chartered by the governing body or democratically elected by the adult members of the Indian community to be served by the organization.

[SEC. 103. RURAL WATER SUPPLY PROGRAM.

[(a) IN GENERAL.—The Secretary, in cooperation with non-Federal project entities and consistent with this title, shall establish and carry out a rural water supply program in reclamation States to—

[(1) investigate and identify opportunities to ensure safe and adequate rural water supply projects for municipal and industrial use in small communities and rural areas of the reclamation States; and

[(2) plan the design and construction, through the conduct of appraisal investigations and feasibility studies, of rural water supply projects in reclamation States.

[(b) NON-FEDERAL PROJECT ENTITY.—Any activity carried out under this title shall be carried out in cooperation with a qualifying non-Federal project entity, consistent with this title.

[(c) ELIGIBILITY CRITERIA.—Not later than 1 year after the date of enactment of this Act, the Secretary shall, consistent with this title, develop and publish in the Federal Register criteria for—

[(1) determining the eligibility of a rural community for assistance under the program; and

[(2) prioritizing requests for assistance under the program.

[(d) FACTORS.—The criteria developed under subsection (c) shall take into account such factors as whether—

[(1) a rural water supply project—

[(A) serves—

[(i) rural areas and small communities; or

[(ii) Indian tribes; or

[(B) promotes and applies a regional or watershed perspective to water resources management;

[(2) there is an urgent and compelling need for a rural water supply project that would—

[(A) improve the health or aesthetic quality of water;

[(B) result in continuous, measurable, and significant water quality benefits; or

[(C) address current or future water supply needs;

[(3) a rural water supply project helps meet applicable requirements established by law; and

[(4) a rural water supply project is cost effective.

[(e) INCLUSIONS.—The Secretary may include—

[(1) to the extent that connection provides a reliable water supply, a connection to preexisting infrastructure (including dams and conveyance channels) as part of a rural water supply project; and

[(2) notwithstanding the limitation in section 102(8), a town or community with a population in excess of 50,000 inhabitants in an area served by a rural water supply project if, at the discretion of the Secretary, the town or community is considered to be a critical partner in the rural supply project.

[SEC. 104. RURAL WATER PROGRAMS ASSESSMENT.

[(a) IN GENERAL.—In consultation with the Secretary of Agriculture, the Administrator of the Environmental Protection Agency, and the Director of the Indian Health Service, the Secretary shall develop an assessment of—

[(1) the status of all rural water supply projects under the jurisdiction of the Secretary authorized but not completed prior to the date of enactment of this Act, including appropriation amounts, the phase of development, total anticipated costs, and obstacles to completion;

[(2) the current plan (including projected financial and workforce requirements) for the completion of the rural water supply projects within the time frames established under the provisions of law authorizing the projects or the final engineering reports for the projects;

[(3) the demand for rural water supply projects;

[(4) programs within other agencies that can, and a description of the extent to which the programs, provide support for rural water supply projects and water treatment programs in reclamation States, including an assessment of the requirements, funding levels, and conditions for eligibility for the programs assessed; and

[(5) the extent of the unmet needs that the Secretary can meet with the program that complements activities undertaken under the authorities already within the jurisdiction of the Secretary and the heads of the agencies with whom the Secretary consults.

[(b) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives a detailed report on the assessment conducted under subsection (a).

[SEC. 105. APPRAISAL INVESTIGATIONS.

[(a) IN GENERAL.—On request of a non-Federal project entity with respect to a proposed rural water supply project that meets the eligibility criteria published under section 103(c) and subject to the availability of appropriations, the Secretary may—

[(1) receive and review an appraisal investigation that is—

[(A) developed by the non-Federal project entity independent of support from the Secretary; and

[(B) submitted to the Secretary by the non-Federal project entity;

[(2) conduct an appraisal investigation; or

[(3) provide a grant to, or enter into a cooperative agreement with, the non-Federal project entity to conduct an appraisal investigation, if the Secretary determines that—

[(A) the non-Federal project entity is qualified to complete the appraisal investigation in accordance with the criteria published under section 103(c); and

[(B) using the non-Federal project entity to conduct the appraisal investigation is the lowest cost alternative for completing the appraisal investigation.

[(b) DEADLINE.—An appraisal investigation conducted under subsection (a) shall be scheduled for completion not later than 2 years after the date on which the appraisal investigation is initiated.

[(c) APPRAISAL REPORT.—As soon as practicable after an appraisal investigation is submitted to the Secretary under subsection (a)(1) or completed under paragraph (2) or (3) of subsection (a), the Secretary shall prepare an appraisal report that—

[(1) considers—

[(A) whether the project meets—

[(i) the appraisal criteria developed under subsection (d); and

[(ii) the eligibility criteria developed under section 103(c);

[(B) whether viable water supplies and water rights exist to supply the project, including all practicable water sources such as lower quality waters, nonpotable waters, and water reuse-based water supplies;

[(C) whether the project has a positive effect on public health and safety;

[(D) whether the project will meet water demand, including projected future needs;

[(E) the extent to which the project provides environmental benefits, including source water protection;

[(F) the ability of the project to supply water consistent with Indian trust responsibilities, as appropriate;

[(G) whether the project applies a regional or watershed perspective and promotes benefits in the region in which the project is carried out;

[(H) whether the project—

[(i)(I) implements an integrated resources management approach; or

[(II) enhances water management flexibility, including providing for—

[(aa) local control to manage water supplies under varying water supply conditions; and

[(bb) participation in water banking and markets for domestic and environmental purposes; and

[(ii) promotes long-term protection of water supplies;

[(I) preliminary cost estimates for the project; and

[(J) whether the non-Federal project entity has the capability to pay 100 percent of the costs associated with the operations, maintenance, and replacement of the facilities constructed or developed as part of the rural water supply project; and

[(2) provides recommendations on whether a feasibility study should be initiated under section 106(a).

[(d) APPRAISAL CRITERIA.—

[(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall promulgate criteria (including appraisal factors listed under subsection (c)) against which the appraisal investigations shall be assessed for completeness and appropriateness for a feasibility study.

[(2) INCLUSIONS.—To minimize the cost of a rural water supply project to a non-Federal project entity, the Secretary shall include in the criteria methods to scale the level of effort needed to complete the appraisal investigation relative to the total size and cost of the proposed rural water supply project.

[(e) REVIEW OF APPRAISAL INVESTIGATION.—Not later than 180 days after the date of submission of an appraisal investigation under subsection (a)(1) or the completion of an appraisal investigation under paragraph (2) or (3) of subsection (a), the Secretary shall—

[(1) with respect to an appraisal investigation conducted by a non-Federal project entity under subsection (a)(1), provide to the non-Federal entity an evaluation of whether the appraisal investigation satisfies the criteria promulgated under subsection (d);

[(2) make available to the public, on request, the results of each appraisal investigation conducted under this title; and

[(3) promptly publish in the Federal Register a notice of the availability of the results.

[(f) COSTS.—

[(1) FEDERAL SHARE.—The Federal share of an appraisal investigation conducted under subsection (a) shall be 100 percent of the total cost of the appraisal investigation, up to $200,000.

[(2) NON-FEDERAL SHARE.—

[(A) IN GENERAL.—Except as provided in subparagraph (B), if the cost of conducting an appraisal investigation is more than $200,000, the non-Federal share of the costs in excess of $200,000 shall be 50 percent.

[(B) EXCEPTION.—The Secretary may reduce the non-Federal share required under subparagraph (A) if the Secretary determines that there is an overwhelming Federal interest in the appraisal investigation.

[(g) CONSULTATION; IDENTIFICATION OF FUNDING SOURCES.—In conducting an appraisal investigation under subsection (a)(2), the Secretary shall—

[(1) consult and cooperate with the non-Federal project entity and appropriate State, tribal, regional, and local authorities;

[(2) consult with the heads of appropriate Federal agencies to—

[(A) ensure that the proposed rural water supply project does not duplicate a project carried out under the authority of the agency head; and

[(B) if a duplicate project is being carried out, identify the authority under which the duplicate project is being carried out; and

[(3) identify what funding sources are available for the proposed rural water supply project.

[SEC. 106. FEASIBILITY STUDIES.

[(a) IN GENERAL.—On completion of an appraisal report under section 105(c) that recommends undertaking a feasibility study and subject to the availability of appropriations, the Secretary shall—

[(1) in cooperation with a non-Federal project entity, carry out a study to determine the feasibility of the proposed rural water supply project;

[(2) receive and review a feasibility study that is—

[(A) developed by the non-Federal project entity independent of support from the Secretary; and

[(B) submitted to the Secretary by the non-Federal project entity; or

[(3) provide a grant to, or enter into a cooperative agreement with, a non-Federal project entity to conduct a feasibility study, for submission to the Secretary, if the Secretary determines that—

[(A) the non-Federal entity is qualified to complete the feasibility study in accordance with the criteria promulgated under subsection (d); and

[(B) using the non-Federal project entity to conduct the feasibility study is the lowest cost alternative for completing the appraisal investigation.

[(b) REVIEW OF NON-FEDERAL FEASIBILITY STUDIES.—

[(1) IN GENERAL.—In conducting a review of a feasibility study submitted under paragraph (2) or (3) of subsection (a), the Secretary shall—

[(A) in accordance with the feasibility factors described in subsection (c) and the criteria promulgated under subsection (d), assess the completeness of the feasibility study; and

[(B) if the Secretary determines that a feasibility study is not complete, notify the non-Federal entity of the determination.

[(2) REVISIONS.—If the Secretary determines under paragraph (1)(B) that a feasibility study is not complete, the non-Federal entity shall pay any costs associated with revising the feasibility study.

[(c) FEASIBILITY FACTORS.—Feasibility studies authorized or reviewed under this title shall include an assessment of—

[(1) near- and long-term water demand in the region to be served by the rural water supply project;

[(2) advancement of public health and safety of any existing rural water supply project and other benefits of the proposed rural water supply project;

[(3) alternative new water supplies in the study area, including any opportunities to treat and use low-quality water, nonpotable water, water reuse-based supplies, and brackish and saline waters through innovative and economically viable treatment technologies;

[(4) environmental quality and source water protection issues related to the rural water supply project;

[(5) innovative opportunities for water conservation in the study area to reduce water use and water system costs, including—

[(A) nonstructural approaches to reduce the need for the project; and

[(B) demonstration technologies;

[(6) the extent to which the project and alternatives take advantage of economic incentives and the use of market-based mechanisms;

[(7)(A) the construction costs and projected operations, maintenance, and replacement costs of all alternatives; and

[(B) the economic feasibility and lowest cost method of obtaining the desired results of each alternative, taking into account the Federal cost-share;

[(8) the availability of guaranteed loans for a proposed rural water supply project;

[(9) the financial capability of the non-Federal project entity to pay the non-Federal project entity's proportionate share of the design and construction costs and 100 percent of operations, maintenance, and replacement costs, including the allocation of costs to each non-Federal project entity in the case of multiple entities;

[(10) whether the non-Federal project entity has developed an operations, management, and replacement plan to assist the non-Federal project entity in establishing rates and fees for beneficiaries of the rural water supply project;

[(11)(A) the non-Federal project entity administrative organization that would implement construction, operations, maintenance, and replacement activities; and

[(B) the fiscal, administrative, and operational controls to be implemented to manage the project;

[(12) the extent to which the project addresses Indian trust responsibilities, as appropriate;

[(13) the extent to which assistance for rural water supply is available under other Federal authorities;

[(14) the engineering, environmental, and economic activities to be undertaken to carry out the study;

[(15) the extent to which the project involves partnerships with other State, local, or tribal governments or Federal entities; and

[(16) in the case of a project intended for Indian tribes and tribal organizations, the extent to which the project addresses the goal of economic self-sufficiency.

[(d) FEASIBILITY STUDY CRITERIA.—

[(1) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, the Secretary shall promulgate criteria (including the feasibility factors listed under subsection (c)) under which the feasibility studies shall be assessed for completeness and appropriateness.

[(2) INCLUSIONS.—The Secretary shall include in the criteria promulgated under paragraph (1) methods to scale the level of effort needed to complete the feasibility assessment relative to the total size and cost of the proposed rural water supply project and reduce total costs to non-Federal entities.

[(e) FEASIBILITY REPORT.—

[(1) IN GENERAL.—After completion of appropriate feasibility studies for rural water supply projects that address the factors described in subsection (c) and the criteria promulgated under subsection (d), the Secretary shall—

[(A) develop a feasibility report that includes—

[(i) a recommendation of the Secretary on—

[(I) whether the rural water supply project should be authorized for construction; and

[(II) the appropriate non-Federal share of construction costs, which shall be—

[(aa) at least 25 percent of the total construction costs; and

[(bb) determined based on an analysis of the capability-to-pay information considered under subsections (c)(9) and (f); and

[(ii) if the Secretary recommends that the project should be authorized for construction—

[(I) what amount of grants, loan guarantees, or combination of grants and loan guarantees should be used to provide the Federal cost share;

[(II) a schedule that identifies the annual operations, maintenance, and replacement costs that should be allocated to each non-Federal entity participating in the rural water supply project; and

[(III) an assessment of the financial capability of each non-Federal entity participating in the rural water supply project to pay the allocated annual operation, maintenance, and replacement costs for the rural water supply project;

[(B) submit the report to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives;

[(C) make the report publicly available, along with associated study documents; and

[(D) publish in the Federal Register a notice of the availability of the results.

[(f) CAPABILITY-TO-PAY.—

[(1) IN GENERAL.—In evaluating a proposed rural water supply project under this section, the Secretary shall—

[(A) consider the financial capability of any non-Federal project entities participating in the rural water supply project to pay the capital construction costs of the rural water supply project; and

[(B) recommend an appropriate Federal share and non-Federal share of the capital construction costs, as determined by the Secretary.

[(2) FACTORS.—In determining the financial capability of non-Federal project entities to pay for a rural water supply project under paragraph (1), the Secretary shall evaluate factors for the project area, relative to the State and county average, including—

[(A) per capita income;

[(B) median household income;

[(C) the poverty rate;

[(D) the ability of the non-Federal project entity to raise tax revenues or assess fees;

[(E) the strength of the balance sheet of the non-Federal project entity; and

[(F) the existing cost of water in the region.

[(3) INDIAN TRIBES.—In determining the capability-to-pay of Indian tribe project beneficiaries, the Secretary may consider deferring the collection of all or part of the non-Federal construction costs apportioned to Indian tribe project beneficiaries unless or until the Secretary determines that the Indian tribe project beneficiaries should pay—

[(A) the costs allocated to the beneficiaries; or

[(B) an appropriate portion of the costs.

[(g) COST-SHARING REQUIREMENT.—

[(1) IN GENERAL.—Except as otherwise provided in this subsection, the Federal share of the cost of a feasibility study carried out under this section shall not exceed 50 percent of the study costs.

[(2) FORM.—The non-Federal share under paragraph (1) may be in the form of any in-kind services that the Secretary determines would contribute substantially toward the conduct and completion of the study.

[(3) FINANCIAL HARDSHIP.—The Secretary may increase the Federal share of the costs of a feasibility study if the Secretary determines, based on a demonstration of financial hardship, that the non-Federal participant is unable to contribute at least 50 percent of the costs of the study.

[(4) LARGER COMMUNITIES.—In conducting a feasibility study of a rural water supply system that includes a community with a population in excess of 50,000 inhabitants, the Secretary may require the community to pay a greater percentage of the non-Federal share than that required for communities with less than 50,000 inhabitants.

[(h) CONSULTATION AND COOPERATION.—In addition to the non-Federal project entity, the Secretary shall consult and cooperate with appropriate Federal, State, tribal, regional, and local authorities during the conduct of each feasibility assessment and development of the feasibility report conducted under this title.

[SEC. 107. MISCELLANEOUS.

[(a) AUTHORITY OF SECRETARY.—The Secretary may enter into contracts, financial assistance agreements, and such other agreements, and promulgate such regulations, as are necessary to carry out this title.

[(b) TRANSFER OF PROJECTS.—Nothing in this title authorizes the transfer of pre-existing facilities or pre-existing components of any water system from Federal to private ownership or from private to Federal ownership.

[(c) FEDERAL RECLAMATION LAW.—Nothing in this title supersedes or amends any Federal law associated with a project, or portion of a project, constructed under Federal reclamation law.

[(d) INTERAGENCY COORDINATION.—The Secretary shall coordinate the program carried out under this title with existing Federal and State rural water and wastewater programs to facilitate the most efficient and effective solution to meeting the water needs of the non-Federal project sponsors.

[(e) MULTIPLE INDIAN TRIBES.—In any case in which a contract is entered into with, or a grant is made, to an organization to perform services benefitting more than 1 Indian tribe under this title, the approval of each such Indian tribe shall be a prerequisite to entering into the contract or making the grant.

[(f) OWNERSHIP OF FACILITIES.—Title to any facility planned, designed, and recommended for construction under this title is intended to be held by the non-Federal project entity.

[(g) EFFECT ON STATE WATER LAW.—

[(1) IN GENERAL.—Nothing in this title preempts or affects State water law or an interstate compact governing water.

[(2) COMPLIANCE REQUIRED.—The Secretary shall comply with State water laws in carrying out this title.

[(h) NO ADDITIONAL REQUIREMENTS.—Nothing in this title requires a feasibility study for, or imposes any other additional requirements with respect to, rural water supply projects or programs that are authorized before the date of enactment of this Act.

[SEC. 108. AUTHORIZATION OF APPROPRIATIONS.

[(a) IN GENERAL.—There is authorized to be appropriated to carry out this title $20,000,000 for the period of fiscal years 2006 through 2015, to remain available until expended.

[(b) RURAL WATER PROGRAMS ASSESSMENT.—Of the amounts made available under subsection (a), not more than $1,000,000 may be made available to carry out section 104 for each of fiscal years 2006 and 2007.

[(c) LIMITATION.—No amounts made available under this section shall be used to pay construction costs associated with any rural water supply project.

[TITLE II—TWENTY-FIRST CENTURY WATER WORKS ACT

[SEC. 201. SHORT TITLE.

[This title may be cited as the ''Twenty-First Century Water Works Act''.

[SEC. 202. DEFINITIONS.

[In this title:

[(1) INDIAN TRIBE.—The term ''Indian tribe'' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

[(2) LENDER.—The term ''lender'' means any non-Federal qualified institutional buyer (as defined in section 230.144A(a) of title 17, Code of Federal Regulation (or any successor regulation), known as Rule 144A(a) of the Securities and Exchange Commission and issued under the Securities Act of 1933 (15 U.S.C. 77a et seq.)).

[(3) LOAN GUARANTEE.—The term ''loan guarantee'' means any guarantee, insurance, or other pledge by the Secretary to pay all or part of the principal of, and interest on, a loan or other debt obligation of a non-Federal borrower to a lender.

[(4) NON-FEDERAL BORROWER.—The term ''non-Federal borrower'' means—

[(A) a State (including a department, agency, or political subdivision of a State); or

[(B) a conservancy district, irrigation district, canal company, water users' association, Indian tribe, an agency created by interstate compact, or any other entity that has the capacity to contract with the United States under Federal reclamation law.

[(5) PROJECT.—The term ''project'' means—

[(A) a rural water supply project (as defined in section 102(8)); or

[(B) an extraordinary operation and maintenance activity for, or the rehabilitation of, a facility—

[(i) that is authorized by Federal reclamation law and constructed by the United States under such law; or

[(ii) in connection with which there is a repayment or water service contract executed by the United States under Federal reclamation law.

[(6) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

[SEC. 203. PROJECT ELIGIBILITY.

[(a) ELIGIBILITY CRITERIA.—

[(1) IN GENERAL.—The Secretary shall develop and publish in the Federal Register criteria for determining the eligibility of a project for financial assistance under section 204.

[(2) INCLUSIONS.—Eligibility criteria shall include—

[(A) submission of an application by the lender to the Secretary;

[(B) demonstration of the creditworthiness of the project, including a determination by the Secretary that any financing for the project has appropriate security features to ensure repayment;

[(C) demonstration by the non-Federal borrower, to the satisfaction of the Secretary, of the ability of the non-Federal borrower to repay the project financing from user fees or other dedicated revenue sources;

[(D) demonstration by the non-Federal borrower, to the satisfaction of the Secretary, of the ability of the non-Federal borrower to pay all operations, maintenance, and replacement costs of the project facilities; and

[(E) such other criteria as the Secretary determines to be appropriate.

[(b) WAIVER.—The Secretary may waive any of the criteria in subsection (a)(2) that the Secretary determines to be duplicative or rendered unnecessary because of an action already taken by the United States.

[(c) PROJECTS PREVIOUSLY AUTHORIZED.—A project that was authorized for construction under Federal reclamation laws prior to the date of enactment of this Act shall be eligible for assistance under this title, subject to the criteria established by the Secretary under subsection (a).

[(d) CRITERIA FOR RURAL WATER SUPPLY PROJECTS.—A rural water supply project that is determined to be feasible under section 106 is eligible for a loan guarantee under section 204.

[SEC. 204. LOAN GUARANTEES.

[(a) AUTHORITY.—Subject to the availability of appropriations, the Secretary may make available to lenders for a project meeting the eligibility criteria established in section 203 loan guarantees to supplement private-sector or lender financing for the project.

[(b) TERMS AND LIMITATIONS.—

[(1) IN GENERAL.—Loan guarantees under this section for a project shall be on such terms and conditions and contain such covenants, representations, warranties, and requirements as the Secretary determines to be appropriate to protect the financial interests of the United States.

[(2) MAXIMUM AMOUNT.—The amount of a loan guarantee shall not exceed 90 percent of the reasonably anticipated eligible project costs.

[(3) INTEREST RATE.—The interest rate on a loan guarantee shall be negotiated between the non-Federal borrower and the lender with the consent of the Secretary.

[(4) AMORTIZATION.—A loan guarantee under this section shall provide for complete amortization of the loan guarantee within not more than 40 years.

[(5) NON-SUBORDINATION.—In case of bankruptcy, insolvency, or liquidation of the non-Federal borrower, a loan guarantee shall not be subordinated to the claims of any holder of project obligations.

[(c) PREPAYMENT AND REFINANCING.—Any prepayment or refinancing terms on a loan guarantee shall be negotiated between the non-Federal borrower and the lender with the consent of the Secretary.

[SEC. 205. OPERATIONS, MAINTENANCE, AND REPLACEMENT COSTS.

[(a) IN GENERAL.—The non-Federal share of operations, maintenance, and replacement costs for a project receiving Federal assistance under this title shall be 100 percent.

[(b) PLAN.—On request of the non-Federal borrower, the Secretary may assist in the development of an operation, maintenance, and replacement plan to provide the necessary framework to assist the non-Federal borrower in establishing rates and fees for project beneficiaries.

[SEC. 206. TITLE TO NEWLY CONSTRUCTED FACILITIES.

[(a) NEW PROJECTS AND FACILITIES.—All new projects or facilities constructed in accordance with this title shall remain under the jurisdiction and control of the non-Federal borrower subject to the terms of the repayment agreement.

[(b) EXISTING PROJECTS AND FACILITIES.—Nothing in this title affects the title of—

[(1) reclamation projects authorized prior to the date of enactment of this Act;

[(2) works supplemental to existing reclamation projects; or

[(3) works constructed to rehabilitate existing reclamation projects.

[SEC. 207. WATER RIGHTS.

[(a) IN GENERAL.—Nothing in this title preempts or affects State water law or an interstate compact governing water.

[(b) COMPLIANCE REQUIRED.—The Secretary shall comply with State water laws in carrying out this title. Nothing in this title affects or preempts State water law or an interstate compact governing water.

[SEC. 208. INTERAGENCY COORDINATION AND COOPERATION.

[The Secretary and the Secretary of Agriculture shall enter into a memorandum of agreement providing for Department of Agriculture financial appraisal functions and loan guarantee administration for activities carried out under this title.

[SEC. 209. AUTHORIZATION OF APPROPRIATIONS.

[There are authorized to be appropriated such sums as are necessary to carry out this title, to remain available until expended.]

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Rural Water Supply Act of 2005''.

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

TITLE I—RECLAMATION RURAL WATER SUPPLY ACT OF 2005

SEC. 101. SHORT TITLE.

This title may be cited as the ''Reclamation Rural Water Supply Act of 2005''.

SEC. 102. DEFINITIONS.

In this title:

(1) CONSTRUCTION.—The term ''construction'' means the installation of new infrastructure and the upgrading of existing facilities in locations in which the infrastructure or facilities are associated with the new infrastructure of a rural water project recommended by the Secretary pursuant to this title.

(2) FEDERAL RECLAMATION LAW.—The term ''Federal reclamation law'' means the Act of June 17, 1902 (32 Stat. 388, chapter 1093), and Acts supplemental to and amendatory of that Act (43 U.S.C. 371 et seq.).

(3) INDIAN.—The term ''Indian'' means an individual who is a member of an Indian tribe.

(4) INDIAN TRIBE.—The term ''Indian tribe'' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(5) NON-FEDERAL PROJECT ENTITY.—The term ''non-Federal project entity'' means a State, regional, or local authority, Indian tribe or tribal organization, or other qualifying entity, such as a water conservation district, water conservancy district, or rural water district or association.

(6) OPERATIONS, MAINTENANCE, AND REPLACEMENT COSTS.—

(A) IN GENERAL.—The term ''operations, maintenance, and replacement costs'' means all costs for the operation of a rural water supply project that are necessary for the safe, efficient, and continued functioning of the project to produce the benefits described in a feasibility study.

(B) INCLUSIONS.—The term ''operations, maintenance, and replacement costs'' includes—

(i) repairs of a routine nature that maintain a rural water supply project in a well kept condition;

(ii) replacement of worn-out project elements; and

(iii) rehabilitation activities necessary to bring a deteriorated project back to the original condition of the project.

(C) EXCLUSION.—The term ''operations, maintenance, and replacement costs'' does not include construction costs.

(7) PROGRAM.—The term ''Program'' means the rural water supply program established under section 103.

(8) RECLAMATION STATES.—The term ''Reclamation States'' means the States and areas referred to in the first section of the Act of June 17, 1902 (43 U.S.C. 391).

(9) RURAL WATER SUPPLY PROJECT.—

(A) IN GENERAL.—The term ''rural water supply project'' means a project that is designed to serve a community or group of communities, each of which has a population of not more than 50,000 inhabitants, which may include Indian tribes and tribal organizations, dispersed homesites, or rural areas with domestic, industrial, municipal, and residential water.

(B) INCLUSION.—The term ''rural water supply project'' includes—

(i) incidental noncommercial livestock watering and noncommercial irrigation of vegetation and small gardens of less than 1 acre; and

(ii) a project to improve rural water infrastructure, including—

(I) pumps, pipes, wells, and other diversions;

(II) storage tanks and small impoundments;

(III) water treatment facilities for potable water supplies, including desalination facilities;

(IV) equipment and management tools for water conservation, groundwater recovery, and water recycling; and

(V) appurtenances.

(C) EXCLUSION.—The term ''rural water supply project'' does not include—

(i) commercial irrigation; or

(ii) major impoundment structures.

(10) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(11) TRIBAL ORGANIZATION.—The term ''tribal organization'' means—

(A) the recognized governing body of an Indian tribe; and

(B) any legally established organization of Indians that is controlled, sanctioned, or chartered by the governing body or democratically elected by the adult members of the Indian community to be served by the organization.

SEC. 103. RURAL WATER SUPPLY PROGRAM.

(a) IN GENERAL.—The Secretary, in cooperation with non-Federal project entities and consistent with this title, shall establish and carry out a rural water supply program in Reclamation States to—

(1) investigate and identify opportunities to ensure safe and adequate rural water supply projects for domestic, municipal, and industrial use in small communities and rural areas of the Reclamation States;

(2) plan the design and construction, through the conduct of appraisal investigations and feasibility studies, of rural water supply projects in Reclamation States; and

(3) oversee, as appropriate, the construction of rural water supply projects in Reclamation States that are recommended by the Secretary in a feasibility report developed pursuant to section 106 and subsequently authorized by Congress.

(b) NON-FEDERAL PROJECT ENTITY.—Any activity carried out under this title shall be carried out in cooperation with a qualifying non-Federal project entity, consistent with this title.

(c) ELIGIBILITY CRITERIA.—Not later than 1 year after the date of enactment of this Act, the Secretary shall, consistent with this title, develop and publish in the Federal Register criteria for—

(1) determining the eligibility of a rural community for assistance under the Program; and

(2) prioritizing requests for assistance under the Program.

(d) FACTORS.—The criteria developed under subsection (c) shall take into account such factors as whether—

(1) a rural water supply project—

(A) serves—

(i) rural areas and small communities; or

(ii) Indian tribes; or

(B) promotes and applies a regional or watershed perspective to water resources management;

(2) there is an urgent and compelling need for a rural water supply project that would—

(A) improve the health or aesthetic quality of water;

(B) result in continuous, measurable, and significant water quality benefits; or

(C) address current or future water supply needs;

(3) a rural water supply project helps meet applicable requirements established by law; and

(4) a rural water supply project is cost effective.

(e) INCLUSIONS.—The Secretary may include—

(1) to the extent that connection provides a reliable water supply, a connection to preexisting infrastructure (including impoundments and conveyance channels) as part of a rural water supply project; and

(2) notwithstanding the limitation on population under section 102(9)(A), a town or community with a population in excess of 50,000 inhabitants in an area served by a rural water supply project if, at the discretion of the Secretary, the town or community is considered to be a critical partner in the rural supply project.

SEC. 104. RURAL WATER PROGRAMS ASSESSMENT.

(a) IN GENERAL.—In consultation with the Secretary of Agriculture, the Administrator of the Environmental Protection Agency, the Director of the Indian Health Service, the Secretary of Housing and Urban Development, and the Secretary of the Army, the Secretary shall develop an assessment of—

(1) the status of all rural water supply projects under the jurisdiction of the Secretary authorized but not completed prior to the date of enactment of this Act, including appropriation amounts, the phase of development, total anticipated costs, and obstacles to completion;

(2) the current plan (including projected financial and workforce requirements) for the completion of the projects identified in paragraph (1) within the time frames established under the provisions of law authorizing the projects or the final engineering reports for the projects;

(3) the demand for new rural water supply projects;

(4) rural water programs within other agencies and a description of the extent to which those programs provide support for rural water supply projects and water treatment programs in Reclamation States, including an assessment of the requirements, funding levels, and conditions of eligibility for the programs assessed;

(5) the extent of the demand that the Secretary can meet with the Program;

(6) how the Program will complement authorities already within the jurisdiction of the Secretary and the heads of the agencies with whom the Secretary consults; and

(7) improvements that can be made to coordinate and integrate the authorities of the agencies with programs evaluated under paragraph (4), including any recommendations to consolidate some or all of the activities of the agencies with respect to rural water supply.

(b) CONSULTATION WITH STATES.—Before finalizing the assessment developed under subsection (a), the Secretary shall solicit comments from States with identified rural water needs.

(c) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives a detailed report on the assessment conducted under subsection (a).

SEC. 105. APPRAISAL INVESTIGATIONS.

(a) IN GENERAL.—On request of a non-Federal project entity with respect to a proposed rural water supply project that meets the eligibility criteria published under section 103(c) and subject to the availability of appropriations, the Secretary may—

(1) receive and review an appraisal investigation that is—

(A) developed by the non-Federal project entity, with or without support from the Secretary; and

(B) submitted to the Secretary by the non-Federal project entity;

(2) conduct an appraisal investigation; or

(3) provide a grant to, or enter into a cooperative agreement with, the non-Federal project entity to conduct an appraisal investigation, if the Secretary determines that—

(A) the non-Federal project entity is qualified to complete the appraisal investigation in accordance with the criteria published under section 103(c); and

(B) using the non-Federal project entity to conduct the appraisal investigation is a cost-effective alternative for completing the appraisal investigation.

(b) DEADLINE.—An appraisal investigation conducted under subsection (a) shall be scheduled for completion not later than 2 years after the date on which the appraisal investigation is initiated.

(c) APPRAISAL REPORT.—In accordance with subsection (f), after an appraisal investigation is submitted to the Secretary under subsection (a)(1) or completed under paragraph (2) or (3) of subsection (a), the Secretary shall prepare an appraisal report that—

(1) considers—

(A) whether the project meets—

(i) the appraisal criteria developed under subsection (d); and

(ii) the eligibility criteria developed under section 103(c);

(B) whether viable water supplies and water rights exist to supply the project, including all practicable water sources such as lower quality waters, nonpotable waters, and water reuse-based water supplies;

(C) whether the project has a positive effect on public health and safety;

(D) whether the project will meet water demand, including projected future needs;

(E) the extent to which the project provides environmental benefits, including source water protection;

(F) whether the project applies a regional or watershed perspective and promotes benefits in the region in which the project is carried out;

(G) whether the project—

(i)(I) implements an integrated resources management approach; or

(II) enhances water management flexibility, including providing for—

(aa) local control to manage water supplies under varying water supply conditions; and

(bb) participation in water banking and markets for domestic and environmental purposes; and

(ii) promotes long-term protection of water supplies;

(H) preliminary cost estimates for the project; and

(I) whether the non-Federal project entity has the capability to pay 100 percent of the costs associated with the operations, maintenance, and replacement of the facilities constructed or developed as part of the rural water supply project; and

(2) provides recommendations on whether a feasibility study should be initiated under section 106(a).

(d) APPRAISAL CRITERIA.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall promulgate criteria (including appraisal factors listed under subsection (c)) against which the appraisal investigations shall be assessed for completeness and appropriateness for a feasibility study.

(2) INCLUSIONS.—To minimize the cost of a rural water supply project to a non-Federal project entity, the Secretary shall include in the criteria methods to scale the level of effort needed to complete the appraisal investigation relative to the total size and cost of the proposed rural water supply project.

(e) REVIEW OF APPRAISAL INVESTIGATION.—

(1) IN GENERAL.—Not later than 90 days after the date of submission of an appraisal investigation under paragraph (1) or (3) of subsection (a), the Secretary shall provide to the non-Federal entity that conducted the investigation a determination of whether the investigation has included the information necessary to determine whether the proposed rural water supply project satisfies the criteria promulgated under subsection (d).

(2) NO SATISFACTION OF CRITERIA.—If the Secretary determines that the appraisal investigation submitted by a non-Federal entity does not satisfy the criteria promulgated under subsection (d), the Secretary shall inform the non-Federal entity of the reasons why the appraisal investigation is deficient.

(3) RESPONSIBILITY OF SECRETARY.—If an appraisal investigation as first submitted by a non-Federal entity does not provide all necessary information, as defined by the Secretary, the Secretary shall have no obligation to conduct further analysis until the non-Federal project entity submitting the appraisal study conducts additional investigation and resubmits the appraisal investigation under this subsection.

(f) APPRAISAL REPORT.—Once the Secretary has determined that an investigation provides the information necessary under subsection (e), the Secretary shall—

(1) complete the appraisal report required under subsection (c);

(2) make available to the public, on request, the appraisal report prepared under this title; and

(3) promptly publish in the Federal Register a notice of the availability of the results.

(g) COSTS.—

(1) FEDERAL SHARE.—The Federal share of an appraisal investigation conducted under subsection (a) shall be 100 percent of the total cost of the appraisal investigation, up to $200,000.

(2) NON-FEDERAL SHARE.—

(A) IN GENERAL.—Except as provided in subparagraph (B), if the cost of conducting an appraisal investigation is more than $200,000, the non-Federal share of the costs in excess of $200,000 shall be 50 percent.

(B) EXCEPTION.—The Secretary may reduce the non-Federal share required under subparagraph (A) if the Secretary determines that there is an overwhelming Federal interest in the appraisal investigation.

(C) FORM.—The non-Federal share under subparagraph (A) may be in the form of any in-kind services that the Secretary determines would contribute substantially toward the conduct and completion of the appraisal investigation.

(h) CONSULTATION; IDENTIFICATION OF FUNDING SOURCES.—In conducting an appraisal investigation under subsection (a)(2), the Secretary shall—

(1) consult and cooperate with the non-Federal project entity and appropriate State, tribal, regional, and local authorities;

(2) consult with the heads of appropriate Federal agencies to—

(A) ensure that the proposed rural water supply project does not duplicate a project carried out under the authority of the agency head; and

(B) if a duplicate project is being carried out, identify the authority under which the duplicate project is being carried out; and

(3) identify what funding sources are available for the proposed rural water supply project.

SEC. 106. FEASIBILITY STUDIES.

(a) IN GENERAL.—On completion of an appraisal report under section 105(c) that recommends undertaking a feasibility study and subject to the availability of appropriations, the Secretary shall—

(1) in cooperation with a non-Federal project entity, carry out a study to determine the feasibility of the proposed rural water supply project;

(2) receive and review a feasibility study that is—

(A) developed by the non-Federal project entity, with or without support from the Secretary; and

(B) submitted to the Secretary by the non-Federal project entity; or

(3) provide a grant to, or enter into a cooperative agreement with, a non-Federal project entity to conduct a feasibility study, for submission to the Secretary, if the Secretary determines that—

(A) the non-Federal entity is qualified to complete the feasibility study in accordance with the criteria promulgated under subsection (d); and

(B) using the non-Federal project entity to conduct the feasibility study is a cost-effective alternative for completing the appraisal investigation.

(b) REVIEW OF NON-FEDERAL FEASIBILITY STUDIES.—

(1) IN GENERAL.—In conducting a review of a feasibility study submitted under paragraph (2) or (3) of subsection (a), the Secretary shall—

(A) in accordance with the feasibility factors described in subsection (c) and the criteria promulgated under subsection (d), assess the completeness of the feasibility study; and

(B) if the Secretary determines that a feasibility study is not complete, notify the non-Federal entity of the determination.

(2) REVISIONS.—If the Secretary determines under paragraph (1)(B) that a feasibility study is not complete, the non-Federal entity shall pay any costs associated with revising the feasibility study.

(c) FEASIBILITY FACTORS.—Feasibility studies authorized or reviewed under this title shall include an assessment of—

(1) near- and long-term water demand in the area to be served by the rural water supply project;

(2) advancement of public health and safety of any existing rural water supply project and other benefits of the proposed rural water supply project;

(3) alternative new water supplies in the study area, including any opportunities to treat and use low-quality water, nonpotable water, water reuse-based supplies, and brackish and saline waters through innovative and economically viable treatment technologies;

(4) environmental quality and source water protection issues related to the rural water supply project;

(5) innovative opportunities for water conservation in the study area to reduce water use and water system costs, including—

(A) nonstructural approaches to reduce the need for the project; and

(B) demonstration technologies;

(6) the extent to which the project and alternatives take advantage of economic incentives and the use of market-based mechanisms;

(7)(A) the construction costs and projected operations, maintenance, and replacement costs of all alternatives; and

(B) the economic feasibility and lowest cost method of obtaining the desired results of each alternative, taking into account the Federal cost-share;

(8) the availability of guaranteed loans for a proposed rural water supply project;

(9) the financial capability of the non-Federal project entity to pay the non-Federal project entity's proportionate share of the design and construction costs and 100 percent of operations, maintenance, and replacement costs, including the allocation of costs to each non-Federal project entity in the case of multiple entities;

(10) whether the non-Federal project entity has developed an operations, management, and replacement plan to assist the non-Federal project entity in establishing rates and fees for beneficiaries of the rural water supply project that includes a schedule identifying the annual operations, maintenance, and replacement costs that should be allocated to each non-Federal entity participating in the project;

(11)(A) the non-Federal project entity administrative organization that would implement construction, operations, maintenance, and replacement activities; and

(B) the fiscal, administrative, and operational controls to be implemented to manage the project;

(12) the extent to which assistance for rural water supply is available under other Federal authorities;

(13) the engineering, environmental, and economic activities to be undertaken to carry out the proposed rural water supply project;

(14) the extent to which the project involves partnerships with other State, local, or tribal governments or Federal entities; and

(15) in the case of a project intended for Indian tribes and tribal organizations, the extent to which the project addresses the goal of economic self-sufficiency.

(d) FEASIBILITY STUDY CRITERIA.—

(1) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, the Secretary shall promulgate criteria (including the feasibility factors listed under subsection (c)) under which the feasibility studies shall be assessed for completeness and appropriateness.

(2) INCLUSIONS.—The Secretary shall include in the criteria promulgated under paragraph (1) methods to scale the level of effort needed to complete the feasibility assessment relative to the total size and cost of the proposed rural water supply project and reduce total costs to non-Federal entities.

(e) FEASIBILITY REPORT.—

(1) IN GENERAL.—After completion of appropriate feasibility studies for rural water supply projects that address the factors described in subsection (c) and the criteria promulgated under subsection (d), the Secretary shall—

(A) develop a feasibility report that includes—

(i) a recommendation of the Secretary on—

(I) whether the rural water supply project should be authorized for construction; and

(II) the appropriate non-Federal share of construction costs, which shall be—

(aa) at least 25 percent of the total construction costs; and

(bb) determined based on an analysis of the capability-to-pay information considered under subsections (c)(9) and (f); and

(ii) if the Secretary recommends that the project should be authorized for construction—

(I) what amount of grants, loan guarantees, or combination of grants and loan guarantees should be used to provide the Federal cost share;

(II) a schedule that identifies the annual operations, maintenance, and replacement costs that should be allocated to each non-Federal entity participating in the rural water supply project; and

(III) an assessment of the financial capability of each non-Federal entity participating in the rural water supply project to pay the allocated annual operation, maintenance, and replacement costs for the rural water supply project;

(B) submit the report to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives;

(C) make the report publicly available, along with associated study documents; and

(D) publish in the Federal Register a notice of the availability of the results.

(f) CAPABILITY-TO-PAY.—

(1) IN GENERAL.—In evaluating a proposed rural water supply project under this section, the Secretary shall—

(A) consider the financial capability of any non-Federal project entities participating in the rural water supply project to pay 25 percent or more of the capital construction costs of the rural water supply project; and

(B) recommend an appropriate Federal share and non-Federal share of the capital construction costs, as determined by the Secretary.

(2) FACTORS.—In determining the financial capability of non-Federal project entities to pay for a rural water supply project under paragraph (1), the Secretary shall evaluate factors for the project area, relative to the State average, including—

(A) per capita income;

(B) median household income;

(C) the poverty rate;

(D) the ability of the non-Federal project entity to raise tax revenues or assess fees;

(E) the strength of the balance sheet of the non-Federal project entity; and

(F) the existing cost of water in the region.

(3) INDIAN TRIBES.—In determining the capability-to-pay of Indian tribe project beneficiaries, the Secretary may consider deferring the collection of all or part of the non-Federal construction costs apportioned to Indian tribe project beneficiaries unless or until the Secretary determines that the Indian tribe project beneficiaries should pay—

(A) the costs allocated to the beneficiaries; or

(B) an appropriate portion of the costs.

(g) COST-SHARING REQUIREMENT.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the Federal share of the cost of a feasibility study carried out under this section shall not exceed 50 percent of the study costs.

(2) FORM.—The non-Federal share under paragraph (1) may be in the form of any in-kind services that the Secretary determines would contribute substantially toward the conduct and completion of the study.

(3) FINANCIAL HARDSHIP.—The Secretary may increase the Federal share of the costs of a feasibility study if the Secretary determines, based on a demonstration of financial hardship, that the non-Federal participant is unable to contribute at least 50 percent of the costs of the study.

(4) LARGER COMMUNITIES.—In conducting a feasibility study of a rural water supply system that includes a community with a population in excess of 50,000 inhabitants, the Secretary may require the non-Federal project entity to pay more than 50 percent of the costs of the study.

(h) CONSULTATION AND COOPERATION.—In addition to the non-Federal project entity, the Secretary shall consult and cooperate with appropriate Federal, State, tribal, regional, and local authorities during the conduct of each feasibility assessment and development of the feasibility report conducted under this title.

SEC. 107. MISCELLANEOUS.

(a) AUTHORITY OF SECRETARY.—The Secretary may enter into contracts, financial assistance agreements, and such other agreements, and promulgate such regulations, as are necessary to carry out this title.

(b) TRANSFER OF PROJECTS.—Nothing in this title authorizes the transfer of pre-existing facilities or pre-existing components of any water system from Federal to private ownership or from private to Federal ownership.

(c) FEDERAL RECLAMATION LAW.—Nothing in this title supersedes or amends any Federal law associated with a project, or portion of a project, constructed under Federal reclamation law.

(d) INTERAGENCY COORDINATION.—The Secretary shall coordinate the Program carried out under this title with existing Federal and State rural water and wastewater programs to facilitate the most efficient and effective solution to meeting the water needs of the non-Federal project sponsors.

(e) MULTIPLE INDIAN TRIBES.—In any case in which a contract is entered into with, or a grant is made, to an organization to perform services benefitting more than 1 Indian tribe under this title, the approval of each such Indian tribe shall be a prerequisite to entering into the contract or making the grant.

(f) OWNERSHIP OF FACILITIES.—Title to any facility planned, designed, and recommended for construction under this title shall be held by the non-Federal project entity.

(g) EXPEDITED PROCEDURES.—If the Secretary determines that a community to be served by a proposed rural water supply project has urgent and compelling water needs, the Secretary shall, to the maximum extent practicable, expedite appraisal investigations and reports conducted under section 105 and feasibility studies and reports conducted under section 106.

(h) EFFECT ON STATE WATER LAW.—

(1) IN GENERAL.—Nothing in this title preempts or affects State water law or an interstate compact governing water.

(2) COMPLIANCE REQUIRED.—The Secretary shall comply with State water laws in carrying out this title.

(i) NO ADDITIONAL REQUIREMENTS.—Nothing in this title requires a feasibility study for, or imposes any other additional requirements with respect to, rural water supply projects or programs that are authorized before the date of enactment of this Act.

SEC. 108. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There is authorized to be appropriated to carry out this title $20,000,000 for the period of fiscal years 2006 through 2015, to remain available until expended.

(b) RURAL WATER PROGRAMS ASSESSMENT.—Of the amounts made available under subsection (a), not more than $1,000,000 may be made available to carry out section 104 for each of fiscal years 2006 and 2007.

(c) LIMITATION.—No amounts made available under this section shall be used to pay construction costs associated with any rural water supply project.

TITLE II—TWENTY-FIRST CENTURY WATER WORKS ACT

SEC. 201. SHORT TITLE.

This title may be cited as the ''Twenty-First Century Water Works Act''.

SEC. 202. DEFINITIONS.

In this title:

(1) INDIAN TRIBE.—The term ''Indian tribe'' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(2) LENDER.—The term ''lender'' means any non-Federal qualified institutional buyer (as defined in section 230.144A(a) of title 17, Code of Federal Regulation (or any successor regulation), known as Rule 144A(a) of the Securities and Exchange Commission and issued under the Securities Act of 1933 (15 U.S.C. 77a et seq.)).

(3) LOAN GUARANTEE.—The term ''loan guarantee'' has the meaning given the term ''loan guarantee'' in section 502 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a).

(4) NON-FEDERAL BORROWER.—The term ''non-Federal borrower'' means—

(A) a State (including a department, agency, or political subdivision of a State); or

(B) a conservancy district, irrigation district, canal company, water users' association, Indian tribe, an agency created by interstate compact, or any other entity that has the capacity to contract with the United States under Federal reclamation law.

(5) OBLIGATION.—The term ''obligation'' means a loan or other debt obligation that is guaranteed under this section.

(6) PROJECT.—The term ''project'' means—

(A) a rural water supply project (as defined in section 102(9)); or

(B) an extraordinary operation and maintenance activity for, or the rehabilitation of, a facility—

(i) that is authorized by Federal reclamation law and constructed by the United States under such law; or

(ii) in connection with which there is a repayment or water service contract executed by the United States under Federal reclamation law.

(7) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

SEC. 203. PROJECT ELIGIBILITY.

(a) ELIGIBILITY CRITERIA.—

(1) IN GENERAL.—The Secretary shall develop and publish in the Federal Register criteria for determining the eligibility of a project for financial assistance under section 204.

(2) INCLUSIONS.—Eligibility criteria shall include—

(A) submission of an application by the lender to the Secretary;

(B) demonstration of the creditworthiness of the project, including a determination by the Secretary that any financing for the project has appropriate security features to ensure repayment;

(C) demonstration by the non-Federal borrower, to the satisfaction of the Secretary, of the ability of the non-Federal borrower to repay the project financing from user fees or other dedicated revenue sources;

(D) demonstration by the non-Federal borrower, to the satisfaction of the Secretary, of the ability of the non-Federal borrower to pay all operations, maintenance, and replacement costs of the project facilities; and

(E) such other criteria as the Secretary determines to be appropriate.

(b) WAIVER.—The Secretary may waive any of the criteria in subsection (a)(2) that the Secretary determines to be duplicative or rendered unnecessary because of an action already taken by the United States.

(c) PROJECTS PREVIOUSLY AUTHORIZED.—A project that was authorized for construction under Federal reclamation laws prior to the date of enactment of this Act shall be eligible for assistance under this title, subject to the criteria established by the Secretary under subsection (a).

(d) CRITERIA FOR RURAL WATER SUPPLY PROJECTS.—A rural water supply project that is determined to be feasible under section 106 is eligible for a loan guarantee under section 204.

SEC. 204. LOAN GUARANTEES.

(a) AUTHORITY.—Subject to the availability of appropriations, the Secretary may make available to lenders for a project meeting the eligibility criteria established in section 203 loan guarantees to supplement private-sector or lender financing for the project.

(b) TERMS AND LIMITATIONS.—

(1) IN GENERAL.—Loan guarantees under this section for a project shall be on such terms and conditions and contain such covenants, representations, warranties, and requirements as the Secretary determines to be appropriate to protect the financial interests of the United States.

(2) AMOUNT.—Loan guarantees by the Secretary shall not exceed an amount equal to 90 percent of the cost of the project that is the subject of the loan guarantee, as estimated at the time at which the loan guarantee is issued.

(3) INTEREST RATE.—An obligation shall bear interest at a rate that does not exceed a level that the Secretary determines to be appropriate, taking into account the prevailing rate of interest in the private sector for similar loans and risks.

(4) AMORTIZATION.—A loan guarantee under this section shall provide for complete amortization of the loan guarantee within not more than 40 years.

(5) NONSUBORDINATION.—An obligation shall be subject to the condition that the obligation is not subordinate to other financing.

(c) PREPAYMENT AND REFINANCING.—Any prepayment or refinancing terms on a loan guarantee shall be negotiated between the non-Federal borrower and the lender with the consent of the Secretary.

SEC. 205. DEFAULTS.

(a) PAYMENTS BY SECRETARY.—

(1) IN GENERAL.—If a borrower defaults on the obligation, the holder of the loan guarantee shall have the right to demand payment of the unpaid amount from the Secretary.

(2) PAYMENT REQUIRED.—By such date as may be specified in the loan guarantee or related agreements, the Secretary shall pay to the holder of the loan guarantee the unpaid interest on, and unpaid principal of, the obligation with respect to which the borrower has defaulted, unless the Secretary finds that there was not default by the borrower in the payment of interest or principal or that the default has been remedied.

(3) FORBEARANCE.—Nothing in this subsection precludes any forbearance by the holder of the obligation for the benefit of the non-Federal borrower that may be agreed on by the parties to the obligation and approved by the Secretary.

(b) SUBROGATION.—

(1) IN GENERAL.—If the Secretary makes a payment under subsection (a), the Secretary shall be subrogated to the rights of the recipient of the payment as specified in the loan guarantee or related agreements, including, as appropriate, the authority (nothwithstanding any other provision of law) to—

(A) complete, maintain, operate, lease, or otherwise dispose of any property acquired pursuant to the loan guarantee or related agreements; or

(B) permit the non-Federal borrower, pursuant to an agreement with the Secretary, to continue to pursue the purposes of the project if the Secretary determines the purposes to be in the public interest.

(2) SUPERIORITY OF RIGHTS.—The rights of the Secretary, with respect to any property acquired pursuant to a loan guarantee or related agreement, shall be superior to the rights of any other person with respect to the property.

(c) PAYMENT OF PRINCIPAL AND INTEREST BY SECRETARY.—With respect to any obligation guaranteed under this section, the Secretary may enter into a contract to pay, and pay, holders of the obligation, for and on behalf of the non-Federal borrower, from funds appropriated for that purpose, the principal and interest payments that become due and payable on the unpaid balance of the obligation if the Secretary finds that—

(1)(A) the non-Federal borrower is unable to meet the payments and is not in default;

(B) it is in the public interest to permit the non-Federal borrower to continue to pursue the purposes of the project; and

(C) the probable net benefit to the Federal Government in paying the principal and interest will be greater than that which would result in the event of a default;

(2) the amount of the payment that the Secretary is authorized to pay shall be no greater than the amount of principal and interest that the non-Federal borrower is obligated to pay under the agreement being guaranteed; and

(3) the borrrower agrees to reimburse the Secretary for the payment (including interest) on terms and conditions that are satisfactory to the Secretary.

(d) ACTION BY ATTORNEY GENERAL.—

(1) NOTIFICATION.—If the non-Federal borrower defaults on an obligation, the Secretary shall notify the Attorney General of the default.

(2) RECOVERY.—On notification, the Attorney General shall take such action as is appropriate to recover the unpaid principal and interest due from—

(A) such assets of the defaulting non-Federal borrower as are associated with the obligation; or

(B) any other security pledged to secure the obligation.

SEC. 206. OPERATIONS, MAINTENANCE, AND REPLACEMENT COSTS.

(a) IN GENERAL.—The non-Federal share of operations, maintenance, and replacement costs for a project receiving Federal assistance under this title shall be 100 percent.

(b) PLAN.—On request of the non-Federal borrower, the Secretary may assist in the development of an operation, maintenance, and replacement plan to provide the necessary framework to assist the non-Federal borrower in establishing rates and fees for project beneficiaries.

SEC. 207. TITLE TO NEWLY CONSTRUCTED FACILITIES.

(a) NEW PROJECTS AND FACILITIES.—All new projects or facilities constructed in accordance with this title shall remain under the jurisdiction and control of the non-Federal borrower subject to the terms of the repayment agreement.

(b) EXISTING PROJECTS AND FACILITIES.—Nothing in this title affects the title of—

(1) reclamation projects authorized prior to the date of enactment of this Act;

(2) works supplemental to existing reclamation projects; or

(3) works constructed to rehabilitate existing reclamation projects.

SEC. 208. WATER RIGHTS.

(a) IN GENERAL.—Nothing in this title preempts or affects State water law or an interstate compact governing water.

(b) COMPLIANCE REQUIRED.—The Secretary shall comply with State water laws in carrying out this title. Nothing in this title affects or preempts State water law or an interstate compact governing water.

SEC. 209. INTERAGENCY COORDINATION AND COOPERATION.

(a) CONSULTATION.—The Secretary shall consult with the Secretary of Agriculture before promulgating criteria with respect to financial appraisal functions and loan guarantee administration for activities carried out under this title.

(b) MEMORANDUM OF AGREEMENT.—The Secretary and the Secretary of Agriculture may enter into a memorandum of agreement providing for Department of Agriculture financial appraisal functions and loan guarantee administration for activities carried out under this title.

SEC. 210. RECORDS; AUDITS.

(a) IN GENERAL.—A recipient of a loan guarantee shall keep such records and other pertinent documents as the Secretary shall prescribe by regulation, including such records as the Secretary may require to facilitate an effective audit.

(b) ACCESS.—The Secretary and the Comptroller General of the United States, or their duly authorized representatives, shall have access, for the purpose of audit, to the records and other pertinent documents.

SEC. 211. FULL FAITH AND CREDIT.

The full faith and credit of the United States is pledged to the payment of all guarantees issued under this section with respect to principal and interest.

SEC. 212. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this title, to remain available until expended.

The committee amendment in the nature of a substitute was agreed to.

The bill (S. 895), as amended, was read the third time and passed.

STAR-SPANGLED BANNER NATIONAL HISTORIC TRAIL ACT

The Senate proceeded to consider the bill (S. 958) to amend the National Trails System Act to designate the Star-Spangled Banner Trail in the State of Maryland and Virginia and the District of Columbia as a National Historic Trail, which had been reported from the Committee on Energy and Natural Resources, with amendments, as follows:

[Strike the parts shown in black brackets and insert the parts shown in italic.]

S. 958

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 ''Star-Spangled Banner National Historic Trail Act''.

SEC. 2. AUTHORIZATION AND ADMINISTRATION OF TRAIL.

Section 5(a) of the National Trails System Act (16 U.S.C. 1244(a)) is amended by adding at the end the following:

''(25) STAR-SPANGLED BANNER NATIONAL HISTORIC TRAIL.—

[''(A) IN GENERAL.—**The Star-Spangled Banner National Historic Trail (referred to in this paragraph as the 'trail'), an approximately 290-mile long trail extending from southern]**

''(A) IN GENERAL.—The Star-Spangled Banner National Historic Trail, a trail consisting of water and overland routes totaling approximately 290 miles extending from southern Maryland through the District of Columbia and Virginia, and north to Baltimore, Maryland, commemorating the Chesapeake Campaign of the War of 1812 (including the British invasion of Washington, District of Columbia, and its associated feints and the Battle of Baltimore in summer 1814), as generally depicted on the maps contained in the **[**draft**]** report entitled 'Star-Spangled Banner National Historic Trail Feasibility Study and Environmental Impact Statement', and dated March 2004.

''(B) MAP.—A map generally depicting the trail shall be maintained on file and available for public inspection in the appropriate offices of the National Park Service.

''(C) ADMINISTRATION.—Subject to subparagraph (E)(ii), the trail shall be administered by the Secretary of the Interior.

''(D) LAND ACQUISITION.—No land or interest in land outside the exterior boundaries of any federally administered area may be acquired by the United States for the trail except with the consent of the owner of the land or interest in land.

''(E) PUBLIC PARTICIPATION.—The Secretary of the Interior shall—

''(i) encourage communities, owners of land along the trail, and volunteer trail groups to participate in the planning, development, and maintenance of the trail; and

''(ii) consult with other affected landowners and Federal, State, and local agencies in the administration of the trail.

''(F) INTERPRETATION AND ASSISTANCE.—Subject to the availability of appropriations, the Secretary of the Interior may provide to State and local governments and nonprofit organizations interpretive programs and services and, through Fort McHenry National Monument and Shrine, technical assistance, for use in carrying out preservation and development of, and education relating to the War of 1812 along, the trail.''.

The committee amendments were agreed to.

The bill (S. 958), as amended, was read the third time and passed, as follows:

S. 958

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 ''Star-Spangled Banner National Historic Trail Act''.

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ACADIA NATIONAL PARK IMPROVEMENT ACT OF 2005

The Senate proceeded to consider the bill (S. 1154) to extend the Acadia National Park Advisory Commission, to provide improved visitor services at the park, and for other purposes, which had been reported from the Committee on Energy and Natural Resources, with amendments, as follows:

[Strike the parts shown in black brackets and insert the parts shown in italic.]

S. 1154

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 ''Acadia National Park Improvement Act of 2005''.

SEC. 2. EXTENSION OF ACADIA NATIONAL PARK ADVISORY COMMISSION.

Section 103(f) of Public Law 99–420 (16 U.S.C. 341 note) is amended by striking ''20'' and inserting ''40''.

SEC. 3. INCREASE IN LAND ACQUISITION CEILING.

Section 106(a) of Public Law 99–420 (16 U.S.C. 341 note) is amended by striking ''$9,100,000'' and inserting ''$28,000,000''.

SEC. 4. INTERMODAL TRANSPORTATION CENTER.

Title I of Public Law 99–420 (16 U.S.C. 341 note) is amended by adding at the end the following new section:

''SEC. 108. INTERMODAL TRANSPORTATION CENTER.

''(a) IN GENERAL.—The Secretary **[**shall**]** *may* provide assistance in the planning, construction, and operation of an intermodal transportation center located outside of the

boundary of the Park in the town of Trenton, Maine to improve the management, interpretation, and visitor enjoyment of the Park.

''(b) AGREEMENTS.—To carry out subsection (a), in administering the intermodal transportation center, the Secretary may enter into interagency agreements with other Federal agencies, and cooperative agreements, under appropriate terms and conditions, with State and local agencies, and nonprofit organizations—

''(1) to provide exhibits, interpretive services (including employing individuals to provide such services), and technical assistance;

''(2) to conduct activities that facilitate the dissemination of information relating to the Park and the Island Explorer transit system *or any successor transit system*;

''(3) to provide financial assistance for the construction of the intermodal transportation center in exchange for space in the center that is sufficient to interpret the Park; and

''(4) to assist with the operation and maintenance of the intermodal transportation center.

''(c) AUTHORIZATION OF APPROPRIATIONS.—

''(1) IN GENERAL.—There are authorized to be appropriated to the Secretary such sums as are necessary to carry out this section (including planning, design and construction of the intermodal transportation center).

''(2) OPERATIONS AND MAINTENANCE.—There are authorized to be appropriated such sums as are necessary to maintain and operate the intermodal transportation center.''.

The committee amendments were agreed to.

The bill (S. 1154), as amended, was read the third time and passed, as follows:

S. 1154

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

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''(1) to provide exhibits, interpretive services (including employing individuals to provide such services), and technical assistance;

''(2) to conduct activities that facilitate the dissemination of information relating to the Park and the Island Explorer transit system or any successor transit system;

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''(1) IN GENERAL.—There are authorized to be appropriated to the Secretary such sums as are necessary to carry out this section (including planning, design and construction of the intermodal transportation center).

''(2) OPERATIONS AND MAINTENANCE.—There are authorized to be appropriated such sums as are necessary to maintain and operate the intermodal transportation center.''.

PUBLIC LANDS CORPS HEALTHY FORESTS RESTORATION ACT OF 2005

The Senate proceeded to consider the bill (S. 1238) to amend the Public Lands Corps Act of 1993 to provide for the conduct of projects that protect forests, and for other purposes, which had been reported from the Committee on Energy and Natural Resources, with amendments, as follows:

[Strike the parts shown in black brackets and insert the parts shown in italic.]

S. 1238

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 Lands Corps Healthy Forests Restoration Act of 2005''.

SEC. 2. AMENDMENTS TO THE PUBLIC LANDS CORPS ACT OF 1993.

(a) DEFINITIONS.—Section 203 of the Public Lands Corps Act of 1993 (16 U.S.C. 1722) is amended—

(1) by redesignating paragraphs (8), (9), (10), and (11) as paragraphs (9), (10), (11), and (13), respectively;

(2) by inserting after paragraph (7) the following:

''(8) PRIORITY PROJECT.—The term 'priority project' means an appropriate conservation project conducted on eligible service lands to further 1 or more of the purposes of the Healthy Forests Restoration Act of 2003 (16 U.S.C. 6501 et seq.), as follows:

''(A) To reduce wildfire risk to a community, municipal water supply, or other at-risk Federal land.

''(B) To protect a watershed or address a threat to forest and rangeland health, including catastrophic wildfire.

''(C) To address the impact of insect or disease infestations or other damaging agents on forest and rangeland health.

''(D) To protect, restore, or enhance forest ecosystem components to—

''(i) promote the recovery of threatened or endangered species;

''(ii) improve biological diversity; or

''(iii) enhance productivity and carbon sequestration.''; and

(3) by inserting after paragraph (11) (as redesignated by paragraph (1)) the following:

''(12) SECRETARY.—The term 'Secretary' means—

''(A) with respect to National Forest System land, the Secretary of Agriculture; and

''(B) with respect to Indian lands, Hawaiian home lands, or land administered by the Department of the Interior, the Secretary of the Interior.''.

(b) QUALIFIED YOUTH OR CONSERVATION CORPS.—Section 204(c) of the Public Lands Corps Act of 1993 (16 U.S.C. 1723(c)) is amended—

(1) by striking ''The Secretary of the Interior and the Secretary of Agriculture are'' and inserting the following:

''(1) IN GENERAL.—The Secretary is''; and

(2) by adding at the end the following:

''(2) PREFERENCE.—

''(A) IN GENERAL.—For purposes of entering into contracts and cooperative agreements under paragraph (1), the Secretary may give preference to qualified youth or conservation corps located in a specific area that have a substantial portion of members who are economically, physically, or educationally disadvantaged to carry out projects within the area.

''(B) PRIORITY PROJECTS.—In carrying out priority projects in a specific area, the Secretary shall, to the maximum extent practicable, give preference to qualified youth or conservation corps located in that specific area that have a substantial portion of members who are economically, physically, or educationally disadvantaged.''.

(c) CONSERVATION PROJECTS.—Section 204(d) of the Public Lands Corps Act of 1993 (16 U.S.C. 1723(d)) is amended—

(1) in the first sentence—

(A) by striking ''The Secretary of the Interior and the Secretary of Agriculture may each'' and inserting the following:

''(1) IN GENERAL.—The Secretary may''; and

(B) by striking ''such Secretary'' and inserting ''the Secretary'';

(2) in the second sentence, by striking ''Appropriate conservation'' and inserting the following:

''(2) PROJECTS ON INDIAN LANDS.—Appropriate conservation''; and

(3) by striking the third sentence and inserting the following:

''(3) DISASTER PREVENTION OR RELIEF PROJECTS.—The Secretary may authorize appropriate conservation projects and other appropriate projects to be carried out on Federal, State, local, or private land as part of a Federal disaster prevention or relief effort.''.

(d) CONSERVATION CENTERS AND PROGRAM SUPPORT.—Section 205 of the Public Lands Corps Act of 1993 (16 U.S.C. 1724) is amended—

(1) by striking the heading and inserting the following:

''SEC. 205. CONSERVATION CENTERS AND PROGRAM SUPPORT.'';

(2) by striking subsection (a) and inserting the following:

''(a) ESTABLISHMENT AND USE.—

''(1) IN GENERAL.—The Secretary may establish and use conservation centers owned and operated by the Secretary for—

''(A) use by the Public Lands Corps; and

''(B) the conduct of appropriate conservation projects under this title.

''(2) ASSISTANCE FOR CONSERVATION CENTERS.—The Secretary may provide to a conservation center established under paragraph (1) any services, facilities, equipment, and supplies that the Secretary determines to be necessary for the conservation center.

''(3) STANDARDS FOR CONSERVATION CENTERS.—The Secretary shall—

''(A) establish basic standards of health, nutrition, sanitation, and safety for all conservation centers established under paragraph (1); and

''(B) ensure that the standards established under subparagraph (A) are enforced.

''(4) MANAGEMENT.—As the Secretary determines to be appropriate, the Secretary may enter into a contract or other appropriate arrangement with a State or local government agency or private organization to provide for the management of a conservation center.''; and

(3) by adding at the end the following:

''(d) ASSISTANCE.—The Secretary may provide any services, facilities, equipment, supplies, technical assistance, oversight, monitoring, or evaluations that are appropriate to carry out this title.''.

(e) LIVING ALLOWANCES AND TERMS OF SERVICE.—Section 207 of the Public Lands Corps Act of 1993 (16 U.S.C. 1726) is amended—

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

''(a) LIVING ALLOWANCES.—The Secretary shall provide each participant in the Public Lands Corps and each resource assistant with a living allowance in an amount established by the Secretary.''; and

(2) by adding at the end the following:

''(c) HIRING.—The Secretary may—

''(1) grant to a member of the Public Lands Corps credit for time served with the Public Lands Corps, which may be used toward future Federal hiring; and

''(2) provide to a former member of the Public Lands Corps noncompetitive hiring status for a period of not more than 120 days after the date on which the member's service with the Public Lands Corps is complete.''.

(f) FUNDING.—The Public Lands Corps Act of 1993 is amended—

(1) in section 210 (16 U.S.C. 1729), by adding at the end the following:

''(c) OTHER FUNDS.—Amounts appropriated pursuant to the authorization of appropriations under section 211 are in addition to amounts allocated to the Public Lands Corps through other Federal programs or projects.''; and

(2) by inserting after section 210 the following:

''SEC. 211. AUTHORIZATION OF APPROPRIATIONS.

''(a) IN GENERAL.—There is authorized to be appropriated to carry out this title $15,000,000 for each fiscal year, of which $10,000,000 is authorized to carry out priority projects.

''(b) DISASTER RELIEF OR PREVENTION PROJECTS.—Notwithstanding subsection (a), any amounts made available under that subsection shall be available for disaster prevention or relief projects.

❙(b)❙ *(c)* AVAILABILITY OF FUNDS.—Notwithstanding any other provision of law, amounts appropriated for any fiscal year to carry out this title shall remain available for obligation and expenditure until the end of the fiscal year following the fiscal year for which the amounts are appropriated.''.

(g) CONFORMING AMENDMENTS.—The Public Lands Corps Act of 1993 is amended—

(1) in section 204 (16 U.S.C. 1723)—

(A) in subsection (b)—

(i) in the first sentence, by striking ''Secretary of the Interior or the Secretary of Agriculture'' and inserting ''Secretary'';

(ii) in the third sentence, by striking ''Secretaries'' and inserting ''Secretary''; and

(iii) in the fourth sentence, by striking ''Secretaries'' and inserting ''Secretary''; and

(B) in subsection (e), by striking ''Secretary of the Interior and the Secretary of Agriculture'' and inserting ''Secretary'';

(2) in section 205 (16 U.S.C. 1724)—

(A) in subsection (b), by striking ''Secretary of the Interior and the Secretary of Agriculture'' and inserting ''Secretary''; and

(B) in subsection (c), by striking ''Secretary of the Interior and the Secretary of Agriculture'' and inserting ''Secretary'';

(3) in section 206 (16 U.S.C. 1725)—

(A) in subsection (a)—

(i) in the first sentence—

(I) by striking ''Secretary of the Interior and the Secretary of Agriculture are each'' and inserting ''Secretary is''; and

(II) by striking ''such Secretary'' and inserting ''the Secretary'';

(ii) in the third sentence, by striking ''Secretaries'' and inserting ''Secretary''; and

(iii) in the fourth sentence, by striking ''Secretaries'' and inserting ''Secretary''; and

(B) in the first sentence of subsection (b), by striking ''Secretary of the Interior or the Secretary of Agriculture'' and inserting ''the Secretary''; and

(4) in section 210 (16 U.S.C. 1729)—

(A) in subsection (a)—

(i) in paragraph (1), by striking ''Secretary of the Interior and the Secretary of Agriculture are each'' and inserting ''Secretary is''; and

(ii) in paragraph (2), by striking ''Secretary of the Interior and the Secretary of Agriculture are each'' and inserting ''Secretary is''; and

(B) in subsection (b), by striking ''Secretary of the Interior and the Secretary of Agriculture'' and inserting ''Secretary''.

The committee amendments were agreed to.

The amendment (No. 2591) was agreed to, as follows:

(Purpose: To modify the authorization of appropriations)

On page 8, line 15, strike ''$15,000,000'' and insert ''$12,000,000''.

On page 8, line 16, strike ''$10,000,000'' and insert ''$8,000,000''.

On page 8, line 17, after ''projects'' insert the following: ''and $4,000,000 of which is authorized to carry out other appropriate conservation projects''.

The bill (S. 1238), as amended, was read the third time and passed, as follows:

S. 1238

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 Lands Corps Healthy Forests Restoration Act of 2005''.

SEC. 2. AMENDMENTS TO THE PUBLIC LANDS CORPS ACT OF 1993.

(a) DEFINITIONS.—Section 203 of the Public Lands Corps Act of 1993 (16 U.S.C. 1722) is amended—

(1) by redesignating paragraphs (8), (9), (10), and (11) as paragraphs (9), (10), (11), and (13), respectively;

(2) by inserting after paragraph (7) the following:

''(8) PRIORITY PROJECT.—The term 'priority project' means an appropriate conservation project conducted on eligible service lands to further 1 or more of the purposes of the Healthy Forests Restoration Act of 2003 (16 U.S.C. 6501 et seq.), as follows:

''(A) To reduce wildfire risk to a community, municipal water supply, or other at-risk Federal land.

''(B) To protect a watershed or address a threat to forest and rangeland health, including catastrophic wildfire.

''(C) To address the impact of insect or disease infestations or other damaging agents on forest and rangeland health.

''(D) To protect, restore, or enhance forest ecosystem components to—

''(i) promote the recovery of threatened or endangered species;

''(ii) improve biological diversity; or

''(iii) enhance productivity and carbon sequestration.''; and

(3) by inserting after paragraph (11) (as redesignated by paragraph (1)) the following:

''(12) SECRETARY.—The term 'Secretary' means—

''(A) with respect to National Forest System land, the Secretary of Agriculture; and

''(B) with respect to Indian lands, Hawaiian home lands, or land administered by the Department of the Interior, the Secretary of the Interior.''.

(b) QUALIFIED YOUTH OR CONSERVATION CORPS.—Section 204(c) of the Public Lands Corps Act of 1993 (16 U.S.C. 1723(c)) is amended—

(1) by striking ''The Secretary of the Interior and the Secretary of Agriculture are'' and inserting the following:

''(1) IN GENERAL.—The Secretary is''; and

(2) by adding at the end the following:

''(2) PREFERENCE.—

''(A) IN GENERAL.—For purposes of entering into contracts and cooperative agreements under paragraph (1), the Secretary may give preference to qualified youth or conservation corps located in a specific area that have a substantial portion of members who are economically, physically, or educationally disadvantaged to carry out projects within the area.

''(B) PRIORITY PROJECTS.—In carrying out priority projects in a specific area, the Secretary shall, to the maximum extent practicable, give preference to qualified youth or conservation corps located in that specific area that have a substantial portion of members who are economically, physically, or educationally disadvantaged.''.

(c) CONSERVATION PROJECTS.—Section 204(d) of the Public Lands Corps Act of 1993 (16 U.S.C. 1723(d)) is amended—

(1) in the first sentence—

(A) by striking ''The Secretary of the Interior and the Secretary of Agriculture may each'' and inserting the following:

''(1) IN GENERAL.—The Secretary may''; and

(B) by striking ''such Secretary'' and inserting ''the Secretary'';

(2) in the second sentence, by striking ''Appropriate conservation'' and inserting the following:

''(2) PROJECTS ON INDIAN LANDS.—Appropriate conservation''; and

(3) by striking the third sentence and inserting the following:

''(3) DISASTER PREVENTION OR RELIEF PROJECTS.—The Secretary may authorize appropriate conservation projects and other appropriate projects to be carried out on Federal, State, local, or private land as part of a Federal disaster prevention or relief effort.''.

(d) CONSERVATION CENTERS AND PROGRAM SUPPORT.—Section 205 of the Public Lands Corps Act of 1993 (16 U.S.C. 1724) is amended—

(1) by striking the heading and inserting the following:

''SEC. 205. CONSERVATION CENTERS AND PROGRAM SUPPORT.'';

(2) by striking subsection (a) and inserting the following:

''(a) ESTABLISHMENT AND USE.—

''(1) IN GENERAL.—The Secretary may establish and use conservation centers owned and operated by the Secretary for—

''(A) use by the Public Lands Corps; and

''(B) the conduct of appropriate conservation projects under this title.

''(2) ASSISTANCE FOR CONSERVATION CENTERS.—The Secretary may provide to a conservation center established under paragraph (1) any services, facilities, equipment, and supplies that the Secretary determines to be necessary for the conservation center.

''(3) STANDARDS FOR CONSERVATION CENTERS.—The Secretary shall—

''(A) establish basic standards of health, nutrition, sanitation, and safety for all conservation centers established under paragraph (1); and

''(B) ensure that the standards established under subparagraph (A) are enforced.

''(4) MANAGEMENT.—As the Secretary determines to be appropriate, the Secretary

may enter into a contract or other appropriate arrangement with a State or local government agency or private organization to provide for the management of a conservation center.''; and

(3) by adding at the end the following:

''(d) ASSISTANCE.—The Secretary may provide any services, facilities, equipment, supplies, technical assistance, oversight, monitoring, or evaluations that are appropriate to carry out this title.''.

(e) LIVING ALLOWANCES AND TERMS OF SERVICE.—Section 207 of the Public Lands Corps Act of 1993 (16 U.S.C. 1726) is amended—

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

''(a) LIVING ALLOWANCES.—The Secretary shall provide each participant in the Public Lands Corps and each resource assistant with a living allowance in an amount established by the Secretary.''; and

(2) by adding at the end the following:

''(c) HIRING.—The Secretary may—

''(1) grant to a member of the Public Lands Corps credit for time served with the Public Lands Corps, which may be used toward future Federal hiring; and

''(2) provide to a former member of the Public Lands Corps noncompetitive hiring status for a period of not more than 120 days after the date on which the member's service with the Public Lands Corps is complete.''.

(f) FUNDING.—The Public Lands Corps Act of 1993 is amended—

(1) in section 210 (16 U.S.C. 1729), by adding at the end the following:

''(c) OTHER FUNDS.—Amounts appropriated pursuant to the authorization of appropriations under section 211 are in addition to amounts allocated to the Public Lands Corps through other Federal programs or projects.''; and

(2) by inserting after section 210 the following:

''SEC. 211. AUTHORIZATION OF APPROPRIATIONS.

''(a) IN GENERAL.—There is authorized to be appropriated to carry out this title $12,000,000 for each fiscal year, of which $8,000,000 is authorized to carry out priority projects and $4,000,000 of which is authorized to carry out other appropriate conservation projects.

''(b) DISASTER RELIEF OR PREVENTION PROJECTS.—Notwithstanding subsection (a), any amounts made available under that subsection shall be available for disaster prevention or relief projects.

''*(c)* AVAILABILITY OF FUNDS.—Notwithstanding any other provision of law, amounts appropriated for any fiscal year to carry out this title shall remain available for obligation and expenditure until the end of the fiscal year following the fiscal year for which the amounts are appropriated.''.

(g) CONFORMING AMENDMENTS.—The Public Lands Corps Act of 1993 is amended—

(1) in section 204 (16 U.S.C. 1723)—

(A) in subsection (b)—

(i) in the first sentence, by striking ''Secretary of the Interior or the Secretary of Agriculture'' and inserting ''Secretary'';

(ii) in the third sentence, by striking ''Secretaries'' and inserting ''Secretary''; and

(iii) in the fourth sentence, by striking ''Secretaries'' and inserting ''Secretary''; and

(B) in subsection (e), by striking ''Secretary of the Interior and the Secretary of Agriculture'' and inserting ''Secretary'';

(2) in section 205 (16 U.S.C. 1724)—

(A) in subsection (b), by striking ''Secretary of the Interior and the Secretary of Agriculture'' and inserting ''Secretary''; and

(B) in subsection (c), by striking ''Secretary of the Interior and the Secretary of Agriculture'' and inserting ''Secretary'';

(3) in section 206 (16 U.S.C. 1725)—

(A) in subsection (a)—

(i) in the first sentence—

(I) by striking ''Secretary of the Interior and the Secretary of Agriculture are each'' and inserting ''Secretary is''; and

(II) by striking ''such Secretary'' and inserting ''the Secretary'';

(ii) in the third sentence, by striking ''Secretaries'' and inserting ''Secretary''; and

(iii) in the fourth sentence, by striking ''Secretaries'' and inserting ''Secretary''; and

(B) in the first sentence of subsection (b), by striking ''Secretary of the Interior or the Secretary of Agriculture'' and inserting ''the Secretary''; and

(4) in section 210 (16 U.S.C. 1729)—

(A) in subsection (a)—

(i) in paragraph (1), by striking ''Secretary of the Interior and the Secretary of Agriculture are each'' and inserting ''Secretary is''; and

(ii) in paragraph (2), by striking ''Secretary of the Interior and the Secretary of Agriculture are each'' and inserting ''Secretary is''; and

(B) in subsection (b), by striking ''Secretary of the Interior and the Secretary of Agriculture'' and inserting ''Secretary''.

DELAWARE NATIONAL COASTAL SPECIAL RESOURCES STUDY ACT

The bill (S. 1627) to authorize the Secretary of the Interior to conduct a special resources study to evaluate resources along the coastal region of the State of Delaware and to determine the suitability and feasibility of establishing a unit of the National Park System in Delaware, was read the third time and passed; as follows:

S. 1627

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 ''Delaware National Coastal Special Resources Study Act''.

SEC. 2. STUDY.

(a) IN GENERAL.—The Secretary of the Interior (referred to in this Act as the ''Secretary'') shall conduct a special resources study of the national significance, suitability, and feasibility of including sites in the coastal region of the State of Delaware in the National Park System.

(b) INCLUSION OF SITES IN THE NATIONAL PARK SYSTEM.—The study under subsection (a) shall include an analysis and any recommendations of the Secretary concerning the suitability and feasibility of designating 1 or more of the sites along the Delaware coast, including Fort Christina, as a unit of the National Park System that relates to the themes described in section 3.

(c) STUDY GUIDELINES.—In conducting the study authorized under subsection (a), the Secretary shall use the criteria for the study of areas for potential inclusion in the National Park System contained in section 8 of Public Law 91–383 (16 U.S.C. 1a–5).

(d) CONSULTATION.—In preparing and conducting the study under subsection (a), the Secretary shall consult with—

(1) the State of Delaware;

(2) the coastal region communities; and

(3) the general public.

SEC. 3. THEMES.

The study authorized under section 2 shall evaluate sites along the coastal region of the State of Delaware that relate to—

(1) the history of indigenous peoples, which would explore the history of Native American tribes of Delaware, such as the Nanticoke and Lenni Lenape;

(2) the colonization and establishment of the frontier, which would chronicle the first European settlers in the Delaware Valley who built fortifications for the protection of settlers, such as Fort Christina;

(3) the founding of a nation, which would document the contributions of Delaware to the development of our constitutional republic;

(4) industrial development, which would investigate the exploitation of water power in Delaware with the mill development on the Brandywine River;

(5) transportation, which would explore how water served as the main transportation link, connecting Colonial Delaware with England, Europe, and other colonies;

(6) coastal defense, which would document the collection of fortifications spaced along the river and bay from Fort Delaware on Pea Patch Island to Fort Miles near Lewes;

(7) the last stop to freedom, which would detail the role Delaware has played in the history of the Underground Railroad network; and

(8) the coastal environment, which would examine natural resources of Delaware that provide resource-based recreational opportunities such as crabbing, fishing, swimming, and boating.

SEC. 4. REPORT.

Not later than 1 year after funds are made available to carry out this Act under section 5, the Secretary shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives a report containing the findings, conclusions, and recommendations of the study conducted under section 2.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

FREE ROAMING HORSES IN THE CAPE LOOKOUT NATIONAL SEASHORE

The bill (H.R. 126) to amend Public Law 89–366 to allow for an adjustment in the number of free roaming horses permitted in Cape Lookout National Seashore, was read the third time and passed.

CARIBBEAN NATIONAL FOREST ACT OF 2005

The bill (H.R. 539) to designate certain National Forest System land in the Commonwealth of Puerto Rico as components of the National Wilderness Preservation System, was read the third time and passed.

DEPARTMENT OF THE INTERIOR VOLUNTEER RECRUITMENT ACT OF 2005

The bill (H.R. 584) to authorize the Secretary of the Interior to recruit volunteers to assist with, or facilitate, the activities of various agencies and offices of the Department of the Interior, was read the third time and passed.

ANGEL ISLAND IMMIGRATION STATION RESTORATION AND PRESERVATION ACT

The bill (H.R. 606) to authorize appropriations to the Secretary of the Interior for the restoration of the Angel Island Immigration Station in the State of California, was read the third time and passed.

NATIONAL GEOLOGIC MAPPING REAUTHORIZATION ACT OF 2005

The bill (S. 485) to reauthorize and amend the National Geologic Mapping Act of 1992.

The amendment (No. 2592) was agreed to, as follows:

(Purpose: To extend the authorization of appropriations for the National Geologic Mapping Act of 1992)

On page 7, line 11, strike ''2010'' and insert ''2015''.

The bill (S. 485), as amended, was read the third time and passed, as follows:

S. 485

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''National Geologic Mapping Reauthorization Act of 2005''.

SEC. 2. FINDINGS.

Section 2(a) of the National Geologic Mapping Act of 1992 (43 U.S.C. 31a(a)) is amended—

(1) by striking paragraph (1) and inserting the following:

''(1) although significant progress has been made in the production of geologic maps since the establishment of the national cooperative geologic mapping program in 1992, no modern, digital, geologic map exists for approximately 75 percent of the United States;''; and

(2) in paragraph (2)—

(A) in subparagraph (C), by inserting ''homeland and'' after ''planning for'';

(B) in subparagraph (E), by striking ''predicting'' and inserting ''identifying'';

(C) in subparagraph (I), by striking ''and'' after the semicolon at the end;

(D) by redesignating subparagraph (J) as subparagraph (K); and

(E) by inserting after subparagraph (I) the following:

''(J) recreation and public awareness; and''; and

(3) in paragraph (9), by striking ''important'' and inserting ''available''.

SEC. 3. PURPOSE.

Section 2(b) of the National Geologic Mapping Act of 1992 (43 U.S.C. 31a(b)) is amended by inserting ''and management'' before the period at the end.

SEC. 4. DEADLINES FOR ACTIONS BY THE UNITED STATES GEOLOGICAL SURVEY.

Section 4(b)(1) of the National Geologic Mapping Act of 1992 (43 U.S.C. 31c(b)(1)) is amended in the second sentence—

(1) in subparagraph (A), by striking ''not later than'' and all that follows through the semicolon and inserting ''not later than 1 year after the date of enactment of the National Geologic Mapping Reauthorization Act of 2005;'';

(2) in subparagraph (B), by striking ''not later than'' and all that follows through ''in accordance'' and inserting ''not later than 1 year after the date of enactment of the National Geologic Mapping Reauthorization Act of 2005 in accordance''; and

(3) in the matter preceding clause (i) of subparagraph (C), by striking ''not later than'' and all that follows through ''submit'' and inserting ''submit biennially''.

SEC. 5. GEOLOGIC MAPPING PROGRAM OBJECTIVES.

Section 4(c)(2) of the National Geologic Mapping Act of 1992 (43 U.S.C. 31c(c)(2)) is amended—

(1) by striking ''geophysical-map data base, geochemical-map data base, and a''; and

(2) by striking ''provide'' and inserting ''provides''.

SEC. 6. GEOLOGIC MAPPING PROGRAM COMPONENTS.

Section 4(d)(1)(B)(ii) of the National Geologic Mapping Act of 1992 (43 U.S.C. 31c(d)(1)(B)(ii)) is amended—

(1) in subclause (I), by striking ''and'' after the semicolon at the end;

(2) in subclause (II), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(III) the needs of land management agencies of the Department of the Interior.''.

SEC. 7. GEOLOGIC MAPPING ADVISORY COMMITTEE.

(a) MEMBERSHIP.—Section 5(a) of the National Geologic Mapping Act of 1992 (43 U.S.C. 31d(a)) is amended—

(1) in paragraph (2)—

(A) by inserting ''the Secretary of the Interior or a designee from a land management agency of the Department of the Interior,'' after ''Administrator of the Environmental Protection Agency or a designee,'';

(B) by inserting ''and'' after ''Energy or a designee,''; and

(C) by striking '', and the Assistant to the President for Science and Technology or a designee''; and

(2) in paragraph (3)—

(A) by striking ''Not later than'' and all that follows through ''consultation'' and inserting ''In consultation'';

(B) by striking ''Chief Geologist, as Chairman'' and inserting ''Associate Director for Geology, as Chair''; and

(C) by striking ''one representative from the private sector'' and inserting ''2 representatives from the private sector''.

(b) DUTIES.—Section 5(b) of the National Geologic Mapping Act of 1992 (43 U.S.C. 31d(b)) is amended—

(1) in paragraph (2), by striking ''and'' at the end;

(2) by redesignating paragraph (3) as paragraph (4); and

(3) by inserting after paragraph (2) the following:

''(3) provide a scientific overview of geologic maps (including maps of geologic-based hazards) used or disseminated by Federal agencies for regulation or land-use planning; and''.

(c) CONFORMING AMENDMENT.—Section 5(a)(1) of the National Geologic Mapping Act of 1992 (43 U.S.C. 31d(a)(1)) is amended by striking ''10-member'' and inserting ''11-member''.

SEC. 8. FUNCTIONS OF NATIONAL GEOLOGIC-MAP DATABASE.

Section 7(a) of the National Geologic Mapping Act of 1992 (43 U.S.C. 31f(a)) is amended—

(1) in paragraph (1), by striking ''geologic map'' and inserting ''geologic-map''; and

(2) in paragraph (2), by striking subparagraph (A) and inserting the following:

''(A) all maps developed with funding provided by the National Cooperative Geologic Mapping Program, including under the Federal, State, and education components;''.

SEC. 9. BIENNIAL REPORT.

Section 8 of the National Geologic Mapping Act of 1992 (43 U.S.C. 31g) is amended by striking ''Not later'' and all that follows through ''biennially'' and inserting ''Not later than 3 years after the date of enactment of the National Geologic Mapping Reauthorization Act of 2005 and biennially''.

SEC. 10. AUTHORIZATION OF APPROPRIATIONS; ALLOCATION.

Section 9 of the National Geologic Mapping Act of 1992 (43 U.S.C. 31h) is amended—

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

''(a) IN GENERAL.—There is authorized to be appropriated to carry out this Act $64,000,000 for each of fiscal years 2006 through 2015.''; and

(2) in subsection (b)—

(A) in the matter preceding paragraph (1), by striking ''2000'' and inserting ''2005'';

(B) in paragraph (1), by striking ''48'' and inserting ''50''; and

(C) in paragraph (2), by striking 2 and inserting ''4''.

MORLEY NELSON SNAKE RIVER BIRDS OF PREY NATIONAL CONSERVATION AREA ACT

The bill (S. 761) to rename the Snake River Birds of Prey National Conservation Area in the State of Idaho as the Morley Nelson Snake River Birds of Prey National Conservation Area in honor of the late Morley Nelson, an international authority on birds of prey, who was instrumental in the establishment of this National Conservation Area, and for other purposes, was read the third time and passed; as follows:

S. 761

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 ''Morley Nelson Snake River Birds of Prey National Conservation Area Act''.

SEC. 2. RENAMING OF SNAKE RIVER BIRDS OF PREY NATIONAL CONSERVATION AREA.

(a) RENAMING.—Public Law 103–64 is amended—

(1) in section 2(2) (16 U.S.C. 460iii–1(2)), by inserting ''Morley Nelson'' before ''Snake River Birds of Prey National Conservation Area''; and

(2) in section 3(a)(1) (16 U.S.C. 460iii–2(a)(1)), by inserting ''Morley Nelson'' before ''Snake River Birds of Prey National Conservation Area''.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the Snake River Birds of Prey National Conservation Area shall be deemed to be a reference to the Morley Nelson Snake River Birds of Prey National Conservation Area.

(c) TECHNICAL CORRECTIONS.—Public Law 103–64 is further amended—

(1) in section 3(a)(1) (16 U.S.C. 460iii–2(a)(1)), by striking ''(hereafter referred to as the 'conservation area')''; and

(2) in section 4 (16 U.S.C. 460iii–3)—

(A) in subsection (a)(2), by striking ''Conservation Area'' and inserting ''conservation area''; and

(B) in subsection (d), by striking ''Visitors Center'' and inserting ''visitors center''.

FORT STANTON-SNOWY RIVER NATIONAL CAVE CONSERVATION AREA ACT

The Senate proceeded to consider the bill (S. 1170) to establish the Fort Stanton-Snowy River National Cave Conservation Area, which had been reported from the Committee on Energy and Natural Resources, with amendments, as follows:

[Strike the parts shown in black brackets and insert the parts shown in italic.]

S. 1170

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 ''Fort Stanton-Snowy River National Cave Conservation Area Act''.

[SEC. 2. DEFINITIONS.

[In this Act:

[(1) CONSERVATION AREA.—The term ''Conservation Area'' means the Fort Stanton-Snowy River National Cave Conservation Area established by section 3(a).

[(2) MANAGEMENT PLAN.—The term ''management plan'' means the management plan developed for the Conservation Area under section 4(c).

[(3) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior, acting through the Director of the Bureau of Land Management.

[SEC. 3. ESTABLISHMENT OF FORT STANTON-SNOWY RIVER NATIONAL CAVE CONSERVATION AREA.

[(a) IN GENERAL.—There is established the Fort Stanton-Snowy River National Cave Conservation Area in Lincoln County, New Mexico, to secure, protect, and conserve subterranean natural and unique features and environs for scientific, educational, and other appropriate public uses.

[(b) BOUNDARIES.—The Conservation Area shall include—

[(1) the minimum subsurface area necessary to provide for the Fort Stanton Cave, including the Snowy River passage in its entirety (which may include other significant caves); and

[(2) the minimum surface acreage, as determined by the Secretary, that is necessary to provide access to the cave entrance.

[(c) MAP AND LEGAL DESCRIPTION.—

[(1) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary shall prepare a map and legal description of the Conservation Area.

[(2) EFFECT.—The map and legal description of the Conservation Area shall have the same force and effect as if included in this Act, except that the Secretary may correct any minor errors in the map and legal description.

[(3) PUBLIC AVAILABILITY.—The map and legal description of the Conservation Area shall be available for public inspection in the appropriate offices of the Bureau of Land Management.

[SEC. 4. ADMINISTRATION OF CONSERVATION AREA.

[(a) IN GENERAL.—The Secretary shall administer the Conservation Area—

[(1) in accordance with the laws (including regulations) applicable to public land and the management plan required by this Act; and

[(2) in a manner that provides for—

[(A) the conservation and protection of the natural and unique features and environs for scientific, educational, and other appropriate public uses of the Conservation Area;

[(B) public access, as appropriate, while providing for the protection of the cave resources and for public safety;

[(C) the continuation of other existing uses and new uses of the Conservation Area that do not substantially impair the purposes for which the Conservation Area is established;

[(D) the protection of new caves within the Conservation Area, such as the Snowy River passage within Fort Stanton Cave;

[(E) the continuation of such uses on the surface acreage as exist under management action in place prior to designation of the Conservation Area by this Act; and

[(F) scientific investigation and research opportunities within the Conservation Area, including through partnerships with colleges, universities, schools, scientific institutions, researchers, and scientists to conduct research and provide educational and interpretive services within the Conservation Area.

[(b) WITHDRAWALS.—Subject to valid existing rights, all Federal surface and subsurface land within the Conservation Area and all land and interests in the surface and subsurface land that are acquired by the United States after the date of enactment of this Act for inclusion in the Conservation Area, are withdrawn from—

[(1) all forms of entry, appropriation, or disposal under the general land laws;

[(2) location, entry, and patent under the mining laws; and

[(3) operation under the mineral leasing and geothermal leasing laws.

[(c) MANAGEMENT PLAN.—

[(1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary shall develop a comprehensive plan for the long-term management of the Conservation Area.

[(2) PURPOSES.—The management plan shall—

[(A) describe the appropriate uses and management of the Conservation Area;

[(B) incorporate, as appropriate, decisions contained in any other management or activity plan for the land within or adjacent to the Conservation Area;

[(C) take into consideration any information developed in studies of the land and resources within or adjacent to the Conservation Area; and

[(D) engage in a cooperative agreement with Lincoln County, New Mexico, to address the historical involvement of the local community in the interpretation and protection of the resources of the Conservation Area.

[(d) ACTIVITIES OUTSIDE CONSERVATION AREA.—

[(1) IN GENERAL.—The fact that an activity or use is not permitted inside the Conservation Area shall not preclude—

[(A) the conduct of the activity on land, or the use of land for the activity, outside the boundary of the Conservation Area, consistent with other applicable laws (including regulations); or

[(B) any activity or use, including new uses, on the surface land above the Conservation Area or on any land appurtenant to that surface land.

[(2) MANAGEMENT.—The surface land described in paragraph (1)(B) shall continue to be managed for multiple uses in accordance with all applicable laws (including regulations).

[(e) RESEARCH AND INTERPRETIVE FACILITIES.—

[(1) IN GENERAL.—The Secretary may establish facilities for—

[(A) the conduct of scientific research; and

[(B) the interpretation of the historical, cultural, scientific, archaeological, natural, and educational resources of the Conservation Area.

[(2) COOPERATIVE AGREEMENTS.—The Secretary may enter into cooperative agreements with the State of New Mexico and other institutions and organizations to carry out the purposes of this Act.

[(f) WATER RIGHTS.—Nothing in this Act constitutes an express or implied reservation of any water right.

[SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

[There are authorized to be appropriated such sums as are necessary to carry out this Act.]

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Fort Stanton-Snowy River National Cave Conservation Area Act''.

SEC. 2. DEFINITIONS.

In this Act:

(1) CONSERVATION AREA.—The term ''Conservation Area'' means the Fort Stanton-Snowy River National Cave Conservation Area established by section 3(a).

(2) MANAGEMENT PLAN.—The term ''management plan'' means the management plan developed for the Conservation Area under section 4(c).

(3) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior, acting through the Director of the Bureau of Land Management.

SEC. 3. ESTABLISHMENT OF FORT STANTON-SNOWY RIVER NATIONAL CAVE CONSERVATION AREA.

(a) IN GENERAL.—There is established the Fort Stanton-Snowy River National Cave Conservation Area in Lincoln County, New Mexico, to secure, protect, and conserve subterranean natural and unique features and environs for scientific, educational, and other appropriate public uses.

(b) BOUNDARIES.—The Conservation Area shall include—

(1) the minimum subsurface area necessary to encompass the ''Ft. Stanton Cave'' and the ''Newly Discovered Cave'', as depicted on the map entitled ''Fort Stanton Cave'' and dated March 29, 2005; and

(2) the minimum surface acreage, as determined by the Secretary, that is necessary to provide access to the cave entrance, but not to exceed 40 acres.

(c) MAP AND LEGAL DESCRIPTION.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary shall establish detailed boundaries and prepare a map and legal description of the Conservation Area that depicts the minimum acreage necessary to encompass the land described in subsection (b), based on the smallest legal subdivision described in not less than 40 acre aliquot parts.

(2) EFFECT.—The map and legal description of the Conservation Area shall have the same force and effect as if included in this Act, except that the Secretary may correct any minor errors in the map and legal description.

(3) PUBLIC AVAILABILITY.—The map and legal description of the Conservation Area shall be available for public inspection in the appropriate offices of the Bureau of Land Management.

SEC. 4. MANAGEMENT OF THE CONSERVATION AREA.

(a) IN GENERAL.—The Secretary shall administer the Conservation Area—

(1) in accordance with the laws (including regulations) applicable to public land and the management plan required by this Act; and

(2) in a manner that provides for—

(A) the conservation and protection of the natural and unique features and environs for scientific, educational, and other appropriate public uses of the Conservation Area;

(B) public access, as appropriate, while providing for the protection of the cave resources and for public safety;

(C) the continuation of other existing uses and new uses of the Conservation Area that do

not substantially impair the purposes for which the Conservation Area is established;

(D) management of the surface area overlying the Conservation Area in accordance with the Fort Stanton Area of Critical Environmental Concern Final Activity Plan dated March, 2001; and

(E) scientific investigation and research opportunities within the Conservation Area, including through partnerships with colleges, universities, schools, scientific institutions, researchers, and scientists to conduct research and provide educational and interpretive services within the Conservation Area.

(b) WITHDRAWALS.—Subject to valid existing rights, all Federal surface and subsurface land within the Conservation Area and all land and interests in the surface and subsurface land that are acquired by the United States after the date of enactment of this Act for inclusion in the Conservation Area, are withdrawn from—

(1) all forms of entry, appropriation, or disposal under the general land laws;

(2) location, entry, and patent under the mining laws; and

(3) operation under the mineral leasing and geothermal leasing laws.

(c) MANAGEMENT PLAN.—

(1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary shall develop a comprehensive plan for the long-term management of the Conservation Area.

(2) PURPOSES.—The management plan shall—

(A) describe the appropriate uses and management of the Conservation Area;

(B) incorporate, as appropriate, decisions contained in any other management or activity plan for the land within or adjacent to the Conservation Area;

(C) take into consideration any information developed in studies of the land and resources within or adjacent to the Conservation Area; and

(D) provide for a cooperative agreement with Lincoln County, New Mexico, to address the historical involvement of the local community in the interpretation and protection of the resources of the Conservation Area.

(d) ACTIVITIES OUTSIDE CONSERVATION AREA.—The establishment of the Conservation Area shall not—

(1) create a protective perimeter or buffer zone around the Conservation Area; or

(2) preclude uses or activities outside the Conservation Area that are permitted under other applicable laws, even if the uses or activities are prohibited within the Conservation Area.

(e) RESEARCH AND INTERPRETIVE FACILITIES.—

(1) IN GENERAL.—The Secretary may establish facilities for—

(A) the conduct of scientific research; and

(B) the interpretation of the historical, cultural, scientific, archaeological, natural, and educational resources of the Conservation Area.

(2) COOPERATIVE AGREEMENTS.—The Secretary may enter into cooperative agreements with the State of New Mexico and other institutions and organizations to carry out the purposes of this Act.

(f) WATER RIGHTS.—Nothing in this Act constitutes an express or implied reservation of any water right.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

The amendment (No. 2593) was agreed to, as follows:

(Purpose: To provide a complete substitute)

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Fort Stanton-Snowy River Cave National Conservation Area Act''.

SEC. 2. DEFINITIONS.

In this Act:

(1) CONSERVATION AREA.—The term ''Conservation Area'' means the Fort Stanton-Snowy River Cave National Conservation Area established by section 3(a).

(2) MANAGEMENT PLAN.—The term ''management plan'' means the management plan developed for the Conservation Area under section 4(c).

(3) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior, acting through the Director of the Bureau of Land Management.

SEC. 3. ESTABLISHMENT OF FORT STANTON-SNOWY RIVER CAVE NATIONAL CONSERVATION AREA.

(a) ESTABLISHMENT; PURPOSES.—There is established the Fort Stanton–Snowy River Cave National Conservation Area in Lincoln County, New Mexico, to protect, conserve, and enhance the unique and nationally important historic, cultural, scientific, archaeological, natural, and educational subterranean cave resources of the Fort Stanton–Snowy River cave system.

(b) AREA INCLUDED.—The Conservation Area shall include the area within the boundaries depicted on the map entitled ''Fort Stanton–Snowy River Cave National Conservation Area'' and dated November 2005.

(c) MAP AND LEGAL DESCRIPTION.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary shall submit to Congress a map and legal description of the Conservation Area.

(2) EFFECT.—The map and legal description of the Conservation Area shall have the same force and effect as if included in this Act, except that the Secretary may correct any minor errors in the map and legal description.

(3) PUBLIC AVAILABILITY.—The map and legal description of the Conservation Area shall be available for public inspection in the appropriate offices of the Bureau of Land Management.

SEC. 4. MANAGEMENT OF THE CONSERVATION AREA.

(a) MANAGEMENT.—

(1) IN GENERAL.—The Secretary shall manage the Conservation Area—

(A) in a manner that conserves, protects, and enhances the resources and values of the Conservation Area, including the resources and values described in section 3(a); and

(B) in accordance with—

(i) this Act;

(ii) the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.); and

(iii) any other applicable laws.

(2) USES.—The Secretary shall only allow uses of the Conservation Area that are consistent with the protection of the cave resources.

(3) REQUIREMENTS.—In administering the Conservation Area, the Secretary shall provide for—

(A) the conservation and protection of the natural and unique features and environs for scientific, educational, and other appropriate public uses of the Conservation Area;

(B) public access, as appropriate, while providing for the protection of the cave resources and for public safety;

(C) the continuation of other existing uses or other new uses of the Conservation Area that do not impair the purposes for which the Conservation Area is established;

(D) management of the surface area of the Conservation Area in accordance with the Fort Stanton Area of Critical Environmental Concern Final Activity Plan dated March, 2001, or any amendments to the plan, consistent with this Act; and

(E) scientific investigation and research opportunities within the Conservation Area, including through partnerships with colleges, universities, schools, scientific institutions, researchers, and scientists to conduct research and provide educational and interpretive services within the Conservation Area.

(b) WITHDRAWALS.—Subject to valid existing rights, all Federal surface and subsurface land within the Conservation Area and all land and interests in the land that are acquired by the United States after the date of enactment of this Act for inclusion in the Conservation Area, are withdrawn from—

(1) all forms of entry, appropriation, or disposal under the general land laws;

(2) location, entry, and patent under the mining laws; and

(3) operation under the mineral leasing and geothermal leasing laws.

(c) MANAGEMENT PLAN.—

(1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary shall develop a comprehensive plan for the long-term management of the Conservation Area.

(2) PURPOSES.—The management plan shall—

(A) describe the appropriate uses and management of the Conservation Area;

(B) incorporate, as appropriate, decisions contained in any other management or activity plan for the land within or adjacent to the Conservation Area;

(C) take into consideration any information developed in studies of the land and resources within or adjacent to the Conservation Area; and

(D) provide for a cooperative agreement with Lincoln County, New Mexico, to address the historical involvement of the local community in the interpretation and protection of the resources of the Conservation Area.

(d) ACTIVITIES OUTSIDE CONSERVATION AREA.—The establishment of the Conservation Area shall not—

(1) create a protective perimeter or buffer zone around the Conservation Area; or

(2) preclude uses or activities outside the Conservation Area that are permitted under other applicable laws, even if the uses or activities are prohibited within the Conservation Area.

(e) RESEARCH AND INTERPRETIVE FACILITIES.—

(1) IN GENERAL.—The Secretary may establish facilities for—

(A) the conduct of scientific research; and

(B) the interpretation of the historical, cultural, scientific, archaeological, natural, and educational resources of the Conservation Area.

(2) COOPERATIVE AGREEMENTS.—The Secretary may, in a manner consistent with this Act, enter into cooperative agreements with the State of New Mexico and other institutions and organizations to carry out the purposes of this Act.

(f) WATER RIGHTS.—Nothing in this Act constitutes an express or implied reservation of any water right.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The amendment (No. 2594) was agreed to, as follows:

Amend the title so as to read: ''To establish the Fort Stanton-Snowy River Cave National Conservation Area''.

The bill (S. 1170), as amended, was read the third time and passed.

DESCHUTES RIVER CONSERVANCY REAUTHORIZATION ACT OF 2005

The bill (S. 166) to amend the Oregon Resource Conservation Act of 1996 to reauthorize the participation of the Bureau of Reclamation in the Deschutes River Conservancy, and for other purposes, was read the third time and passed; as follows:

S. 166

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 ''Deschutes River Conservancy Reauthorization Act of 2005''.

SEC. 2. EXTENSION OF PARTICIPATION OF BUREAU OF RECLAMATION IN DESCHUTES RIVER CONSERVANCY.

Section 301 of the Oregon Resource Conservation Act of 1996 (division B of Public Law 104–208; 110 Stat. 3009–534) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking ''Deschutes River Basin Working Group'' and inserting ''Deschutes River Conservancy Working Group''; and

(B) by striking paragraph (5) and inserting the following:

''(5) QUORUM.—The term 'quorum' means 8 of those qualified Working Group members appointed and eligible to serve.'';

(2) in subsection (b)(3), by inserting before the period at the end the following: '', and up to a total amount of $2,000,000 during each of fiscal years 2006 through 2015''; and

(3) in subsection (h), by inserting before the period at the end the following: '', and $2,000,000 for each of fiscal years 2006 through 2015''.

LITTLE BUTTE/BEAR CREEK SUBBASINS WATER FEASIBILITY ACT

The Senate proceeded to consider the bill (S. 251) to authorize the Secretary of the Interior, acting through the Bureau of Reclamation, to conduct a water resource feasibility study for the Little Butte/Bear Creek Sub-basins in Oregon, which had been reported from the Committee on Energy and Natural Resources, with amendments, as follows:

[Strike the parts shown in black brackets and insert the parts shown in italic.]

S. 251

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

SECTION 1. LITTLE BUTTE/BEAR CREEK SUBBASINS, OREGON, WATER RESOURCE STUDY.

(a) SHORT TITLE.—This section may be cited as the ''Little Butte/Bear Creek Subbasins Water Feasibility Act''.

(b) AUTHORIZATION.—The Secretary of the Interior, acting through the Bureau of Reclamation, may [conduct] participate in the Water for Irrigation, Streams and the Economy Project water management feasibility study and environmental impact statement in accordance with the ''Memorandum of Agreement Between City of Medford and Bureau of Reclamation for the Water for Irrigation, Streams, and the Economy Project'', dated July 2, 2004.

[(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $500,000 to carry out this section.]

(c) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There is authorized to be appropriated to the Bureau of Reclamation $500,000 to carry out activities under this Act.

(2) NON-FEDERAL SHARE.—

(A) IN GENERAL.—The non-Federal share shall be 50 percent of the total costs of the Bureau of Reclamation in carrying out subsection (b).

(B) FORM.—The non-Federal share required under subparagraph (A) may be in the form of any in-kind services that the Secretary of the Interior determines would contribute substantially toward the conduct and completion of the study and environmental impact statement required under subsection (b).

The committee amendments were agreed to.

The bill (S. 251), as amended, was read the third time and passed, as follows:

S. 251

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

SECTION 1. LITTLE BUTTE/BEAR CREEK SUBBASINS, OREGON, WATER RESOURCE STUDY.

(a) SHORT TITLE.—This section may be cited as the ''Little Butte/Bear Creek Subbasins Water Feasibility Act''.

(b) AUTHORIZATION.—The Secretary of the Interior, acting through the Bureau of Reclamation, may participate in the Water for Irrigation, Streams and the Economy Project water management feasibility study and environmental impact statement in accordance with the ''Memorandum of Agreement Between City of Medford and Bureau of Reclamation for the Water for Irrigation, Streams, and the Economy Project'', dated July 2, 2004.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $500,000 to carry out this section.

(1) IN GENERAL.—There is authorized to be appropriated to the Bureau of Reclamation $500,000 to carry out activities under this Act.

(2) NON-FEDERAL SHARE.—

(A) IN GENERAL.—The non-Federal share shall be 50 percent of the total costs of the Bureau of Reclamation in carrying out subsection (b).

(B) FORM.—The non-Federal share required under subparagraph (A) may be in the form of any in-kind services that the Secretary of the Interior determines would contribute substantially toward the conduct and completion of the study and environmental impact statement required under subsection (b).

RIO ARRIBA COUNTY LAND CONVEYANCE ACT

The Senate proceeded to consider the bill (S. 213) to direct the Secretary of the Interior to convey certain Federal land to Rio Arriba County, New Mexico, which had been reported from the Committee on Energy and Natural Resources, with an amendment, as follows:

[Strike the parts shown in black brackets and insert the parts shown in italic.]

S. 213

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 ''Rio Arriba County Land Conveyance Act''.

[SEC. 2. DEFINITIONS.

[In this Act:

[(1) COUNTY.—The term ''County'' means the County of Rio Arriba, New Mexico.

[(2) MAP.—The term ''map'' means the map entitled ''Alcalde Proposed Land Transfer'' and dated September 23, 2004.

[(3) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

[SEC. 3. CONVEYANCE OF LAND TO RIO ARRIBA COUNTY, NEW MEXICO.

[(a) IN GENERAL.—Subject to subsection (c), not later than 1 year after the date of enactment of this Act, the Secretary shall convey to the County, all right, title, and interest of the United States in and to the land (including any improvements to the land) described in subsection (b).

[(b) DESCRIPTION OF LAND.—The land referred to in subsection (a) consists of approximately 150.86 acres of land located on the Sebastian Martin Land Grant in the vicinity of Alcalde, Rio Arriba County, New Mexico, as depicted on the map.

[(c) CONDITIONS.—

[(1) IN GENERAL.—The land conveyed under subsection (a) shall be treated as public land for the purposes of the Act of June 14, 1926 (commonly known as the ''Recreation and Public Purposes Act'') (43 U.S.C. 869 et seq.)

[(2) CONSIDERATION.—The amount of consideration for the conveyance of land under subsection (a) shall be determined by the Secretary consistent with section 2(a) of the Act of June 14, 1926 (commonly known as the ''Recreation and Public Purposes Act'') (43 U.S.C. 869–1(a)).

[(3) AGREEMENT.—Before conveying the land under subsection (a), the Secretary shall enter into an agreement with the County that indemnifies the United States from all liability of the United States arising from the land conveyed.]

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Rio Arriba County Land Conveyance Act''.

SEC. 2. DEFINITIONS.

In this Act:

(1) COUNTY.—The term ''County'' means the County of Rio Arriba, New Mexico.

(2) MAP.—The term ''map'' means the map entitled ''Alcalde Proposed Land Transfer'' and dated September 23, 2004.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

SEC. 3. CONVEYANCE OF LAND TO RIO ARRIBA COUNTY, NEW MEXICO.

(a) IN GENERAL.—Subject to valid existing rights, the Secretary shall convey to the County, without consideration, all right, title, and interest of the United States in and to the land (including any improvements to the land) described in subsection (b).

(b) DESCRIPTION OF LAND.—The land referred to in subsection (a) consists of approximately 171 acres of land located on the Sebastian Martin Land Grant in the vicinity of Alcalde, Rio Arriba County, New Mexico, as depicted on the map.

(c) REVERSION.—If any portion of the land conveyed under subsection (a) ceases to be used for public purposes the land shall, at the option of the Secretary, revert to the United States.

(d) CONDITIONS ON SALES.—If the County sells any portion of the land conveyed to the County under subsection (a)—

(1) the amount of consideration for the sale shall reflect fair market value, as determined by an appraisal; and

(2) the County shall pay to the Secretary an amount equal to the gross proceeds of the sale, for use by the Director of the Bureau of Land Management in the State of New Mexico, without further appropriation.

(e) COSTS.—The County shall pay any costs associated with the conveyance of land under subsection (a).

The committee amendment in the nature of a substitute was agreed to.

The bill (S. 213), as amended, was read the third time and passed.

GLENDO UNIT OF THE MISSOURI RIVER BASIN PROJECT CONTRACT EXTENSION ACT OF 2005

The Senate proceeded to consider the bill (S. 592) to amend the Irrigation Project Contract Extension Act of 1998 to extend certain contracts between the Bureau of Reclamation and certain irrigation water contractors in the States of Wyoming and Nebraska, which had been reported from the Committee on Energy and Natural Resources, with an amendment.

The bill (S. 592) was passed.

The amendment to the title was agreed to.

S. 592

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 ''Glendo Unit of the Missouri River Basin Project Contract Extension Act of 2005''.

SEC. 2. GLENDO UNIT OF THE MISSOURI RIVER BASIN CONTRACT EXTENSION.

Section 2 of the Irrigation Project Contract Extension Act of 1998 (112 Stat. 2816, 117 Stat. 1854) is amended—

(1) in subsection (a), by striking ''December 31, 2005'' and inserting ''December 31, 2007''; and

(2) in subsection (b)—

(A) by striking ''beyond December 31, 2005'' and inserting ''beyond December 31, 2007''; and

(B) by striking ''before December 31, 2005'' and inserting ''before December 31, 2007''.

Amend the title so as to read: ''To amend the Irrigation Project Contract Extension Act of 1998 to extend certain contracts between the Bureau of Reclamation and certain irrigation water contractors in the States of Wyoming and Nebraska.''.

PACTOLA RESERVOIR REALLOCATION AUTHORIZATION ACT OF 2005

The bill (S. 819) to authorize the Secretary of the Interior to reallocate costs of the Pactola Dam and Reservoir, South Dakota, to reflect increased demands for municipal, industrial, and fish and wildlife purposes, was read the third time and passed; as follows:

S. 819

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 ''Pactola Reservoir Reallocation Authorization Act of 2005''.

SEC. 2. FINDINGS.

Congress finds that—

(1) it is appropriate to reallocate the costs of the Pactola Dam and Reservoir, South Dakota, to reflect increased demands for municipal, industrial, and fish and wildlife purposes; and

(2) section 302 of the Department of Energy Organization Act (42 U.S.C. 7152) prohibits such a reallocation of costs without congressional approval.

SEC. 3. REALLOCATION OF COSTS OF PACTOLA DAM AND RESERVOIR, SOUTH DAKOTA.

The Secretary of the Interior may, as provided in the contract of August 2001 entered into between Rapid City, South Dakota, and the Rapid Valley Conservancy District, reallocate, in a manner consistent with Federal reclamation law (the Act of June 17, 1902 (32 Stat. 388, chapter 1093), and Acts supplemental to and amendatory of that Act (43 U.S.C. 371 et seq.)), the construction costs of Pactola Dam and Reservoir, Rapid Valley Unit, Pick-Sloan Missouri Basin Program, South Dakota, from irrigation purposes to municipal, industrial, and fish and wildlife purposes.

EXTENSION OF A WATER SERVICE CONTRACT

The bill (S. 891) to extend the water service contract for the Ainsworth Unit, Sandhills Division, Pick-Sloan Missouri Basin Program, Nebraska, was read the third time and passed, as follows:

S. 891

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

SECTION 1. AINSWORTH UNIT, SANDHILLS DIVISION, PICK-SLOAN MISSOURI BASIN PROGRAM.

(a) IN GENERAL.—The Secretary of the Interior shall extend for the period described in subsection (b) the water service contract for the Ainsworth unit, Sandhills Division, Pick-Sloan Missouri Basin Program, Nebraska, consisting of—

(1) the water service contract entered into by the Secretary of the Interior under—

(A) section 9(e) of the Reclamation Project Act of 1939 (43 U.S.C. 485h(e));

(B) section 9(c) of the Act of December 22, 1944 (58 Stat. 887, chapter 665);

(C) the Act of August 21, 1954 (68 Stat. 757, chapter 781); and

(D) the Act of May 18, 1956 (70 Stat. 160, chapter 285); and

(2) the water service contract for the set project located in Cherry, Brown, and Rock Counties, Nebraska, for the use of a part of the waters of the Snake River, a tributary of the Niobrara River.

(b) PERIOD OF EXTENSION.—The water service contract described in subsection (a) shall be extended for 4 years after the date on which the contract expires under the water service contract and law in existence before the date of enactment of this Act.

ALASKA WATER RESOURCES ACT OF 2005

The Senate proceeded to consider the bill (S. 1338) to require the Secretary of the Interior, acting through the Bureau of Reclamation and the United States Geological Survey, to conduct a study on groundwater resources in the State of Alaska, and for other purposes, which had been reported from the Committee on Energy and Natural Resources, with an amendment, as follows:

[Strike the parts shown in black brackets and insert the parts shown in italic.]

S. 1338

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 ''Alaska Water Resources Act of 2005''.

SEC. 2. DEFINITIONS.

In this Act:

(1) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(2) STATE.—The term ''State'' means the State of Alaska.

SEC. 3. ALASKA WATER RESOURCES STUDY.

(a) STUDY.—The Secretary, acting through the Commissioner of Reclamation and the Director of the United States Geological Survey, where appropriate, and in accordance with this Act and other applicable provisions of law, shall conduct a study that includes—

(1) a survey of accessible water supplies, including aquifers, on the Kenai Peninsula, [in the Municipality of Anchorage and the Matanuska-Susitna Borough] *and in the Municipality of Anchorage, the Matanuska-Susitna Borough, the city of Fairbanks, and the Fairbanks Northstar Borough*;

(2) a survey of water treatment needs and technologies, including desalination, applicable to the water resources of the State; and

(3) a review of the need for enhancement of the streamflow information collected by the United States Geological Survey in the State relating to critical water needs in areas such as—

(A) infrastructure risks to State transportation,

(B) flood forecasting,

(C) resource extraction; and

(D) fire management.

(b) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives a report describing the results of the study required by subsection (a).

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

The committee amendments were agreed to.

The bill (S. 1338), as amended, was read the third time and passed, as follows:

S. 1338

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 ''Alaska Water Resources Act of 2005''.

SEC. 2. DEFINITIONS.

In this Act:

(1) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(2) STATE.—The term ''State'' means the State of Alaska.

SEC. 3. ALASKA WATER RESOURCES STUDY.

(a) STUDY.—The Secretary, acting through the Commissioner of Reclamation and the Director of the United States Geological Survey, where appropriate, and in accordance with this Act and other applicable provisions of law, shall conduct a study that includes—

(1) a survey of accessible water supplies, including aquifers, on the Kenai Peninsula, in the Municipality of Anchorage and the Matanuska-Susitna Borough and in the Municipality of Anchorage, the Matanuska-Susitna Borough, the city of Fairbanks, and the Fairbanks Northstar Borough;

(2) a survey of water treatment needs and technologies, including desalination, applicable to the water resources of the State; and

(3) a review of the need for enhancement of the streamflow information collected by the United States Geological Survey in the State relating to critical water needs in areas such as—

(A) infrastructure risks to State transportation,

(B) flood forecasting,

(C) resource extraction; and

(D) fire management.

(b) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives a report describing the results of the study required by subsection (a).

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

CATOCTIN MOUNTAIN NATIONAL RECREATION AREA DESIGNATION ACT

The Senate proceeded to consider the bill (S. 777) to designate Catoctin Mountain Park in the State of Maryland as the ''Catoctin Mountain National Recreation Area'', and for other purposes, which had been reported from the Committee on Energy and Natural Resources, with amendments, as follows:

[Strike the parts shown in black brackets and insert the parts shown in italic.]

S. 777

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 ''Catoctin Mountain National Recreation Area Designation Act''.

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) the Catoctin Recreation Demonstration Area, in Frederick County, Maryland—

(A) was established in 1933; and

(B) was transferred to the National Park Service by executive order in 1936;

(2) in 1942, the presidential retreat known as ''Camp David'' was established in the Catoctin Recreation Demonstration Area;

(3) [in 1952, approximately 5,000] *in 1954, approximately 4,400* acres of land in the Catoctin Recreation Demonstration Area was transferred to the State of Maryland and designated as Cunningham Falls State Park;

(4) in 1954, the Catoctin Recreation Demonstration Area was renamed ''Catoctin Mountain Park'';

(5) the proximity of Catoctin Mountain Park, Camp David, and Cunningham Falls State Park and the difference between management of the parks by the Federal and State government has caused longstanding confusion to visitors to the parks;

(6) Catoctin Mountain Park is 1 of 17 units in the National Park System and 1 of 9 units in the National Capital Region that does not have the word ''National'' in the title; and

(7) the history, uses, and resources of Catoctin Mountain Park make the park appropriate for designation as a national recreation area.

(b) PURPOSE.—It is the purpose of this Act to designate Catoctin Mountain Park as a national recreation area to—

(1) clearly identify the park as a unit of the National Park System; and

(2) distinguish the park from Cunningham Falls State Park.

SEC. 3. DEFINITIONS.

(a) MAP.—The term ''map'' means the map entitled ''Catoctin Mountain National Recreation Area'', numbered [841/80444, and dated August 14, 2002] *841/80444B and dated April 2005*.

(b) RECREATION AREA.—The term ''recreation area'' means the Catoctin Mountain National Recreation Area designated by section 4(a).

(c) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

SEC. 4. CATOCTIN MOUNTAIN NATIONAL RECREATION AREA.

(a) DESIGNATION.—Catoctin Mountain Park in the State of Maryland shall be known and designated as the ''Catoctin Mountain National Recreation Area''.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to Catoctin Mountain Park shall be deemed to be a reference to the Catoctin Mountain National Recreation Area.

(c) BOUNDARY.—

(1) IN GENERAL.—The recreation area shall consist of land within the boundary depicted on the map.

(2) AVAILABILITY OF MAP.—The map shall be on file and available for public inspection in the appropriate offices of the National Park Service.

(3) ADJUSTMENTS.—The Secretary may make minor adjustments in the boundary of the recreation area consistent with section 7(c) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*–9(c)).

(d) ACQUISITION AUTHORITY.—The Secretary may acquire any land, interest in land, or improvement to land within the boundary of the recreation area by donation, purchase with donated or appropriated funds, or exchange.

(e) ADMINISTRATION.—The Secretary shall administer the recreation area—

(1) in accordance with this Act and the laws generally applicable to units of the National Park System, including—

(A) the Act of August 25, 1916 (16 U.S.C. 1 et seq.); and

(B) the Act of August 21, 1935 (16 U.S.C. 461 et seq.); and

(2) in a manner that protects and enhances the scenic, natural, cultural, historical, and recreational resources of the recreation area.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

The committee amendments were agreed to.

The bill (S. 777), as amended, was read the third time and passed, as follows:

S. 777

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 ''Catoctin Mountain National Recreation Area Designation Act''.

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) the Catoctin Recreation Demonstration Area, in Frederick County, Maryland—

(A) was established in 1933; and

(B) was transferred to the National Park Service by executive order in 1936;

(2) in 1942, the presidential retreat known as ''Camp David'' was established in the Catoctin Recreation Demonstration Area;

(3) in 1954, approximately 4,400 acres of land in the Catoctin Recreation Demonstration Area was transferred to the State of Maryland and designated as Cunningham Falls State Park;

(4) in 1954, the Catoctin Recreation Demonstration Area was renamed ''Catoctin Mountain Park'';

(5) the proximity of Catoctin Mountain Park, Camp David, and Cunningham Falls State Park and the difference between management of the parks by the Federal and State government has caused longstanding confusion to visitors to the parks;

(6) Catoctin Mountain Park is 1 of 17 units in the National Park System and 1 of 9 units in the National Capital Region that does not have the word ''National'' in the title; and

(7) the history, uses, and resources of Catoctin Mountain Park make the park appropriate for designation as a national recreation area.

(b) PURPOSE.—It is the purpose of this Act to designate Catoctin Mountain Park as a national recreation area to—

(1) clearly identify the park as a unit of the National Park System; and

(2) distinguish the park from Cunningham Falls State Park.

SEC. 3. DEFINITIONS.

(a) MAP.—The term ''map'' means the map entitled ''Catoctin Mountain National Recreation Area'', numbered 841/80444B and dated April 2005.

(b) RECREATION AREA.—The term ''recreation area'' means the Catoctin Mountain National Recreation Area designated by section 4(a).

(c) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

SEC. 4. CATOCTIN MOUNTAIN NATIONAL RECREATION AREA.

(a) DESIGNATION.—Catoctin Mountain Park in the State of Maryland shall be known and designated as the ''Catoctin Mountain National Recreation Area''.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to Catoctin Mountain Park shall be deemed to be a reference to the Catoctin Mountain National Recreation Area.

(c) BOUNDARY.—

(1) IN GENERAL.—The recreation area shall consist of land within the boundary depicted on the map.

(2) AVAILABILITY OF MAP.—The map shall be on file and available for public inspection in the appropriate offices of the National Park Service.

(3) ADJUSTMENTS.—The Secretary may make minor adjustments in the boundary of the recreation area consistent with section 7(c) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–9(c)).

(d) ACQUISITION AUTHORITY.—The Secretary may acquire any land, interest in land, or improvement to land within the boundary of the recreation area by donation, purchase with donated or appropriated funds, or exchange.

(e) ADMINISTRATION.—The Secretary shall administer the recreation area—

(1) in accordance with this Act and the laws generally applicable to units of the National Park System, including—

(A) the Act of August 25, 1916 (16 U.S.C. 1 et seq.); and

(B) the Act of August 21, 1935 (16 U.S.C. 461 et seq.); and

(2) in a manner that protects and enhances the scenic, natural, cultural, historical, and recreational resources of the recreation area.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

REVOCATION OF A PUBLIC LAND ORDER

The bill (H.R. 1101) to revoke a Public Land Order with respect to certain lands erroneously included in the Cibola National Wildlife Refuge, California, was read the third time and passed.

NEW SHIPPER REVIEW AMENDMENT ACT OF 2005

Mr. MCCONNELL. I ask unanimous consent that the Finance Committee be discharged from further consideration of S. 695, 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 (S. 695) to suspend temporarily new shipper bonding privileges.

There being no objection, the Senate proceeded to consider the bill.

Mr. MCCONNELL. 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 statements related to the measure be printed in the RECORD.

The bill (S. 695) was read a third time, and passed, as follows:

S. 695

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 ''New Shipper Review Amendment Act of 2005''.

SEC. 2. TEMPORARY SUSPENSION OF NEW SHIPPER BONDING PRIVILEGES.

Clause (iii) of section 751(a)(2)(B) of the Tariff Act of 1930 (19 U.S.C. 1675(a)(2)(B)(iii)) shall not be effective during the 3-year period beginning on the date of the enactment of this Act.

SEC. 3. REPORT TO CONGRESS.

Not later than 2 years after the date of the enactment of this Act, the Secretary of Commerce, in consultation with the Secretary of the Treasury, the United States Trade Representative, and the Commissioner of Customs and Border Protection, shall submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report containing—

(1) recommendations on whether the suspension of the effectiveness of section 751(a)(2)(B)(iii) of the Tariff Act of 1930 should be extended beyond the date provided in section 2 of this Act; and

(2) assessments of the effectiveness of any administrative measures that have been implemented to address the difficulties giving rise to section 2 of this Act, including—

(A) problems in assuring the collection of antidumping duties on imports from new shippers;

(B) administrative burdens imposed on the Department of Commerce by new shipper reviews; and

(C) the use of the bonding privilege by importers from new shippers to circumvent the effect of antidumping duty orders.

Mr. MCCONNELL. Mr. President, I further ask unanimous consent that the bill be held at the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

SENATOR PAUL SIMON WATER FOR THE POOR ACT OF 2005

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 1973, which was received from the House.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 1973) to make access to safe water and sanitation for developing countries a specific policy objective of the United States foreign assistance programs, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. MCCONNELL. 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 related to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 1973) was read the third time and passed.

REGARDING OVERSIGHT OF THE INTERNET CORPORATION FOR ASSIGNED NAMES AND NUMBERS

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. Res. 317, submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 317) expressing the sense of the Senate regarding oversight of the Internet Corporation for Assigned Names and Numbers.

There being no objection, the Senate proceeded to consider the resolution.

Mr. LEAHY. Mr. President, today at the World Summit on the Information Society, an agreement was announced to maintain the current structure for managing the Internet. This agreement marks a critical step toward ensuring the stability and security of the Internet and preserving its benefits not only for the United States, but for countries across the globe.

In late October I joined with the other cochairs of the Internet Caucus in a letter to the White House urging the administration to stand firm in its position to protect the Internet and resist efforts to undo the structure that has worked so well so far. I also joined Senator BURNS in offering a resolution to maintain the currently effective status quo on Internet governance. The agreement that now has been reached in Tunis to maintain the current structure for managing domain names and the Internet is consistent with our efforts.

The value of the Internet is incalculable. The Internet has brought an unprecedented level of commercial exchanges in both the consumer and business-to-business realms. It has spawned and prompted the development of new ideas, businesses and relationships. It has empowered people who have never had access to power and otherwise would likely never have an opportunity to be heard, much less challenge or influence public policy and institutional power. It has introduced and cemented friendships across the globe, and it has distributed information and fostered greater understanding and awareness of others' ideas and others' cultures. Becoming part of a global Internet environment has also shown us we are part of the wider world in which all of us live. It is values like these that no doubt our world partners are seeking to preserve in their proposals, yet would unwittingly undermine.

The United States developed and nourished the Internet. The open economy and constitutional liberties that are the foundations of our Nation allowed us the privilege and extraordinary responsibility to serve as the great incubator that has unleashed these spectacular developments and benefits.

No doubt we can do even better. Some have benefited substantially more than others. We have further strides to make before eradicating the digital divide and narrowing the gaps between the haves and have-nots. We also need to be vigilant in maintaining the essential freedom and influences that have kept the Internet flourishing. We should work closely with other countries to address challenges and concerns as they arise. By proceeding prudently and knowledgeably, taking care not to jeopardize the innovations and openness that have allowed the Internet to thrive, we can foster progress and continue to enjoy the benefits the Internet continues to bring to the world.

I ask unanimous consent that a copy of the letter from the Internet Caucus cochairs to the White House and today's Associated Press article ''Deal Reached on Managing the Internet'' be printed in the RECORD.

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

CONGRESS OF THE UNITED STATES,
Washington, DC, October 24, 2005.

Hon. GEORGE W. BUSH,
The President of the United States, The White House, Washington, DC.

DEAR PRESIDENT BUSH: As co-chairs of the Congressional Internet Caucus, we are writing to applaud your position that governance of the Internet should not be transferred to an international government organization and to urge you to communicate this position to the international community during the upcoming World Summit on the Information Society (WSIS) in Tunisia.

As you know, the Internet's domain name system (DNS) is administered by the Internet Corporation for Assigned Names and Numbers (ICANN), a private, nonprofit organization based in the United States that works closely with the U.S. Department of Commerce. We believe that this privately-operated approach fosters market principles and is the most efficient way to administer the DNS. The greater the government involvement in running the Internet's day-to-day operations, the more likely that red tape and overly burdensome regulations will result.

However, the U.N., with the support of countries including China, Iran, and Cuba, released a report earlier this year which included proposals to take control of administration of the Internet from the U.S.-based ICANN and give it to a bureaucratic U.N. body. Recently, the EU has signaled that it would also support having an international body oversee the Internet. We believe that it is unacceptable for the U.N. to administer the Internet, and are extremely concerned that the EU would move toward this position.

The United States is uniquely positioned to protect the fundamental principles of free press and free speech upon which the Internet has thrived. The U.S. Constitution guarantees that basic rights, and to cede control of the Internet to countries with at best questionable records regarding these rights could jeopardize the continued success of the Internet and lead to significant restrictions on access to the Internet's wealth of information.

With the WSIS convening next month in Tunisia, we urge you to continue to take a strong stand for the principles that have guided the administration of the Internet to date and fostered the phenomenal growth of the Internet: ftee market principles, the freedoms of speech and the press, and limited bureaucratic involvement.

Thank you again for your work to ensure the freedom and effective administration of the Internet. We look forward to continuing to work with you on this important issue.

Sincerely,

BOB GOODLATTE,
Member of Congress.
CONRAD BURNS,
United States Senator.
RICH BOUCHER,
Member of Congress.
PATRICK LEAHY,
United States Senator.

DEAL REACHED ON MANAGING THE INTERNET

(By Matt Moore)

A summit focusing on narrowing the digital divide between the rich and poor residents and countries opened Wednesday with an agreement of sorts on who will maintain ultimate oversight of the Internet and the flow of information, commerce and dissent.

The World Summit on the Information Society had been overshadowed by a lingering, if not vocal, struggle about overseeing the domain names and technical issues that make the Internet work and keep people from Pakistan to Canada surfing Web sites in the search for information, news and buying and selling.

Negotiators from more than 100 countries agreed late Tuesday to leave the United States in charge of the Internet's addressing system, averting a U.S.-EU showdown at this week's U.N. technology summit.

U.S. officials said early Wednesday that instead of transferring management of the system to an international body such as the United Nations, an international forum would be created to address concerns. The forum, however, would have no binding authority.

U.S. Assistant Secretary of Commerce Michael Gallagher said the deal means the United States will leave day-to-day management to the private sector, through a quasi-independent organization called the Internet Corporation for Assigned Names and Numbers, or ICANN.

''The Internet lives to innovate for another day,'' he told The Associated Press.

Negotiators have met since Sunday to reach a deal ahead of the U.N. World Summit on the Information Society, which starts Wednesday. World leaders are expected to ratify a declaration incorporating the deal during the summit, which ends Friday.

While the summit drew thousands of people from around the world, most western countries opted not to send their top-ranking leaders, preferring instead to send government workers and low-level figures.

However, other leaders were scheduled to attend, including Nigerian President Olusegun Obasanjo, Senegal's Abdulaye Wade and Libyan leader Moamer Kadhafi. Venezuelan President Hugo Chavez was due to fly to the summit Wednesday, organizers said.

The summit was originally conceived to address the digital divide—the gap between information haves and have-nots—by raising both consciousness and funds for projects.

Instead, it has centered largely around Internet governance: oversight of the main computers that control traffic on the Internet by acting as its master directories so Web browsers and e-mail programs can find other computers.

The accord reached late Tuesday also called for the establishment of a new international group to give more countries a stronger say in how the Internet works, including the issue of making domain names—currently done in the Latin languages—into other languages, such as Chinese, Urdu and Arabic.

Under the terms of the compromise, the new group, the Internet Governance Forum, would start operating next year with its first meeting opened by Annan. Beyond bringing its stakeholders to the table to discuss the issues affecting the Internet, and its use, it won't have ultimate authority.

Viviane Reding, the EU Commissioner for Information Society and Media, said the agreement paved the way for a progressive forward motion in overseeing Internet governance.

''This agreement was possible because of the strong belief of all democratic nations that enhanced international cooperation is the best way to make progress towards guaranteeing the freedom of the Internet around the globe and also to enhance transparency and accountability in decisions affecting the architecture of the Web,'' she said.

''The fact that the EU spoke with one voice in Tunis, and had stood by its case for more cooperation on Internet governance in the run-up to the summit, certainly strongly influenced this positive agreement,'' she said.

U.S. Assistant Secretary of Commerce Michael D. Gallagher said the compromise's ultimate decision is that leadership of the Internet, and its future direction, will remain in the hands of the private sector, although some critics contend that the U.S. government, which oversees ICANN, if only nominally, could still flex its muscle in future decisions.

''The rural digital divide is isolating almost 1 billion of the poorest people who are unable to participate in the global information society,'' the agency said in a statement.

Ahead of the summit, rights watchdogs say, both Tunisian and foreign reporters have been harassed and beaten. Reporters Without Borders says its secretary-general, Robert Menard, has been banned from attending.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 317) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 317

Whereas the origins of the Internet can be found in United States Government funding of research to develop packet-switching technology and communications networks, starting with the ''ARPANET'' network established by the Department of Defense's Advanced Research Projects Agency in the 1960s and carried forward by the National Science Foundation's ''NSFNET'';

Whereas in subsequent years the Internet evolved from a United States Government research initiative to a global tool for information exchange as in the 1990s it was commercialized by private sector investment, technical management and coordination;

Whereas since its inception the authoritative root zone server—the file server system that contains the master list of all top level domain names made available for routers serving the Internet—has been physically located in the United States;

Whereas today the Internet is a global communications network of inestimable value;

Whereas the continued success and dynamism of the Internet is dependent upon continued private sector leadership and the ability for all users to participate in its continued evolution;

Whereas in allowing people all around the world freely to exchange information, communicate with one another, and facilitate economic growth and democracy, the Internet has enormous potential to enrich and transform human society;

Whereas existing structures have worked effectively to make the Internet the highly robust medium that it is today;

Whereas the security and stability of the Internet's underlying infrastructure, the domain name and addressing system, must be maintained;

Whereas the United States has been committed to the principles of freedom of expression and the free flow of information, as expressed in Article 19 of the Universal Declaration of Human Rights, and reaffirmed the Geneva Declaration of Principles adopted at the first phase of the World Summit on the Information Society;

Whereas the U.S. Principles on the Internet's Domain Name and Addressing System, issued on June 30, 2005, represent an appropriate framework for the coordination of the system at the present time;

Whereas the Internet Corporation for Assigned Names and Numbers popularly known as ICANN, is the proper organization to coordinate the technical day-to-day operation of the Internet's domain name and addressing system;

Whereas all stakeholders from around the world, including governments, are encouraged to advise ICANN in its decision-making;

Whereas ICANN makes significant efforts to ensure that the views of governments and all Internet stakeholders are reflected in its activities;

Whereas governments have legitimate concerns with respect to the management of their country code top level domains;

Whereas the United States Government is committed to working successfully with the international community to address those concerns, bearing in mind the need for stability and security of the Internet's domain name and addressing system;

Whereas the topic of Internet governance, as currently being discussed in the United Nations World Summit on the Information Society is a broad and complex topic;

Whereas it is appropriate for governments and other stakeholders to discuss Internet

governance, given that the Internet will likely be an increasingly important part of the world economy and society in the 21st Century;

Whereas Internet governance discussions in the World Summit should focus on the real threats to the Internet's growth and stability, and not recommend changes to the current regime of domain name and addressing system management and coordination on political grounds unrelated to any technical need; and

Whereas market-based policies and private sector leadership have allowed this medium the flexibility to innovate and evolve: Now, therefore, be it

Resolved by the Senate, That it is the sense of the Senate that—

(1) it is incumbent upon the United States and other responsible governments to send dear signals to the marketplace that the current structure of oversight and management of the Internet's domain name and addressing service works, and will continue to deliver tangible benefits to Internet users worldwide in the future; and

(2) therefore the authoritative root zone server should remain physically located in the United States and the Secretary of Commerce should maintain oversight of ICANN so that ICANN can continue to manage the day-to-day operation of the Internet's domain name and addressing system well, remain responsive to all Internet stakeholders worldwide, and otherwise fulfill its core technical mission.

MEASURE PLACED ON THE CALENDAR—S. 2008

Mr. GRASSLEY. Mr. President, I understand there is a bill at the desk that is due for a second reading.

The PRESIDING OFFICER. The clerk will read the title of the bill for a second time.

The assistant legislative clerk read as follows:

A bill (S. 2008) to improve cargo security, and for other purposes.

Mr. GRASSLEY. Mr. President, in order to place the bill on the calendar under the provisions of rule XIV, I object to further proceedings.

The PRESIDING OFFICER. Objection is heard. The bill will be placed on the calendar.

ORDERS FOR THURSDAY, NOVEMBER 17, 2005

Mr. GRASSLEY. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 a.m. on Thursday, November 17. 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 a period for the transaction of morning business for up to 30 minutes, with the first 15 minutes under the control of the Democratic leader or his designee and the final 15 minutes under the control of the majority leader or his designee; further, that the Senate then resume consideration of S. 2020, the tax relief reconciliation bill, and that there be 10 hours equally divided for debate remaining under the Budget Act for the consideration of the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. GRASSLEY. Mr. President, tomorrow we will resume consideration of the tax relief reconciliation bill with 10 hours of debate remaining under the agreement just reached. We have a lot of work to do on this bill and on other must-do legislative items before we adjourn for the Thanksgiving holiday. Senators should be ready for late nights with many votes. Before we leave this week, we will need to act on the tax relief bill, as well as appropriations conference reports, the PATRIOT Act conference report, and another short-term continuing resolution. The majority leader has asked Senators to remain flexible in that a weekend session is very likely.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. GRASSLEY. 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 7:25 p.m., adjourned until Thursday, November 17, 2005, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate November 16, 2005:

DEPARTMENT OF AGRICULTURE

MARC L. KESSELMAN, OF TENNESSEE, TO BE GENERAL COUNSEL OF THE DEPARTMENT OF AGRICULTURE, VICE NANCY SOUTHARD BRYSON.

EXECUTIVE OFFICE OF THE PRESIDENT

RICHARD T. CROWDER, OF VIRGINIA, TO BE CHIEF AGRICULTURAL NEGOTIATOR, OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE, WITH THE RANK OF AMBASSADOR, VICE ALLEN FREDERICK JOHNSON, RESIGNED.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

DANIEL MERON, OF MARYLAND, TO BE GENERAL COUNSEL OF THE DEPARTMENT OF HEALTH AND HUMAN SERVICES, VICE ALEX AZAR II.

DEPARTMENT OF STATE

CLAUDIA A. MCMURRAY, OF VIRGINIA, TO BE ASSISTANT SECRETARY OF STATE FOR OCEANS AND INTERNATIONAL ENVIRONMENTAL AND SCIENTIFIC AFFAIRS, VICE JOHN F. TURNER, RESIGNED.

NATIONAL LABOR RELATIONS BOARD

PETER N. KIRSANOW, OF OHIO, TO BE A MEMBER OF THE NATIONAL LABOR RELATIONS BOARD FOR THE TERM OF FIVE YEARS EXPIRING AUGUST 27, 2008, VICE RONALD E. MEISBURG.

EXTENSIONS OF REMARKS

IN HONOR AND RECOGNITION OF UNITED WAY AND BRIDGING THE GAP'S COLLABORATIVE EFFORT: 2–1–1/FIRST CALL FOR HELP AND HOUSINGCLEVELAND.ORG

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 16, 2005

Mr. KUCINICH. Mr. Speaker, I rise today in honor and recognition of the united effort of United Way and Northeast Ohio Coalition for the Homeless' (NEOCH) Bridging the Gap as they celebrate the newly available HousingCleveland.Org website. This is a vital source of information for individuals and families on the road to personal restoration as they search for safe, affordable housing in Cuyahoga County.

This comprehensive Web site is free to both prospective tenants and property owners. The site currently lists more than 1,500 housing units in more than 20 local cities and villages. The site, available at no cost to property owners, includes a rental checklist, a rent calculator, information on tenant rights and responsibilities and information that includes details about each unit. Tenants can use the site to search by location, rent, number of bedrooms and special needs requirements.

For individuals who do not have access to the internet, the information can also be obtained by calling 2–1–1/First Call for Help line. All information contained in the site is available in Spanish. First Call for Help maintains the site and daily updates are provided by Socialserve.com, a non-profit agency. SCK, a graphic design firm located in the Tremont neighborhood, donated a portion of their time and talents in creating the HousingCleveland. Org site.

Mr. Speaker and colleagues, please join me in honor and recognition of the leaders and members of United Way's 2–1–1 First Call For Help, NEOCH's Bridging the Gap, Cleveland Tenant's Organization, Cuyahoga County Office of Homeless Services, Cleveland Department of Community Development, Cleveland State University Center for Neighborhood Development, Cuyahoga County Department of Development, Cuyahoga Metropolitan Housing Authority, EDEN, Legal Aid Society of Cleveland, Lutheran Metropolitan Ministry, Maximum Independent Living and the May Dugan Center.

Let us stand in honor and recognition of the courageous spirit and heart of the children and adults in our community who, despite their struggle and hardship, strive to raise their lives into the realm of hope and possibility and ultimately, through the collaborative work and spirit of our entire community, are able to find their way home.

HONORING OPERATION PEDRO PAN

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 16, 2005

Ms. ROS-LEHTINEN. Mr. Speaker, I would like to take this opportunity to thank Operation Pedro Pan for inviting me to share in this dinner commemorating the 45-year anniversary of the Pedro Pan exodus and benefiting two very important causes; the New Children's Village and the Pedro Pan Archives at Barry University. I had the honor of being present 15 years ago when Elly Chovel presented the Pledge of Thanksgiving, which established Operation Pedro Pan. Tonight, I have the pleasure of giving my heartfelt congratulations to Ms. Chovel on receiving the Monsignor Bryan O. Walsh Award for her years of service and dedication to Operation Pedro Pan.

Operation Pedro Pan is an organization, which has been influential in shaping the Cuban-American community, as we know it today. Many of the Pedro Pan children who made the sacrifice of leaving Cuba for the pursuit of freedom are the leaders of our community today. Among them is my colleague in Washington, DC, Senator MEL MARTINEZ, who is the first Cuban-American elected to the United States Senate—and a Pedro Pan Child.

It makes me proud to see how much Operation Pedro Pan has accomplished in South Florida. Operation Pedro Pan is one of the Cuban-American community's best examples of what can be accomplished through dedication and hard work. Through its advocacy work for children and working to preserve the significance of an important time in Cuban history, Pedro Pan has established itself as a highly respected organization.

I wish the best for Operation Pedro Pan. I hope that in the years to come you continue to reach your goals, so that our children and our children's children realize the sacrifices that our generation made in search of liberty. Once again, I thank you for the opportunity to be here with you tonight. I commend Operation Pedro Pan for the leadership they display in our unity year after year and I look forward to continuing my support for their efforts.

MARKING EDUCATION SUPPORT PROFESSIONAL DAYS

HON. MICHAEL K. SIMPSON

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 16, 2005

Mr. SIMPSON. Mr. Speaker, I rise today to celebrate and pay tribute to all school employees who serve as Education Support Professionals in our Nation's public schools. Custodial Services Education Support Professionals are essential school employees who interact daily with students, staff and parents.

Custodians enhance the school districts they serve in many ways. They provide a unique link between all of the different jobs accomplished in a school environment every day. A student's ability to learn and thrive is often directly influenced by the custodians at his or her school.

A Custodian's daily work load can include managing heating, ventilating and air-conditioning for the entire school building, maintaining responsibility for the safety and sanitation of the school and managing disruptive or violent student behavior until proper authorities arrive on the scene. In addition, many schools consider their custodian to be the "Master at Arms" of their school building. One need only imagine the condition a school would be in without a custodian to understand the enormous importance of custodians to our Nation's schools.

Today as we recognize all education support professionals, I would urge my colleagues to take a moment to express their appreciation for this fine group of Americans who are dedicated, loyal and committed to the educational enhancement of all students.

HONORING THE SERVICE OF FORMER REPRESENTATIVE JOHN MONAGAN

HON. NANCY L. JOHNSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 16, 2005

Mrs. JOHNSON of Connecticut. Mr. Speaker, I rise to pay tribute to John Monagan, who represented the fifth district of Connecticut from 1959 to 1973. Mr. Monagan passed away on October 23rd at the age of 93.

John was born and raised in Waterbury, the largest city in the fifth district. He went on to Dartmouth college where he was an honors student in French literature. Upon graduation he attended Harvard Law school and in 1937 he received a law degree.

During his 7 terms in Congress, he chaired the House Government Operations subcommittee that helped uncover irregularities in the Federal Housing Administration's financing of the Housing Renewal program. As a member of the Foreign Affairs Committee he led mission study trips to Soviet satellite countries and worked to improve trade relations with Latin American countries.

John Monagan had a passion for public service that started before and continued after his years in the House. In Waterbury he immersed himself in public service, as an alderman, a finance commissioner and eventually as Mayor. As president of the U.S. Association of former members of Congress, he was known to give lectures on the importance of public service. His dedication to serving others is inspirational quality that many of us wish to pass onto the next generation.

Mr. Speaker, we thank and pay our respects to John Monagan for his years of service to Connecticut and the Nation.

IN HONOR AND REMEMBRANCE OF MAYOR PAUL L. RUGGLES

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 16, 2005

Mr. KUCINICH. Mr. Speaker, I rise today in honor and remembrance of Mayor Paul L. Ruggles—devoted husband, father, grandfather, community leader, entrepreneur, veteran of the United States Air Force Honor Guard and admired friend and mentor.

A life-long resident of the Village Newburgh Heights, Mayor Ruggles served as ''honorary Mayor'' for years before being elected as mayor in 2003. At his cozy restaurant/bar, the Ruggles Inn, Village residents sought out his opinion and advice on issues ranging from speeding cars to the future of economic growth and development for the Village. The friendly, welcoming atmosphere of the Ruggles Inn mirrored the character of its owner. Regular patrons enjoyed Mayor Ruggles' homemade pork chops, city chicken and good conversation. His easy-going demeanor, integrity and kind nature easily drew others to him. In just a short time in office, Mayor Ruggles forged strong bonds with local, county and State leaders, and began the process of renewed economic development—all focused on improving the lives of the people of the Village.

Mayor Ruggles was appointed to serve on council in 2000, and was elected to serve as Mayor in 2003. He was also an active member of the Cuyahoga County Democratic Party. Humble yet confident, Mayor Ruggles restored a certain grace and dignity to the Village Hall. His efforts on behalf of the Village ran the spectrum from major economic growth initiatives focused on bringing new industry into the Village, to hiring a new police chief, to restoring Village roads, to settling disputes between neighbors. Regardless of the issue, every concern that the Villagers brought before him consistently had his full attention, concern and commitment.

Mr. Speaker and Colleagues, please join me in honor, gratitude and remembrance of Mayor Paul L. Ruggles. I offer my deepest condolences to his wife Judy; to his daughter, Laura; to his son, Paul; to his son-in-law, Brad; to his daughter-in-law, Jennifer; to his granddaughters, Alyssa and Samantha; and to his extended family members and many friends. Mayor Ruggles' integrity, generous heart and love for his family, friends and for the people of Newburgh Heights will be forever remembered along East 49th Street, Harvard Avenue, Washington Park Boulevard and miles beyond.

RECOGNIZING THE OUTSTANDING EFFORTS OF ROSA PARKS

HON. C.A. DUTCH RUPPERSBERGER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 16, 2005

Mr. RUPPERSBERGER. Mr. Speaker, I rise before you today to recognize a woman who changed a nation and sent a clear message to America that her people would not be moved. Rosa Parks, who is better known as the ''mother of the civil rights movement'' changed the course of American history by refusing in 1955 to give up her seat on a bus for a white passenger.

Born Rosa Louise McCauley on February 4, 1913, she married Raymond Parks in 1932. By the early 1950s, Rosa Parks and her now deceased husband were long-time activists in Montgomery, Alabama's chapter of the NAACP.

It is important to know the history of Parks, who worked as a seamstress at a local department store, and on her way home from work one day, she engaged in a simple gesture of defiance that galvanized the civil rights movement. On December 1, 1955, Parks challenged the South's Jim Crow laws—and Montgomery's segregated bus seating policy—by refusing to give her seat up. The bus driver had her arrested. She was tried and convicted of violating a local ordinance.

Her act sparked a citywide boycott of the bus system by African Americans that lasted more than a year. The boycott raised an unknown clergyman named Martin Luther King, Jr., to national prominence and resulted in the U.S. Supreme Court decision outlawing segregation on city buses.

Over the next four decades, she made her fellow Americans aware of the history of the civil rights struggle.

This pioneer in the struggle for racial equality was planted firm in her faith of it one day being a place where all Americans could one day sit on the bus and have the same right as everyone else to enjoy their ride after a long days work.

Her example of what she stood for remains an inspiration to not only me but to freedom-loving people everywhere.

Parks was undoubtedly one of the most important citizens of the 20th century. Every American owes their gratitude of freedom to her. Mr. Speaker, I ask that you rise with me today to honor and pay respects to an African American woman who broke down boundaries and knocked down doors.

RECOGNIZING THE IMPORTANT WORK AND MISSION OF THE EDSCHOLAR SCHOLARSHIP PROGRAM

HON. HAROLD E. FORD, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 16, 2005

Mr. FORD. Mr. Speaker, I rise today to recognize the important work and mission of the Edscholar scholarship program.

Sponsored jointly by Edamerica and Edfinancial Services, the Edscholar program underwrites tuition expenses for qualified incoming freshmen at eligible colleges and universities throughout Tennessee. In a very tangible way, this program acknowledges and rewards outstanding students seeking to improve their lives through higher education.

Today, with the profound need for a more advanced and better trained workforce, college education has never been more valuable. Despite this reality, obtaining a higher education has become increasingly difficult given escalating tuition costs across the nation. Last year alone, tuition at 4-year public colleges and universities rose 7.1 percent, more than double the rate of inflation.

That is why the Edscholar scholarship program is so important; it helps students who otherwise might not have had access to higher education. By funding scholarships for deserving undergraduates, Edscholar helps these accomplished students develop their individual talents and expand their minds.

Just as important, focusing on the individual helps Edscholar achieve its primary goal of improving the quality of life throughout all of Tennessee. By providing these exceptional students with the means to expand their personal and professional leadership skills, Edscholar is helping to educate and train our next generation of leaders.

Mr. Speaker, it is with great pleasure that I ask my colleagues to join with me in honoring the purpose and spirit of the Edscholar scholarship program.

CONGRATULATING MIKKI CANTON FOR RECEIVING THE JUDGE HAND AWARD

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 16, 2005

Ms. ROS-LEHTINEN. Mr. Speaker, I would like this opportunity to congratulate my constituent and a long time friend Mikki Canton as the recipient of the 2005 American Jewish Committee's Judge Learned Hand Award. This distinguished award was established in loving memory of Judge Learned Hand, Senior Judge of the United States Court of Appeals for the Second Circuit from 1924 to 1951. It is presented to outstanding leaders in the legal community who exemplify the high principles for which Judge Hand was renowned.

Mikki Canton is the first Cuban-American woman to receive this recognition, and she also has the distinct privilege of being one of the few Hispanic female managing partners at a major Florida law firm. She oversees the daily operations of the Miami office of Gunster Yoakley, and is the chair of the firm's Corporate Strategic Counseling and Public Affairs departments. Her dedicated service to the citizens of South Florida should serve as a model for all of us. Her devotion and desire to reach out to people in need is not only commendable, but inspirational as well. I would like to thank her for the perseverance she has displayed throughout her legal profession.

Mikki Canton is a member of the women's Leadership Board of Harvard's John F. Kennedy School of Government, a group that examines public policies relating to women. She is the Florida chair of the Fellows of the American Bar Association and sits on the board of several large local charities. I am proud to recognize Mikki Canton for her tireless dedication to the well being of our South Florida residents. I ask my colleagues to join me in congratulating Mikki on her wonderful service to our community.

CONGRATULATING WES FREEDMAN, THE MAN OF THE YEAR AT B'NAI B'RITH AMOS LODGE NO. 136

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 16, 2005

Mr. KANJORSKI. Mr. Speaker, I rise today to ask you and my esteemed colleagues in the House of Representatives to pay tribute to Mr. Wes Freedman, recipient of the ''Man of the Year'' award from B'nai B'rith Amos Lodge No. 136.

A highly respected and talented businessman and community leader, Mr. Freedman earned a reputation for personal integrity. His community service over the years has benefited both young and old alike.

For more than 30 years, Mr. Freedman owned and operated several catalog showrooms in northeastern Pennsylvania and New Jersey.

Mr. Freedman served on the boards of directors at Johnson Technical School, PNC Bank and Marywood College. He currently serves on the boards at Mercy Hospital, the Jewish Home of Eastern Pennsylvania, Elan Gardens, an assisted living facility, and the Foundation for the Jewish Elderly of Eastern Pennsylvania. He is currently president of the board of Webster Towers, a high rise apartment complex for the independent aging.

Mr. Freedman is a life member of the Jewish Community Center in Scranton and has been a member of B'nai B'rith and Temple Israel for many years.

Mr. Speaker, please join me in congratulating Mr. Freedman on this honor. His commitment to his community reflects a genuine selflessness and devotion to others in need. Mr. Freedman's record of service is exemplary and has helped improve the quality of life for many in northeastern Pennsylvania.

TRIBUTE TO MAJOR GENERAL ROBERT H. GRIFFIN, DEPUTY COMMANDING GENERAL, U.S. ARMY CORPS OF ENGINEERS

HON. DAVID L. HOBSON

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 16, 2005

Mr. HOBSON. Mr. Speaker, I rise today to offer tribute to a truly superb soldier and engineer, Major General Robert H. Griffin, on the occasion of his retirement as Deputy Commanding General of the United States Army Corps of Engineers. In so doing, I note that this is his second retirement this year—he left Corps Headquarters in August, but agreed to return last month to help guide the Corps through its response to Hurricanes Katrina and Rita.

It has been my pleasure to know and work with General Griffin as he served this nation in three capacities—first as commander of the Corps of Engineers' Great Lakes and Ohio River Division, which includes my home district; then as Director of Civil Works; and finally as Deputy Commander of the Corps of Engineers.

General Griffin's distinguished military service spanned 34 years of dedicated and honorable service to this nation. Since his graduation from Auburn University with a Bachelor of Science in Mechanical Engineering and his commissioning as a Second Lieutenant in 1971, he has led at every level of command. During his last ten years, while serving as commander of the Corps of Engineers District in Mobile, Alabama; Chief of Staff at Corps Headquarters in Washington; Commanding General of the Corps' Northwestern Division and then of the Great Lakes and Ohio River Division; Director of the $5 billion annual Army Civil Works program my subcommittee oversees; and finally as Deputy Commanding General of the Corps of Engineers; he significantly contributed to our nation's global goals and objectives.

General Griffin's technical expertise and superior leadership have been critical to the success of the Army Corps of Engineers' many complex missions. His ability to handle complex tasks, large organizations, difficult negotiations and the most pressing problems has been truly remarkable. He has been equally adept at interacting with the highest levels of government, setting overall strategy for meeting the nation's military construction and water resource needs, and dealing with the intricacies of project design. The organizations he has led have been known for command climates that emphasize teamwork, common sense, prudent risk taking and mission accomplishment. All in all, I know of no finer member of our Army, and I wish him the best in the years ahead.

INTRODUCTION OF SHIRLEY HORN RESOLUTION

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 16, 2005

Mr. CONYERS. Mr. Speaker, I am proud to announce the introduction of a resolution honoring the late Shirley Horn, a great jazz vocalist who passed away on October 20. For those of you who did not follow her career, Shirley Horn was one of this country's musical and cultural greats.

The resolution speaks for itself, but I would like to highlight some aspects of her life. She was born in the Nation's capital in 1934 and started her musical career as a young child on her grandmother's piano. She continued to study music at Howard University and was invited to attend the prestigious Juilliard School in New York.

She recorded over two dozen albums and was lauded with numerous honors, including being elected into the Lionel Hampton Jazz Hall of Fame, receiving Grammy Awards, an honorary doctorate from Berklee College of Music, and receiving the 2003 Jazz at Lincoln Center Award.

Importantly, Ms. Horn never forgot her background. She was dedicated to the Washington, DC community and, as a result, earned the Mayor's Arts Award for Excellence in an Artistic Discipline.

I would like to express my deepest sympathies to her family and express to them that her passing is a loss to all of us.

HONORING ARMY CAPTAIN JOEL CAHILL

HON. LEE TERRY

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 16, 2005

Mr. TERRY. Mr. Speaker, it is with great sadness that I rise to pay tribute to Army Captain Joel Cahill, a company commander in the 1st Battalion, 15th Infantry, Fort Benning, Georgia. Captain Cahill was killed in western Iraq on Sunday, the 5th of November. He served two tours in Iraq, as well as two tours in Afghanistan with a unit of the U.S. Army Rangers.

Captain Cahill grew up in Nebraska, and after graduating from Papillion La Vista High School, he joined the Army and began Special Forces training. He was awarded several citations including the Army Achievement Medal and the Soldier's Medal. He was a graduate with honors from the University of Nebraska—Omaha in 1999, earning his commission from the UNO-Creighton ROTC program.

Because of his professionalism and bravery, Captain Cahill was accepted into the Army Rangers, one of the elite groups in the Armed Forces.

Captain Cahill was a devoted father to his two daughters, Faith and Brenna, and devoted husband to their mother, Mary. Faith and Brenna were the joys of his life whenever he could be stateside.

My prayers are with his family, and I offer my condolences to his parents, Larry and Barbara; his three brothers, Larry Jr., Randy, and Jason; and his sister, Erin Christensen.

As a nation, we will honor Captain Cahill's service to the United States with his burial with full military honors at Arlington National Cemetery Friday, November 18, 2005.

We are blessed to have men and women like Captain Cahill serve in our military. His deeds, actions, decency, and passion for defending the freedoms we all enjoy will not be forgotten. May he be laid to rest as a hero to his family and to all of us who honor his service to America.

TRIBUTE TO NASHVILLE PUBLIC TELEVISION PRESIDENT STEVE BASS

HON. MARSHA BLACKBURN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 16, 2005

Mrs. BLACKBURN. Mr. Speaker, I want to take a moment today to recognize Nashville Public Television President and CEO Steve Bass for his years of service to our community.

While Steve is leaving us to take on another challenge, his accomplishments in Nashville will be a wonderful legacy to his leadership and dedication.

Since coming to Nashville in 1998, Steve has worked to help establish our area's public television station as a model for the 21st century.

He has made it his mission to put the station on solid financial ground, and that work is paying off. Steve has set an example for the nation's public television stations.

He has expanded programming and highlighted Nashville's unique history and culture.

We are thankful for Steve's service and we wish him nothing but the best in his next endeavor.

TRIBUTE TO USAF LIEUTENANT COLONEL ROBERT M. WALKER

HON. BOB BEAUPREZ

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 16, 2005

Mr. BEAUPREZ. Mr. Speaker, I rise today to pay tribute to USAF Lt Colonel Robert M. Walker, Deputy Group Commander of the 460th Operations Group, 460th Space Wing, Buckley Air Force Base. Lt Col Walker has been assigned to Buckley AFB since February 20, 2004, and has recently been selected to attend the prestigious USAF Air War College.

Lt Col Walker distinguished himself in 2004 in the performance of outstanding service to the United States as Director of the Space-Based Infrared System Mission Transfer Site Activation Task Force. He led a Total Force 25 person task force that seamlessly transferred the $16B Space-Based Infrared System to the newly activated 460th Space Wing, Buckley AFB, Aurora CO thus realizing USAF Space Command's vision for space-based warning operations.

In undertaking this endeavor, Lt Col Walker's tireless efforts and ability to work with myriad agencies, organizations, and people allowed for the activation of the 460th Space Wing in a timely and efficient manner.

Lt Col Walker distinguished service continued into 2005 when, as Deputy Group Commander of the 460th Operations Group, 460th Space Wing, Buckley Air Force Base, Lt Col Walker was second in command of an 850 person Total Force Group where his wisdom, experience and work ethic established a foundation for excellence in operations, personnel, communications, and strategic planning.

His accomplishments have truly had a profound impact not only on Buckley AFB but on the surrounding community as well.

Mr. Speaker, it is a pleasure to offer my thanks to Lt Col Walker for his commitment and record of achievement at Buckley Air Force Base in Aurora, Colorado. Lt Col Walker is a valuable asset to the United States Air Force and our nation and I wish him well in his future endeavors.

HONORING REV. VINCENT M. COOKE, S.J. UPON RECEIVING THE AMERICAN INSTITUTE OF ARCHITECTURE FRIENDS OF ARCHITECTURE AWARD

HON. BRIAN HIGGINS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 16, 2005

Mr. HIGGINS. Mr. Speaker, I rise today to pay tribute to Father Vincent M. Cooke, S.J., President of Canisius College in Buffalo, New York, who is being recognized by the American Institute of Architecture with the Friends of Architecture Award.

In 1993 Western New York was pleased to welcome Father Cooke as the new President of Canisius, a 36-acre private Jesuit college located on Main Street in the City of Buffalo.

A man with a brilliant educational past, with certificates of degree from Fordham University, Loyola Seminary, Woodstock College, Yale University and the University of Wisconsin-Madison, Fr. Cooke's vision for Canisius' future would take the college and surrounding community to places never imagined.

Over the past 13 years, Fr. Cooke has led the way in planning and implementing $115 million in capital projects at Canisius, converting the college from a commuter college to an institution ranked number one residential college experience among Jesuit institutions and number five nationwide.

Father Cooke has taken a hands-on approach with each and every project which has resulted in state-of-the-art living and recreation spaces and cutting edge classrooms. His success has earned him recognition by The Buffalo News as the second most influential civic leader in terms of his positive impact on the community.

Mr. Speaker, it is with great pleasure and gratitude that I stand here today to recognize Father Vincent Cooke as a Friend of Architecture. Canisius College employs the motto ''Where leaders are made'' and Fr. Cooke stands as a shinning role model for his students and an example of how true leadership can transform a college and a community.

SCHOOL BUILDING ENHANCEMENT ACT

HON. RUSH D. HOLT

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 16, 2005

Mr. HOLT. Mr. Speaker, I rise today to introduce legislation that will help schools implement energy saving measures to reduce their energy costs.

We are all too painfully aware of the rising cost of energy. Americans across the Nation are being forced to make tough decisions in order to heat their homes or fill up their gas tanks. The recent spike in energy prices will also be felt in our schools which already spend $6 billion on energy costs—more than the amount they spend on textbooks and computers combined. Schools across the country are already facing tight budgets; rising energy costs will only worsen their budget situation and could lead to the loss of important school programs.

However, there are ways that schools can offset the soaring price of energy. Through basic changes in the operations and maintenance of school buildings, operating costs can be reduced from 5-15 percent. To achieve even greater savings, schools can retrofit their buildings with more efficient systems and appliances.

Although these investments produce economic benefits in the long term, start up financing is often difficult for cash strapped school systems. That is why I am introducing legislation that will provide schools with federal funding to implement these structural changes. Specifically, my legislation will provide grants through the Environmental Protection Agency and the Department of Energy for schools that are seeking to make energy efficient upgrades in their schools or build a new energy efficient building. Additionally, this legislation will allow schools to work with the Department of Energy to improve transportation systems that are available to students, employees and other members of the community.

I urge my colleagues to support this bill that will benefit our environment while assisting schools reduce their operating costs.

CONGRATULATING PAULA DAWNING

HON. FRED UPTON

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 16, 2005

Mr. UPTON. Mr. Speaker, I rise today to congratulate Paula Dawning who recently was awarded the honor of State Superintendent of the Year for 2006 in the State of Michigan. Dawning has been the Superintendent of Benton Harbor Areas Schools since July of 2002 after she retired from her career as an executive at AT&T.

The Benton Harbor school system has made progress by leaps and bounds under her direction of during the past few years. Her constant commitment to academic improvement and reform—including additions like the new freshmen academy, improved reading programs, and her fiscal responsibility—have helped bring about a new sense of hope and achievement in a school system that has faced difficult challenges.

The award came as a surprise to Paula, who was not even made aware of her nomination until she had already received the award. In her usual humble demeanor she accepted the prestigius award that recognized her as an outstanding school superintendent; evidence that she stands out as the best among many highly qualified school system administrators.

I want to personally thank Paula for her service which has improved not only the education, but also the lives of the students in Benton Harbor. Paula's hard work and dedication to the children of her community make her a living example to all of people of Southwestern Michigan. I congratulate her once again for her distinguished award.

IN SUPPORT OF MALCOLM MELVILLE ''MAC'' LAWRENCE POST OFFICE

HON. STEVE BUYER

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 16, 2005

Mr. BUYER. Mr. Speaker, some say the measure of a man is the depth of the footprint he leaves behind. Malcolm Melville Lawrence, known as ''Mac,'' left a deep footprint on the community of Francesville as a war hero, community leader, and a teacher.

Born on a farm in Wheatfield, Indiana, Mac attended Purdue University on scholarship where he pursued a degree in Vocational Agriculture, Education, and Science. Despite being denied acceptance into the ROTC program at Purdue, Mac was drafted 5 months after graduating from college and immediately called to Fort Benjamin Harrison in Indianapolis to serve his country.

It may be insufficient to say Mac simply did his duty. Landing on the beaches of Normandy on June 6, 1944, with so many other young men from the greatest generation, Mac served as a Medic alongside the 1st Battalion, 18th Regiment of the 1st Infantry Division. Mac was awarded the Silver Star for valor, two Purple Hearts, and two Bronze Stars during five campaigns in World War II.

After the war, Mac and his wife Phyllis moved to Francesville where he began teaching at Francesville High School in 1946. Mac was beloved by his students for his patience and dedication to his craft, teaching everything from vocational agriculture to industrial arts. He finished as an administrator after more than 30 years in education.

Mac was the kind of person every community needs. Whether it was his service to his country or community, Mac asked nothing in return. He served on the library board, was active in Future Farmers of America, and participated in 4–H for 25 years: He was a pillar of the Francesville community and deserved every honor bestowed to him. Though he left this world on July 8, 2004, his legacy lives on.

I welcome the opportunity to further honor Mac Lawrence with the naming of the Francesville Post Office, the Malcolm Melville ''Mac'' Lawrence Post Office. Leading by quiet example while he was living, Mac deserves resounding recognition after death.

TRIBUTE TO JESSIE, GEORGE AND KYLE HETHERINGTON

HON. RAÚL M. GRIJALVA

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 16, 2005

Mr. GRIJALVA. Mr. Speaker, I rise to day to honor Jessie, George, and Kyle Hetherington. Jessie and George Hetherington, two grandparents, have faced many obstacles in the process of adopting their grandson, Kyle. This family is to be commended for they have persisted through personal and legal struggles to ensure Kyle's adoption.

Kyle entered Jessie and George's home in October of 2000. This family joins the growing trend of 6 million children being raised by ''Grand Families'' keeping children in loving homes. The Hetherington family is exemplary proof that often the best chance a child has at leading a normal life filled with affection is with a family of their own.

It is Grand Families such as the Hetherington's that provide a safe and stable home for children who would otherwise fall into foster care systems. But the commitment to a happy family has many obstacles and requires perseverance. The determination of this family defines unconditional love.

When Jessie and George first brought Kyle home, they lived in an age-restricted community. To keep Kyle, the family moved. Finding a new home was the first obstacle. Then, 15 months later, Kyle's mother regained custody. Kyle later returned to the Hetherington home, but his health, physically and emotionally, was worse than before. Since then, the family has been through several legal battles to keep Kyle from being returned to his mother, an absent father fighting Jessie and George's adoption rights, and accessing services for Kyle's health needs.

The family has undergone an intense legal pursuit but has been guided with love, patience, and support from Kinship, Adoption, Resource, Education (K.A.R.E.) program. The K.A.R.E. program works with Grandparents raising Grandchildren, and helped the Hetherington family navigate a system that does not understand the strength and needs of Grand Families.

The Hetherington family will soon celebrate a legal victory and adopt Kyle on December 6 of this year. Their emotional and legal struggle represents the battle of will over circumstance. This day is an early birthday gift for Kyle and a life long family gift. Kyle is a second grader at Miller Elementary School in Tucson, AZ and turns 8 on November 23.

Jessie ad George Hetherington's love, hard work, and dedication, and that of all Grand Families, should be acknowledged today.

As Jessie states ''Love can work wonders done in the right way''.

WINTER OUTDOORS MONTH RESOLUTION

HON. MARK UDALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 16, 2005

Mr. UDALL of Colorado. Mr. Speaker, as obesity and the associated health risks continue to increase it is important to encourage American's of all ages to participate in physical activity all year long.

To help spread this message, today I am introducing with my colleague from New York Representative JOHN SWEENEY, a resolution urging the President to declare a Winter Sports Month.

This resolution notes the increase in adult and childhood obesity along with the negative consequences of extremely overweight and obese people including a decrease in the average life span and rising health care costs stemming from obesity related illness. It also includes the role winter sport activities can play in addressing obesity and the positive effects of participating in physical activity. It resolves that the House of Representatives urge the President to declare January 2006 Winter Sports Month.

Alpine skiing, snowboarding, snowshoeing and cross country skiing, not only offer excellent aerobic and anaerobic exercise but they also are activities that allow an entire family to play together in a natural environment. Colder temperatures and snow should not deter outdoor activities.

''Winter Outdoors Month'' would remind citizens of the importance to maintain a consistent exercise program and healthy lifestyle all year 12 months out of the year. Winter sports offer unique opportunities to allow all Americans a chance to be together outside, enjoy the season.

A TRIBUTE TO RETIRING ASSOCIATE PARLIAMENTARIAN MUFTIAH MCCARTIN

HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 16, 2005

Mr. FARR. Mr. Speaker, I rise today to honor Associate Parliamentarian Muftiah McCartin, who has served in the Office of the Parliamentarian with distinction for nearly 30 years.

Muftiah began her career in the Office of the Clerk in 1976 and earned her bachelor' s degree and juris doctorate by studying at night. She became the first woman appointed a Parliamentarian in 1991.

When I came to Congress in 1993, Muftiah was like a navigator on a ship. I was unfamiliar with the trappings of the House of Representatives and it was overwhelming. To find the Parliamentarian had lived in Carmel Valley, California and knew my District helped me adjust.

I commend Muftiah as a role model to everyone. A lawyer and working mother, she was here at all hours, as long as the House was in session, sometimes at the expense of her family. Yet she has raised beautiful children: Marissa, Elaine, Sandra and Luke with her loving husband, Terry.

It's always sad to lose longtime professional staff; you lose that irreplaceable, institutional memory. But I wish her well in her new endeavors, including spending more time with her family and training for her next marathon or triathlon.

H.R. 1101

HON. DUNCAN HUNTER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 16, 2005

Mr. HUNTER. Mr. Speaker, legislation which I have introduced, H.R. 1101, revoking a Public Land Order for certain lands erroneously included in the Cibola National Wildlife Refuge in California, was passed by this body on May 23, 2005. Additionally, this legislation was recently reported out of the Senate Energy and Natural Resources Committee on September 28, 2005, and referred to the full Senate for consideration.

It is my understanding that the Committee included report language with this bill expressing its intent that the 140 acres H.R. 1101 transfers from the U.S. Fish and Wildlife Service to the U.S. Bureau of Land Management not be viewed as an endorsement for development and that any management changes proposed by the Bureau be made through the appropriate planning process and include the continued protection of natural, cultural, and historical resources located on this land. I rise today to state my concurrence with this report language and encourage the Senate to act quickly on passage of this important legislation.

ON COMPULSORY LICENSING OF TAMIFLU

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 16, 2005

Mr. KUCINICH. Mr. Speaker, I sent the attached letter, along with my colleagues, in support of compulsory licensing for Tamiflu on November 9, 2005. I submit a copy for the RECORD.

CONGRESS OF THE UNITED STATES,
Washington, DC, November 9, 2005.

MIKE LEAVITT,
Secretary, Department of Health and Human Services, 200 Independence Avenue, SW, Washington, DC.

DEAR MIKE: Thank you for participating in the House Government Reform Committee hearing ''The National Pandemic Influenza Preparedness and Response Plan: Is the U.S. Ready for Avian Flu?'' on November 4, 2005. We are writing to contest your stated justifications for refusing to issue a compulsory license for Tamiflu and to request, again, that you reconsider your stance.

You mentioned that issuing a compulsory license would not hasten the manufacture of Tamiflu because it is a complex manufacturing process that incorporates a step requiring an explosion hazard. There is considerable evidence showing that the manufacturing process is not prohibitively complex or dangerous.

Roche's own advertisement in several periodicals has said that they have ''received more than 100 requests from different parties interested in helping us meet production challenges.'' Indian generics manufacturer, Cipla has announced that they plan to start selling enough generic Tamiflu to treat 100,000 to 200,000 people by March of 2006. News reports indicate that Thailand, Taiwan, Malaysia, and Vietnam plan to initiate production, some as soon as February 2006. Taiwan appears to have made ''the drug in just 18 days, not including weekends and a bank holiday, using information from publicly available documents.'' They also report that Roche has admitted that it exaggerated the complexity of the manufacturing process. Ernie Prisbe, Vice President of Tamiflu inventor, Gilead Sciences, said of the Tamiflu manufacturing process, ''There's nothing that overwhelming in this kind of synthesis, or that formidable, that someone couldn't do it.''

Clearly, it is feasible to ramp up production swiftly to provide for the U.S. and the entire world.

You also indicated that you did not wish to issue a compulsory license for Tamiflu because it would discourage pharmaceutical companies from investing in research into future anti-virals or other drugs. Please be reminded that whenever a government representative issues a compulsory license, the licenser gets a royalty in order to insure profits are not taken. Roche will undoubtedly continue to make healthy profits if a compulsory license is issued.

You further indicated that an emphasis on Tamiflu is undue since it is not our strongest defense, nor is it guaranteed to be relevant to the virus strain behind a pandemic. I agree that Tamiflu is not a silver bullet. However, to our knowledge, it is the best pharmaceutical defense we have now. Our public health infrastructure is not ready and it will take years to make it so. Until there is a better alternative, and unless we have reason to believe the drug would do more harm than good, and until our state of readiness for a pandemic is stronger, we have an obligation to do all we can to shore up our weak defenses now. Bear in mind that the shelf life of Tamiflu is five years, which means stockpiles are unlikely to go to waste.

If you are content to wait until 2007 to fill our stockpile needs, a deadline you claimed Roche would be able meet in your testimony, you are gambling with public health with the proceeds going to Roche. If the pandemic does not happen before 2007, Roche keeps their monopoly intact and the public is unharmed. If the pandemic strikes before Roche meets its promised deadline, and nothing has been done to ramp up production—like issuing a compulsory license—our stockpile will be inadequate. History will not be kind to those who could have saved lives but instead deferred to intellectual property rights.

Please reconsider your willingness to issue a compulsory license for Tamiflu.

Sincerely,

DENNIS J. KUCINICH,
Member of Congress,
BERNARD SANDERS,
Member of Congress,
MARION BERRY,
Member of Congress.

STATEMENT ON THE 29TH ANNUAL AMERICAN CANCER SOCIETY GREAT AMERICAN SMOKEOUT

HON. ALLYSON Y. SCHWARTZ

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 16, 2005

Ms. SCHWARTZ of Pennsylvania. Mr. Speaker, an estimated 45.4 million adults in the United States are smokers; with tobacco usage accounting for nearly one in five deaths in the United States. Only about 5 percent of daily smokers who attempt to quit are successful for 3–12 months. That is why the American Cancer Society has designated the third Thursday of November as the Great American Smokeout—a day for smokers to join in solidarity and collectively kick this fatal habit.

The health consequences of smoking are grave. Smoking is the leading preventable cause of death in the United States. More than 170,000 Americans will die of smoking-related cancers this year, including lung, mouth, kidney, stomach and cervix cancer. Moreover, smoking affects family, friends and loved ones.

I applaud the American Cancer Society for all they do to eradicate smoking. Their local, state and national efforts help to discourage young people from taking up this deadly habit and the resources they provide have helped numerous smokers quit.

The American Cancer Society is a worthy ally in our fight to improve American's health and safety. I commend the American Cancer Society on their 29th Great American Smokeout and for all they do to maintain the health and well-being of all Americans.

EMERGENCY GENERATORS FOR ELECTRIC NEEDS (E–GEN) ACT OF 2005

HON. ALCEE L. HASTINGS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 16, 2005

Mr. HASTINGS of Florida. Mr. Speaker, I rise today to introduce the Emergency Generators for Electric Needs (E–GEN) Act of 2005.

More than 3 million Floridians were without power following Hurricane Wilma, some for well over three weeks. Few had electric generators of their own, leaving them dependent on the ability of power and utility companies to efficiently repair damaged infrastructure and make any necessary repairs.

Tens of thousands of seniors in South Florida who were relatively well-off before Hurricane Wilma quickly became vulnerable when the power went out after Wilma. Many of the buildings where they lived were old, ill-equipped and unable to generate emergency power, placing their lives in immediate risk.

According to various dealers, the costs of portable emergency power generators typically range between $1,000 and $3,000 depending on the wattage. Industrial-sized generators can cost upwards of $50,000. For many residents and communities, these costs are not affordable. The E–GEN Act enables individuals and communities to become self-sufficient when the power goes out. Under the bill, 75 percent of the cost of the purchase and installation of the generator would be eligible for reimbursement in the form of a tax credit. The credit cannot be used in conjunction with other emergencies reimbursements.

For individual homeowners, the credit is not to exceed $2,500. For businesses, condominium associations, senior communities, and others, the tax credit is not to exceed $60,000. These credits are vital to alleviate the problems disaster victims face, especially the elderly and infirm, when utility power disruptions prevent the use of essential items such as lighting, refrigeration, elevators, medical supplies, and heating and air conditioners.

Threats of natural and man-made disasters are on the rise. These events require proactive mitigation to protect the public from even larger catastrophes until order is restored. Credits used to purchase emergency generators through the E–GEN Act will save the government money and effort ordinarily used to provide shelters and temporary housing for displaced residents. If we can keep people's power on after a disaster then we can also protect their health and emotional well-being, while also keeping them in the comfortable confines of their own homes, instead of laid out on some cot in a shelter.

A lack of power contributed significantly to the problems that existed in South Florida during and after the 2004 hurricanes and again following Hurricane Wilma. This legislation will help cover the costs for individuals, adult communities and businesses who want to purchase emergency generators but can't afford them.

I ask for my colleagues' support and urge the House Leadership to bring it swiftly to the House floor for consideration.

ON THE HUMAN RIGHTS OF THE GWICH'IN

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 16, 2005

Mr. KUCINICH. Mr. Speaker, I sent the attached statement of support for the Gwich'in tribe on November 4, 2005.

CONGRESS OF THE UNITED STATES,
Washington, DC.

STATEMENT OF SUPPORT FOR

A MORAL CHOICE FOR THE UNITED STATES: THE HUMAN RIGHTS IMPLICATIONS FOR THE GWICH'IN PEOPLE OF DRILLING IN THE ARCTIC NATIONAL WILDLIFE REFUGE

The undersigned Members of Congress express their strong support for the Gwich'in people in their long-running battle to protect their culture and way of life by preventing oil and gas drilling in the Arctic National Wildlife Refuge. The report issued today by the Gwich'in Steering Committee, The Episcopal Church, and Professor Richard J. Wilson, Director of the Human Rights Law Clinic at American University, amply demonstrates that opening the Coastal Plain to drilling would violate the internationally recognized human rights of the Gwich'in to subsistence, to culture, to health, and to religion. The United States has a duty to safeguard these fundamental rights by protecting the Coastal Plain and its prime calving and post-calving grounds for the Porcupine Caribou Herd. The Porcupine Caribou Herd is central to the Gwich'in people's subsistence, culture, and entire way of life, and has been since time immemorial.

The report released today describes the nature of the close relationship between the Porcupine Caribou Herd and the Gwich'in people. According to Gwich'in elder, Jonathan Solomon, ''It is our belief that the future of the Gwich'in and the future of the Caribou are the same.'' The report also draws from the body of scientific research to show that opening the Coastal Plain to oil drilling would displace calving caribou from the prime calving grounds of the Coastal Plain, inexorably driving down calf survival and the population of the herd. Finally, the report shows that the continuing decline of the herd's population or a major change in its migration pattern could make subsistence hunting more difficult for the Gwich'in people or force them to curtail their annual caribou harvest. By damaging the ability of the Gwich'in to rely on the Porcupine Caribou Herd for their physical and cultural needs as they have done for millennia, a decision to open the Coastal Plain to oil exploration and development would violate the human right of the Gwich'in under internationally recognized norms.

In light of the findings of this report and our moral obligation to protect the Gwich'in way of life, we urge our colleagues to reject any proposal to open the Coastal Plain of the Arctic National Wildlife Refuge to oil and gas exploration and development.

Dennis. J. Kucinich, Edward J. Markey, Barbara Lee, Raúl M. Grijalva, Dale E. Kildee, Donald M. Payne, Maurice D. Hinchey, James P. McGovern, Peter A. DeFazio, Lynn C. Woolsey, Bernie Sanders, Janice D. Schakowsky, Danny K. Davis, Jim McDermott, Sam Farr, John Conyers, Jr., Diane E. Watson, William Lacy Clay, Betty McCollum.

HONORING DR. PHILIP KESTEN, 2005 CALIFORNIA PROFESSOR OF THE YEAR

HON. MICHAEL M. HONDA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 16, 2005

Mr. HONDA. Mr. Speaker, I rise to congratulate Dr. Philip Kesten, a professor from Santa Clara University, who was selected as the 2005 California Professor of the Year this week.

The United States Professors of the Year awards, sponsored by the Council for Advancement of Teaching and the Carnegie Foundation for the Advancement of Teaching, are the only national awards that recognize college and university professors for excellence in undergraduate teaching and mentoring. Dr. Kesten was one of 42 state winners to receive this honor.

After receiving his Bachelors degree in Physics from the Massachusetts Institute of Technology, Dr. Kesten went on to earn both his Masters and Doctorate in Physics at the University of Michigan. It was here that Dr. Kesten began his career as one of the nation's top educators. As a teaching assistant and head varsity crew coach, Dr. Kesten discovered not only his passion for teaching and mentoring students, but his ability to do it well—he won a teaching award from the Department of Physics.

Dr. Kesten has since gone on to an outstanding career in academia. In addition to his teaching experiences at Michigan and MIT, Dr. Kesten has taught at Brandeis University and is currently an Associate Professor of Physics at Santa Clara University. He is also the current Chairman of the Physics Department and Director of the Ricard Memorial Observatory.

This is not the first time Dr. Kesten has been recognized for his teaching excellence. In 2000, he was awarded the David E. Logathetti Teaching Award from the Santa Clara University College of Arts and Sciences. Seven years prior, the same College of Arts and Sciences recognized Kesten with the Certificate for Exceptional Teaching, Advising, and Curriculum Development.

While his formal education and accolades noticeably highlight his remarkable career, his most honorable work is found in his dedication to the comprehensive development of the student. As the Director of the Residential Learning Communities Program and the Faculty Director of the da Vinci Residential Learning Community, Dr. Kesten has succeeded in integrating the social, residential, and academic facets of a college student's experience.

I deeply appreciate all that Dr. Philip Kesten has done to improve the lives of this nation's students and extend my congratulations to him as the 2005 California Professor of the Year.

TRIBUTE TO ROBERT E. BUSH

HON. MARY BONO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 16, 2005

Mrs. BONO. Mr. Speaker, I would like to pay tribute to Robert E. Bush, a hero whose selfless contributions to our Nation began with his service in the Navy Medical Corps during WWII and continued throughout his remarkable life. Sadly, Mr. Bush passed away on November 8, 2005 at the age of 79. I ask all of my colleagues to join with me today in saluting this outstanding American.

Mr. Bush was born in Tacoma in 1926. In 1943, he left high school to join the Navy Medical Corps. Within a year of enlistment, he participated in an assault on Okinawa, one of the longest and bloodiest conflicts in the Pacific Theatre.

While attending to his wounded comrades on the front lines of the battlefield, Mr. Bush's division came under attack. He unhesitatingly continued to administer aid to those in desperate need as enemy forces pressed forward with their counterattack. Despite his own dangerously exposed position, Mr. Bush refused to evacuate and remained to provide a seriously injured soldier with critical plasma. This heroic act resulted in serious wounds and ultimately cost Mr. Bush his own right eye as he was struck with multiple enemy hand grenades. When additional help finally came, Mr. Bush refused treatment until the wounded soldier had been safely evacuated.

At the age of 18, Robert Bush became the youngest sailor to ever receive the military's highest honor, the Medal of Honor. This honor was bestowed personally by President Harry S. Truman. With characteristic selflessness and humility, Mr. Bush refused to consider his own courage apart from those that he served with and considered himself a ''custodian [of the Medal of Honor] for those who died.'' As his son Robert ''Mick'' Bush put it, ''The Medal of Honor was a symbol of Bush's philosophy of putting others first.'' Throughout the remainder of his life he remained very active with the Congressional Medal of Honor Society where he rose to the rank of president.

In further recognition of Mr. Bush's courage, a naval hospital in Twentynine Palms, California was named in his honor—as was a stretch of U.S. 101 that goes through South Bend and a clinic at Camp Courtney on Okinawa. I am pleased to recognize these lasting tributes to Mr. Bush's self sacrifice in service to others.

Mr. Bush was preceded in death by his wife and high school sweetheart, the former Wanda Spooner, who passed away in 1999 and his son, Lawrence Bush. He is survived by three of his children; Susan Ehle, Robert M. Bush and Richard Bush, eight grandchildren and two great grandchildren. Mr. Bush will be remembered by his dear family and friends as not only a national hero, but most importantly a dedicated family man who rendered tireless service to those who had the opportunity to associate with him.

Mr. Speaker, I would once again like to pay tribute to this great American hero. His life was a testament to patriotism and courage and I am honored to speak on his behalf today. I encourage my colleagues to join me in recognizing and celebrating the life of Mr. Robert E. Bush.

IN HONOR AND RECOGNITION OF THE 30TH ANNIVERSARY OF THE LESBIAN/GAY SERVICE CENTER OF GREATER CLEVELAND

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 16, 2005

Mr. KUCINICH. Mr. Speaker, I rise today in honor and recognition of the Lesbian/Gay Service Center of Greater Cleveland, as they celebrate thirty years of support, outreach, education and advocacy on behalf of lesbian and gay individuals within our community.

In 1975, founding members Ethan Ericsen, Michael Madigan and Arthur MacDonald embraced a collective vision of human rights for everyone; a vision they transformed into a haven of support and services, named the Gay Education and Awareness Resource Foundation (GEAR). GEAR began the work of community outreach programs, legal advocacy efforts and support programs focused on issues affecting lesbian and gay youth. The Center continues to build bridges with educational and social service organizations throughout the Cuyahoga County, with a strong focus on the youth of our community.

The project, Safe Schools Are For Everyone, exists to provide safe social opportunities, support and leadership training for students, teachers and school administrators. Over the past thirty years, the Center's name has changed and the scope of services has expanded, yet the core mission has remained the same: To craft a kinship of all citizens, gay and straight, who stand united on a solid foundation of tolerance, acceptance and protection of the rights and freedoms of all people, regardless of their sexual orientation or gender identity.

Mr. Speaker and Colleagues, please join me in honor and recognition of all leaders and members, past and present, of the Lesbian/Gay Service Center of Cleveland. Their collective effort, work, volunteerism and compassion serves to bolster the spirit of those still struggling against a tide of oppression. The Center's vital work offers the promise that one day, the shroud of societal ignorance and intolerance will dissolve into the light of freedom and justice for all.

HONORING JETTE HALLADAY AS TENNESSEE'S PROFESSOR OF THE YEAR

HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 16, 2005

Mr. GORDON. Mr. Speaker, I rise today to honor Dr. Jette Halladay, who has been named Tennessee's Professor of the Year. I am proud to say that Dr. Halladay teaches at my alma mater, Middle Tennessee State University, in Murfreesboro, Tennessee.

Dr. Halladay received this honor at the U.S. Professors of the Year awards, the only national awards that recognize outstanding professors of undergraduates at our Nation's colleges and universities.

With her emphasis on educational drama, Dr. Halladay instructs not only future drama teachers, but also pre-service elementary school teachers. Her students learn how to enhance their lessons with role-playing and other creative activities. Upon graduation they are able to develop engaging lessons that are memorable and educational, such as recreating a journey on the Oregon Trail rather than just reading a textbook summary of Manifest Destiny.

Since 1994, Dr. Halladay has infused her theatre classes with unmatchable enthusiasm and energy. I hope MTSU and its students are fortunate enough to benefit from her talents and unique teaching style for many more years.

I commend Dr. Halladay for this tremendous achievement, and I wish her all the best.

HONORING THE CITY OF NORTH TONAWANDA UPON RECEIVING THE AMERICAN INSTITUTE OF ARCHITECTURE FRIENDS OF ARCHITECTURE AWARD

HON. BRIAN HIGGINS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 16, 2005

Mr. HIGGINS. Mr. Speaker, I rise today to pay tribute to the City of North Tonawanda which is being recognized by the American Institute of Architecture with the Friends of Architecture Award.

Located midway between the Cities of Buffalo and Niagara Falls, North Tonawanda is the 15th largest city in New York with a population of over 33,000 residents.

Formerly a manufacturing hub, under the leadership of Mayor David Burgio, City Engineer Dale Marshall and Public Works Superintendent Gary Franklin, North Tonawanda is being transformed into a waterfront destination.

The potential for waterfront development in Erie County is great and the City of North Tonawanda has set an example for the rest of the region.

Gateway Park is a premiere attraction for residents and tourists alike. Thanks to new design and infrastructure improvements Gateway Park has come alive year-round with events such as Canal Fest, October Fest, Winter Walk, boat shows, and concerts.

In addition, investments in North Tonawanda redevelopment have served as a catalyst for economic growth resulting in new businesses and jobs in the community.

Mr. Speaker, it is with great pleasure and gratitude that I stand here today to recognize the City of North Tonawanda as a Friend of Architecture. Their proactive approach to design and development highlights the natural, historical and architectural resources right here in our backyard.

PRIVATIZATION OF ENVIRONMENTAL HEALTH PERSPECTIVES

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 16, 2005

Mr. KUCINICH. Mr. Speaker, I sent the attached letter, along with my colleagues, in opposition to the proposed privatization of Environmental Health Perspectives on November 10, 2005.

CONGRESS OF THE UNITED STATES,
Washington, DC, November 10, 2005.

Dr. ELIAS ZERHOUNI,
Director, National Institutes of Health, Bethesda, Maryland.

DEAR DR. ZERHOUNI: We write to express our strong opposition to the proposed privatization of Environmental Health Perspectives (EHP). Doing so places at risk the integrity and quality of one of the world's best independent journals covering the area of science that deals with the environment and health. We urge you to reject EHP privatization.

EHP is one of the premier academic peer reviewed journals in the world. It ranks second among 132 environmental science journals, and fifth among ninety public environmental and occupational health journals. If it were considered among the general medical journals like the New England Journal of Medicine and JAMA, it would rank tenth. Early signs indicate that this year, all those rankings are likely to increase.

Its value and uniqueness stem, in large part, from its status as a publicly managed journal. For example, EHP's independence directly enhances the quality of the work it publishes. Their conflict of interest policy is among the strictest of peer-reviewed journals. Such a policy might be compromised if the journal was privately published.

In addition, its public funding source allows it to be an open access journal, which means anyone with Internet access can get any EHP article 24 hours after it is accepted for publication. That is essential because the vast majority of published research is available only through increasingly costly journal subscriptions, institutional license fees, or per-article purchases. This closed system leaves the American public—including physicians, public health professionals, patients and patient groups, students, teachers, librarians and scientists at academic institutions, hospitals, research laboratories, and corporate research centers—under-informed about important, timely research results they helped finance.

Because EHP is publicly funded, important public health functions are performed that the private sector would be unlikely to support. The National Institute of Environmental Health Sciences (NIEHS), which runs EHP, provides free monthly copies to those in the developing world, where environmental health problems are, in many cases, the most severe. NIEHS also provides EHP classroom materials for universities and high schools. These non-revenue-generating programs have high public health value and would be at risk if EHP were privatized. The breadth of appeal and academic discipline that uniquely characterizes EHP would also be at risk of sustaining a narrowing of scope more in line with privately run journals.

Finally, NIEHS does a highly efficient job of running EHP. In the last year, the EHP budget was $3.3 million, which is less than one half of one per cent of the NIEHS budget. In the last four years, they have reduced their budget by fifteen percent while they have become an open access journal, expanded their reach to other countries, expanded their educational programs, and dramatically increased the quality of the articles. Despite having this record that any private sector establishment would envy, NIEHS is considering still more cost cutting measures to further streamline. The impact of EHP on public health far surpasses its costs.

Privatizing EHP is unnecessary and unwise. It would yield miniscule cost savings

while exacting a large cost to public health. We urge you to reject privatizing EHP.

Sincerely,

Dennis J. Kucinich, Hilda L. Solis, Bart Gordon, Mark Udall, Raúl M. Grijalva, Jim McDermott, Brad Miller, Bernard Sanders, Robert Wexler, Barbara Lee, James P. McGovern, James P. Moran, Martin O. Sabo.

CONGRATULATING ARCHBISHOP OSCAR H. LIPSCOMB ON THE 25TH ANNIVERSARY OF HIS ORDINATION TO THE EPISCOPACY AND THE ARCHDIOCESE OF MOBILE ON ITS 25TH ANNIVERSARY

HON. JO BONNER

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 16, 2005

Mr. BONNER. Mr. Speaker, I rise today to honor Archbishop Oscar H. Lipscomb on the 25th anniversary of his ordination to the episcopacy and to recognize the 25th anniversary of the Archdiocese of Mobile.

Mobile native Archbishop Oscar H. Lipscomb holds a master's degree and a doctorate from Catholic University in Washington, D.C. Archbishop Lipscomb was ordained a priest in Rome on July 15, 1956, and was consecrated as the first Archbishop of Mobile on November 16, 1980.

Archbishop Lipscomb has been a pillar of the Mobile Catholic community for almost half a century starting when he was assistant pastor at St. Mary Parish. He has also played an integral role in education, serving as a teacher at McGill Institute and later a lecturer at Spring Hill College.

A popular figure in our community, Archbishop Lipscomb has developed a strong reputation for his dedication to the Archdiocese of Mobile. The archbishop has received numerous honors throughout his life including receiving the rank of Papal Chaplain and the title of Reverend Monsignor by Pope Paul VI and being named "Mobilian of the Year for 1981." He has been an active member in the Catholic Historical Association, Historic Mobile Preservation Society, American Catholic Historical Association, Lions Club of Mobile, and the Mobile Metropolitan YMCA. Recently, under the archbishop's leadership, the archdiocese has made significant contributions to the victims of Hurricane Katrina.

Mr. Speaker, I ask my colleagues to join me in honoring the silver jubilee of Archbishop Lipscomb's ordination to the episcopacy and being the first archbishop of the Archdiocese of Mobile. I also extend my gratitude to Archbishop Lipscomb for 25 years of service to southwest Alabama. I know his sister, Margaret Joyce Lipscomb Bolton, and his many friends join with me in praising his accomplishments and recognizing this milestone in his life.

ON THE FUNDING OF GULF WAR VETERANS ILLNESSES

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 16, 2005

Mr. KUCINICH. Mr. Speaker, I sent the attached letter, along with my colleagues, in support of Gulf War Veterans Illnesses Research funding in the Conference Report of the Defense Appropriations Bill on November 10, 2005.

CONGRESS OF THE UNITED STATES,
Washington, DC, November 10, 2005.

The Hon. C.W. BILL YOUNG,
Chairman, Appropriations Subcommittee on Defense, H–309 U.S. Capitol, Washington, DC.

The Hon. JOHN P. MURTHA,
Ranking Member, Appropriations Subcommittee on Defense, 1016 Longworth House Office Building, Washington, DC.

DEAR CHAIRMAN YOUNG AND RANKING MEMBER MURTHA: As the conferees begin to work on the fiscal year 2006 Appropriations bill for the Subcommittee on Defense, we respectfully seek your support for retaining the House funding level of $10 million for Gulf War Veterans Illnesses research.

The Congressionally chartered Veterans' Administration Research Advisory Committee on Gulf War Veterans' Illnesses found in September 2004 that fourteen years after the 1990–1991 Gulf War, between 26 and 32 percent of those who served in that war continue to suffer from serious and persistent health problems—typically multiple symptoms that include severe headaches, memory problems, muscle and joint pain, severe gastrointestinal problems, respiratory problems, skin disorders and other problems. They also determined that the existence of these serious and often debilitating problems could not be scientifically explained by stress or psychiatric illness.

We are only now starting to see the long-term effects. For example, ALS, or Lou Gehrig's disease, occurs in Persian Gulf veterans with twice the frequency of peer veterans that were not deployed. Yet a federal research program to better understand these issues that was once $45 million strong has been virtually eliminated. The FY 06 budget dedicates no funding to either the Department of Defense or the Department of Health and Human Services for Gulf War Illnesses research. The funding we are requesting is consistent with the VA Research Committee recommendations.

The amendment to the FY 06 House Defense appropriations bill that added the research funding was well supported. It passed by voice vote, had bipartisan support and was backed by the American Legion, Paralyzed Veterans of America, the National Gulf War Resource Center, Vietnam Veterans of America, and Veterans of Foreign Wars.

Finally, research guidance was developed in consultation with top members of the VA Research Committee. We therefore request that the guidance, which is the same as that inserted into the congressional record during bill debate, be included in the conference report. The guidance text is attached for your reference. We expect this research to supplement the other promising research performed at Army Research, Development, Test and Evaluation within the Department of Defense.

Thank you for consideration of our requests.

Sincerely,

Dennis J. Kucinich, Bernard Sanders, Frank Pallone, Jr., Jim McDermott, Lane Evans, Tammy Baldwin, Christopher Shays, Rob Simmons, Rush D. Holt, Barbara Lee, Albert R. Wynn, Carolyn B. Maloney, Lloyd Doggett, Joseph Crowley, Raúl Grijalva, John Conyers, Jr., Jay Inslee, Dennis Moore, Collin C. Peterson, Betty McCollum, Ed Case, Members of Congress.

GULF WAR VETERANS' ILLNESSES RESEARCH GUIDANCE FOR THE FY06 DEFENSE DEPARTMENT APPROPRIATIONS CONFERENCE REPORT

It is intended that the appropriation for research on chronic illnesses affecting veterans of the 1991 Gulf War be used for a coherent research program focusing on (1) identification of mechanisms underlying Gulf War illnesses, (2) chronic effects of neurotoxic substances to which veterans were exposed during deployment; (3) studies that expand on earlier research identifying neurological and immunological abnormalities in ill Gulf War veterans; and (4) identification of promising treatments. The primary objective of the research program will be to elucidate pathophysiological mechanisms underlying Gulf War illnesses, which may subsequently be targeted to developing treatments for these conditions. A further objective will be to identify and evaluate treatments which currently exist and which hold promise for treating these illnesses.

The U.S. Army Medical Research and Materiel Command shall, in consultation with experienced research scientists in relevant fields, establish a list of research questions to address the above topics, and design a program of specific research studies that together constitute a coherent plan to answer these questions, each identified study to be conducted by the most qualified researcher, which may include consulted scientists. As part of this process, there shall be a public solicitation of research proposals (which may include concept exploration and pilot projects) on these questions and at least twenty-five percent of the program (measured by amount funded) shall be made up of proposals selected from this solicitation, as modified if necessary to increase the value of the proposed research to the overall program. At least twenty percent of the program (measured by amount funded) shall address the objective of identifying and evaluating promising existing treatments, such as observation and pilot studies. The program shall be submitted for determination of scientific merit through independent peer review.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, November 17, 2005 may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

NOVEMBER 18

10 a.m.

Commerce, Science, and Transportation

To hold hearings to examine the future of science.

SD–562

Daily Digest

HIGHLIGHTS

Senate passed S. 1783, Pension Security and Transparency Act.

Senate agreed to the conference report to accompany H.R. 2862, Science/State/Justice/Commerce Appropriations.

House Committees ordered reported 31 sundry measures

Senate

Chamber Action

Routine Proceedings, pages S12873–S13065

Measures Introduced: Twelve bills and one resolution were introduced, as follows: S. 2016–2027, and S. Res. 317. **Pages S12949–50**

Measures Reported: S. 716, to amend title 38, United States Code, to enhance services provided by vet centers, to clarify and improve the provision of bereavement counseling by the Department of Veterans Affairs. (S. Rept. No. 109–180)

S. 363, to amend the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 to establish vessel ballast water management requirements, with an amendment in the nature of a substitute. (S. Rept. No. 109–181)

S. 467, to extend the applicability of the Terrorism Risk Insurance Act of 2002, with an amendment in the nature of a substitute.

S. 2020, to provide for reconciliation pursuant to section 202(b) of the concurrent resolution on the budget for fiscal year 2006. **Page S12948**

Measures Passed:

Rosa Parks Statue: Committee on Rules and Administration was discharged from further consideration of S. Con. Res. 62, directing the Joint Committee on the Library to procure a statue of Rosa Parks for placement in the Capitol, after agreeing to the following amendment proposed thereto:

Pages S13039–41

Isakson (for Dodd/McConnell) Amendment No. 2585, to make a technical correction. **Page S13041**

Veterans Compensation: Senate passed S. 1234, to increase, effective as of December 1, 2005, the rates of compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for the survivors of certain disabled veterans, after agreeing to the following amendment proposed thereto: **Pages S13041–42**

Isakson (for Craig) Amendment No. 2584, in the nature of a substitute. **Page S13041**

Pension Security and Transparency Act: By 97 yeas to 2 nays (Vote No. 328), Senate passed S. 1783, to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to reform the pension funding rules, after taking action on the following amendments proposed thereto: **Pages S12884–S12921**

Adopted:

Enzi (for Grassley) Amendment No. 2581, in the nature of a substitute. (The amendment will be considered as original text for the purpose of further amendment.) **Page S12884**

Isakson Amendment No. 2582, to modify pension funding rules related to airlines. **Pages S12886–92**

By 58 yeas to 41 nays (Vote No. 327), Akaka/Specter Amendment No. 2583, to compute the actuarial value of monthly benefits in the form of a life annuity commencing at age 60 for certain airline pilots. **Pages S12892–97, S12905–06**

Ice Floods National Geologic Trail: Senate passed S. 206, to designate the Ice Floods National Geologic Trail, after agreeing to the committee amendment in the nature of a substitute. **Pages S13042–44**

Space Shuttle Columbia Memorials: Senate passed S. 242, to direct the Secretary of the Interior to carry out a study to determine the suitability and feasibility of establishing memorials to the Space Shuttle Columbia on parcels of land in the State of Texas, after agreeing to the committee amendment in the nature of a substitute. **Page S13044**

Rocky Mountain National Park: Senate passed S. 584, to require the Secretary of the Interior to allow

the continued occupancy and use of certain land and improvements within Rocky Mountain National Park, after agreeing to the committee amendment in the nature of a substitute. **Pages S13044–45**

Ben Franklin National Memorial: Senate passed S. 652, to provide financial assistance for the rehabilitation of the Benjamin Franklin National Memorial in Philadelphia, Pennsylvania, and the development of an exhibit to commemorate the 300th anniversary of the birth of Benjamin Franklin. **Page S13045**

Rural Water Supply Program: Senate passed S. 895, to direct the Secretary of the Interior to establish a rural water supply program in the Reclamation States to provide a clean, safe affordable, and reliable water supply to rural residents, after agreeing to the committee amendment in the nature of a substitute. **Pages S13045–53**

Franklin National Battlefield Study Act: Senate passed H.R. 1972, to direct the Secretary of the Interior to conduct a special resource study to determine the suitability and feasibility of including in the National Park System certain sites in Williamson County, Tennessee, relating to the Battle of Franklin, clearing the measure for the President. **Page S13042**

Star-Spangled Banner Trail: Senate passed S. 958, to amend the National Trails System Act to designate the Star-Spangled Banner Trail in the States of Maryland and Virginia and the District of Columbia as a National Historic Trail, after agreeing to the committee amendments. **Page S13053**

Acadia National Park Improvement Act: Senate passed S. 1154, to extend the Acadia National Park Advisory Commission, to provide improved visitor services at the park, after agreeing to the committee amendments. **Pages S13053–54**

Public Land Corps Healthy Forests Restoration Act: Senate passed S. 1238, to amend the Public Lands Corps Act of 1993 to provide for the conduct of projects that protect forests, after agreeing to the committee amendments, and the following amendment proposed thereto: **Pages S13054–56**

McConnell (for Domenici/Bingaman) Amendment No. 2591, to modify the authorization of appropriations. **Page S13055**

Delaware National Coastal Special Resources Study Act: Senate passed S. 1627, to authorize the Secretary of the Interior to conduct a special resources study to evaluate resources along the coastal region of the State of Delaware and to determine the suitability and feasibility of establishing a unit of the National Park System in Delaware. **Page S13056**

Cape Lookout National Seashore: Senate passed H.R. 126, to amend Public Law 89–366 to allow for an adjustment in the number of free roaming horses permitted in Cape Lookout National Seashore, clearing the measure for the President. **Page S13056**

Caribbean National Forest Act: Senate passed H.R. 539, to designate certain National Forest System land in the Commonwealth of Puerto Rico as a component of the National Wilderness Preservation System, clearing the measure for the President. **Page S13056**

Department of the Interior Volunteer Recruitment Act: Senate passed H.R. 584, to authorize the Secretary of the Interior to recruit volunteers to assist with, or facilitate, the activities of various agencies and offices of the Department of the Interior, clearing the measure for the President. **Page S13056**

Angel Island Immigration Station Restoration and Preservation Act: Senate passed H.R. 606, to authorize appropriations to the Secretary of the Interior for the restoration of the Angel Island Immigration Station in the State of California, clearing the measure for the President. **Page S13057**

National Geologic Mapping Reauthorization Act: Senate passed S. 485, to reauthorize and amend the National Geologic Mapping Act of 1992, after agreeing to the following amendment proposed thereto: **Page S13057**

McConnell (for Domenici/Bingaman) Amendment No. 2592, to extend the authorization of appropriations for the National Geologic Mapping Act of 1992. **Page S13057**

Morley Nelson Snake River Birds of Prey National Conservation Area Act: Senate passed S. 761, to rename the Snake River Birds of Prey National Conservation Area in the State of Idaho as the Morley Nelson Snake River Birds of Prey National Conservation Area in honor of the late Morley Nelson, an international authority on birds of prey, who was instrumental in the establishment of this National Conservation Area, **Page S13057**

Fort Stanton-Snowy River National Cave Conservation Area Act: Senate passed S. 1170, to establish the Fort Stanton-Snowy River Cave National Conservation Area, after agreeing to the committee amendment in the nature of a substitute, and the following amendment proposed thereto: **Pages S13058–59**

McConnell (for Domenici/Bingaman) Amendment No. 2593, in the nature of a substitute. **Page S13059**

McConnell (for Domenici) Amendment No. 2594, to amend the title. **Page S13059**

Deschutes River Conservancy Reauthorization Act: Senate passed S. 166, to amend the Oregon Resource Conservation Act of 1996 to reauthorize the participation of the Bureau of Reclamation in the Deschutes River Conservancy. **Page S13060**

Little Butte/Bear Creek Subbasins Water Feasibility Act: Senate passed S. 251, to authorize the Secretary of the Interior, acting through the Bureau of Reclamation, to conduct a water resource feasibility study for the Little Butte/Bear Creek Subbasins in Oregon, after agreeing to the committee amendments. **Page S13060**

Rio Arriba County Land Conveyance Act: Senate passed S. 213, to direct the Secretary of the Interior to convey certain Federal land to Rio Arriba County, New Mexico, after agreeing to the committee amendment in the nature of a substitute. **Pages S13060–61**

Glendo Unit of the Missouri River Basin Project Contract Extension Act: Senate passed S. 592, to extend the contract for the Glendo Unit of the Missouri River Basin Project in the State of Wyoming. **Page S13061**

Pactola Reservoir Reallocation Authorization Act: Senate passed S. 819, to authorize the Secretary of the Interior to reallocate costs of the Pactola Dam and Reservoir, South Dakota, to reflect increased demands for municipal, industrial, and fish and wildlife purposes. **Page S13061**

Nebraska Water Service Extension: Senate passed S. 891, to extend the water service contract for the Ainsworth Unit, Sandhills Division, Pick-Sloan Missouri Basin Program, Nebraska. **Page S13061**

Alaska Water Resources Act: Senate passed S. 1338, to require the Secretary of the Interior, acting through the Bureau of Reclamation and the United States Geological Survey, to conduct a study on groundwater resources in the State of Alaska, after agreeing to the committee amendment. **Pages S13061–62**

Catoctin Mountain National Recreation Area Designation Act: Senate passed S. 777, to designate Catoctin Mountain Park in the State of Maryland as the ''Catoctin Mountain National Recreation Area'', after agreeing to the committee amendments. **Page S13062**

California Public Land Order: Senate passed H.R. 1101, to revoke a Public Land Order with respect to certain lands erroneously included in the Cibola National Wildlife Refuge, California. **Page S13063**

New Shipper Review Amendment Act: Committee on Finance was discharged from further consideration of S. 695, to suspend temporarily new shipper bonding privileges, and the bill was then passed. **Page S13063**

Subsequently, the bill was then ordered held at the desk. **Page S12947**

Water for the Poor Act: Senate passed H.R. 1973, to make access to safe water and sanitation for developing countries a specific policy objective of the United States foreign assistance programs, clearing the measure for the President.

Internet Corporation Oversight: Senate agreed to S. Res. 317, expressing the sense of the Senate regarding oversight of the Internet Corporation for Assigned Names and Numbers. **Pages S13063–65**

Tax Relief Act: Senate began consideration of S. 2020, to provide for reconciliation pursuant to section 202(b) of the concurrent resolution on the budget for fiscal year 2006, taking action on the following amendments proposed thereto: **Pages S12923–40**

Pending:

Dorgan Amendment No. 2587, to amend the Internal Revenue Code of 1986 to impose a temporary windfall profit tax on crude oil and to rebate the tax collected back to the American consumer. **Pages S12926–38**

Durbin Amendment No. 2596, to express the sense of the Senate concerning the provision of health care for children before providing tax cuts for the wealthy. **Pages S12938–40**

A unanimous-consent-time agreement was reached providing for further consideration of the bill at approximately 10 a.m., on Thursday, November 17, 2005, with 10 hours of debate remaining. **Page S13065**

Science/State/Justice/Commerce Appropriations—Conference Report: By 94 yeas to 5 nays (Vote No. 329), Senate agreed to the conference report to accompany H.R. 2862, making appropriations for Science, the Department of State, Justice, and Commerce, and related agencies for the fiscal year ending September 30, 2006, clearing the measure for the President. **Pages S12921–23**

China Currency—Agreement: A unanimous-consent agreement was reached to modify the order of July 1, 2005, with respect to S. 295, to authorize appropriate action in the negotiations with the People's Republic of China regarding China's undervalued currency are not successful, providing that the Majority Leader, after consultation with the Democratic Leader, shall, no later than March 31, 2006, call up the bill; with all other provisos remaining. **Page S12924**

Executive Reports of Committees: Senate received the following executive report from the Committee on Foreign Relations:

Report to accompany Convention Concerning Migratory Fish Stock in the Pacific Ocean (Treaty Doc. 109–1) (Ex. Rept. 109–8). **Page S12949**

Messages From the President: Senate received the following message from the President of the United States:

Transmitting a draft of proposed legislation entitled ''United States-Bahrain Free Trade Agreement Implementation Act''; which was referred to the Committee on Finance. (PM–32) **Pages S12946–47**

Nominations Received: Senate received the following nominations:

Marc L. Kesselman, of Tennessee, to be General Counsel of the Department of Agriculture.

Richard T. Crowder, of Virginia, to be Chief Agricultural Negotiator, Office of the United States Trade Representative, with the rank of Ambassador.

Daniel Meron, of Maryland, to be General Counsel of the Department of Health and Human Services.

Claudia A. McMurray, of Virginia, to be Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs.

Peter N. Kirsanow, of Ohio, to be a Member of the National Labor Relations Board for the term of five years expiring August 27, 2008. **Page S13065**

Messages From the House: **Page S12947**

Measures Referred: **Page S12947**

Measures Placed on Calendar: **Page S12947**

Measures Held at Desk: **Page S12947**

Executive Communications: **Pages S12947–48**

Executive Reports of Committees: **Pages S12948–49**

Additional Cosponsors: **Page S12950**

Statements on Introduced Bills/Resolutions: **Pages S12950–60**

Additional Statements: **Pages S12945–46**

Amendments Submitted: **Pages S12960–S13038**

Authorities for Committees to Meet: **Pages S13038–39**

Privileges of the Floor: **Page S13039**

Record Votes: Three record votes were taken today. (Total–329) **Pages S12906, S12921, S12923**

Adjournment: Senate convened at 9:30 a.m., and adjourned at 7:25 p.m., until 9:30 a.m., on Thursday, November 17, 2005. (For Senate's program, see the remarks of the Acting Majority Leader in today's Record on page S13065.)

Committee Meetings

(Committees not listed did not meet)

CAPITOL VISITOR CENTER

Committee on Appropriations: Subcommittee on Legislative Branch resumed hearings to examine the progress of Capitol Visitor Center construction, focusing on the estimate of the cost-to-complete the project, efforts to keep the project on schedule, and the status of critical activities such as stone installation and the utility tunnel construction, receiving testimony from Alan M. Hantman, Architect, and Robert C. Hixon, Jr., Capitol Visitor Center Project Manager, both of the Office of the Architect of the Capitol; Bernard L. Ungar, Director, and Terrell Dorn, Assistant Director, both of Physical Infrastructure Issues, Government Accountability Office; and Marvin Shenkler, Gilbane Company, Washington, D.C.

Hearing recessed subject to the call.

NOMINATIONS

Committee on Armed Services: Committee ordered favorably reported 2,442 military Nominations: in the Army, Navy, and Air Force.

BUSINESS MEETING

Committee on Banking, Housing, and Urban Affairs: Committee ordered favorably reported the following business items:

S. 467, to extend the applicability of the Terrorism Risk Insurance Act of 2002, with an amendment in the nature of a substitute;

An original bill to authorize the Secretary of Homeland Security to award grants to public transportation agencies to improve security; and

The nominations of Ben S. Bernanke, of New Jersey, to be a Member and to be Chairman of the Board of Governors of the Federal Reserve System.

MAGNUSON-STEVENS FISHERY CONSERVATION AND MANAGEMENT ACT

Committee on Commerce, Science, and Transportation: Committee concluded a hearing to examine the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2005, after receiving testimony from James L. Connaughton, Chairman, Council on Environmental Quality; John H. Dunnigan, Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce; Admiral James D. Watkins, U.S. Navy (Ret.), Chairman, U.S. Commission on Ocean Policy; and George LaPointe, State of Maine Department of Marine Resources, Augusta.

VEHICLE FRAUD

Committee on Commerce, Science, and Transportation: Subcommittee on Consumer Affairs, Product Safety, and Insurance concluded a hearing to examine how to protect the consumer from flooded and salvage vehicle fraud, focusing on efforts to provide greater protection to the car buying public and to ensure that the used vehicle marketplace operates more efficiently and fairly, after receiving testimony from William L. Brauch, Iowa Attorney General's Office, Des Moines; Karen Chappell, Virginia Department of Motor Vehicles, on behalf of American Association of Motor Vehicle Administrators, and Donald L. Hall, Virginia Automobile Dealers Association, on behalf of the National Automobile Dealers Association, both of Richmond; Robert M. Bryant, National Insurance Crime Bureau, Fairfax, Virginia; Rosemary Shahan, Consumers for Auto Reliability and Safety, Sacramento, California; and Alan Fuglestad, Experian Automotive, Schaumberg, Illinois.

BUSINESS MEETING

Committee on Energy and Natural Resources: Committee ordered favorably reported the following business items:

S. 310, to direct the Secretary of the Interior to convey the Newlands Project Headquarters and Maintenance Yard Facility to the Truckee-Carson Irrigation District in the State of Nevada;

S. 435, to amend the Wild and Scenic Rivers Act to designate a segment of the Farmington River and Salmon Brook in the State of Connecticut for study for potential addition to the National Wild and Scenic Rivers System, with an amendment;

S. 648, to amend the Reclamation States Emergency Drought Relief Act of 1991 to extend the authority for drought assistance;

S. 1025, to amend the Act entitled ''An Act to provide for the construction of the Cheney division, Wichita Federal reclamation project, Kansas, and for other purposes'' to authorize the Equus Beds Division of the Wichita Project, with an amendment;

S. 1096, to amend the Wild and Scenic Rivers Act to designate portions of the Musconetcong River in the State of New Jersey as a component of the National Wild and Scenic Rivers System;

S. 1310, to authorize the Secretary of the Interior to allow the Columbia Gas Transmission Corporation to increase the diameter of a natural gas pipeline located in the Delaware Water Gap National Recreation Area, with an amendment;

S. 1552, to amend Public Law 97–435 to extend the authorization for the Secretary of the Interior to release certain conditions contained in a patent concerning certain land conveyed by the United States to Eastern Washington University until December 31, 2009;

S. 1578, to reauthorize the Upper Colorado and San Juan River Basin endangered fish recovery implementation programs;

S. 1760, to authorize early repayment of obligations to the Bureau of Reclamation within Rogue River Valley Irrigation District or within Medford Irrigation District;

S. 1860, to amend the Energy Policy Act of 2005 to improve energy production and reduce energy demand through improved use of reclaimed waters, with an amendment in the nature of a substitute; and

The nominations of Jeffrey D. Jarrett to be Assistant Secretary for Fossil Energy, and Edward F. Sproat III to be Director, Office of Civilian Radioactive Waste Management, both of the Department of Energy.

TRANSPORTATION FUELS

Committee on Environment and Public Works: Committee concluded an oversight hearing to examine transportation fuels of the future, after receiving testimony from Red Cavaney, American Petroleum Institute, and Richard F. Goodstein, Air Products and Chemicals, Inc., both of Washington, D.C.; Jeffrey McDougall, JMA Energy Company, Oklahoma City, Oklahoma, on behalf of the Oklahoma Independent Petroleum Association; Bill Honnef, VeraSun Energy, Brookings, South Dakota; and John B. Holmes, Jr., Syntroleum Corporation, Tulsa, Oklahoma.

OIL CONSUMPTION

Committee on Foreign Relations: Committee concluded a hearing to examine the new currency of foreign policy, focusing on the high costs of crude, including the effects of U.S. oil consumption on American foreign policy and on economic and security interests, after receiving testimony from James R. Schlesinger, Lehman Brothers, Washington, D.C.; and R. James Woolsey, Booz Allen Hamilton, McLean, Virginia.

HURRICANE KATRINA RESPONSE

Committee on Homeland Security and Governmental Affairs: Committee concluded a hearing to examine how government can learn from the private sector's response to Hurricane Katrina, focusing on improving disaster readiness and response at all levels of government and within communities, after receiving testimony from David M. Ratcliffe, Southern Company, and Kevin T. Regan, Starwood Hotels and Resorts Worldwide, Inc., both of Atlanta, Georgia; Stanley S. Litow, IBM Corporation, Armonk, New York; and Jason F. Jackson, Wal-Mart Stores, Inc., Bentonville, Arkansas.

HABEAS REFORM

Committee on the Judiciary: Committee concluded a hearing to examine S. 1088, to establish streamlined procedures for collateral review of mixed petitions, amendments, and defaulted claims, after receiving testimony from Judge Howard D. McKibben, U.S. District Court for the District of Nevada, and Chairman of the Judicial Conference Committee on Federal-State Jurisdiction; Ronald Eisenberg, Philadelphia District Attorney's Office, Philadelphia, Pennsylvania; and Seth P. Waxman, Wilmer, Cutler, Pickering, Hale, and Dorr, Washington, D.C., former Solicitor General of the United States.

NEW FEDERAL JUDGESHIPS

Committee on the Judiciary: Subcommittee on Administrative Oversight and the Courts concluded a hearing to examine issues relative to creating new Federal judgeships, focusing on recommendations of the Judicial Conference Committee on Judicial Resources, after receiving testimony from W. Royal Furgeson, Jr., District Judge for the Western District of Texas, and Chairman of the Judicial Conference Committee on Judicial Resources; William H. Steele, U.S. District Judge for the Southern District of Alabama; Robyn J. Spalter, Federal Bar Association, Miami, Florida; and Marc Galanter, University of Wisconsin, Madison.

House of Representatives

Chamber Action

Public Bills and Resolutions Introduced: Will be in the next issue of the Record. **(See next issue.)**

Additional Cosponsors: **(See next issue.)**

Reports Filed: Reports were filed today as follows:

H.R. 125, to authorize the Secretary of the Interior to construct facilities to provide water for irrigation, municipal, domestic, military, and other uses from the Santa Margarita River, California, and for other purposes, with an amendment (H. Rept. 109–297, Pt. 1);

H.R. 3351, to make technical corrections to laws relating to Native Americans, with an amendment (H. Rept. 109–298, Pt. 1);

H.R. 3889, to further regulate and punish illicit conduct relating to methamphetamine, with amendments (H. Rept. 109–299, Pt. 1); and

Conference report on H.R. 3010, making appropriations for the Departments of Labor, Health and Human Services, and Education, and Related Agencies for the fiscal year ending September 30, 2006, (H. Rept. 109–300). **(See next issue.)**

Speaker: Read a letter from the Speaker wherein he appointed Representative Aderholt to act as Speaker Pro Tempore for today. **Page H10229**

Discharge Petition: Representative Edwards moved to discharge the Committee on Rules from the consideration of H. Res. 271, providing for the consideration of H.R. 808, to amend title 10, United States Code, to repeal the offset from surviving spouse annuities under the military Survivor Benefit Plan for amounts paid by the Secretary of Veterans Affairs as dependency and indemnity compensation (Discharge Petition No. 3). **(See next issue.)**

Suspensions: The House agreed to suspend the rules and pass the following measures:

Hurricane Regulatory Relief Act of 2005: H.R. 3975, amended, to ease the provision of services to individuals affected by Hurricanes Katrina and Rita; **Pages H10235–42**

To render nationals of Denmark eligible to enter the United States as nonimmigrant traders and investors: H.R. 3647, amended, to render nationals of Denmark eligible to enter the United States as nonimmigrant traders and investors; **Page H10243**

To amend title 17, United States Code, to make technical corrections relating to copyright royalty judges: H.R. 1036, amended, to amend title 17, United States Code, to make technical corrections relating to copyright royalty judges; **Pages H10243–46**

Agreed to amend the title so as to read "A bill to amend title 17, United States Code, to make technical corrections relating to Copyright Royalty Judges, and for other purposes.". **Page H10246**

To make technical corrections to the United States Code: H.R. 866, to make technical corrections to the United States Code; **Pages H10246–47**

To complete the codification of title 46, United States Code, "Shipping", as positive law: H.R. 1442, amended, to complete the codification of title 46, United States Code, "Shipping", as positive law; **Pages H10247–H10312**

Expressing the sense of the House of Representatives that the United States Court of Appeals for the Ninth Circuit deplorably infringed on parental rights in Fields v. Palmdale School District: H. Res. 547, Expressing the sense of the House of Representatives that the United States Court of Appeals for the Ninth Circuit deplorably infringed on parental rights in Fields v. Palmdale School District, by a yea-and-nay vote of 320 yeas to 91 nays with 12 voting "present", Roll No. 591;

Pages H10312–17, S10342–43

Native American Technical Corrections Act of 2005: H.R. 3351, amended, to make technical corrections to laws relating to Native Americans;

Pages H10317–19

To authorize the Government of Ukraine to establish a memorial on Federal land in the District of Columbia to honor the victims of the manmade famine that occurred in Ukraine in 1932–1933: H.R. 562, amended, to authorize the Government of Ukraine to establish a memorial on Federal land in the District of Columbia to honor the victims of the manmade famine that occurred in Ukraine in 1932–1933; **Pages H10319–21**

To provide for the preservation of the historic confinement sites where Japanese Americans were detained during World War II: H.R. 1492, amended, to provide for the preservation of the historic confinement sites where Japanese Americans were detained during World War II; **Pages H10321–26**

Expressing the sense of the Congress that the Russian Federation must protect intellectual property rights: H. Con. Res. 230, to express the sense of the Congress that the Russian Federation must protect intellectual property rights, by a yea-and-nay vote of 421 yeas to 2 nays, Roll No. 593;

Pages H10326–29, H10356–57

To authorize the Secretary of the Navy to enter into a contract for the nuclear refueling and complex overhaul of the U.S.S. Carl Vinson (CVN–70): H.R. 4326, to authorize the Secretary of the Navy to enter into a contract for the nuclear refueling and complex overhaul of the U.S.S. Carl Vinson (CVN–70); **Pages H10330–32**

Expressing the sense of the Congress regarding oversight of the Internet Corporation for Assigned Names and Numbers: H. Con. Res. 268, to express the sense of the Congress regarding oversight of the Internet Corporation for Assigned Names and Numbers, by a yea-and-nay vote of 423 yeas with none voting "nay", Roll No. 594; and

Pages H10332–36, H10357

National Flood Insurance Program Further Enhanced Borrowing Authority Act of 2005: H.R. 4133, to temporarily increase the borrowing authority of the Federal Emergency Management Agency for carrying out the national flood insurance program. **Pages H10336–39**

Suspension: The House agreed to suspend the rules and pass the following measure which was debated on Tuesday, November 15th:

Child Medication Safety Act of 2005: H.R. 1790, amended, to protect children and their parents from being coerced into administering a controlled substance or a psychotropic drug in order to attend school, by a yea-and-nay vote of 407 yeas to 12 nays with 1 voting "present", Roll No. 590. **Page H10342**

Agreed to amend the title so as to read: "A bill to protect children and their parents from being coerced into administering a controlled substance in order to attend school, and for other purposes.".

Page H10342

Suspensions—Proceedings Postponed: The House completed debate on the following measures under suspension of the rules. Further consideration will continue at a later date:

Recognizing the 60th anniversary of the disappearance of the 5 naval Avenger torpedo bombers of Flight 19 and the naval Mariner rescue aircraft sent to search for Flight 19: H. Res. 500, amended, to Recognize the 60th anniversary of the disappearance of the 5 naval Avenger torpedo bombers of Flight 19 and the naval Mariner rescue aircraft sent to search for Flight 19; and **Pages H10329–30**

Condemning in the strongest terms the terrorist attacks that occurred on November 9, 2005, in Amman, Jordan: H. Res. 546, amended, to condemn in the strongest terms the terrorist attacks that occurred on November 9, 2005, in Amman, Jordan. **Pages H10343–45**

United States Boxing Commission Act: The House failed to pass H.R. 1065, to establish the United States Boxing Commission to protect the general welfare of boxers and to ensure fairness in the sport of professional boxing, by a yea-and-nay vote of 190 yeas to 233 nays, Roll No. 592.

Pages H10345–56

Pursuant to the rule, in lieu of the amendments reported by the Committees on Energy and Commerce and the Judiciary now printed in the bill, the amendment in the nature of a substitute printed in part A of H. Rept. 109–295 shall be considered as an original bill for the purpose of amendment and shall be considered as read. **Page H10350**

Agreed to:

Stearns managers amendment (No. 1 printed in H. Rept. 109–295) which clarifies that fees authorized to be collected shall be available to fund the operations of the Commission and the administration of the Act. The amendment also clarifies that offsetting collections are available to the Commission subject to appropriation; **Page H10353**

Schakowsky amendment (No. 2 printed in H. Rept. 109–295) that adds additional protections for professional boxers by also requiring the Boxing Commission to: (1) require a copy of any contract for a boxing match; (2) establish minimum standards for the availability of medical services at professional boxing matches; (3) encourage a life, accident, and health insurance fund for professional boxers and other members of the professional boxing community; (4) conduct discussions and enter into agreements with foreign boxing entities on methods of applying minimum health standards to foreign boxing events and foreign boxers, trainers, cut men, referees, ringside physicians, and other professional boxing personnel; **Pages H10353–54**

Schakowsky amendment (No. 4 printed in H. Rept. 109–295) that requires the Boxing Commission to establish guidelines for rating boxers; these guidelines must be followed by organizations that sanction boxing events; and **Pages H10354–55**

Sodrel amendment, as modified (No. 5 printed in H. Rept. 109–295) that strikes section 14 in its entirety. As modified, amendment inserts provisions for receipts credited as offsetting collections in lieu of provisions relating to authorization of appropriations. **Page H10355**

H. Res. 553, the rule providing for consideration of the bill was agreed to by a yea-and-nay vote of 366 yeas to 56 nays, Roll No. 589, after agreeing to order the previous question by voice vote. **Pages H10339–42**

Veterans' Compensation Cost-of-Living Adjustment Act of 2005: The House agreed by unanimous consent to S. 1234, to increase, effective as of December 1, 2005, the rates of compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for the survivors of certain disabled veterans—clearing the measure for the President. **Pages H10357–60**

Amending the Internal Revenue Code of 1986 to provide for Gulf tax credit bonds and advance refundings of certain tax-exempt bonds, and to provide a Federal guarantee of certain State bonds: The House agreed by unanimous consent to H.R. 4337, to amend the Internal Revenue Code of 1986 to provide for Gulf tax credit bonds and advance refundings of certain tax-exempt bonds, and to provide a Federal guarantee of certain State bonds. **Pages H10363–65**

Presidential Message: Read a message from the President wherein he transmitted legislation and supporting documents to implement the United Staes-Bahrain Free Trade Agreement—referred to the Committee on Ways and Means and ordered printed (House Doc. 109–71). **Page H10496**

Senate Message: Messages received from the Senate today appear on pages H10299, H10356, H10383.

Senate Referrals: S. Con. Res. 62 was referred to the Committee on House Administration.

(See next issue.)

Quorum Calls—Votes: Six yea-and-nay votes developed during the proceedings today and appear on pages H10341–42, H10342, H10342–43, H10355–56, H10356–57 and H10357. There were no quorum calls.

Adjournment: The House met at 10 a.m. and at 9:51 p.m. stands in recess subject to the call of the chair.

Committee Meetings

AVIAN INFLUENZA ISSUES

Committee on Agriculture: Held a hearing to review issues related to the prevention, detection, and eradication of avian influenza. Testimony was heard from W. Ron DeHaven, Administrator, Animal and Plant Health Inspection Service, USDA.

U.S. IMMIGRATION POLICY—IMPACT ON AMERICAN ECONOMY

Committee on Education and the Workforce: Held a hearing on U.S. Immigration Policy and Its Impact on the American Economy. Testimony was heard from Douglas Holtz-Eakin, Director, CBO; and public witnesses.

COPYRIGHT USE

Committee on Energy and Commerce: Subcommittee on Commerce, Trade, and Consumer Protection held a hearing entitled ''Fair Use: Its Effects on Consumers and Industry.'' Testimony was heard from public witnesses.

SUPERFUND LAWS AND ANIMAL AGRICULTURE

Committee on Energy and Commerce: Subcommittee on Environment and Hazardous Materials held a hearing entitled ''Superfund Laws and Animal Agriculture.'' Testimony was heard from Barry Breen, Deputy Assistant Administrator, Office of Solid Waste and Emergency Response, EPA; Kelly Hunter Burch,

Chief of Environmental Protection Unit and Assistant Attorney General, Office of the Attorney General, State of Oklahoma; and public witnesses.

MISCELLANEOUS MEASURES

Committee on Financial Services: Ordered reported, as amended, the following bills: H.R. 3422, Small Public Housing Authority Act; H.R. 2695, Safe Housing Identity Exception for the Lives of Domestic Violence Victims Act; H.R. 4320, National Flood Insurance Program Commitment to Policyholders and Reform Act of 2005; H.R. 4314, Terrorism Risk Insurance Revision Act of 2005; and H.R. 3505, Financial Services, Regulatory Relief Act.

MISCELLANEOUS MEASURES; INVESTIGATIVE REPORT—RAFAEL PALMEIRO'S TESTIMONY

Committee on Government Reform: Ordered reported the following: H.R. 3934, To designate the facility of the United States Postal Service located at 80 Killian Road in Massapequa, New York, as the ''Gerard A. Fiorenza Post Office;'' H.R. 4101, To designate the facility of the United States Postal Service located at 170 East Main Street in Patchogue, New York, as the ''Lieutenant Michael P. Murphy Post Office Building''; H.R. 4107, To designate the facility of the United States Postal Service located at 1826 Pennsylvania Avenue in Baltimore, Maryland, as the ''Maryland State Delegate Lena K. Lee Post Office Building;'' H.R. 4108, To designate the facility of the United States Postal Service located at 3000 Homewood Avenue, Baltimore, Maryland, as the ''State Senator Verda Welcome and Dr. Henry Welcome Post Office Building;'' H.R. 4109, amended, To designate the United States Postal Service located at 6101 Liberty Road in Baltimore, Maryland, as the ''United States Representative Parren J. Mitchell Post Office;'' H.R. 4152, To designate the United States Postal Service located at 320 High Street in Clinton, Massachusetts, as the ''Raymond J. Salmon Post Office;'' H. Con. Res. 218, Recognizing the centennial of sustained immigration from the Phillippines to the United States and acknowledging the contributions of our Filipino-American community to our country over the last century; H.R. 4295, To designate the facility of the United States Postal Service located at 12760 South Park Avenue in Riverton, Utah, as the ''Mont and Mark Stephensen Veterans Memorial Post Office Building; H. Con. Res. 289, Supporting the goal and mission of American Recycles Day; and H. Res. 487, Supporting the goals and ideals of Korean American Day.

The Committee also approved an Investigative Report, Investigation into Rafael Palmeiro's March 17, 2005 Testimony at the Committee on Government Reform's Hearing: ''Restoring Faith in America's Pastime: Evaluating Major League Baseball's Efforts to Eradicate Steroid Use.''

HIGH GAS PRICES—AMERICAN WORKFORCE

Committee on Government Reform: Subcommittee on Federal Workforce and Agency Organization held a hearing entitled ''Mitigating the Impact of High Gas Prices on the American Workforce.'' Testimony was heard from Representatives Wolf and Moran of Virginia; Daniel A. Green, Deputy Associate Director, Employee and Family Support Policy, OPM; Dan Matthews, Chief Information Officer, Department of Transportation; and public witnesses.

BORDER SECURITY AND TERRORISM PREVENTION ACT OF 2005

Committee on Homeland Security: Began markup of H.R. 4312, Border Security and Terrorism Prevention Act of 2005.

Will continue tomorrow.

MISCELLANEOUS MEASURES; U.S.-INDIA GLOBAL PARTNERSHIP

Committee on International Relations: Favorably considered and adopted a motion urging the chairman to request that the following measures be considered on the Suspension Calendar: H. Con. Res. 190, Expressing the sense of the Congress that the Russian Federation should fully protect the freedoms of all religious communities without distinction, whether registered and unregistered, as stipulated by the Russian Constitution and international standards; H. Con. Res. 275, Expressing the sense of Congress regarding the education curriculum in the Kingdom of Saudi Arabia; H. Con. Res. 280, Mourning the horrific loss of life caused by the floods and mudslides that occurred in October 2005 in Central America and Mexico and expressing the sense of Congress that the United States should do everything possible to assist the affected people and communities; H. Con. Res. 284, amended, Expressing the sense of Congress with respect to the 2005 presidential and parliamentary elections in Egypt; H. Con. Res. 294, Calling on the international community to condemn the Laogai, the system of forced labor prison camps in the People's Republic of China, as a tool for suppression maintained by the Chinese Government; H. Res. 438, amended, Urging member states of the United Nations to stop supporting resolutions that unfairly castigate Israel and to promote within the United Nations General Assembly more balanced and constructive approaches to resolving conflict in the Middle East; H. Res. 456, Expressing support for the memorandum of understanding signed by the

Government of the Republic of Indonesia and the Free Aceh Movement on August 15, 2005, to end the conflict in Aceh, a province in Sumatra, Indonesia; H. Res. 458, Remembering and commemorating the lives and work of Maryknoll Sisters Maura Clarke and Ita Ford, Ursuline Sister Dorothy Kazel, and Cleveland Lay Mission Team Member Jean Donovan, who were executed by members of the armed forces of El Salvador on December 2, 1980; H. Res. 479, amended, Recognizing the 50th Anniversary of the Hungarian Revolution that began on October 23, 1956 and reaffirming the friendship between the people and governments of the United States and Hungary; H. Res. 499, Condemning the murder of American journalist Paul Klebnikov on July 9, 2004, in Moscow and the murders of other members of the media in the Russian Federation; H. Res. 529, amended, Recommending the integration of the Republic of Croatia into the North Atlantic Treaty Organization; and H. Res. 535, Honoring the life, legacy, and example of Israeli Prime Minister Yitzhak Rabin on the tenth anniversary of his death.

The Committee also held a hearing on the U.S.-India Global Partnership: How Significant for American Interests? Testimony was heard from public witnesses.

MISCELLANEOUS MEASURES

Committee on International Relations: Subcommittee on Europe and Emerging Threats approved for full Committee action the following resolutions: H. Res. 479, amended, Recognizing the 50th Anniversary of the Hungarian Revolution that began on October 23, 1956 and reaffirming the friendship between the people and governments of the United States and Hungary; H. Res. 499, Condemning the murder of American journalist Paul Klebnikov on July 9, 2004, in Moscow and the murders of other members of the media in the Russian Federation; and H. Res. 529, amended, Recommending the integration of the Republic of Croatia into the North Atlantic Treaty Organization.

MISCELLANEOUS MEASURES

Committee on Resources: Ordered reported the following bills: H.R. 452, To authorize the Secretary of the Interior to conduct a study to determine the suitability and feasibility of designating the Soldiers' Memorial Military Museum located in St. Louis, Missouri, as a unit of the National Park System; H.R. 1071, amended, Desalination Drought Protection Act of 2005; H.R. 1090, amended, To designate a Forest Service trail at Walso Lake in the Willamette National Forest in the State of Oregon as a national recreation trail in honor of Jim Weaver, a former Member of the House of Representatives; H.R. 1190, amended, San Diego Water Storage and Efficiency Act of 2005; H.R. 1595, amended, Guam World War II Loyalty Recognition Act; H.R. 1728, amended, French Colonial Heritage National Historic Site Study Act of 2005; H.R. 2720, Salt Cedar and Russian Olive Control Demonstration Act; H.R. 3124, amended, Delaware Water Gap National Recreation Area Natural Gas Pipeline Enlargement Act; H.R. 3153, Upper Colorado and San Juan Basin Endangered Fish Recovery Implementation Programs Reauthorization Act of 2005; H.R. 3626, amended, Arthur V. Watkins Dam Enlargement Act of 2005; H.R. 3897, amended, Madera Water Supply and Groundwater Enhancement Project Act; H.R. 3929, amended, Dana Point Desalination Project Authorization Act; H.R. 4192, To authorize the Secretary of the Interior, to designate the President William Jefferson Clinton Birthplace Home in Hope, Arkansas, as a National Historic Site and unit of the National Park System; H.R. 4195, Southern Oregon Bureau of Reclamation Repayment Act of 2005; H.R. 4292, To amend Public Law 107–153 to further encourage the negotiated settlement of tribal claims; and S. 362, amended, Marine Debris Research, Prevention and Reduction Act.

NOAA WEATHER SATELLITES

Committee on Science: Held a hearing on Ongoing Problems and Future Plans for NOAA Weather Satellites. Testimony was heard from VADM Conrad C. Lautenbacher, Jr., USN (ret.), Administrator, NOAA, Department of Commerce; Ronald M. Sega, Under Secretary, Air Force, Department of Defense; David Powner, Director, Information Technology Management Issues, GAO; and a public witness.

INDIVIDUAL TAX PROPOSALS

Committee on Ways and Means: Subcommittee on Select Revenue Measures held a hearing on individuals tax proposals. Testimony was heard from Representatives Cardin, Foley, Tom Davis of Virginia, Ryun of Kansas, Stearns, Fattah, Fossella, Baird, Simmons, Conway, Baldwin, Keller, Garrett, Fortuno, Wolf, Gingrey, Weldon of Pennsylvania, Rohrabacher and Wilson of South Carolina.

Joint Meetings

COAST GUARD AND MARITIME TRANSPORTATION ACT

Conferees met to resolve the differences between the Senate and House passed versions of H.R. 889, to authorize appropriations for the Coast Guard for fiscal year 2006, to make technical corrections to various laws administered by the Coast Guard, but did not complete action thereon, and recessed subject to the call.

APPROPRIATIONS: LABOR/HHS/ EDUCATION

Conferees agreed to file a conference report on the differences between the Senate- and House-passed versions of H.R. 3010, making appropriations for the Departments of Labor, Health and Human Services, and Education, and Related Agencies for the fiscal year ending September 30, 2006.

COMMITTEE MEETINGS FOR THURSDAY, NOVEMBER 17, 2005

(Committee meetings are open unless otherwise indicated)

Senate

Committee on Agriculture, Nutrition, and Forestry: to hold hearings to examine the role of United States agriculture in the control and eradication of avian influenza, 10 a.m., SR–328A.

Committee on Banking, Housing, and Urban Affairs: to hold hearings to examine a Government Accountability Office report on the sale of financial products to military personnel, 10 a.m., SD–538.

Committee on Commerce, Science, and Transportation: Subcommittee on Aviation, to hold hearings to examine aviation safety, 10 a.m., SD–562.

Full Committee, business meeting to consider the nominations of William E. Kovacic, of Virginia, to be a Federal Trade Commissioner, J. Thomas Rosch, of California, to be a Federal Trade Commissioner, a Coast Guard Promotion List, S. 1110, to amend the Federal Hazardous Substances Act to require engine coolant and antifreeze to contain a bittering agent in order to render the coolant or antifreeze unpalatable, proposed Polar Bear Treaty, S. 687, to regulate the unauthorized installation of computer software, to require clear disclosure to computer users of certain computer software features that may pose a threat to user privacy, S. 1052, to improve transportation security, S. 1102, to extend the aviation war risk insurance program for 3 years, S. 65, to amend the age restrictions for pilots, and S. 517, to establish a Weather Modification Operations and Research Board, 2:30 p.m., SH–216.

Committee on Environment and Public Works: business meeting to consider S. 1708, to modify requirements relating to the authority of the Administrator of General Services to enter into emergency leases during major disasters and other emergencies, S. 1714, to modify requirements under the emergency relief program under title 23, United States Code, with respect to projects for repair or reconstruction in response to damage caused by Hurricane Katrina, S. 1496, to direct the Secretary of the Interior to conduct a pilot program under which up to 15 States may issue electronic Federal migratory bird hunting stamps, S. 1165, to provide for the expansion of the James Campbell National Wildlife Refuge, Honolulu County, Hawaii, and proposed Army Corps Assessment Authorization for the State of Louisiana, 9:30 a.m., SD–406.

Full Committee, to hold hearings to examine the degree to which the preliminary findings on the failure of the levees are being incorporated into the restoration of hurricane protection, 9:35 a.m., SD–406.

Committee on Foreign Relations: Subcommittee on African Affairs, to hold hearings to examine cross-continental progress relating to African organizations and institutions, 2:30 p.m., SD–419.

Committee on Homeland Security and Governmental Affairs: to hold hearings to examine regulations for the National Security Personnel System, 10 a.m., SD–342.

Committee on Indian Affairs: to hold oversight hearings to examine issues relating to In Re Tribal Lobbying Matters, Et Al, 10 a.m., SH–216.

Committee on the Judiciary: business meeting to consider the nominations of Joseph Frank Bianco, to be United States District Judge for the Eastern District of New York, Timothy Mark Burgess, to be United States District Judge for the District of Alaska, Gregory F. Van Tatenhove, to be United States District Judge for the Eastern District of Kentucky, Eric Nicholas Vitaliano, to be United States District Judge for the Eastern District of New York, James F. X. O'Gara, of Pennsylvania, to be Deputy Director for Supply Reduction, Office of National Drug Control Policy, Emilio T. Gonzalez, of Florida, to be Director of the Bureau of Citizenship and Immigration Services, Department of Homeland Security, Catherine Lucille Hanaway, to be United States Attorney for the Eastern District of Missouri, Carol E. Dinkins, of Texas, to be Chairman of the Privacy and Civil Liberties Oversight Board, Alan Charles Raul, of the District of Columbia, to be Vice Chairman of the Privacy and Civil Liberties Oversight Board, S. 1088, to establish streamlined procedures for collateral review of mixed petitions, amendments, and defaulted claims, S. 1789, to prevent and mitigate identity theft, to ensure privacy, to provide notice of security breaches, and to enhance criminal penalties, law enforcement assistance, and other protections against security breaches, fraudulent access, and misuse of personally identifiable information, S. 751, to require Federal agencies, and persons engaged in interstate commerce, in possession of data containing personal information, to disclose any unauthorized acquisition of such information, H.R. 683, to amend the Trademark Act of 1946 with respect to dilution by blurring or tarnishment, S. 1967, to amend title 18, United States Code, with respect to certain activities of the Secret Service, S. 1961, Extending the Child Safety Pilot Program Act of 2005, S. 1354, Wartime Treatment Study Act, proposed Comprehensive Immigration Reform, and S.J. Res. 1, proposing an amendment to the Constitution of the United States relating to marriage, 9:30 a.m., SD–226.

Full Committee, to hold hearings to examine recent developments in assessing future asbestos claims under the FAIR Act, 2 p.m., SD–226.

Select Committee on Intelligence: to hold closed hearings to examine the nomination of Dale W. Meyerrose, of Indiana, to be Chief Information Officer, Office of the Director of National Intelligence, 10:30 a.m., SH–219.

Full Committee, closed business meeting to consider certain intelligence matters, 2:30 p.m., SH–219.

House

Committee on Education and the Workforce, Subcommittee on Education Reform, hearing on Combating Methamphetamines through Prevention and Education, 10 a.m., 2175 Rayburn.

Committee on Energy and Commerce, Subcommittee on Health, hearing entitled "Medicare Physician Payment: How to Build a More Efficient Payment System", 9:30 a.m., 2123 Rayburn.

Subcommittee on Oversight and Investigations, hearing entitled "Thoroughbred Horse Racing Jockeys and Workers: Examining On-Track Injury Insurance and Other Health and Welfare Issues", 1 p.m., 2322 Rayburn.

Committee on Financial Services, hearing on H.R. 4100, Louisiana Recovery Corporation Act, 10 a.m., 2128 Rayburn.

Subcommittee on Capital Markets, Insurance, and Government Sponsored Enterprises, hearing entitled "Self-Regulatory Organizations: Exploring the Need for Reform", 2 p.m., 2128 Rayburn.

Committee on Government Reform, Subcommittee on Government Management, Finance and Accountability, hearing entitled "15 Years of the CFO Act—What is the Current State of Federal Financial Management?", 2:30 p.m., 2247 Rayburn.

Committee on Homeland Security, to continue markup H.R. 4312, Border Security and Terrorism Prevention Act of 2005, 10 a.m., 311 Cannon.

Subcommittee on Intelligence, Information Sharing and Terrorism Risk Assessment, hearing entitled "Terrorism Risk Assessment at the Department of Homeland Security", 3 p.m., 311 Cannon.

Committee on International Relations, Subcommittee on Africa, Global Human Rights and International Operations, hearing on Getting to Yes: Resolving the 30-Year Conflict over the Status of Western Sahara, 1:30 p.m., 2172 Rayburn.

Subcommittee on the Western Hemisphere, hearing on Democracy in Venezuela, 10:30 a.m., 2172 Rayburn.

Committee on the Judiciary, Subcommittee on Crime, Terrorism, and Homeland Security and the Subcommittee on Immigration, Border Security, and Claims, joint oversight hearing on Weak Bilateral Law Enforcement Presence at the U.S.-Mexico Border: Territorial Integrity and Safety Issues for American Citizens, 10 a.m., 2141 Rayburn.

Subcommittee on Immigration, Border Security, and Claims, to continue oversight hearings on How Illegal Immigration Impacts Constituencies: Perspectives from Members of Congress, (Part II), 2 p.m., 2141 Rayburn.

Committee on Resources, Subcommittee on Energy and Mineral Resources, hearing on the Outer Continental Shelf Natural Gas Relief Act, 2 p.m., 1324 Longworth.

Subcommittee on National Parks, oversight hearing on the National Parks Service's efforts to combat the growth of illegal drug farms in national parks, 10 a.m., 1334 Longworth.

NEPA Task Force, hearing on NEPA: Lessons Learned and Next Steps, 10:30 a.m., 1324 Longworth.

Committee on Science, hearing on Environmental and Safety Impacts of Nanotechnology: What Research is Needed?, 10 a.m., 2318 Rayburn.

Committee on Small Business, hearing on Building a Wall Between Friends: Passports to and from Canada?, 9 a.m., 2360 Rayburn.

Permanent Select Committee on Intelligence, executive, briefing on Global Updates/Hotspots, 9 a.m., H–405 Capitol.

Next Meeting of the SENATE

9:30 a.m., Thursday, November 17

Senate Chamber

Program for Thursday: After the transaction of any morning business (not to extend beyond 30 minutes), Senate will resume consideration of S. 2020, Tax Relief Act of 2005.

Next Meeting of the HOUSE OF REPRESENTATIVES

10 a.m., Thursday, November 17

House Chamber

Program for Thursday: To be announced.

Extensions of Remarks, as inserted in this issue

HOUSE

(House proceedings for today will be continued in the next issue of the Record.)

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