The House met at 9 a.m.

The Speaker. The gentleman from Texas (Mr. Hall) 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.

Pledge of Allegiance

The Speaker. Will the gentleman from Texas (Mr. Hall) come forward and lead the House in the Pledge of Allegiance?

Mr. Hall of Texas 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.

The Speaker. Pursuant to clause 1, rule I, the Journal of the last day's proceedings and announces to the House the following order:

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

So we pray, Almighty and Gracious God, Your Word declares that "this is the day that the Lord has made." We recognize this day that You have given us, these great United States, for our heritage. Help us to treasure and guard it. Help us, this day, always to prove ourselves to be cognizant of Your favor and eager to fulfill Your awesome purpose in this world. Forgive us for our sin, the discord, confusion, pride, and arrogance, that hinders our relationship with You and one another.

In our diversity, mold us into one united people. Empower our leaders this day with the spirit of wisdom, so that righteousness, justice, and peace may prevail and that, through obedience to Your commandments, we may show forth Your praise among the nations of the Earth.

So, Heavenly Father, we ask this day that our Nation and leaders will be blessed; that our influence will be enlarged; that Your hand would be upon us, and keep us from evil that we may not cause pain. We pray this in Your Name that is above all others. Amen.

Welcome to Guest Chaplain, The Reverend Byron E. Powers

The Speaker. The gentleman from Ohio (Mr. Ney) is recognized for 1 minute. All other 1-minutes will be after business today.

Welcome to Guest Chaplain, The Reverend Byron E. Powers

The Reverend Powers is currently the Senior Pastor of the Church Love Is Building in Sheffield, Ohio, one of the great parishes in the region. Reverend Powers has devoted his life to helping others, and previously served as the senior pastor for churches in Illinois and Florida. He has earned a Bachelor of Arts in Psychology from Lee University and a Master of Arts in Clinical Pastoral Counseling from Ashland Theological Seminary. In addition to his pastoral responsibilities, he currently serves as senior chaplain to the Lorain Police Department. He has been married for 19 years to his wife Frankie, and they have three wonderful children, Sarah, Rachel and Nathan.

Reverend Powers is a leader in the community. His commitment and compassion for those less fortunate has led him to assist many in the area around Sheffield while working tirelessly to serve his community and the great State of Ohio.

It is my distinct pleasure to welcome Reverend Powers to the Congress of the United States and thank him for leading the House in prayer.

ANNOUNCEMENT BY THE SPEAKER

The Speaker. Pursuant to House Resolution 180 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 2311) making appropriations for energy and water development for the fiscal year ending September 30, 2002, and for other purposes, with Mr. Simpson in the chair.

The Clerk read the title of the bill.

The Chairman. The Speaker, according to the rules of the House, determined that it is now in the Committee of the Whole.

Chairman. When the Committee of the Whole House rose on Wednesday, June 27, 2001, a demand for a recorded vote on the amendment offered by the gentleman from Michigan (Mr. Bonior) had been postponed and the vote was open for amendment from page 22, line 19, through page 23, line 4. Sequential votes postponed in Committee of the Whole.

The Chairman. Pursuant to clause 6 of rule XVIII, proceedings now resume on those amendments on which further proceedings were postponed in the following order:

Amendment offered by the gentleman from Colorado (Mr. Tancredo); amendment No. 4 offered by the gentleman from Colorado (Mr. Tancredo); amendment offered by the gentleman from New York (Mr. Hinchey); amendment No. 2 offered by the gentleman from Ohio (Mr. Kucinich); and amendment offered by the gentleman from Michigan (Mr. Bonior).

The Chair will reduce to 5 minutes the time for any electronic vote after the first vote in this series.

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

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.
AMENDMENT OFFERED BY MR. TANCREDO

The CHAIRMAN. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from Colorado (Mr. TANCREDO) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will designate the amendment. The text of the amendment is as follows:

Amendment offered by Mr. TANCREDO:

Page 2, line 18, after the dollar amount, insert the following: "(increased by $9,900,000)."

[RECORDED VOTE]

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was taken by electronic device, and there were—a yes vote of 39, noes 372, not voting 22, as follows:

[Roll No. 199]

AYES—39

Bartlett

Barrett

Bass

Baucus

Baldacci

Ballenger

Barth

Barrett

Barzow

Bass

Beck

Benten

Bereuter

Berkeley

Berman

Berry

Bilirakis

Bishop

Blagoevich

Blaumenheid

Blunt

Boehlert

Boehner

Bono

Bonior

Bosko

Bosch

Boumediene

Brown (CA)

Brown (OH)

Brown (FL)

Brady (PA)

Brady (TX)

Brown (FL)

Brown (SC)

Bryant

Callahan

Calvert

Camp

Cantor

Cappo

Capps

2001

Amendment offered by Mr. TANCREDO:

Page 2, line 18, after the dollar amount, insert the following: "(increased by $9,900,000)."

The Clerk will designate the amendment. The text of the amendment is as follows:

Amendment offered by Mr. TANCREDO:

Page 2, line 18, after the dollar amount, insert the following: "(increased by $9,900,000)."

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was taken by electronic device, and there were—a yes vote of 39, noes 372, not voting 22, as follows:

[Roll No. 199]

AYES—39

The CHAIRMAN. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from Colorado (Mr. TANCREDO) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will designate the amendment. The text of the amendment is as follows:

Amendment No. 4 offered by Mr. TANCREDO:

In title I, strike section 105 (relating to shore protection projects cost sharing).

[RECORDED VOTE]

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was taken by electronic device, and there were—ayes 94, noes 333, not voting 16, as follows:

[Roll No. 200]

AYES—81

NOES—333
Mr. CAMP and Mr. ROHRABACHER changed their vote from "aye" to "no." Mr. SHERMAN changed his vote from "no" to "aye." So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. HINCHLEY

The CHAIRMAN. The unfinished business is the demand for a recorded vote on the amendment offered by a gentleman from New York (Mr. Hinchey) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendments offered by Mr. Hinchey:

In title III, in the item relating to "DEPARTMENT OF ENERGY PROGRAMS; OFFICE OF ENERGY SUPPLY," after the aggregate dollar amount, insert the following: "(increased by $50,000,000).

In title IV, in the item relating to "ATOMIC ENERGY DEFENSE ACTIVITIES NATIONAL NUCLEAR SECURITY ADMINISTRATION; WAPONS ACTIVITIES" after the aggregate dollar amount, insert the following: "(reduced by $50,000,000).

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—aye...
Mr. PASTOR changed his vote from "no" to "aye." So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT NO. 2 OFFERED BY MR. KUCINICH

The CHAIRMAN. The unfinished business is the demand for a recorded vote on amendment No. 2 offered by the gentleman from Ohio (Mr. KUCINICH), on which further proceedings were postponed and on which the ayes prevailed by a voice vote.

The Clerk will redesignate the amendment as follows:

The text of the amendment is as follows:

Amendment No. 2 offered by Mr. KUCINICH:

In title III, in the item relating to "WEAPONS ACTIVITIES," after aggregate dollar amount, insert the following: 

"(reduced by $12,500,000)."

In title III, in the item relating to "DEFENSIVE NUCLEAR NONPROLIFERATIONS", after the aggregate dollar amount, insert the following: 

"(increased by $66,000,000)."

Recorded Vote

The CHAIRMAN. A recorded vote has been demanded.

The CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 91, noes 331, not voting 11, as follows:

[Roll No. 202]

AYES—91

Allen
Andrews
Baird
Baldwin
Barrett
Blumenauer
Brown (OH)
Cassar (IN)
Clay
Clyburn
Davila
Dean
DeFazio
DeGette
DeSoto
Deutsch
Doggett
Ehlers
Evan
Farr
Fattah
Ferguson

Sullivan

Upton

Watson (CA)
Watt (NC)
Watson

Wexler

Wexler

Whitfield

Wilson

Wolf

Wynn

Young (FL)

Young (PA)

Young (OH)

Young (TX)

Young (WI)

Young (AK)

Young (NY)

Young (GA)

Young (ID)

Young (IN)

Young (CT)

Young (IL)

Young (MO)

Young (SC)

Young (MS)

Young (NC)

Young (ND)

Young (OH)

Young (TN)

Young (UT)

Young (VA)

Young (VT)

Young (WA)

Young (WI)

Young (WV)

Young (CO)

Young (VA)

Young (AL)

Young (MD)

Young (RI)

Young (MT)

Young (NV)

Young (NE)

Young (NH)

Young (SD)

Young (MN)

Young (LA)

Young (IL)

Young (LA)

Young (MI)

Young (MS)

Young (NH)

Young (IA)

Young (DE)

Young (WI)

Young (CT)

Young (TN)

Young (WI)

Young (MS)

Young (MD)

Young (NC)

Young (ND)

Young (OH)

Young (CA)

Young (RI)

Young (NE)

Young (IN)

Young (PA)

Young (TN)

Young (VT)

Young (SD)

Young (MN)

Young (LA)

Young (IL)

Young (LA)

Young (MI)

Young (MS)

Young (NH)

Young (IA)

Young (DE)

Young (WI)

Young (CT)

Young (TN)

Young (WI)

Young (MS)

Young (MD)

Young (NC)

Young (ND)

Young (OH)

Young (CA)

Young (RI)

Young (NE)

Young (IN)

Young (PA)

Young (TN)

Young (VT)

Young (SD)

Young (MN)

Young (LA)

Young (IL)

Young (LA)

Young (MI)

Young (MS)

Young (NH)

Young (IA)

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Young (MS)

Young (MD)

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Young (OH)

Young (CA)

Young (RI)

Young (NE)

Young (IN)

Young (PA)

Young (TN)

Young (VT)

Young (SD)

Young (MN)

Young (LA)

Young (IL)

Young (LA)

Young (MI)

Young (MS)

Young (NH)

Young (IA)

Young (DE)

Young (WI)

Young (CT)

Young (TN)

Young (WI)

Young (MS)

Young (MD)

Young (NC)

Young (ND)

Young (OH)

Young (CA)

Young (RI)

Young (NE)

Young (IN)

Young (PA)

Young (TN)

Young (VT)

Young (SD)

Young (MN)

Young (LA)

Young (IL)

Young (LA)

Young (MI)

Young (MS)

Young (NH)

Young (IA)

Young (DE)
The amendment by the gentleman from Florida, Mr. DAVIS, regarding the Gulf Stream natural gas pipeline, for 60 minutes.

Mr. CALLAHAN. Mr. Chairman, I ask unanimous consent that the remainder of the bill through page 39, line 18, be considered as read, printed in the RECORD, and open to amendment at any time.

The CHAIRMAN. Is there objection to the request of the gentleman from Alabama?

Mr. VISCLOSKY. Mr. Chairman, re-

serving the right to object, my under-

standing is that will still limit the uni-

verse to those amendments announced

by the chairman, with the same time

limits. It will not open it up to any new

amendments.

Mr. CALLAHAN. Mr. Chairman, will the
gentleman yield?

Mr. VISCLOSKY. I yield to the
gentleman from Alabama.

Mr. CALLAHAN. Mr. Chairman, the
gentleman is correct.

The CHAIRMAN. Is there objection to the request of the gentleman from Alabama?

There was no objection.

The text of the remainder of the bill

through page 39, line 18, is as follows:

DEFENSE NONPROLIFERATION

For Department of Energy expenses nec-

essary for naval reactors activities to carry

out the purposes of the Department of

Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or any facility or for plant, and capital equipment, facilities, and facility expansion, $888,065,000, to remain available until expended.

NAVAL REACTORS

For Department of Energy expenses nec-

essary for naval reactors activities to carry

out the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition (by purchase, condemnation, construction, or otherwise) of real property, plant, and capital equipment, facilities, and facility expansion, $888,065,000, to remain available until expended.

OFFICE OF THE ADMINISTRATOR

For necessary expenses of the Office of the Administrator of the National Nuclear Security Administration, including official recep-
tion and representation expenses (not to ex-
cede $12,000), $10,000,000, to remain available until expended.

ENVIRONMENTAL AND OTHER DEFENSE

ACTIVITIES

DEFENSE ENVIRONMENTAL, RESTORATION AND WASTE MANAGEMENT

For Department of Energy expenses, including the purchase, construction and ac-

quisition of plant and capital equipment and other expenses necessary for atomic energy defense environmental restoration and waste management activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition of any real property or any facility or for plant or facility acquisition, construction, or expansion, $65,118,000, to remain available until expended.
DEFENSE FACILITIES CLOSURE PROJECTS

For expenses of the Department of Energy to accelerate the closure of defense environmental management sites, including the purchase, construction and acquisition of plant and control equipment, and other closure expenses, $1,092,878,000, to remain available until expended.

DEFENSE ENVIRONMENTAL MANAGEMENT DISPOSAL PROJECTS

For Department of Energy expenses for privatization projects necessary for atomic energy defense environmental management activities authorized by the Department of Energy Authorization Act of 1976 (42 U.S.C. 7101 et seq.), $143,208,000, to remain available until expended.

OTHER DEFENSE ACTIVITIES

For Department of Energy expenses, including the purchase, construction and acquisition of plant and capital equipment and other expenses necessary for atomic energy defense, other defense activities, in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility construction, $398,993,000, to remain available until expended.

DEFENSE NUCLEAR WASTE DISPOSAL

For nuclear waste disposal activities to carry out the purposes of the Nuclear Waste Policy Amendments Act of 1987, as amended, including the acquisition of real property or facility construction or expansion, $310,000,000, to remain available until expended.

POWER MARKETING ADMINISTRATIONS

Bonneville Power Administration Fund

Expenditures from the Bonneville Power Administration Fund, established pursuant to Public Law 93-234, are approved for official reception and representation expenses in an amount not to exceed $1,500.

During fiscal year 2002, no new direct loan obligations may be made.

OPERATION AND MAINTENANCE, SOUTHWESTERN POWER ADMINISTRATION

For necessary expenses of operation and maintenance of power transmission facilities and of marketing electric power and energy, including transmission wheeling and ancillary services, pursuant to the provisions of section 5 of the Flood Control Act of 1914 (16 U.S.C. 825e), as applied to the southwestern power area, $4,891,000, to remain available until expended.

DEFENSE NUCLEAR WASTE DISPOSAL

For necessary expenses of operation and maintenance of power transmission facilities and of marketing electric power and energy, and for construction and acquisition of transmission lines, substations and appurtenant facilities, and for administrative expenses, including official reception and representation expenses in an amount not to exceed $1,500 in carrying out the provisions of section 5 of the Flood Control Act of 1914 (16 U.S.C. 825e), as applied to the southwestern power area, $28,038,000, to remain available until expended; in addition, notwithstanding the provisions of 31 U.S.C. 3302, not to exceed $5,200,000 in reimbursements, to remain available until expended.

SEC. 302. (a) None of the funds appropriated by this Act may be used to carry out a new direct loan, loan guarantee, or similar extension of Bonneville service territory, with the exception of services provided to the extent of services provided outside the legally defined Bonneville service territory.

(b) This section shall not preclude the Secretary from waiving the requirement for competition for such a deviation. The Secretary may delegate the authority to grant such a waiver.

(2) The Secretary shall submit to the Appropriations Committees of the Senate and the House of Representatives and to the Senate a report notifying the Appropriations Committees of the waiver and setting forth, in specific, the substantive reasons why the Secretary believes the requirement for competition should be waived for this particular award.

SUC. 302. None of the funds appropriated by this Act may be used to—

(1) develop or implement a workforce restructure plan that covers employees of the Department of Energy; or

(2) provide enhanced severance payments or other benefits for employees of the Department of Energy.


SEC. 303. None of the funds appropriated by this Act may be used to—

(1) develop or implement a work force restructuring plan that covers employees of the Department of Energy.

(2) provide enhanced severance payments or other benefits for employees of the Department of Energy.

SEC. 304. None of the funds appropriated by this Act may be used to—

(1) develop or implement a workforce restructure plan that covers employees of the Department of Energy.

(2) provide enhanced severance payments or other benefits for employees of the Department of Energy.

SEC. 305. The unexpended balances of prior appropriations provided for activities in this Act may be transferred to appropriation accounts for such activities established pursuant to this title. Balances so transferred may be merged with funds in the applicable establishment account and thereafter may be accounted for as one fund for the same period as originally enacted.

SEC. 306. None of the funds in this Act or any other Act may be transferred to the Bonneville Power Administration to enter into any agreement to perform energy efficiency services outside the Bonneville Power Administration's service area.

SEC. 307. None of the funds appropriated in this Act or any other Act for the Administrative Operating Fund of the Bonneville Power Administration may be used to enter into any agreement to perform energy efficiency services outside the legally defined Bonneville Service Territory, with the exception of services provided internationally, including services provided on a reimbursable basis, unless the Administrator certifies in advance that such services are not available from private sector businesses.

 SEC. 308. Appropriations made available by this Act may be transferred to appropriation accounts for the activities of the Nuclear Regulatory Commission and the appropriate Appropriations Committees of the House of Representatives and the Senate a report notifying the Appropriations Committees of the waiver and setting forth, in specific, the substantive reasons why the Secretary believes the requirement for competition should be waived for this particular award.

SUC. 302. None of the funds appropriated by this Act may be used to—

(1) develop or implement a workforce restructure plan that covers employees of the Department of Energy; or

(2) provide enhanced severance payments or other benefits for employees of the Department of Energy.


SEC. 303. None of the funds appropriated by this Act may be used to—

(1) develop or implement a workforce restructure plan that covers employees of the Department of Energy.

(2) provide enhanced severance payments or other benefits for employees of the Department of Energy.
Department of Energy’s science laboratories; and
(2) from the Department of Energy to the Occupational Safety and Health Administra-
tion of regulatory authority over worker safety at such laboratories.
Out of funds appropriated by this Act for En-
vironment, Safety, and Health, the Sec-
retary shall use and transfer $4,000,000 to the Nuclear Regulatory Commission and $120,000 to the Occupational Safety and Health Administration. For purposes of this section, the Department of Energy’s science laboratories are the Argonne National Lab-
oratory, the Brookhaven National Labora-
tory, the Lawrence Berkeley National Labora-
tory, the Oak Ridge National Laboratory, the Pacific Northwest National Laboratory, the Ames Laboratory, the Fermi National Accelerator Laboratory, the Princeton Plasma Physics Laboratory, the Stanford Linear Accelerator Center, and the Thomas Jefferson National Accelerator Facility.
Sect. 309. When the Department of Energy makes a user facility available to univer-
sities and other potential users, or seeks input from universities and other potential users regarding significant characteristics or equipment in a user facility or a proposed user facility, the Department shall ensure broad distribution of such availability or such need for input to universities and other potential users. When the Department of Energy considers or makes a determination that a university or other potential user in the establish-
ment of operation or a user facility, the De-
partment shall employ full and open com-
petition in selecting such a participant. For
purposes of this section, the term “user fa-
cility” includes, but is not limited to: a user facility as described in section 2203(a)(2) of the Energy Policy Act of 1992 (42 U.S.C. 13503(a)(2)); a National Nuclear Security Ad-
ministration Defense Programs Technology Deployment Center User Facility; and any other user facility designated by the Department as a user facility.
TITLe IV
INDEPENDENT AGENCIES
APPALACHIAN REGIONAL COMMISSION
For expenses necessary to carry out the pro-
grams authorized by the Appalachian Re-
gional Development Act of 1965, as amended, not withstanding section 405 of said Act, and, for necessary expenses for the Federal Co-
Chairman and the alternate on the Appa-
lachian Regional Commission, for payment of the salary of the administrator of the Commission, including serv-
ces as authorized by 5 U.S.C. 3109, and hire of passenger motor vehicles, $71,290,000, to remain available until expended.
DEFENSE NUCLEAR FACILITIES SAFETY BOARD
SALARIES AND EXPENSES
For necessary expenses of the Defense Nu-
clear Facilities Safety Board in carrying out
activities authorized by the Atomic Energy Act of 1954, as amended by Public Law 100–
456, section 1441, $18,500,000, to remain available until expended.
NUCLEAR REGULATORY COMMISSION
SALARIES AND EXPENSES
For necessary expenses of the Commission in carrying out its purposes of the Energy Reorganization Act of 1974, as amended, and the Atomic Energy Act of 1954, as amended, including official representation expenses (not to exceed $45,000 in any one fiscal year), promotional items for use in the recruitment of individuals for employment, $516,900,000, to remain available until expended.
Provided further, That the amount of the appropriated herein, $23,650,000, shall be derived from the Nuclear Waste Fund: Provided further, That revenues from inspection services and other services and collections estimated at $423,520,000 in fiscal year 2002 shall be re-
tained and used for necessary salaries and expenses in this account, notwithstanding 31 U.S.C. 3302, and shall remain available until expended: Provided further, That the sum herein appropriated shall be reduced by the amount of revenues received during fiscal year 2002 so as to result in a final fiscal year 2002 appropriation estimated at more than $43,380,000.
OFFICE OF INSPECTOR GENERAL
For necessary expenses of the Office of In-
spector General in carrying out the provi-
sions of this Act, not exceeding $2,000,000 in fiscal year 1978, as amended, $36,100,000, to remain available until expended: Provided, That revenues from li-
censing fees, inspection services, and other services and collections estimated at $12,933,000 in fiscal year 2002 shall be retained and be available until expended, for nec-
309. When the Secretary of Energy considers or makes a determination that a university or other potential user in the establishment of operation or a user facility, the Department shall ensure broad distribution of such availability or such need for input to universities and other potential users. When the Department of Energy considers or makes a determination that a university or other potential user in the establishment of operation or a user facility, the Department shall employ full and open competition in selecting such a participant. For purposes of this section, the term ‘user facility’ includes, but is not limited to: a user facility as described in section 2203(a)(2) of the Energy Policy Act of 1992 (42 U.S.C. 13503(a)(2)); a National Nuclear Security Administration Defense Programs Technology Deployment Center User Facility; and any other user facility designated by the Department as a user facility.

TITLE IV
INDEPENDENT AGENCIES
APPALACHIAN REGIONAL COMMISSION
For expenses necessary to carry out the pro-
grams authorized by the Appalachian Re-
gional Development Act of 1965, as amended, not withstanding section 405 of said Act, and, for necessary expenses for the Federal Co-
Chairman and the alternate on the Appa-
lachian Regional Commission, for payment of the salary of the administrator of the Commission, including serv-
ces as authorized by 5 U.S.C. 3109, and hire of passenger motor vehicles, $71,290,000, to remain available until expended.
DEFENSE NUCLEAR FACILITIES SAFETY BOARD
SALARIES AND EXPENSES
For necessary expenses of the Defense Nu-
clear Facilities Safety Board in carrying out
activities authorized by the Atomic Energy Act of 1954, as amended by Public Law 100–
456, section 1441, $18,500,000, to remain available until expended.
NUCLEAR REGULATORY COMMISSION
SALARIES AND EXPENSES
For necessary expenses of the Commission in carrying out its purposes of the Energy Reorganization Act of 1974, as amended, and the Atomic Energy Act of 1954, as amended, including official representation expenses (not to exceed $45,000 in any one fiscal year), promotional items for use in the recruitment of individuals for employment, $516,900,000, to remain available until expended.
Provided further, That the amount of the appropriated herein, $23,650,000, shall be derived from the Nuclear Waste Fund: Provided further, That revenues from inspection services and other services and collections estimated at $473,520,000 in fiscal year 2002 shall be re-
tained and used for necessary salaries and expenses in this account, notwithstanding 31 U.S.C. 3302, and shall remain available until expended: Provided further, That the sum herein appropriated shall be reduced by the amount of revenues received during fiscal year 2002 so as to result in a final fiscal year 2002 appropriation estimated at more than $43,380,000.
OFFICE OF INSPECTOR GENERAL
For necessary expenses of the Office of In-
spector General in carrying out the provi-
sions of this Act, not exceeding $2,000,000 in fiscal year 1978, as amended, $36,100,000, to remain available until expended: Provided, That revenues from li-
censing fees, inspection services, and other services and collections estimated at $12,933,000 in fiscal year 2002 shall be retained and be available until expended, for nec-
309. When the Secretary of Energy considers or makes a determination that a university or other potential user in the establishment of operation or a user facility, the Department shall ensure broad distribution of such availability or such need for input to universities and other potential users. When the Department of Energy considers or makes a determination that a university or other potential user in the establishment of operation or a user facility, the Department shall employ full and open competition in selecting such a participant. For purposes of this section, the term ‘user facility’ includes, but is not limited to: a user facility as described in section 2203(a)(2) of the Energy Policy Act of 1992 (42 U.S.C. 13503(a)(2)); a National Nuclear Security Administration Defense Programs Technology Deployment Center User Facility; and any other user facility designated by the Department as a user facility.

TITLE IV
INDEPENDENT AGENCIES
APPALACHIAN REGIONAL COMMISSION
For expenses necessary to carry out the pro-
grams authorized by the Appalachian Re-
gional Development Act of 1965, as amended, not withstanding section 405 of said Act, and, for necessary expenses for the Federal Co-
Chairman and the alternate on the Appa-
lachian Regional Commission, for payment of the salary of the administrator of the Commission, including serv-
ces as authorized by 5 U.S.C. 3109, and hire of passenger motor vehicles, $71,290,000, to remain available until expended.
DEFENSE NUCLEAR FACILITIES SAFETY BOARD
SALARIES AND EXPENSES
For necessary expenses of the Defense Nu-
clear Facilities Safety Board in carrying out
activities authorized by the Atomic Energy Act of 1954, as amended by Public Law 100–
456, section 1441, $18,500,000, to remain available until expended.
NUCLEAR REGULATORY COMMISSION
SALARIES AND EXPENSES
For necessary expenses of the Commission in carrying out its purposes of the Energy Reorganization Act of 1974, as amended, and the Atomic Energy Act of 1954, as amended, including official representation expenses (not to exceed $45,000 in any one fiscal year), promotional items for use in the recruitment of individuals for employment, $516,900,000, to remain available until expended.
Provided further, That the amount of the appropriated herein, $23,650,000, shall be derived from the Nuclear Waste Fund: Provided further, That revenues from inspection services and other services and collections estimated at $473,520,000 in fiscal year 2002 shall be re-
The CHAIRMAN. Pursuant to the order of the House of Wednesday, June 27, 2001, the gentleman from Ohio (Mr. TRAFICANT) and a Member opposed each will control 5 minutes.

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

I want to give a little background on this amendment, and I want the appropriators to know that I have gone three times to the authorizing committee. This is the only drinking water supply for 125,000 of my constituents. The Senators, both Republicans, and every mayor supports stopping the banning of slant drilling under a lake when there are so many natural resources in that region.

Let me tell my colleagues about the hypocrisy. Our Department of Natural Resources will not allow any drilling on adjacent wetland in the Mesquite Reservoir because there are trumpeter swans and Canadian geese habitat. I have 125,000 people that depend on this for drinking water with no backup water supply. And just on June 3, not counting last year, we had an earthquake of 3.0 in the district of the gentleman from Ohio (Mr. LATOURETTE), district to the north, not far from this lake.

Now, I have supported energy development. I have tried not to be hypocritical, because everybody says, not in my backyard. But when I believe that there are people that need water, I have the right to believe that that is not possible. And if I believe that, then I am acting in good conscience and right for the man behind the lake.

We have no objection to this amendment and would happily accept it.

Mr. VISCLOSKY. Mr. Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from Alabama.

Mr. CALLAHAN. Mr. Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from Alabama.

Mr. VISCLOSKY. Mr. Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to my good friend and classmate, the gentleman from Indiana.

Mr. VISCLOSKY. Mr. Chairman, I appreciate the gentleman yielding.

On behalf of all the steelworkers I represent, I am also happy to accept the gentleman’s amendment.

Mr. TRAFICANT. Mr. Chairman, I ask for an aye vote, and I yield back the balance of my time.

The CHAIRMAN. Pursuant to the order of the House of Wednesday, June 27, 2001, thegentlewoman from Nevada (Ms. BERKLEY) and a Member opposed each will control 10 minutes.

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

I want to know the gentleman from Florida (Mr. YOUNG) has fought hard to preserve fresh water drinking supplies and people close to drilling. I am not going to ask for a vote, with an understanding that my language will be preserved and protected as best as possible in conference.

Mr. CALLAHAN. Mr. Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from Alabama.

Mr. CALLAHAN. Mr. Chairman, it will be preserved as best as possible.

Mr. TRAFICANT. Mr. Chairman, that is good enough for me. The gentleman’s word has always been good enough. I thank the Congress for considering the people in my district.

Mr. TRAFICANT. I ask for an “aye” vote.

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

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. TRAFICANT). The amendment was agreed to.

AMENDMENT OFFERED BY MS. BERKLEY

Ms. BERKLEY. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Ms. BERKLEY:

Page 37, after line 11, insert the following:

AMENDMENT OFFERED BY MS. BERKLEY

TITLE IV—NUCLEAR WASTE TECHNICAL REVIEW BOARD

SALARIES AND EXPENSES

For additional expenses of the Nuclear Waste Technical Review Board, to be derived from the Nuclear Waste Fund, for the Board (1) to evaluate the technical and scientific validity of activities of the Secretary of Energy relating to the packaging and transportation of high-level radioactive waste and spent nuclear fuel authorized by section 503 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10283), (2) to hold hearings, sit and act, take testimony, and receive evidence, as authorized by section 504(a) of such Act (42 U.S.C. 10284(a)), and (3) to request the Secretary (or any contractor of the Secretary) to provide the Board with records, files, papers, data, and information, as authorized by section 504(b) of such Act (42 U.S.C. 10284(b)); and the aggregate amount otherwise provided in this Act for Energy Programs—Nuclear Waste Disposal is hereby reduced by: $500,000.

The CHAIRMAN. Pursuant to the order of the House of Wednesday, June 27, 2001, the gentlewoman from Nevada (Ms. BERKLEY) and a Member opposed each will control 10 minutes.

The Chair recognizes the gentlewoman from Nevada (Ms. BERKLEY).

Ms. BERKLEY. Mr. Chairman, I yield myself such time as I may consume.

I rise today to offer an amendment regarding the transportation of high-level nuclear waste. As we are all aware, the Department of Energy is nearing completion on its report on whether Yucca Mountain should be licensed as the Nation’s repository for
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high-level nuclear waste. The DOE has written lengthy reports on hundreds of issues relating to the project, but has remained eerily silent on the one issue that affects almost every Member of this House: the transportation of nuclear waste across the country.

If the proposed Yucca Mountain repository is approved, the transfer of high-level nuclear waste would necessitate the shipment of over 77,000 tons of lethal nuclear waste through at least 300 accidents with potential catastrophes, yet it has not published national shipping routes. Members of Congress and the American public have a right to know if high-level radioactive waste is going to be trucked through their districts, past their homes and hospitals, their children's schools, and on their neighborhoods and towns. They have a right to know what kind of impact these shipments will have on their communities.

That is why I am offering an amendment that would transfer $500,000 to the Nuclear Waste Technical Review Board to help the DOE to publicize the transportation routes. It is only fair that the DOE have listened to the public and sound public policy that this body would see the assurance of a review board composed of our country's top nuclear scientists on a matter of such importance and so fraught with danger for our communities. It seems only appropriate to ensure that the board is given the resources it needs to hold hearings, take testimony, and receive evidence to evaluate the DOE's transportation routes. It is, after all, vitally important that Members of Congress understand fully the potential impact on our communities, our constituents and on the environment.

This amendment builds on the language of the committee report acknowledging the serious public concern that we have with shipping nuclear waste across the country by road and rail and the need to select transportation routes. I want to thank the chairman and the ranking member for their efforts in this regard. Our amendment helps move forward the committee's intent by employing the Nuclear Waste Technical Review Board to analyze the routes and their potential impacts and to further encourage the DOE to make public, make public their proposed routes.

Let me be clear. This is not a vote on whether or not one supports a nuclear repository at Yucca Mountain. This amendment is about whether Members of Congress and our constituents have a right to know, the right to know whether nuclear waste is going to be traveling through our communities. A vote for this amendment is a vote in favor of protecting our neighborhoods from bureaucrats with too little information and too much secrecy. This is, in a word, about the public's right to know.

Mr. Chairman, I strongly urge my colleagues to support this amendment. Again, I want to thank the chairman and the ranking member for their work.

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

Mr. CALLAHAN. Mr. Chairman, I respectfully take possession of the gentleman's amendment.

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

First let me say to the gentlewoman that we are all concerned about the transportation of the high-level nuclear waste across the country. The DOE has itself recognized that such transfers may result in as many as 300 accidents with potential consequences.

This is a right-to-know issue, and the DOE's feet should be held to the fire, and if giving another half a million dollars to the technical review board so that they can force the DOE to publish their plans, I think that is a very important thing.

Also, the committee language, with all due respect, says that they should start doing the trade routes in the State of Nevada. It is my contention that we are doing this a little backwards. We should not be doing Nevada first, we should be doing all of the transportation routes getting to Nevada, and Nevada should be the last leg on option, that it is very premature, because this is, after all, about Yucca Mountain, and the site has not been decided upon. The chairman mentioned 6, 7 years. It might be longer than that, and the gentlewoman also suggested this trade language that talks about the State of Nevada transportation problem, we should be concerned about other States.

I would just read a sentence or two from the committee report from page 119. This is our language: "The Department should use available funds in fiscal year 2002 to initiate the selection of transportation routes."
of all, we are told that this nuclear technology is so safe that none of us have to worry, none of us have to be concerned at all as the materials are transported down streets in our own communities. On the other hand, there is a law on the books which indicates, which makes sure that none of the companies that own the trucks or the trains are liable in the event of an accident.

Well, that is not a good combination. One cannot say on the one hand it is safe and on the other hand say, well, we have to indemnify against any risks of the truck drivers and the train drivers. Who would want people caring through their neighborhoods with no insurance in large trucks, much less trucks or trains with nuclear materials there? So they become “mobile Chernobyls.” in a sense. They become very dangerous vehicles.

Where the gentlewoman is saying is that we should have advanced knowledge of which routes are going to be taken, what the precautions are that are being put into place. It is just kind of a common-sense, anticipatory way of looking at issues, especially since this recipe has been constructed, which could be an invitation to recklessness, to willful misconduct, to excessive drinking or drug-taking by the truck drivers or the train conductors, because they are not liable for any accidents.

And that is why I think the gentlewoman is so concerned. And I think what this issue does is just help to spotlight how concerned all Americans should be if this material starts to move through their neighborhoods.

Ms. BERKLEY. Mr. Chairman, may I inquire as to how much time I have remaining?

The CHAIRMAN. The gentlewoman from Nevada (Ms. BERKLEY) has 4½ minutes remaining, and the gentleman from Alabama (Mr. CALLAHAN) has 5½ minutes remaining.

Mr. CALLAHAN. Mr. Chairman, I urge a “no” vote, and I yield back the balance of my time.

Ms. BERKLEY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, two nights ago this House passed legislation that would prohibit dangerous trucks coming to this country from Mexico. Certainly trucking waste going through our neighborhoods is more serious than dangerous Mexican trucks, which we prohibited from coming onto our highways.

It seems to me there is not one of us that can go home to our constituents and say we voted down a piece of legislation that would demand that the Department of Energy actually publish the proposed transportation routes of 77,000 tons of toxic nuclear waste. This nuclear waste is going to be coming across all our neighborhoods, all of our towns, through our communities, through 43 States en route to Yucca Mountain, Nevada.

Now, I appreciate the fact that both the chairman and the ranking member suggest that perhaps this is premature, but listening to what the administration has been saying with their new reliance on nuclear energy and the fact that in the committee language itself, although this has not been completion of the scientific study saying Yucca Mountain will be the Nation’s repository, certainly nobody reading the signs can say that this country is not trying very hard to make Yucca Mountain, what is selected as the only site, the one that is acceptable for nuclear waste. I might add, however, that it is not acceptable, and it is very apparent that it is not.

The fact of the matter is that we have a right to know, and we have a right to protect our constituents. Our constituents, American citizens, have a right to know what their government intends to do. And I would like to hearken back to the nuclear atomic tests conducted at the Nevada test site in the 1950s and the 1960s, when we were told there was absolutely no danger to detonating those atomic weapons in the middle of the Nevada desert. The fact of the matter is, every single, and let me repeat that, every single employee of the Nevada test site that worked on those atomic tests are all dying of cancer now and other horrible, heinous ailments. And that is because our Federal Government said, ‘Don’t worry, you be happy; there is nothing wrong.’ This is a similar situation 50 years later, and we are hearing the exact same thing from our Federal Government.

For this body not to stand up and protect each one of our constituents, and make sure that that nuclear waste and those trucks are not going to be barreling down our neighborhood streets I think is most irresponsible for anybody that does not support this legislation. This is the single most important issue in Southern Nevada, the people that I represent, I again urge all of my colleagues to stand with us, stand with me, and make a determination to keep our neighborhoods, our schools, our hospitals, the people that we represent safe.

Mr. BACA. Mr. Chairman, I rise in support of the Berkley amendment to the Energy and Water FY 2002 Appropriations bill, H.R. 2311. We must study the problems associated with the transportation of nuclear waste and protect our communities.

The likeliest routes will truck much of California’s radioactive waste along Interstate 15 and along train tracks straight through San Bernardino County.

It has been said that used fuel is so dangerous that the nuclear plants must isolate the fuel from human contact for 10,000 years. So why would we run the risk of shipping it through our backyards without the proper scientific research and before we have weighed all our options?

Congress has spent billions of dollars on the Yucca Mountain storage site and it is still unknown whether this site is environmentally sound or not. Why should our tax dollars be spent and our health be put at risk without finding out all aspects of this issue? Scientific studies show that transporting such material has potential risks that could end in catastrophic disasters and yet no other option has been proposed.

We must ensure the security of our community. Nuclear waste is a serious issue that must be handled very carefully and thoroughly. I am committed to protecting the health and environment of the 42nd district of California along with all the districts in the United States.

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

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from Nevada (Ms. BERKLEY).

The question was taken; and the Chairman announced that the noes appeared to have it. I demand a recorded vote.

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentlewoman from Nevada (Ms. BERKLEY) will be postponed.

AMENDMENT OFFERED BY MRS. KELLY

Mrs. KELLY. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mrs. KELLY:

In title IV, in the item relating to “Nuclear Regulatory Commission—Salaries and Expenses”, after the second and fourth dollar amounts, insert the following: “(reduced by $92,000)”.

In title IV, in the item relating to “Nuclear Regulatory Commission—Office of Inspector General”, after the first and second dollar amounts, insert the following: (reduced by $600).

The CHAIRMAN. Pursuant to the order of the House of Wednesday, June 27, 2001, the gentlewoman from New York (Mrs. KELLY) and a Member opposed each will control 5 minutes.

Mr. Chairman recognizes the gentlewoman from New York (Mrs. KELLY).

Mrs. KELLY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise for the purpose of entering into this colloquy with the distinguished chairman of the committee, the gentleman from Alabama (Mr. CALLAHAN).

I wish to discuss the importance of providing additional funding for the Nuclear Regulatory Inspector General, providing the Inspector General with more resources will help the NRC better perform its responsibility of ensuring the safe operation of our Nation’s nuclear power plants. Through my own experience, I have found that the agency’s priorities have not always been what they should be.

In February of last year, an accident occurred at the Indian Point 2 nuclear power plant in my district. A steam generator tube burst, and the plant was shut down immediately. It goes without saying the people in the community surrounding the plant, myself included, were seriously troubled by this
independent reviews. This additional
woman for her work on this issue, Mr.
leman from Alabama.
views of NRC regulating activities?
available for further independent re-
that this additional funding will be
increase in the funding for the Inspec-
most troubled plant raises some real
the Nation
data against nuclear power. But the way
clear power, and I should say that I am
it would not have happened.
realize there is a new interest in nu-
clear power, and I should say that I am
not against nuclear power. But the way
NRC handled the Nation's most
troubled plant raises some real
concerns. I understand the gentleman
from Alabama has provided a generous
increase in the funding for the Inspect-
tor General in this bill. I commend him
and thank him for it.
Is it the gentleman's understanding
that this additional funding will be
available for further independent re-
views of NRC regulating activities?
Mr. CALLAHAN. Mr. Chairman, will
the gentleman yield?
Mrs. KELLY. I yield to the gen-
tleman from Alabama.
Mr. CALLAHAN. I thank the gentle-
woman for her work on this issue, Mr.
Chairman; and I share her feelings
about the necessity of ensuring that
the NRC Inspector General is provided
the resources it needs for conducting
independent reviews. This additional
$680 million that we have in this bill is
available for this very purpose.
Mrs. KELLY. I thank the gentleman.
I would ask only that the gentleman
continue to keep in mind the impor-
tance of a strong funding level for the
NRC Inspector General. I wish the
NRC officials to work on this bill, and
also that the gentleman continue to
generously oversee the agency to ensure
that unnecessary travel expenses are not incurred by
the NRC officials.
Mr. CALLAHAN. If the gentlewoman
will yield further, I will continue to
closely monitor all expenditures in-
curred by NRC officials to ensure that
their resources are not improperly
squandered.
Mrs. KELLY. I thank the gentleman
from Alabama very much, the distin-
guished chairman of the subcommittee.
Mr. Chairman, I ask unanimous con-
sent to withdraw my amendment.
The CHAIRMAN. Is there objection
to the request of the gentlewoman
from Alabama.
There was no objection.
The CHAIRMAN. The amendment is
withdrawn.
AMENDMENT OFFERED BY MR. DAVIS OF
FLORIDA
Mr. DAVIS of Florida, Mr. Chairman,
I offer an amendment.
The CHAIRMAN. The Clerk will des-
ignate the amendment.
The text of the amendment is as fol-
ows:
Amendment offered by Mr. DAVIS of Flor-
da.
In title III, in the item relating to
"FEDERAl ENERGY REGULATORY COMMISSION—SALARIES AND EXPENSES", strike the last proviso (relating to Gulfstream Natural Gas Project).
The CHAIRMAN. Pursuant to the
order of the House of Wednesday, June
27, 2001, the gentleman from Florida
(Mr. DAVIS) and a Member opposed
each will control 30 minutes.
The Chairman recognizes the gentleman
from Florida (Mr. DAVIS).
Mr. DAVIS of Florida. Mr. Chairman,
I yield myself such time as I may con-
sume.
Mr. Chairman, I would like to set the
context of this amendment because it
takes us back a little bit. Last week,
we had a debate on the floor of the
House of Representatives. It was a very
hearty, very democratic debate on the
floor about an amendment I offered,
along with the gentleman from Florida
(Mr. SCARBOROUGH), to prevent the Sec-
retary of the Interior from going for-
tward with issuing any new leases for
offshore oil drilling, oil and gas, 17
miles off the coast of Pensacola, some
of the most pristine beaches in not just
the State of Florida but of the country,
and about 200 miles off the coast of
Tampa Bay, my home.
The House adopted our amendment
by a vote of 247, and the bill is now in
the Senate where it will be debated
soon. Unfortunately, the highly ele-
teed chairman of the Subcommittee
on Energy and Water Development, the
gentleman from Alabama (Mr. CAL-
LAHAN), was in Alabama, with other
members of the Alabama delegation
traveling with the President, and was
not present for the debate. I regret
that, and I know he certainly regrets it
as well. But the House has done its job
and we are on to the public issue.
The reason I rise today to offer this
amendment is because the gentleman
from Alabama (Mr. CALLAHAN) has in-
serted some language in this particular
bill we are debating, which I think is
fair to describe as a response to the de-
bate over the same issue, which I will
speak about in more detail in a while,
along with other Members both
Democrats and Republicans, what
that language does is to punish the
State of Florida and, I would submit,
other States who have a stake in a nat-
ural gas pipeline that has already had
$800 million spent on it and is due to
open in approximately 1 year.
The language that the gentleman
from Alabama (Mr. CALLAHAN) has in-
serted would basically bring that pipe-
line to a grinding halt. I think that is
an irresponsible position for the House of
Representatives to take today. I per-
sonally would not want to go home on
the 4th of July and have to explain
those votes for a bill that had that
language in it.
I do understand the gentleman's
point. His point is he wishes he had
been here for the debate, and I think he
disagrees in the strongest terms with
the outcome of the debate last week.
But that debate is over, and we are
dealing with a new issue today and it is
an issue that affects hundreds of work-
ers' lives.
Mr. Chairman, I reserve the balance
of my time.
Mr. CALLAHAN. Mr. Chairman, I
yield myself such time as I may con-
sume, and I rise in opposition to the
amendment.
Mr. Chairman, let me say that, as the
gentleman from Florida just men-
tioned, yes, they did bring up this
measure while I, along with the other
members of the Alabama delegation,
were traveling with the President last
week, which is their prerogative. I
think, out of deference to me and to
my State and to my delegation, that
they should have at least informed us
the night before of their intent. But
they failed to do that, which is their
prerogative. They do not have to notify
me of anything if they do not want to.
But I thought it was fair to describe as
they waited until we got out of town. When
it was obvious we could not get back,
this did not allow us the opportunity to
defend our State.
But this amendment has nothing to
do with that. As the gentleman from
Florida said, the vote last Thursday
was the will of the Congress. This has
nothing to do with permitting the
drilling of oil off the coast of Alabama,
which 181 does. It has nothing to do
with nuclear power.
I think it is the height of hypocrisy
for Floridians, especially the sponsor
of this amendment, to say we are not
going to allow drilling for natural gas in the Gulf of Mexico because it is 270 miles off the coast of Tampa, but at the same time we want a pipeline from Alabama to Florida because we need this gas. They tell us that a 142 percent expectation of increased need is going to take place in the next 6 years in the State of Florida. So what they said was, do not drill for the gas, but go ahead and build the pipeline and supply us with gas.

Mr. Chairman, they have got to make up their mind. It is the height of hypocrisy to try to pull the wool over the Floridians' eyes just because it might look good in the local newspaper, or statewide newspaper, if someone happens to be running for a public office statewide. It is the height of hypocrisy to on the one hand go to your people and say, look how strong I am, look how faithful I am, look what I am doing to protect the beautiful beaches of Florida, look what I have done, re-elect me or send me to another office, do all of these good things but let us go ahead and build that pipeline because we know it is going to happen anyway. And if it is not going to happen anyway, well, then, we do not want them drilling off the coast of Alabama for additional resources. We are going to take this resource away from the people of Alabama.

So they are saying to Alabamians, you suffer, but do not let us suffer. Let us run our air conditioners all year long, because the weather and the climate in Florida are so wonderful and so beautiful it requires that they have more air-conditioning. We want to do that. We want to provide for Floridians the ample resources they need, thereby ensuring they will not have the same energy crisis in Florida, which is what is going to happen.

We do not want that to happen to our neighbors in Florida, and we are not going to let that happen. But, in my opinion, why build a pipeline to transport the oil from Alabama to Florida? The author of this bill is the one who authored the other bill saying do not drill for gas.

Mr. Chairman, why are we going to disrupt the sandy bottom of the beautiful Gulf of Mexico and risk that brown sand turning the beautiful beaches of the panhandle in Destin and in Pensacola into a brown beach instead of a sugar-white beach? Why would we risk that if we are not going to have a resource? It is a mystery to me.

The only solution I can find to that mystery is that someone is grandstanding here. Someone either believes or wants it to happen on the one hand, and is trying for some reason to convince the Floridians that might read about this that he is a savior of Florida, and maybe he is. I think Mr. Bush has done more. Mr. Chairman, he is the only one with the pristine beaches of Florida and make sure that there is no offshore drilling off the coast of Florida than anybody in his
tory, and he is to be commended for that. But I do not know how we can tolerate the hypocrisy of what we are hearing here today, and that is do not drill for oil. That is accepted. That is not in question today; but just in case we do, then send it to Florida through the pipeline and supply it to lay on the bottom of the beautiful Gulf of Mexico.

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

Mr. DAVIS of Florida. Mr. Chairman, I yield 4 minutes to myself to respond.

Mr. Chairman, I am going to stick to the facts today. I think that holds us up to the standard that we should be held up to. First, I am flatly at the notion that I had the chance to control the timing of the debate last week. I wish I had that much influence. It is clear that the gentleman from Florida (Mr. SCARBOROUGH) and I do not.

As far as the notice, I regret that the gentleman from Alabama was not let know when this amendment was filed until the morning of the debate because I had difficulties with the Congressional Budget Office getting an amendment that would not be subject to a point of order, and that is the reason why the amendment only has a 6-month duration for the fiscal year.

Mr. Chairman, let me correct something the gentleman from Alabama said. Section 181 is 200 miles, not 270 miles, off the coast of Tampa Bay, my home. That is where I grew up. I remember an oil spill that happened there when I was a child. It was not a rig, it was a barge, but it had the same impact. This is 17 miles from the district that the gentleman from Florida (Mr. SCARBOROUGH) represents, and he can talk about that better than I can.

Mr. CALLAHAN, Mr. Chairman, will the gentleman yield?

Mr. DAVIS of Florida. I yield to the gentleman from Alabama.

Mr. CALLAHAN. Mr. Chairman, I might point out that they are already drilling now within 1 mile of the district of the gentleman from Florida (Mr. SCARBOROUGH). That is not an argument.

These waters are primarily the waters within 17 miles of the beaches or offshore land of the gentleman from Florida (Mr. SCARBOROUGH) that belong to and are the State of Alabama. They are directly south of Alabama and not in Florida. We can argue all we want by AOLing arrows to Alabama that these are areas off the gentleman from Florida's (Mr. SCARBOROUGH) beaches, but that is not factual. That is misleading. That is hypocrisy.

Mr. DAVIS of Florida. Reclaiming my time, Mr. Chairman, let us stick with the facts and not hyperbole. It is 17 miles. The gentleman and I can disagree whether or not that is Florida's coast or not. The fact is it is 17 miles from some of the most pristine beaches of the State of Florida, but in the country.

Mr. Chairman, the gentleman from Alabama (Mr. CALLAHAN) said yesterday on numerous occasions that he wanted to be remembered as a champion of Florida's beaches, and after he retired, and I hope that is not soon. Mr. Chairman, to travel around our beautiful beaches. That is where many of the gentleman's constituents and constituents of Democrat and Republican Members of Congress head this summer, to our beaches.

No, we do not want drilling off our coast that poses an unreasonable risk, and we do need energy, Mr. Chairman. The gentleman from Alabama (Mr. CALLAHAN) is correct. I think we know the gentleman from Alabama (Mr. CALLAHAN) wants energy for his State, too, but that does not mean he has to live next door to a nuclear power facility or any type of facility at all.

This is about balance. That is what the debate is about. It is about balance in terms of protecting our cherished environment.

Let me tell the gentleman, if it is hypocritical for Floridians to cherish their environment, then I proudly wear the label. We think there can be balance achieved, but we do not think that the language in the bill that the amendment addresses does anything to achieve that balance.

Let me also say this is not about al-locating credit and blame. The public is too smart for that. I am pleased the gentleman from Alabama (Mr. CALLAHAN) mentioned the Governor of the State of Florida. He supports my amendment. Mr. Chairman; and Floridians support this amendment. If this pipeline was not being built yet, I think the gentleman from Alabama (Mr. CALLAHAN) could have a plausible basis for his position. But let me just state the facts, and then yield to the gentleman from Florida (Mr. SCARBOROUGH).

This pipeline has had $800 million spent on it. There are hundreds of workers all over the country who are thankfully on the verge of earning a bonus for early completion. What are we saying to these workers and their families if we pass a bill today that brings that project to a grinding halt? I do not think that is responsible. That is what we ought to be debating today, whether or not the Congress ought to take that position.

Mr. Chairman, I yield 5 minutes to the gentleman from Florida (Mr. SCARBOROUGH).

Mr. SCARBOROUGH. Mr. Chairman, I thank the gentleman from Florida for this amendment. I want to underline what he said about the Governor of the State of Florida. Jeb Bush not only supported our efforts last week, he supported our efforts in a bill that we have dropped regarding 181; and he and the State of Florida support the pipeline.

I think there is some hypocrisy going on here. I also think some people are saying do not drill for gas, they lost their minds with people having fun on the House floor with some tongue-in-cheek amendments. But I could not help
Mr. YOUNG of Florida. Mr. Chairman, will the gentleman yield?

Mr. SCARBOROUGH. I yield to the gentleman from Florida.

Mr. YOUNG of Florida. Mr. Chairman, the gentleman from Alabama (Mr. CALLAHAN) also spoke of his love for the pristine beaches of the west coast of Florida, not just the northwest. He favored all of our beaches yesterday that deserve.

Mr. SCARBOROUGH. Yes, sir, and they are beautiful, too, sir. Mr. Chairman, my grandmother would term what the gentleman from Alabama (Mr. CALLAHAN) is doing for us in northwest Florida as gracious plenty; but I thought I could do one thing in return to help his constituents the way he is trying to help mine, and if we can get a unanimous consent later on, maybe after this vote, perhaps we could offer my amendment which was brought up in the House legislative session last night, and I am introducing an amendment to protect the workers of the district of the gentleman from Alabama (Mr. CALLAHAN) and the State of Alabama from layoffs and firings that would occur if the Callahan language were to survive.

As much as I appreciate his love for the natural beauty of northwest Florida, I feel an equally pressing need to show my affection for the working men and women of the State of Alabama.

Just as he wants to protect Florida bases, I want to protect Alabama jobs that would be lost if those who are currently employed working on the Gulfstream natural gas project are not able to complete their work. And that is in my district, too, at Berg Steel and across the States of Louisiana and Texas and Alabama.

I fear, though, that the precedent that is being set by what the chairman has said in this bill could be dangerous because, let us think about it. Just for 1 second, let us think about it. If we use this logic that is being used, like, for instance, communities that do not want drilling 17 miles off their beaches should not be able to get natural gas, well, let us see how that would apply to other things. If one likes chicken, under the amendment's logic, community chicken farms would have to spring up on every block because it would be hypocritical not to have chicken coops in the back yards of everybody's house that eats chicken. Think about sausage. In Pensacola, Florida, we have a place called The Coffee Cup. It is a greasy spoon that serves bacon, and I will be the first to admit, I love bacon. I consume bacon. But I sure as heck do not want to have a self-sustaining Coffee Cup slaughterhouse in the parking lot behind that restaurant, but, using this logic, would have to do it.

Got milk? Better tie up the cow behind the barn because if one likes milk, you cannot consume milk, you have to keep track of me. I never thought that the gentleman ought to get his scheduler to poll to see where the Alabama delegation is. But this is a body of compromise, a body of colleagues that would never think of doing this to anyone in Florida when I knew they were gone; but that is water under the dam.

This amendment has zero to do with drilling off the coast of Alabama or Florida. It has nothing to do with it. I mean, that is water under the dam. That water is gone. They did that in my absence, and I will accept the gentleman's apology. And let me apologize to him. I never thought the gentleman ought to keep track of me. I never thought that the gentleman ought to get his scheduler to poll to see where the Alabama delegation is. But this is a body of compromise, a body of colleagues that would never think of doing this to anyone in Florida when I knew they were gone; but that is water under the dam.

This amendment has zero to do with the drilling aspect, and quit trying to tell the Members of this body that it does. It has to do with the laying of a pipeline from Mobile, Alabama, my district, to Florida, and even the Florida newspapers are saying that the gas pipeline will cause damage in the Gulf of Mexico.

So here we have the Florida Naples Daily saying that it is going to cause damage to the environment, and now we do not have the Florida delegation defending that, they are saying, go ahead and destroy our environment. Build that nasty old pipeline. Bring the gas in from somewhere else.

Mr. Chairman, we ought to talk about the subject matter, not what happened last week.

Mr. Chairman, I yield 5 minutes to the gentleman from Mississippi (Mr. WICKER), a distinguished and knowledgeable Member of this issue and also a member of the subcommittee.

Mr. WICKER. I thank the gentleman for yielding me this time.

Mr. Chairman, a former Member of this body once went down in history when he made the statement, "Don't confuse us with the facts, my mind is made up."

Although the chairman of the subcommittee has just told us that this is not about the drilling in lease area 181, I did have to feel that way last week during the discussion of the Davis amendment. "Don't confuse us with the facts," some of our colleagues said, "our minds are made up."

"Forget the fact that this Nation is in an energy crisis. Just forget the fact that area 181 is way out in the Gulf of Mexico. Just forget that." And I don't want to forget the fact that we need to get rid of our dependence on foreign sources of energy. Just forget that. Don't confuse
me with that fact, our minds are made up.'"

And then there was the constant discussion last week about drilling off the coast of Florida. Even The Washington Post, the next day, talked about drilling off of Florida without giving the reader the foggiest notion of what we were talking about.

So what we are talking about, Mr. Chairman, is drilling in the colored-in area here which is called "Sale 181 Area." As Members can see, it is over 213 miles from Tampa Bay, this drilling which our friends from Florida are calling off the coast of Florida. 213 miles away. Over 100 miles away from Panama City there. Yet it is being described by people in that delegation as being off the coast of Florida.

Now, it is true that there is a small strip of water, a small strip of the gulf in lease area 181 that goes up to the coast of Alabama. It is under 213 miles. But we are not talking about the lease area 181 that goes up to the coast of Alabama. I want to suggest, in lease area 181 that goes up to the coast of Florida, 213 miles from Tampa Bay, this drilling is off the coast of Florida. Even The Washington Post, the next day, talked about drilling off the coast of Florida. I think the gentleman from Alabama (Mr. CALLAHAN) says that they want to keep this lease area 181 that goes up to the coast of Florida. All we are saying is, we do not want the drilling in Florida. I think the gentleman from Alabama (Mr. CALLAHAN) says that they want to keep this lease area 181 that goes up to the coast of Florida because it is over 213 miles from Tampa Bay. And so we are not going to have the pipeline, that if we do away with the pipeline, we will have natural gas. We are not going to have the pipeline, not the drilling. Therefore, I yield myself 1 minute.

The gentleman who last spoke wants to redebate the amendment last week and the chair does not and I respect the chairman's view on that. I do not think we should redebate it. But since he brought it up, let me respond. There are 21 days of crude oil in section 181. We do not think as Floridians we should have to choose between satisfying our energy needs and exposing ourselves to undue environmental risk for 21 days of crude oil. The House has spoken on that. We sent a very strong message that we need a more balanced approach to environmental and energy policy, not just in the country, and that vote stands.

Mr. Chairman, I yield 2 minutes to the gentleman from Florida (Mrs. THURMAN).

Mrs. THURMAN. I thank the gentleman for yielding me this time.

I stand today to say that I support the amendment offered by the gentleman from Florida (Mr. DAVIS). I was struck a little bit by the idea that we do not have here any of what happened last week. And so at some point I would like the gentleman from Alabama to tell me why we are here then.

This is a project that, in fact, is going to be completed by this winter, about 753 miles long. The fact of the matter is that in my district, because this comes through my district, it was controversial. FERC held public hearings at which the concerns of these interested citizens were heard. In response, Gulfstream modified the pipeline plan and now FERC is reviewing the revised plan. So I do not think there is really a legitimate reason at this time for the House to stop this process, and I think that is what this amendment actually would do and why we are here.

Mr. CALLAHAN. Mr. Chairman, will the gentlewoman yield?

Mrs. THURMAN. I yield to the gentleman from Florida.

Mr. CALLAHAN. No, that is not why we are here. This has nothing to do with the drilling. It has to do with the fact that there is not going to be any natural gas and if there is not going to be any natural gas, we will not have natural gas. That is why we are here. It has only to do with the pipeline, not the drilling.

Mrs. THURMAN. Reclaiming my time, there has been natural gas and there continues to be natural gas. We have natural gas today. So I think that is kind of not true.

We get natural gas from other places. All we are saying is, we do not want the drilling in Florida. I think the gentleman from Alabama (Mr. CALLAHAN) that he should tell us, the supporters of the Davis amendment about 7.8 trillion cubic feet. Mr. CALLAHAN, says that they want to keep this lease area 181 that goes up to the coast of Florida. I want to suggest, in lease area 181 that goes up to the coast of Florida, 213 miles from Tampa Bay, this drilling is off the coast of Florida. And so we will not have any argument about it being 17 miles away.

And with further respect to his indication that my words could be taken down for saying the word "hypocrisy," maybe he is right. It is the height of arrogance that causes us to be here today.

Mr. Chairman, I yield 4 minutes to the gentleman from Texas (Mr. Delay), the majority whip.

Mr. DELAY. Mr. Chairman, I think it is very interesting, I hope our Members are watching this debate, because it is so telling about what is going on in the debate about providing energy so that Americans can turn on their lights, turn their stoves on and get natural gas, heat their homes. It is just amazing to me.

The Florida delegation, Mr. Chairman, says that they want to keep this lease area 181 that goes up to the coast of Florida. I think the gentleman from Alabama (Mr. CALLAHAN) that he should tell us, the supporters of the Davis amendment, what is a solution. If we annex the whole Panhandle into Alabama, then they will not have any argument about it being 17 miles away.

And with further respect to his indication that my words could be taken down for saying the word "hypocrisy," maybe he is right. It is the height of arrogance that causes us to be here today.

Mr. Chairman, I rise to oppose this amendment to let Floridians share in the shortsages that they are facing on the rest of America. Last week, our friends from Florida torpedoed an extremely promising field of oil and gas.
That action jeopardized our energy security. However, they do not apply that policy consistently. It turns out that Floridians are far more accommodating on energy issues that directly benefit their own State.

The lease sale 181 even though it holds billions of barrels of oil and trillions of cubic feet of natural gas. The Florida delegation ignored the important role that these reserves could have in the lowering of our national dependence on foreign sources.

It is well known that Florida is increasingly relying on natural gas to produce electricity. That trend is happening because making electricity with natural gas can be less taxing on the environment than other types of generation. Well, it has to come from somewhere.

They will not let us find more in the gulf, but Florida sure is not resisting the trend toward natural gas. Florida’s natural gas demand for electricity will double by the year 2020. The population will grow by a third over the same time period. And they plan to supply electricity to their expanded population with generating plants that burn natural gas. This is the height, oh, I mean, the word, of arrogance. Of arrogance. I did not want to use the word. This is the height of arrogance. Florida is happy to burn it, but they block the rest of America from securing a steady and adequate supply of natural gas.

That is why Members from Florida are not blocking a proposed natural gas pipeline that will stretch 800 miles through gulf waters from Alabama to the beaches of Florida. And these are the same gulf waters that Florida placed off-limits to exploration that could help the rest of the country. I oppose the gentleman from Florida’s amendment to block opposition to this pipeline.

Florida rivals California as a prime example of the not-in-my-backyard syndrome. Let Florida take the lead in conservation. Let them make do with half the natural gas that they are projected to need. If Florida is going to lead America to greater dependence on foreign sources of energy, then let them do it on their own.

There is another thing Floridians ought to remember, as pretty as their beaches may be, they are still a long walk from most places in America. And if the oil production opposition to its exploration holds sway, tourists will be making their way to Florida on shoe leather. Members should oppose this amendment to help Floridians understand the implications of their actions.

I yield myself 2 minutes to respond to the previous comments.

First, there is a very important distinction between my amendment today and the amendment last week. The purpose of the amendment last week was to protect the beaches of Florida. It was not to punish any other State. I am not going to speak to what the purpose of the language in the bill is, but I will tell you what the effect is. The effect is to punish Florida, not to protect anybody else.

Secondly, with respect to jobs. Last week, every Member of Congress that spoke in opposition to the Davis-Scarborough amendment was from an oil-producing State and they were protecting jobs in their areas. As I said on the floor and I will say again today, they do not have to apologize for that. But let me just say today, this is not about protecting jobs in Florida. This is about protecting jobs in Texas, Alabama, North Carolina and other States. Those are the States where there are hundreds of workers who have already spent time building a pipeline that is nearing completion. So this is not about protecting jobs in Florida today.

Thirdly, the gentleman from Texas (Mr. DeLay) made the comment that we want natural gas but we do not want rigs off our coast. Yes, we think that is a false choice.

We do not think we should have to choose between spoiling our beaches and running our air conditioner. We think we can have balance. Know what? If people in Texas and Louisiana want to drill more off their coast and sell us their natural gas, and I am sure they will mark it up for a pretty rea- sonable profit, they should do that but we do not want that. We have not given up on our beaches. They may have given up on our beaches but we have not given up on our beaches, and that is why we do not want the rigs in our backyard.

Now let me say another very important reason why this amendment needs to be adopted. We want competition in Florida. We do not want to happen in Florida what happened in California, which is the market fails and the consumers get stuck. This pipeline will create competition. We will have more than one pipeline in Florida, and that is good for consumers. It is the way the market is supposed to work. It is good, old-fashioned competition.

Finally, the statement was made that Florida needs to do more in conservation energy efficiency. That is absolutely correct, but let us do it together as a country, and Texas and Florida, let us work together as a Congress to empower consumers and States to do more to use energy wisely and more efficiently. Mr. Chairman, I yield 1 minute to the gentleman from Florida (Mr. Scarborough).

Mr. SCARBOROUGH. Mr. Chairman, let me just say, I have always respected the gentleman from Texas (Mr. DeLAY) because he shoots it straight, and what he told us during his 4 minutes was what this is really about, and this provision really is about punishing Florida, and it is as simple as that.

Regarding a couple of the statements of the gentleman from Mississippi (Mr. WICKER), he once again said it is way out in the Gulf of Mexico. It is not. It is 17 miles.

Another thing, the gentleman from Alabama (Chairman CALLAHAN) is offended because he said this is a House of courtesy. Right after that, he accused me personally of demagoguery and hypocrisy and of intentionally misleading Members. I did not take his words down because he loves the northwest Florida environment so much. Also, I had the gentleman from Mississippi (Mr. WICKER) to come up soon afterwards and try to tone things down, as I hope we can do. Unfortunately, the gentleman from Mississippi (Mr. WICKER) then went on and compared my district to Communist China, but we will talk about that at another day.

I hope we can tone this down, and I hope we can understand what this really is all about. It is not about the State of Florida because over 200, almost 250 people, in this Chamber voted to protect our shoreline.

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

Mr. Chairman, I would like to respond somewhat to the comments of the gentleman from Florida (Mr. SCARBOROUGH) about where we are today and where we are going.

He keeps bringing up, everyone keeps bringing up, the vote that took place last week in our absence. As to whether or not it was done in the still of the night while I was gone, that is something that we can resolve. Maybe it was not. Maybe they had good intentions. Maybe they were just, I do not want to say ignorant, of my absence, and I apologized to him, as I have already said, about the hypocrisy word; and I have changed that to arrogance. That is not the issue.

The issue is the pipeline, and the issue is what is going to be put in the pipeline. The gentleman from Florida has already said that they already have pipelines going into Florida; they want to build more pipelines because they need more natural gas. Now since we are not going to be able to drive in this particular section of the gulf, there is not going to be any more natural gas. So why build a pipeline when the gentleman’s own newspapers in Florida are telling him that it could be devastating to his own environment? And therein comes my want to protect the beautiful beaches of Florida and especially the beautiful beaches of the Tampa Bay area.

When I take my boat to Florida, as I mentioned the other day, when I retire, if I ever do, when I go there I am going to go dock at a marina in Sarasota. That is where I want to be because that water is so pure, those beaches are so clean, we do not want to do anything to damage those beaches.

This is not about drilling. This is about the fact that this body decided...
we do not need any more drilling; we do not need any more natural gas. If we are not going to have any more natural gas, why do we need a pipeline to transport it? Therein lies the arrogance of what I was referring to when I mentioned earlier hypocrisy. That is what I was referring to.

Mr. Chairman, I yield 4 minutes to the gentleman from Louisiana (Mr. TAUZIN), the chairman of the Committee on Energy and Commerce, who is most impacted by this than Alabama, than Florida, than anybody else, because it is closer to his district than anywhere else; and he is about as knowledgeable of this industry as anyone in this body.

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

Mr. TAUZIN. Mr. Chairman, I thank the gentleman from Alabama (Mr. CALAHAN) for yielding me this time.

Mr. Chairman, I do want to calm things down because things get said in the heat of argument that I know Members would rather they did not say. So let me put something on the record.

The wetlands, the pristine wetlands in many cases, in my State are precious to me, and the waters of Louisiana are precious. They produce 28 percent of this Nation’s landings and seafood that all of us enjoy, and we do it simultaneously with producing 27 percent of the Nation’s natural gas and 27 percent of the Nation’s oil. Keep that in mind.

Mr. Chair, our people have made a commitment to this country, not just to keep our wetlands safe, not just to keep our fisheries up and sound and running for everyone, but also to produce oil and gas for the rest of the country, including Florida. There is a national wildlife reserve in my district called Mandaly. I asked Secretary Norton if she ever came to it. She said she did not.

Come to Mandaly National Wildlife Reserve, come and see it. It is full of wildlife, not just a few wild like one herd of caribou, but a massive amount of wildlife. We have 100 wells drilled in Mandaly National Wildlife Reserve producing oil and gas for the rest of America.

I asked her, is the National Wildlife Reserve in Louisiana less precious than ANWR? Less precious than section 181? Less precious than any block of land off of California? Why is it that this country makes a moral judgment that drilling off the coast of Florida? Even if this block were really off the coast of Florida instead of off the coast of Alabama and Louisiana and Mississippi, even if that were the case, they are closer to this land we are talking about in the Gulf than we are to Florida. It is full of wildlife, not just a few wild like one herd of caribou, but a massive amount of wildlife. We have 100 wells drilled in Mandaly National Wildlife Reserve producing oil and gas for this rest of America.

I yield 1 minute to the gentleman from Florida (Mr. CASTRO).

Mr. CASTRO of Florida. Mr. Chairman, I yield 2 minutes to the gentleman from Oklahoma (Mr. CARSON).

Mr. Chair, the gentleman from Oklahoma (Mr. CARSON) is knowledgeable of this industry as anyone in this body, too. Is it moral to protect our wetlands, somebody else’s coast, taking the risk for them. Somebody else’s wetlands, somebody else’s coast is going to take a risk for them.

I asked Secretary Norton what would happen to this country if Louisiana decided to put an amendment on this floor to stop oil and gas drilling off our coast because we thought our Mandaly wetlands and our wetlands were as precious as the wetlands and the beaches of other States of this country? If we decided not to take that risk anymore, what would happen to this country if we lost 27 percent of the oil and the gas?

What was the answer? It would be pretty severe.

I said, no, ma’am. It would be catastrophic. This country would fall apart.

We are already buying oil from Iraq to turn into jet fuel to put it in our planes to fly over Iraq to bomb the radar sites that are trying to kill American pilots today. How stupid is that policy? In a few short weeks we are going to be debating real broad national energy policy. And, yes, we will talk about conservation, and we will talk about protecting the environment and supplying this country with the energy it needs so that Americans can turn on the lights and they will not be off as they were in California this summer.

We have a moral question to answer in this body, too. Is it moral to protect some people from the risks of production and to ask some of us to do it all? The answer should be no. A pipeline is not needed if the natural gas is not produced.

Mr. Chair, the gentleman from Florida (Mr. CASTRO) is knowledgeable of this industry as anyone in this body, too. Is it moral to protect our wetlands, somebody else’s coast, taking the risk for them. Somebody else’s wetlands, somebody else’s coast is going to take a risk for them.

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their States, should be aware that a yes vote on the Davis amendment will allow the continued use of imported steel and steel products for the construction of this pipeline. That is why yesterday the gentleman from Pennsylvania (Mr. ERISSON), chairman of the Congressional Steel Caucus, sent a letter to all members of the steel caucus and I want to reiterate to anyone who has a steel industry in their district to take a long look and vote no on this measure.

Mr. DAVIS of Florida. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, nobody has answered the question yet why we are here. The gentleman from Mississippi (Mr. WICKER) said we are here to re debate the amendment; the gentleman from Alabama (Mr. CALLAHAN) to put the language in the amendment, but he still has not told us why we are here.

Let me say what is happening because this is a fact. We have opened a can of worms here today. I yield to the gentleman from Alabama (Mr. CALLAHAN), we are hearing a new debate and the debate is that a pipeline on which $800 million has already been spent, we are going to debate whether it used the right kind of steel and if it did not we are going to shut it down. That is lunacy. Yes, this pipeline has some steel from other countries and it also has a lot of steel from the United States. Some of it was fabricated in Mobile, Alabama.

Let me add something else, I have been asked questions whether this is a unionized project or not. We are going to debate whether this was unionized after it has been built? What are we going to do deconstruct the thing and build a fishing reef off the coast of Mobile? This is a unionized project. Is it 100 percent unionized? No, it is not. So is that a basis to defeat the amendment and scrap this project? Lunacy.

Let me also point out, this pipeline was built with natural gas that is already being drilled and extracted in the Mobile area.

Mr. DAVIS of Florida. Mr. Chairman, I yield 2 minutes to the gentleman from Florida (Mr. SCARBOROUGH).

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

Just very quickly, I want to say that we did find out why we are here today. Again, the gentleman from Texas (Mr. DELAY) is a straight shooter. He told us why we are here today, because of the vote of last week; basically telling Florida if you do not want to drill, then you do not get our gas.

He also talked about oil, which, of course, everybody says this is not about oil, it is about natural gas. It is about oil, eventually.

Also I just want to say to the gentleman from Louisiana (Mr. TAUZIN), certainly Louisiana does take the risk; but it takes an economic risk. That is what America is about. He says that everybody has to go ahead and do what Louisiana is doing, or else we are all in danger and are not going to be able to put fuel into jets.

Well, that is what capitalism is all about. People make economic choices. They decide what their region or their State or their country is best at; and then, after they make that decision, they pursue it.

Louisiana decided that drilling for natural gas was in its economic sense, and I applaud them. That is capitalism. We in Florida have decided that our natural resources and our beautiful beaches, which are the best in the world, and they are ranked the best in the world year in and year out, we have made the economic decision that we want to do everything we can to protect those beaches.

So, if you want to talk about sort of disingenuousness or audacity, do not talk for me that I do not love America because it does not make the economic sense in the State of Florida to drill in our wetlands as it does in Louisiana. If Alabama, Mississippi, Louisiana, Texas, and Alaska want to drill for oil, God bless them. That is what America is about, that is what the 10th amendment is about, that is what States’ rights are about.

The State of Florida does not want to be Louisiana; it wants to be the State of Florida.

Mr. CALLAHAN. Mr. Chairman, I yield myself such time as I may concern.

Mr. Chairman, I might just briefly reply to the description of me as, I think, a lunatic, or the word lunacy. I do not like that word either; but, nevertheless, in his statement, it was the height of hypocrisy again when he is saying that they are already drilling for gas in Mobile Bay, we want that gas.

But, even more so, this is not about drilling; it is about an inadequate supply of gas to go into a pipeline that is being constructed. That is what America is about, is what is America is about, is what the 10th amendment is about, is what States’ rights are about.

The State of Florida does not want to be Louisiana; it wants to be the State of Florida.

Mr. CALLAHAN. Mr. Chairman, I yield myself such time as I may concern.

Mr. Chairman, I yield 2 minutes to the gentleman from Wisconsin (Mr. MICA).

Mr. MICA. Mr. Chairman, the question has been asked, why are we here? We really should be here not to talk about good politics. Possibly some of the proposals that have been put forth over the last couple of weeks have been good politics; but, I can tell you, they are bad energy policy.

At the risk of being hit from all sides, I recently proposed a compromise that would comply with 100-mile limits for oil drilling. Technically the finger that comes up here on this map of the United States is in Alabama waters and we should not be really interfering with that lease sale. The gentleman from Alabama (Mr. CALLAHAN) is right in opposing the amendment and prohibiting the construction of this pipeline.

Why do we need a pipeline if we ban gas development?

I proposed that we should prohibit oil drilling in this finger, and then allow natural gas to be extracted from all of Tract 181, which we need. We have an expected population increase of 29 percent in Florida by 2020, and the demand for natural gas to produce electricity will grow by 97 percent.

The United States Department of Energy report entitled “Inventory of Power Plants in the United States” revealed that during the next decade, 28 of 34 electrical generating plants planned for Florida are designed for natural gas.

There is an article for a plant in New Smyrna Beach. It is 2 weeks old; that proposed power plant is gas-turbine generated. Here is another proposed power plant mentioned this past week in the Orlando Sentinel. It is also gas-turbine generated. Where are we going to get the natural gas?

You cannot have it both ways, and I think the gentleman from Alabama (Mr. CALLAHAN) by his provision, in banning this pipeline, is correctly raising oil prices. We need oil. We must have good energy policy, but we cannot be dependent on bad politics to make good energy decisions.

Mr. DAVIS of Florida. Mr. Chairman, I yield 2 minutes to the gentleman from Wisconsin (Mr. OBEY), the ranking member on the Committee on Appropriations.

Mr. OBEY. Mr. Chairman, I really do not have a dog in this hunt, coming from Wisconsin; but I simply want to observe that there is a high parallelism in this debate between the idea that you are going to prevent drilling off the coast of Florida, then somehow it makes sense to prevent the construction of this pipeline.

There is a big difference. The drilling has not occurred; the pipeline is already largely constructed. Secondly, there is no question that Florida is going to need the natural gas. So it seems to me that there is a false parallelism with which should be dispelled by any neutral Members of the body.

Secondly, let’s not kid anybody: this amendment is not being offered because of the merits of the amendment. This amendment is here because it is payback time. There are some people in this place who are unhappy with the fact that last week this House said, “No, we are going to protect the beaches of Florida. The oil companies are not going to be able to drill any damn place they want. They are going to have to take other higher values into consideration.”

So, now people who are resentful of that are thinking it would be nice if you could tweak the Florida Representatives for standing up for their own environmental interests and making them pay a price for protecting their beaches from the money lust of the oil companies. That is basically what you are talking about.

So I think that any Member who does not have a dog in this hunt ought to recognize this amendment for what it is. It is a clever attempt at retaliation. I think the House is above that kind of
thing, and I would urge that the amendment being offered by the gentleman today to remove this provision in the bill be adopted.

Any area has the right to protect its environmental resources. That is what Florida did last week, and the House ought to respect it.

Mr. CALLAHAN. Mr. Chairman, I yield 1 minute to the gentleman from Texas (Mr. GREEN).

Mr. GREEN of Texas. Mr. Chairman, I hardly ever disagree with my ranking member on appropriations, but I do not think this amendment is about retaliation. I think it is about a real energy debate we need to have here on this floor.

I agree, Florida probably does not want to become like Louisiana or Texas. I am worried that they want to become like California, where they do not want to produce. I am glad at least they want to pipeline sometimes, because that is not the case in California. Yet, when the price goes up, because our supplies are low, they want price caps and they complain about it.

I am worried about this, that if we do not adopt this amendment, if Florida recognizes you need to produce your resources if you live in California, or in Louisiana, or in southeastern United States, and we will have the same problem in the southeastern United States as we do in California.

We can produce, I have platforms offshore that are emitting zero pollution right now. Thirty years ago we did not have that; but today we have that, because we have different standards today. That can be done in the Gulf of Mexico, whether it is in Texas, Louisiana, Alabama, Mississippi, or Florida waters; and, frankly, it can be done off the coast of California.

So I am glad to be here to enjoy this energy debate. And it is not about retaliation. I think it is about energy that we need to talk about on this floor.

Mr. DAVIS of Florida. Mr. Chairman, I yield 2 minutes to the gentleman from Indian Rocks, Florida (Mr. YOUNG), distinguished chairman of the House Committee on Appropriations.

Mr. YOUNG of Florida. I thank the gentleman for yielding me time.

Mr. Chairman, several days ago I suggested to the House that this might be coming, this little bit of warfare between different delegations; and I hoped that we would avoid that, because we have enough problems with our foreign suppliers. We have enough problems, that we do not need to have problems within our own country. The fact is that we do need more production of oil and gas, whatever type of energy we can produce. We are a consuming Nation, and we need to produce.

But most of the conversations today have already ever disagreed, except for one part. I did not really appreciate the debate of the gentleman from Texas (Mr. DELAY) when he attacked the Florida delegation, because most of the Florida delegation has been there every step of the way to produce more energy at home, rather than relying on foreign sources. So I thought that attack was a little bit out of order.

However, the current debate is about where we are to drill or not to drill has nothing to do with this amendment. This amendment merely strikes three lines out of the bill. Let me tell you what those lines are: “Provided further, That none of the funds made available to the Federal Energy Regulatory Commission in this or any other Act may be used to authorize construction of the Gulf Stream natural gas project.” That is the amendment, to strike that language.

Here is why we ought not to be so exercised with each other. The issues are these: the permits to authorize the construction of this pipeline have already been issued. You are not going to change that, unless you are going to change the basic law. You are not going to change that with this language.

The amendment of the gentleman from Florida (Mr. DAVIS) to strike this language is fine, and I am going to vote for it. But the matter is, this whole debate is really about nothing, because those permits have already been issued. It has been a good vehicle for the debate on the question of Lease 181 and the issue of who drills and who does not. We have to be together on this. To divide this Congress, to divide this House over this issue, is not a smart thing to do. We need to calm down the rhetoric and need to get about becoming energy independent from the rest of the world.

Mr. DAVIS of Florida. Mr. Chairman, I yield 1 1/2 minutes to the gentleman from Bradenton, Florida (Mr. MILLER.).

Mr. MILLER of Florida. Mr. Chairman, I thank the gentleman for yielding me time.

Mr. Chairman, for our distinguished chairman of the subcommittee, I thank him for referring to Sarasota. Those are my beaches in Sarasota. I have some of the most beautiful beaches in Florida on the west coast, Anna Maria, Longboat Key, Siesta; and I hope the gentleman brings his boat down to our area.

But I am also the one where the pipeline comes ashore in Manatee County. It is implied as being patriotic, leaves the gentleman’s district. It comes ashore in my district and has a big economic impact. So I think we need to recognize the importance of the pipeline and its investors, who are spending over $1 billion on this pipeline. Now, if there was not enough gas, they would not be spending over $1 billion on this pipeline to build it from our two areas.

But this issue was brought up in a manager’s amendment on Monday which had something to do with Venice beaches, and I appreciate that in the manager’s amendment last week when we addressed the issue of this pipeline.

So this is strictly about the pipeline. The investors, they are the ones putting the money at risk, so we do not even make that decision. We should go ahead with the pipeline.

With respect to 181, since I only have a few seconds left, I think we need to open that up for discussion. The gentleman from Florida (Mr. MICA) is right. There is plenty of gas there. I think we should drill for that gas. This was a 6-month delay. We kind of in Florida get caught up on our Governor and our President, and I think there is room for compromise. I think there is a middle ground.

That is what we need to look for: a middle ground, because we need the energy in our country, but let us not fight over this pipeline. The pipeline needs to go ahead, and it is going to be continued.

Mr. Chairman, I hope everyone votes for this amendment.

Mr. DAVIS of Florida. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, I just want to make two points a little more clearly, and then I think we have had a thorough, hearty debate. The first is I wish I had the chart here today to show how many rigs have gone up, and I would submit can go up, hugging the coast of Louisiana and Texas, far removed from any chance of polluting the coast of Florida.

We have a supply out there, and we Floridians are willing to pay a fair price to consume the energy we need for our State. Again, we do not want to be trapped like California. We want competition. We want more than one pipeline. Adopting this amendment will help achieve that.

Let me finally say, just to put this in perspective, if we were to raise the CAFE standards by 14 miles per hour, that would generate a result less than the entire amount of natural gas and crude oil in section 181.

Mr. Chairman, I yield the balance of my time to the gentleman from Florida (Mr. SCARBOROUGH).

Mr. SCARBOROUGH. Mr. Chairman, I thank the gentleman from Florida (Mr. DAVIS) for yielding to me.

This debate really has been about respect or the lack thereof of the people of Florida and their wishes. We have been called hypocrites, audacious, arrogant; implied as being patriotic, compared to Communist Chinese, all because last week some very powerful people, some very powerful corporations, were shocked by the outcome of the vote on the Davis-Scarborough amendment.

I think we have to go back to the issue of respect and respect the will of the people in my district, respect the people of the State of Florida, just like we need to respect the will of the people of Alabama, Mississippi, Louisiana, Texas and Alaska to determine their own fate. We are very close to Alabama, and what affects Alabama affects us. We need to work together.
Mr. Chairman, I yield back the balance of the time.

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

This has been an interesting debate, even though probably 90 percent of the time was spent on talking about an issue that is not even in the amendment. Maybe the gentleman from Florida (Mr. YOUNG) is right. Maybe this amendment will have no impact. I think he is wrong, because I think it is sending the message. They are talking about the parochialism of this issue with respect to the gentleman from Florida (Mr. SCARBOROUGH) and the gentleman from Florida (Mr. DAVIS).

Mr. Chairman, this is about my district. This pipeline originates in my district. What the gentleman from Florida (Mr. DAVIS) said is we are going to take all you are already extracting, because you have too much, and we are going to send it to Florida because they do not have any, and he is right, except we do not have too much.

When we ship this natural gas out of the State of Alabama, our power rates are going to become competitive, and they go up. So that is not the issue. The issue is that I think that this issue was brought up at such a time that was inconvenient to the Alabama delegation to be here and defend themselves. They have apologized for that. We accept that apology.

I am saying this is an environmental issue, and the issue is whether or not we need to build a pipeline if we are not going to permit drilling. That is the issue. It is of keen interest to me and to the people of my State as well. All they talked about today in their selfish vision and their selfish manner is that this is going to hurt Florida. We are not going to have gas to air condition our homes. Do not do this to us. I am saying, it is going to impact Alabama as well. If the gentleman from Florida (Mr. DAVIS) is a member of the committee, is right, and FERC would not have the authority to stop it, then there is no need for this debate.

If I want to stop it, I think I can stop it through the permitting process in the State of Alabama, which I might; if this amendment is adopted, that is probably what I will do. But I do not think this amendment is going to be adopted, and I know that some people have come up to me and said, Sonny, you will not retaliate and take some of my projects out in the conference committee that you have been so generous with in the past 3 or 4 or 5 weeks; that is not the case. I would not think of doing that.

Mr. Chairman, I will say that this is a project that is of great interest to me, and that I would like very much to defeat this amendment, and I would encourage my colleagues to vote “no.”

The CHAIRMAN. All time has expired.

The question was taken; and the Chair announced the noes appeared to have it.

Mr. DAVIS of Florida. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Florida (Mr. DAVIS) will be postponed. SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, proceedings will resume on those amendments on which further proceedings were postponed in the following order: The amendment offered by the gentlewoman from Nevada (Ms. BERKLEY), and the amendment offered by the gentleman from Florida (Mr. DAVIS). The Chair will reduce to 5 minutes the time for any electronic vote after the first vote in this series.

AMENDMENT OFFERED BY MS. BERKLEY

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentlewoman from Nevada (Ms. BERKLEY) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded. A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 102, noes 321, not voting 10, as follows:

[Roll No. 204]

AYES—102

Mr. Chairman, this is about my district. This pipeline originates in my district. What the gentleman from Florida (Mr. DAVIS) said is we are going to take all you are already extracting, because you have too much, and we are going to send it to Florida because they do not have any. He is right, except we do not have too much.

When we ship this natural gas out of the State of Alabama, our power rates are going to become competitive, and they go up. So that is not the issue. The issue is that I think that this issue was brought up at such a time that was inconvenient to the Alabama delegation to be here and defend themselves. They have apologized for that. We accept that apology.

I am saying this is an environmental issue, and the issue is whether or not we need to build a pipeline if we are not going to permit drilling. That is the issue. It is of keen interest to me and to the people of my State as well. All they talked about today in their selfish vision and their selfish manner is that this is going to hurt Florida. We are not going to have gas to air condition our homes. Do not do this to us, Mr. Chairman.

Mr. Chairman, I will say that this is a project that is of great interest to me, and that I would like very much to defeat this amendment, and I would encourage my colleagues to vote “no.”

The CHAIRMAN. All time has expired.

The question was taken; and the Chair announced the noes appeared to have it.

Mr. DAVIS of Florida. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Florida (Mr. DAVIS) will be postponed. SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

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AMENDMENT OFFERED BY MS. BERKLEY

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentlewoman from Nevada (Ms. BERKLEY) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded. A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 102, noes 321, not voting 10, as follows:

[Roll No. 204]

AYES—102

Mr. Chairman, this is about my district. This pipeline originates in my district. What the gentleman from Florida (Mr. DAVIS) said is we are going to take all you are already extracting, because you have too much, and we are going to send it to Florida because they do not have any. He is right, except we do not have too much.

When we ship this natural gas out of the State of Alabama, our power rates are going to become competitive, and they go up. So that is not the issue. The issue is that I think that this issue was brought up at such a time that was inconvenient to the Alabama delegation to be here and defend themselves. They have apologized for that. We accept that apology.

I am saying this is an environmental issue, and the issue is whether or not we need to build a pipeline if we are not going to permit drilling. That is the issue. It is of keen interest to me and to the people of my State as well. All they talked about today in their selfish vision and their selfish manner is that this is going to hurt Florida. We are not going to have gas to air condition our homes. Do not do this to us, Mr. Chairman.

Mr. Chairman, I will say that this is a project that is of great interest to me, and that I would like very much to defeat this amendment, and I would encourage my colleagues to vote “no.”

The CHAIRMAN. All time has expired.

The question was taken; and the Chair announced the noes appeared to have it.

Mr. DAVIS of Florida. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Florida (Mr. DAVIS) will be postponed. SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, proceedings will resume on those amendments on which further proceedings were postponed in the following order: The amendment offered by the gentlewoman from Nevada (Ms. BERKLEY), and the amendment offered by the gentleman from Florida (Mr. DAVIS). The Chair will reduce to 5 minutes the time for any electronic vote after the first vote in this series.

AMENDMENT OFFERED BY MS. BERKLEY

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentlewoman from Nevada (Ms. BERKLEY) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded. A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 102, noes 321, not voting 10, as follows:

[Roll No. 204]
MESSRS. SMITH OF WASHINGTON, BILLI-RASKIS, HOLDEN, SANDLIN, GANSKE, GRAVES, RODRIGUEZ, SCOTT, and SHERMAN, and Mrs. MYRICK and Mrs. BIGGERT changed their vote from “aye” to “no.”

MESSRS. STUPAK, KENNEDY OF RHODE ISLAND, SHAY’S, BOSWELL, SOUDER, RANGLAN, and HINCHEY and Ms. VELAZQUEZ changed their vote from “no” to “aye.”
So the agreement was rejected.

The result of the vote was announced as above recorded.

ANNOUNCEMENT OF THE CHAIRMAN

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, the Chair announces he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device will be taken on each amendment on which the Chair has postponed further proceedings.

AMENDMENT OFFERED BY MR. DAVIS OF FLORIDA

The CHAIRMAN. The pending business is a demand for a recorded vote on the amendment offered by the gentleman from Florida (Mr. DAVIS) on which further proceedings were postponed and on which the noes prevailed by voice vote.
The Clerk will redesignate the amendment.
The Clerk redesignated the amendment.

RECORDED VOTE

THE CHAIRMAN. A recorded vote has been demanded.
A recorded vote was ordered.

The CHAIRMAN. This will be a 5-minute vote.
The vote was taken by electronic device, and there were—a yes 210, noes 213, not voting 10, as follows:

[Roll No. 205]

MESSRS. TAYLOR OF NORTH CAROLINA, KERNS, HOLDEN, SCHROCK and FORBES and Ms. EDDIE BERNICE JOHNSON OF TEXAS and Mrs. BIGGERT changed their vote from “aye” to “no”.

Mr. BUYER and Mr. HALL OF Texas changed their vote from “no” to “aye.”
So the amendment was rejected.
The result of the vote was announced as above recorded.

Stated for:

Ms. ROS-LEHTINEN. Mr. Chairman, on rollcall No. 205, I was unavoidably detained. If present, I would have voted “aye” on rollcall No. 205.

Mr. GILMAN, Mr. Speaker, earlier today, I was unavoidably delayed during the vote on the Davis Amendment to H.R. 2299. Accordingly, I was unable to vote on rollcall No. 205. If I had been present I would have voted “aye.” I ask unanimous consent to have my statement placed in the RECORD at the appropriate point.
The CHAIRMAN. The Clerk will read.
The Clerk read as follows:

This Act may be cited as the “Energy and Water Development Appropriations Act, 2002.”

Mr. BENGTSEN. Mr. Chairman, I rise in qualified support of H.R. 2311, the FY 2002 Energy and Water Appropriations bill.
When the Budget Committee, on which I serve, considered the President’s proposal and produced a budget, I knew it was going to be very hard for Congress to fund many important water transportation and flood control projects. I recognize the incredibly difficult circumstances Chairman SONNY CALLAHAN, Ranking Member PETER VISKOSKY have endured in crafting this bill. I would also like to thank my good friend from Texas, Mr. EDWARDS, a distinguished Member of the Subcommittee, for all the help and information he and his office have provided me.
In light of the dramatic budget cuts proposed for the Corps, I applaud the Subcommittee for funding the Brays Bayou flood control project at the Harris County Flood Control District’s capability—$5 million. When completed, the Brays Bayou project will be a national model for local control, community participation, flood damage reduction in a heavily populated urban watershed, and the creation of a large, multi-use greenway/detention area on the Willow Waterhole tributary. The Brays Project is a demonstration project...
for a new reimbursement program initiated by legislation I authored along with Mr. DeLAY that was included in Section 211 of WRDA 1996. The program gives local sponsors more responsibility and flexibility, resulting in projects more efficient implementation in tune with local concerns.

I am very encouraged that the Brays project is on track to be fully funded at $5 million in Fiscal Year 2002, rather than $4 million, as the Administration suggested. The project will improve flood protection for an extensively developed urban area along Brays Bayou in southwest Harris County including tens of thousands of residents in the flood plain, the Texas Medical Center, and Rice University. The entire project will provide three miles of channel improvements, three flood detention basins, and seven miles of stream diversion resulting in a 25-year level of flood protection. Current funding is used for the detention element of the project. Originally authorized in the Water Resources Development Act of 1990 and reauthorized in 1996 as part of a $400 million federal/local flood control project, over $200 million has already been appropriated for the Brays Bayou Project.

However, besides the admirable consideration the Subcommittee has given Brays Bayou, I believe this bill is spread too thin as a result of the extreme position taken by the Administration on the Army Corps Engineers Construction account, which was slated to be cut $600 million. Instead, my colleagues have lowered that cut to $70 million below the 2001 level. When I introduced an amendment to remedy this in the mark-up of the budget, I warned that the need for more was clear from such a large shortfall affecting public safety and navigational water projects. I am relieved that much of the proposed cut was restored, and I commend the Chairman and ranking Member for their effort.

I appreciate that the Committee saw fit to fully fund the Administration’s request for the Sims Bayou project. Unfortunately, the Administration did not request the full amount the Corps says is necessary to keep the project on schedule. My constituents are adversely affected by flooding on the Sims Bayou project. According to the Galveston District of the Corps, without funding the full $12 million capability of Corps for Sims, construction will fall behind schedule. This funding is needed because of the great risks people have faced and will continue to face until completion of the project in this highly populated watershed.

The need was illustrated when Tropical Storm Allison caused great damage to thousands of homes in this watershed several weeks ago. The project is necessary to improve flood protection for a newly developed area along Sims Bayou in southern Harris County. The Sims Bayou project consists of 13.9 miles of channel enlargement, rectification, and erosion control and will provide a 25-year level of flood protection. Before the funding shortfall, the Sims Bayou project was scheduled to be completed two years ahead of schedule in 2009. We cannot be confident of that prediction unless Sims funding is raised to $12 million in the Senate version and the Conference Report.

Flood control projects are necessary for the protection of life and property in Harris County, but improving navigation in our Port is an integral step for the rapid growth of our economy in the global marketplace. Therefore, Mr. Speaker, I am disappointed that this legislation provides only $30.8 million out of the needed $46.8 million for continuing construction on the Houston Ship Channel expansion project. When completed, this project will generate tremendous economic and environmental benefits to the nation and will enhance our region’s most important trade and economic centers.

The Houston Ship Channel, one of the world’s most heavily-trafficked ports, desperately needs expansion to meet the challenge of megaships and to maintain its competitive edge as a major international port. Currently, the Port of Houston is the second largest port in the United States in total tonnage, and is a catalyst for the southeast Texas economy, contributing more than $55 billion annually and providing 200,000 jobs.

The Houston Ship Channel expansion project calls for deepening the channel from 40 to 45 feet and widening it from 400 to 530 feet. The ship channel modernization, considering the development project since the construction of the Panama Canal, will preserve the Port of Houston’s status as one of the premier deep-channel Gulf ports and one of the top transit points for cargo in the world. Besides the economic and safety benefits, the dredged material from the deepening and widening will be used to create 4,250 acres of wetland and bird habitat on Redfish Island. I want to take this opportunity to urge those who will be conferees on this legislation to fund the Port of Houston project to its capability. This project is supported by local voters, governments, chambers of commerce, and environmental groups.

I thank all the Subcommittee members, the Chairman, the Ranking Member, and especially Representative Edwards for their support and their work under tough budgetary circumstances.

Mr. GILMAN. Mr. Chairman, I rise in strong support of H.R. 2311, the fiscal year 2002 energy and water appropriations bill, I commend the Chairman for his diligence and work on this important fiscal year 2002 appropriations bill.

H.R. 2213 is an important appropriations measure that funds our Nation’s waterways, flood control, and irrigation infrastructure, as well as various programs administered by the Department of the Energy. Included in this measure is $100,000 for the Ramapo-Mahwah flood control project. This project involves the construction of features for flood protection along the Ramapo and Mahwah Rivers in Mahwah, New Jersey and Sufferen, New York. Flooding has occurred frequently over the past 33 years, causing extensive damage. Accordingly, the inclusion of this funding will provide the Army Corps with the funding necessary to proceed forward with the first step to initiate a refinement of the project’s cost. Moreover, H.R. 2213 includes an appropriation of $3 million for the New York City Watershed Protection Program. Nine million New Yorkers rely on their drinking water from the New York City watershed. Accordingly, it is imperative that public health and environmental concerns be addressed along the New York City watershed. This appropriation will provide assistance for New York State for the design and construction of water supply, storage, treatment and distribution facilities, and surface water resource protection and development projects.
The result of the vote was announced as above recorded.

So the bill was passed.

Mr. FERGUSON. Madam Speaker, I ask unanimous consent to remove my name as a co-sponsor of H.R. 2180.

The SPEAKER pro tempore (Mrs. HALL), pending which I yield my time.

Mr. HASTINGS of Washington. The rule waives all points of order, except on consideration of the bill (H.R. 2330) making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act of 2002.

Mr. HASTINGS of Washington. Madam Speaker, House Resolution 183 is an open rule providing for consideration of the bill H.R. 2330, the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act of 2002.

The rule provides 1 hour of general debate to be equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations. The rule waives all points of order against provisions in the bill, as amended, for failure to comply with clause 2 of rule XXI.

The SPEAKER pro tempore. The gentleman from New Jersey (Mr. HASTINGS) is recognized for 1 minute.

Mr. HASTINGS of Washington. Madam Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Ohio (Mr. HALL), 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.

Madam Speaker, House Resolution 183 is an open rule providing for consideration of the bill H.R. 2330, the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act of 2002.

The rule waives all points of order against provisions in the bill, as amended, for failure to comply with clause 2 of rule XXI.

Madam Speaker, H.R. 2330 appropriates $74.2 billion in fiscal year 2002 budget authority for agriculture and
related programs through the Department of Agriculture and other agencies. This figure is $2.4 billion less than last year’s appropriations, but $234 million more than the President’s request. The bulk of the spending goes to food stamps, $22 billion; the Food and Drug Administration, $12.2 billion; child nutrition programs, $10.1 billion; supplemental nutrition for Women, Infants and Children, $4.1 billion; and the Federal Crop Insurance Program, $3 billion.

In addition, this bill provides $1 billion for the Agriculture Research Service; $720 million for the Food Safety and Inspection Service; and $946 million for the Farm Service Agency.

Madam Speaker, I am particularly pleased that the Committee on Appropriations has included $150 million for market loss payments for America’s apple growers. As a representative of the number one apple-producing district in the Nation, I am acutely aware of the losses sustained by apple growers in the past year.

In our area, for example, countless warehouses, packing houses and other apple-related businesses have either shut down, declared bankruptcy, or downshifted radically. In county after county, growers find that it costs substantially more to produce a box of apples than the market will pay to buy it.

And, unlike many farms that can easily switch crops when prices are down for one commodity, apple growers cannot simply pull up their orchards and grow something else for a few years until apple prices go back up again. In the face of unfair competition from China and other Asian nations, our growers have few tools with which to fight back.

Apple growers are an unusually independent breed. They have suffered ups and downs of the market for years without any kind of Federal assistance that has long been common to other types of commodities and farming. But never before have we suffered the kinds of losses we are experiencing right now. For that reason, I would like to commend the gentleman from Texas (Mr. BONILLA) and their colleagues on the Committee on Appropriations for recognizing the dire situation in apple country and for providing this much-needed assistance.

Madam Speaker, this is a fair bill. It funds a number of high-priority programs while cutting out wasteful, unnecessary and duplicative spending. Accordingly, I urge my colleagues to support both this open rule and the underlying bill, H.R. 2230.

Madam Speaker, I reserve the balance of my time.

Mr. HALL of Texas. Madam Speaker, I yield myself such time as I may consume, and I thank the gentleman from Washington (Mr. HASTINGS) for yielding me the customary time.

Madam Speaker, this is an open rule. It has everything to do with the bill that makes appropriations for the Department of Agriculture and other related agencies for fiscal year 2002. As my colleague from Washington described, this rule provides for 1 hour of general debate to be equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations.

This allows germane amendments under the 5-minute rule. This is the normal amending process in the House. All Members, on both sides of the aisle, will have ready to offer amendments that do not violate the rules for appropriations bills.

Madam Speaker, this is generally a good bill that serves America’s farmers as well as the poor and hungry in this land. And I commend the ranking Democrat, the gentlewoman from Ohio (Ms. KAPTUR), and the gentleman from Texas (Mr. BONILLA), the chairman of the agriculture appropriations subcommittee, for their work. They have a good fund with funding levels that are too low for their important jobs.

The bill funds child nutrition programs at a rate slightly higher than last year. It also increases funding for the school lunch program and gives a small boost to food banks. Funding for the WIC program, which feeds mothers and their children, is given a small increase over last year. Unfortunately, this increase is insufficient to meet the demand. The program and funding levels are too low for their important jobs.

The WIC program is important to our health and safety, and that is something that both Republicans and Democrats agree on. Food imports are increasing; yet funding for food inspectors is not adequate to keep pace. This amendment, which is important to our health and safety, should have been made in order.

Madam Speaker, I do not agree with these priorities. I support the bill, but I cannot support the rule that turns down these amendments that I just talked about.

Madam Speaker, I reserve the balance of my time.

Mr. HASTINGS of Washington. Madam Speaker, I yield as much time as he may consume to the gentleman from Texas (Mr. BONILLA), the chairman of the subcommittee.

Madam Speaker, I thank the gentleman from yielding me this time, and I thank the ranking minority member, the gentlewoman from Ohio (Ms. KAPTUR), for her hard work. It has been a long, tough road for many of us, but in the end, I think we can proudly say this is a bipartisan bill.

Madam Speaker, I rise in strong support of the rule, and in strong support of the bill that will follow. This is a good, bipartisan bill. I have worked with the Ranking Member of the subcommittee to try to be inclusive, working closely with every Member on both sides of the aisle to try to address as many of the issues as we possibly could in putting this bill together.

Our subcommittee heard many hours of testimony in previous days to get to this point. Many of the hours we spent listening to witnesses involved food safety, and that is something that both of us have worked on, the gentlewoman from Ohio (Ms. KAPTUR) and I, to address these issues. There is great concern in the communities about the threats that exist from diseases that are now prevalent in other countries, primarily in Europe, that many of us are concerned about. Livestock producers, especially with the threat of foot-and-mouth disease and mad cow disease, are concerned, and we have addressed many of these concerns.

We have worked in a bipartisan way to increase the number of inspectors for the Food and Drug Administration to give them more resources to do their job. All of the inspection accounts are important to keep our food supply and our industry safe from threats from abroad we have addressed in a strong way, and I think I speak for every member of the subcommittee as well, who would agree.

It has been a tough road as well because we have received over 2,500 individual requests for projects from individual Members around the country.
We have done our best to try to take care of everyone that we possibly could.

The gentleman from Ohio (Mr. HALL) mentioned the reference to an amendment involving apples. We know that apples are facing a tremendous problem right now in trying to deal with some adverse conditions that they are faced with. This was an amendment presented by our good friend, the gentleman from New York (Mr. HINCHEN), who has worked very hard on this issue, and this amendment has bipartisan support.

Honestly, the Members know that we have tried to keep these authorizing issues and new programs off of our appropriations bill; but in this case, the committee worked its will. And we have this program in this bill. We know that there will be some contentious times in trying to deal with this as we move through this bill, but we expect to do the best we can with good intentions.

All in all, I think we can all stand up and say we are proud of what we have accomplished here. The Committee on Rules has also worked very hard to deal with some of the problems in moving this bill to the floor. Again I want to thank the gentleman from Washington (Mr. HASTINGS), the gentleman from California (Mr. DREIER), and all the members of the Committee on Rules for taking a lot of time and energy to get us to this point and hope that, in a bipartisan way, we can support the rule and the bill.

Mr. HALL of Ohio, Madam Speaker, I yield 3 1⁄2 minutes to the gentlewoman from Ohio (Ms. KAPTUR), who has been a great proponent and advocate for hungry people all over the world and in her own country.

Ms. KAPTUR. Madam Speaker, I thank the esteemed ranking member for yielding time to me on this rule on our agriculture appropriation bill for the year. I say that it has been a pleasure to work with our new chairman, the gentleman from Texas (Mr. BONILLA). We think we have perfected the bill as it has moved through subcommittee and full committee. Nonetheless, I must rise reluctantly to oppose this rule.

We did go before the Committee on Rules to try to get the permission to offer amendments here on the floor today. We were refused. I wanted to go through a few of those amendments that we believe are worthy and would make this a much better bill.

Probably one of the most important is the Global Food for Education Initiative inspired by the work of Senators Bob Dole and George McGovern. It takes our school lunch program from this country and extends its concept abroad, using food to help over 9 million needy children in 38 countries to both promote their education and help them develop fully by having decent nutrition, which our children need.

That prevented us from going on record to do what is right in this current bill. We would very much like to have this Global Food for Education program extended directly by Congress as a part of the regular order in this appropriation bill.

The gentlewoman from Connecticut (Ms. DeLAURO) will probably be speaking against the rule soon on the question of food safety and improved food inspection. On the surface, the bill before us looks like it provides more money for food safety, but it almost only pays costs to staff to hold on to what we have. Can anyone here really accept the fact that the Food and Drug Administration can barely inspect 1 percent of the products coming across our borders every day? That means 99 percent of imported product is not tested. Is that the gold standard of safety we hear so much about? And can we really believe that we have the information on the testing of practices like irradiation and food radiation and food safety standards? No. In fact, in the subcommittee bill, we were able to get language on irradiation to do the kind of baseline studies that are necessary to assure irradiated food safety to consumers, but then those were stripped at the full committee level.

In the area of biofuels funding, the Bush administration has made over 100 recommendations to try to help America move forward and become more energy independent, but not a single one of those recommendations asks the Secretary of Agriculture to do anything. Yet we know that ethanol and biofuels and fuels based on biomass are in our sustainable energy future and that the Department of Agriculture should not be exempt from this important national challenge.

Finally, in the area of 4-H, we will be offering an amendment here on the floor to try to provide some of the initial funding for the measures that were passed here just last week and in the Senate last week to celebrate the anniversary of 4-H. Let us put the money that is in the authorizing bill in this appropriation bill so that, in fact, there is no lapse of time.

For all these reasons, I do oppose this amendment, which I opposed, by the way. This amendment included additional spending that really should be mandatory and under the jurisdiction of the Committee on Agriculture. However, the Committee on Appropriations adopted this amendment, which would provide an additional $150 million in emergency funding to assist apple producers.

Some Members expressed concern over the emergency designation, which in effect would increase spending above the level assumed by the budget resolution, so that designation will be eliminated from the bill by the rule before us at the present time. As a result of this change, the total emergency amount in this bill will be $150 million over the 302(b) allocation. However, the Committee on Appropriations has not exceeded our 302(a) allocation as set by the Committee on Appropriations to present a bill that is in excess of its allocation. It is simply the fact that after extensive discussions with the leadership, the Committee on Agriculture, and the Committee on the Budget, it was determined that the most expeditious way to resolve this matter and get this bill on the floor was the elimination of the emergency designation.

Mr. NUSSELE. It is my further understanding that the Committee on Appropriations will increase the subcommittee’s 302(b) allocation to the level provided by this bill and adjust the 302(b) allocations for other subcommittees by an offsetting amount.

Mr. YOUNG of Florida, Madam Speaker, the gentleman’s understanding is correct. It is the intent of the Committee on Appropriations to address this matter the next time it meets to consider revisions to the allocations by increasing the 302(b) allocation for this bill to a level equal to the amount this bill as passed by the House and to reduce other allocations for outstanding bills by the same amount.

The committee does not intend a wholesale reprioritization of the budget to address this matter. We are also somewhat limited in our options because we have already passed three bills out of the House. It is not the intent of the Committee on Appropriations to reduce the 302(b) allocations of bills previously passed by the House to...
accommodate this spending in the agriculture bill.

However, this does not mean the committee is precluded from a later reallocation as we work on these bills with the Senate during conference deliberation. Funds that I would support if the gentleman from Iowa (Mr. HASTINGS), the gentleman from Maine (Mr. MOODY), and many others in this subcommittee, the gentleman from Connecticut (Ms. DELAURO), and very much appreciate him yielding me the time.

I yield 5 minutes to the gentlewoman from Connecticut (Ms. DELAURO). Madam Speaker, I yield 5 minutes to the gentlewoman from Connecticut (Ms. DELAURO).

Mr. HALL of Ohio. Madam Speaker, I yield 5 minutes to the gentleman from Iowa (Mr. OBEY), the ranking member of the Committee on Appropriations.

Mr. OBEY. I thank the gentleman for yielding me the time.

Madam Speaker, I think that overall there are many things to commend this bill, but I think there are a number of serious omissions which the House ought to deal with before we pass the bill on to the Senate. To express these concerns, I intend personally to vote against the rule although I will probably, unless something unforeseen happens, support the bill on final passage.

First of all, I believe that we have something approaching a national crisis with respect to public confidence in the safety of the food that we import and that we consume. All of us have seen story after story about the outbreak of serious disease associated with consuming food. We have had over 5,000 Americans die last year from foodborne illness.

I saw a horror story a few days ago about the fact that a number of people in South Dakota and Minnesota had gotten deathly ill because they had consumed ground beef that contained ground-up animal thyroids. Those thyroids in the past had not been included in the food supply. But because we now have synthetic thyroid drugs, those animal thyroids are no longer used to the extent they were before to make thyroid medicine and so one meatpacking plant had simply ground the thyroid up with the rest of the animal.

We have seen a lot of other examples. If we take a look at what the FDA has to say about the adequacy of our inspection system for foodstuffs that come into the United States, for instance, we see that they inspect less than 1 percent of everything that is imported into this country. We believe that that constitutes a true crisis. I think that if we do not act on this crisis, it will hurt not only consumers but the very farmers that many of us represent, because farmers depend on a high level of consumer confidence in order to be able to sell their products.

Mr. NUSSLE. Madam Speaker, I thank the gentleman for his clarification of this matter.

Mr. HALL of Ohio. Madam Speaker, I yield 5 minutes to the gentleman from Wisconsin (Mr. OBEY), the ranking member of the Committee on Appropriations.

Mr. OBEY. I thank the gentleman for yielding me the time.

Madam Speaker, I think that overall there are many things to commend this bill, but I think there are a number of serious omissions which the House ought to deal with before we pass the bill on to the Senate. To express these concerns, I intend personally to vote against the rule although I will probably, unless something unforeseen happens, support the bill on final passage.

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And while there is no question that our food supply is among the safest in the world, we still have a lot of problems that could be taken care of if we put the needs of food safety, for instance, ahead of the needs of the wealthiest 1 percent of the people in this country, cut at a $53,000 tax cut next year. We have some choices to make, and we are being prevented from making them by the choices that were already made by this House on the tax bill.

We also have the question about whether or not WIC is being funded adequately. It certainly appears to me that the funding level in this bill is not adequate. Yet we are not, under the rule, going to be allowed to do anything about that.

And then, thirdly, we have the effort that we tried to make in the full committee to take surplus food which we have in this country and make it available to children around the world. We have offered a very modest bill that did that last year; and we have been urged by Senator George McGovern and Senator Bob Dole, two people, who in the history of this Congress on a bipartisan basis have forgotten more about nutrition programs than most of us have ever learned. We tried to continue this program. USDA will not get off the dime and make up their mind one way or another. We tried to get that done as well in this bill and were blocked procedurally from doing so.

So for these reasons, it seems to me that we ought to vote down this rule and bring back a rule that will allow us to recognize a legitimate crisis with respect to public confidence in the safety of our food supply, and also allow us to address the other two issues that I have mentioned here today.

So I would urge a no vote on the rule so that we can put together a rule under which to debate this otherwise fairly constructive bill.

Mr. HASTINGS of Washington. Madam Speaker, I yield 3 minutes to the gentleman from Iowa (Mr. LATHAM), a member of the Subcommittee on Agriculture, Rural Development, Food and Drug Administration and Related Agencies.

Mr. LATHAM. Madam Speaker, I thank the gentleman from Washington (Mr. HASTINGS) and very much appreciate him yielding me the time.

Madam Speaker, first of all, I want to thank the Committee on Rules for a fair, open rule and for their work. This will bring this bill to the floor in a manner that will open debate and bring out a lot of different points of view. I appreciate it very much.

I also want to thank the chairman of the subcommittee, the gentleman from Texas (Mr. BONILLA), for a great job that he has done and the ranking member, the gentlewoman from New York (Ms. KAPUR), for all the work and cooperation that we have seen on both sides. The staff on this bill has done a tremendous job and their efforts are very much appreciated.

This is a bipartisan bill and it is brought to the floor with, I think, agreement that the real needs of the agriculture community, of the people who are growing and making our food, is met and that it is a bill that I think we can all support in the House.

There are a couple items that I am very pleased that were included. One is funding for the National Animal Disease Center in response to real concerns that we have with foot and mouth disease; mad cow disease; those types of problems that can be devastating to our livestock industry; and also for food safety for Americans. Also, they have increased the funding for the AgrAbility program, something that is very dear to me. What this program does is help people continue to farm even with disabilities, and the level of $4.6 million in this bill for this very important program is very much appreciated.

This bill funds our research in a manner that agriculture is desperately in need of, new opportunities, new ways of adding value to our products. The way to do that is through research. So I am very pleased with the heading of that that the chairman has put on research.

Also, a key element for the Department is food safety. I am very pleased that the FDA has increased funding of $115 million to a level of $1.18 billion. That is the largest increase in history.

The Food Inspection Service has an increase of $25.4 million, raising that total to $720 million, also a very substantial increase to meet the needs that we have to provide not only the best quality food but the safest food anywhere to be found in the world.

So, again, I ask Members to support this rule, support this bill. It is good for agriculture. It is good for all of our citizens.

Ms. DELAURO. Madam Speaker, I rise in opposition to the rule. It busts the budget caps. There has been a double standard applied to some programs within this bill, and I was fully supportive of the assistance to apple growers in this country, because I think it is the right thing to do to help an industry out when they need that help.

On the other hand, what they have done here with the Committee on Rules is they have made an exception for one emergency and have said no to all other emergencies that face American families. Whether it is family farmers facing the loss of their family farms, whether it is biodiesel fuels, Meals on Wheels, low-income nutrition assistance, we have emergencies that we need to address. We just cannot pick and choose which ones we want and which ones are politically advantageous.

Specifically, this rule blocks an amendment that I brought to the committee to provide urgent emergency
funds to address the food safety crisis. Americans are more likely to get sick from what they eat today than they were a half century ago, and the outbreak of food sickness is expected to go up by as much as 15 percent over the next decade. Each year, thousands of people are injured by deadly E. coli in Kentucky, in Tennessee, in Georgia. Sara Lee pled guilty to selling tainted meat that was linked to a nationwide listeriosis in 1998 that killed 15 people. Grocery stores are afraid that their fruit is unsafe to sell.

Last one thinks that these are things that I just made up, we have a number of headlines from recent news: A Big Recall of Meat Amid E. Coli Fears; Sara Lee Fined in Meat Recall Linked to 15 Deadly E. Coli Cases; USDA to Inspect Meats; Sara Lee Fined in Meat Recall; Violations; Grocers Demand Produce Inspections; Contaminated Food Makes Millions Ill Despite Advances.

Experts like Joe Levitt from the FDA are telling the press that, quote, we do have a real problem. To address this problem, I asked the committee to allow an amendment to provide $213 million in emergency funds, $90 million to increase inspection of imported foods from 1 to 10 percent, $73 million for over 600 new inspectors to inspect all high-risk and domestic firms twice a year and all other domestic firms every 2 years, and $50 million for the food safety and inspection service to ensure the implementation of new food safety procedures to strengthen our food safety efforts.

The Food and Drug Administration inspects all food except meat, poultry, and eggs. They inspect fruit juices, vegetables, and seafood. These foods are the sources of 85 percent of food poisoning; and last year, recalls of FDA-regulated products rose to 315, the most since the mid-1980s, and 36 percent above the average.

FDA inspects less than 1 percent of imported food that comes into the United States, and this is a market that has expanded from 2.7 million items coming in to our country to 4.1 million items, and that increase has happened in just the last 3 years.

In the fresh fruit market, the FDA inspects high-risk firms no more than once a year and other firms are inspected only once in 7 years.

The FDA has only 400 people to inspect all food, and we have 30,000 domestic food producers and food plants in the United States. They have less than 120 people to inspect imported food. Food Safety and Inspection Service has held public hearings on a wide range of issues: procedures for import and export, some of the issues have to do with emergency outbreaks. We know what has happened in Europe with foot and mouth. We know about the threat of mad cow. It is vital that the FSIS has the resources it needs. American families should be able to go out to dinner, to buy food, and not be fearful that they or their children or their families are going to be in jeopardy.

In the next year we wrote in a novel, The Jungle, he highlighted the abuses of the meat packaging industry. It brought a wave of reform in this country. We need to move forward on food safety, not to move backward to the days that Sinclair wrote about. This is why that fact that the FSIS was responsible for protecting our food supply, give them the resources to have the inspectors that they need in order that Americans will be safe.

I urge my colleagues to oppose this rule.

Mr. HASTINGS of Washington. Madam Speaker, I yield 3 minutes to the gentleman from Iowa (Mr. NUSSELE), the distinguished chairman of the Committee on Agriculture, Rural Development, Food and Drug Administration, and complies with the Congressional Budget Act. As the chairman of the Committee on the Budget, I wish to report to my colleagues that H.R. 2330 provides appropriate funding for agriculture and related agencies. As reported by the Committee on Appropriations, this bill is technically consistent with the budget resolution and complies with the Congressional Budget Act. As the chairman of the Committee on the Budget, I wish to report to my colleagues that H.R. 2330 provides $15 billion in budget authority, $73 million in outlay, for fiscal year 2002. The bill does not provide any advanced appropriations.

As reported, the bill also designates $150 million in emergencies, which increased both the levels of the budget resolution and the caps by the same amount. It also rescinds $3.7 billion, but this rescission produces no savings in outlays. As reported by the Committee on Appropriations on June 27, the bill does exceed the Subcommittee on Agriculture, Rural Development, Food and Drug's 302(b) allocation. Therefore, it does not violate section 302(f) of the Budget Act, which prohibits the consideration of appropriation legislation that exceeds the reporting subcommittee's 302(b) allocation.

Members may be aware that I am concerned and have been concerned that the reported bill designates $150 million as an emergency for the purpose that was included in the budget resolution. This designation had the effect of increasing the levels of the budget resolution and the statutory caps by the same amount. The budget resolution clearly anticipated the need for additional agricultural assistance. That bill provided $169 million for the producers of specialty crops. In addition, the budget resolution provided another $7.3 billion of agriculture spending in fiscal year 2002 and included a procedure that could increase the total to as much as $83 billion. The Committee on Agriculture is free to use that portion and allocation as it sees fit for specialty crops.

While I continue to have concerns about the emergency designation, the chairman of the Committee on Appropriations and I have agreed, and we just shared that colloquy on the floor a moment ago, that the designation would not come out of the bills that have already passed the House or bring Defense the levels of the President's budget submission. The gentleman from Florida (Mr. YOUNG) is a man of his word. He has done his best in bringing this bill to the floor, as has the gentleman from Texas (Mr. BONILLA).

Mr. HASTINGS of Washington. Madam Speaker, I yield such time as he may consume to the gentleman from Florida (Mr. YOUNG) and commitments in this regard. I urge Members not only to support the bill but to support the rule.

Mr. HALL of Ohio. Madam Speaker, I reserve the balance of my time.

Mr. HASTINGS of Washington. Madam Speaker, I yield such time as he may consume to the gentleman from Florida (Mr. YOUNG) and commitments in this regard. I urge Members not only to support the bill but to support the rule.
a new member of the subcommittee. I am certainly not new to the issues of agriculture. During the last 6 years, and I have been a member of the agricultural authorization committee and I have worked very hard with many Members, including some who are in the Chamber today, on agricultural issues, in trying to solve agricultural problems.

Agriculture is in a recession. This bill helps agriculture in solving many of the problems that we have with respect to the recession that currently exists.

Mr. HASTINGS of Washington. Madam Speaker, I am pleased to yield such time as he may consume to the gentleman from Texas (Mr. SESSIONS), a colleague on the Committee on Rules.

Mr. SESSIONS. Madam Speaker, I thank the gentleman from Washington, my colleague on the Committee on Rules, for yielding me time.

Madam Speaker, my colleagues under- derstand that this bill provides $22 billion for food stamps. This bill provides $1.2 billion for the Food and Drug Administration. They know how to administer their business. They know what they are doing, and $1.2 billion will cover that. Child nutrition programs now a $6.1 billion, the Supplemental Nutritional Program for Women, Infants and Children, known as WIC, $4.1 billion.

What we are doing with this bill and with the rule is to make sure that the agriculture of this country is not only safe and the food they produce is reliable, but we are also trying to make sure that we look at the resources and assets that we have in this country and say that we believe that commodities are important; we think people who are engaged in agriculture are important.

We are making sure that our Federal Crop Insurance Corporation is funded, $3 billion. We are trying to prepare ourselves to make sure that people who live in rural areas and who are in agriculture know that Washington will deal fairly with them.

But we also recognize that part of the argument that we are going to hear today is we are not spending enough money. Well, I might remind my colleagues that we can never spend enough money to make sure that some people in this body will always be happy, but that we do go back to the budget that we set in place earlier in the year, and that this program that we are doing for the 2002 agriculture appropriations act falls in line with what the bill would do. Then, through the leadership of the gentleman from Texas (Mr. BONILLA), we have had an opportunity to craft through many discussions and through many votes a policy of this country that is good on a moving-forward basis.

So I support what we are doing here today. This rule is important for us to continue the process, not only on this appropriations bill, but to make sure that the budget will move and forward on the commitment that we have to the country, to make sure that the public policy of this Republican Congress and, yes, one that the President will sign, to make sure that people who are involved in agribusiness and consumers and, yes, women and children and people who are on food stamps, will make sure that the system is there and reliable and works properly.

So I applaud the gentleman from Texas (Mr. BONILLA) for his hard work, and our chairman, the gentleman from Florida (Mr. YOUNG), and also the gentleman from Washington (Mr. HASTINGS), a member of the Committee on Rules who has worked carefully to make sure that this rule is fair and open. Lastly, I would like to give accolades to the gentleman from California (Mr. DREIER), who is our chairman, who has worked very diligently to make sure that the bill that was crafted not only certified that the body only would be in favor of, but would also be something that people in his home State of California would be proud of.

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

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

Madam Speaker, I think this is a good rule. It is an open rule that we typically have for appropriations bills. As was mentioned earlier, there was some criticism by members of the Committee on Rules not allowing some amendments to be made in order. I think what the Committee on Rules did was protect the product of the Committee on Appropriations.

Yes, there were some waivers in this; but essentially the will of the Committee on Appropriations was such that they went through their process and added some issues to this bill that required waivers. We gave them, and protected the product that they desired.

Madam 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 (Mrs. BIGGERT). The question is on the resolution.

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

Mr. HALL of Ohio. Madam 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.

The vote was taken by electronic device, and there were—yeas 222, nays 191, not voting 18, as follows:...
Mr. BONILLA. Mr. Speaker, I ask unanimous consent that all Members present, without objection, be referred to the Committee on Energy and Commerce: Pursuant to the Public Broadcasting Act of 1967, as amended (47 U.S.C. 396(i)), I transmit herewith the Sundry messages in writing from the President of the United States to the Congress of the United States:

Mr. Chairman, I am just delighted that we have seen good, strong bipartisan effort. Mr. Chairman, I am pleased to bring before the House today the fiscal year 2002 Appropriations bill for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies.

My goal this year has been to produce a bipartisan bill, and I believe we have done a good job in reaching that goal.

The subcommittee began work on this bill in early March, before the administration proposed its budget. We had 6 public hearings around the country, ranging from research projects to inspection issues, to FDA issues, to just any possible issue that Members are concerned about. The motion to reconsider was laid on the table.

So the resolution was agreed to. The result of the vote was announced on rollcall vote No. 207. Had I been present, I would have voted “no” on rollcall vote No. 207.

Mrs. TAUSCHER, Ms. ESHOO, Mr. ROYBAL-ALLARD, and the gentleman from California (Mr. ROYBAL-ALLARD) each will control 30 minutes.

Mr. Chairman, I am just delighted that we have seen good, strong bipartisan effort. Mr. Chairman, I am pleased to bring before the House today the fiscal year 2002 Appropriations bill for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies.
beginning on March 8. The transcripts of these hearings, the administration’s official statements, the detailed budget requests, several thousand questions for the record and the statements of members and the public are all contained in six hearing volumes.

In order to expedite action on this bill, we completed our subcommittee’s hearings on May 6.

The subcommittee and full committee marked up the bill on June 6 and June 13 respectively.

We have tried very hard to accommodate the requests of Members, and to provide increases for critical programs. We received 2,532 individual requests for specific spending, from almost every Member of the House. Reading all of the mail I received, I can confirm to you that the interest in this bill is completely bipartisan.

This bill does have significant increases over fiscal year 2001 for programs that have always enjoyed strong bipartisan support. Those increases include:

- Agricultural Research Service, $79 million;
- Animal and Plant Health Inspection Service, $55 million;
- Food Safety and Inspection Service, $25 million;
- Farm Service Agency, $201 million;
- Natural Resources Conservation Service, $77 million; and
- Food and Drug Administration, $120 million.

I would like to say that I am very happy that we were able to provide significant increases for the Food and Drug Administration. I think it is vitally important for that agency to have the resources to perform its public health mission. We are able to provide FDA the following increases above last year’s level:

- $15 million to prevent outbreak of BSE, or Bovine Spongiform Encephalopathy, which is commonly known as “Mad Cow disease”;
- $10 million to increase the number of domestic and foreign inspections, and to expand import coverage in all product areas;
- $10 million to reduce adverse events related to medical products;
- $10 million to better protect volunteers who participate in clinical research studies;
- $9 million to provide a safer food supply;
- $23 million to complete construction of the replacement facility in Los Angeles that we initiated last year;
- And full funding of increased pay costs for existing employees.

I want to stress how important this is. In the past, FDA and all other agencies in this bill were forced to reduce the level of services provided to the public, in order to absorb legislated payroll increases. This year, we want to be sure that does not happen. I am sure that we all want to see that there is no slippage in research, application review, inspections, loan servicing, and all the other payroll-intensive operations that are financed through our bill. We worked hard to find these resources. I am glad we were able to do it, and I am sure the agencies will put them to good use.

Mr. Chairman, we all refer to this bill as an agriculture bill, but it does far more than assisting basic agriculture. It also supports human nutrition, the environment, and food, drug, and medical safety. This is a bill that will deliver benefits to every one of our constituents every day no matter what kind of district they represent.

I would say to all Members that they can support this bill and tell all of their constituents that they voted to improve their lives while maintaining fiscal responsibility.

The bill is a bipartisan product with a lot of hard work and input from both sides of the aisle. I would like to thank the gentleman from Florida, (Chairman YOUNG), and the gentleman from Wisconsin, (Mr. Obey), who serve as the distinguished chairman and ranking member of the Committee on Appropriations. I would also like to thank all my subcommittee colleagues: the gentleman from New York (Mr. WALSH); the gentleman from Georgia (Mr. KINGSTON); the gentleman from Iowa (Mr. LATHAM); the gentlewoman from Missouri (Mrs. EMERSON); the gentleman from Virginia (Mr. GOODE); the gentleman from Illinois (Mr. LAHOOD); the gentlewoman from Connecticut (Ms. DELAURO); the gentleman from New York (Mr. HINCHLEY) the gentleman from Florida (Mr. BOYD).

In particular, I want to thank the gentlewoman from Ohio (Ms. KAPTUR), the distinguished ranking member of the subcommittee, for all her good work on this bill this year and the years in the past.

Mr. Chairman, I would like to include at this point in the RECORD tabular material relating to the bill.

Mr. Chairman, I include the following Comparative Statement of Budget Authority for the RECORD:
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<tr>
<td>Total, Food Safety and Inspection Service</td>
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<td>715,542</td>
<td>720,632</td>
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<td>(Transfer from P.L. 423)</td>
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### AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES

APPROPRIATIONS BILL, 2002 (H.R. 2330)—Continued

(Amounts in thousands)

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<th>FY 2001 Enacted</th>
<th>FY 2002 Request</th>
<th>Bill</th>
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<td>Farm owner loans:</td>
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<td>(Loan authorization)</td>
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<td>(3,855,000)</td>
<td>(3,855,000)</td>
<td>(3,855,000)</td>
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</tr>
<tr>
<td>(Limitation on administrative expenses)</td>
<td>(108,059)</td>
<td>(108,059)</td>
<td>(108,059)</td>
<td>+50,000</td>
<td>+50,000</td>
</tr>
</tbody>
</table>

**TITLE II - CONSERVATION PROGRAMS**

**Office of the Under Secretary for Natural Resources and Environment**

|                                | 709  | 730  | 736  | +27             | +8              |

**Natural Resources Conservation Service:**

| Conservation operations        | 712,945 | 773,454 | 782,792 | +70,217         | +9,018           |
| Watershed and flood prevention operations | 10,944 | 10,960 | 11,030 | +186           | +70              |
| Resource conservation and development | 99,220  | 100,413 | 105,743 | +5,330        | +5,330           |
| Forestry programs              | 41,023  | 43,048  | 46,361  | +6,312         | +6,312           |
| Agricultural Conservation Program (recission) | 6,511  | 6,511  | 6,511  | -45,000        | -45,000          |
| **Total, Natural Resources Conservation Service** | 870,847 | 927,875 | 902,696 | +32,049        | +24,979          |
| **Total, title II, Conservation Programs** | 871,556 | 929,605 | 903,632 | +32,076        | +24,973          |

**TITLE II - CONSERVATION PROGRAMS**

**Office of the Under Secretary for Rural Development**

|                                | 604  | 623  | 628  | +24             | +5              |
# AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS BILL, 2002 (H.R. 2330)—Continued
(Amounts in thousands)

<table>
<thead>
<tr>
<th>FY 2001</th>
<th>FY 2002</th>
<th>Bill</th>
<th>Bill vs. Enacted</th>
<th>Bill vs. Request</th>
</tr>
</thead>
<tbody>
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<td>Rural Development:</td>
<td></td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>Rural community advancement program</td>
<td>760,864</td>
<td>692,125</td>
<td>767,465</td>
<td>+6,601</td>
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<td>RD expenses:</td>
<td></td>
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<td></td>
</tr>
<tr>
<td>Salaries and expenses</td>
<td>130,084</td>
<td>133,722</td>
<td>134,733</td>
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<tr>
<td>(Transfer from RHI)</td>
<td>(406,333)</td>
<td>(419,741)</td>
<td>(422,910)</td>
<td>(+14,577)</td>
</tr>
<tr>
<td>(Transfer from RDEPP)</td>
<td>(3,632)</td>
<td>(3,733)</td>
<td>(3,761)</td>
<td>(+129)</td>
</tr>
<tr>
<td>(Transfer from REACT)</td>
<td>(34,943)</td>
<td>(35,604)</td>
<td>(36,323)</td>
<td>(+1,822)</td>
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<tr>
<td>(Transfer from RTB)</td>
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<td>(3,062)</td>
<td>(3,107)</td>
<td>(+114)</td>
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<td>(595,862)</td>
<td>(600,833)</td>
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<td>825,647</td>
<td>902,198</td>
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<td>Rural Housing Service:</td>
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<td></td>
<td></td>
<td></td>
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<tr>
<td>Rural Housing Insurance Fund Program Account:</td>
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<tr>
<td>Loan authorizations:</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Single family (sec. 502)</td>
<td>[1,071,829]</td>
<td>[1,094,656]</td>
<td>[1,096,650]</td>
<td>(+6,974)</td>
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<td>(3,136,429)</td>
<td>(3,137,068)</td>
<td>(3,137,966)</td>
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<tr>
<td>Housing repair (sec. 504)</td>
<td>(32,024)</td>
<td>(32,024)</td>
<td>(32,024)</td>
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<tr>
<td>Rental housing (sec. 515)</td>
<td>(114,070)</td>
<td>(114,070)</td>
<td>(114,070)</td>
<td>(+2)</td>
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<tr>
<td>Site loans (sec. 524)</td>
<td>(5,150)</td>
<td>(5,090)</td>
<td>(5,090)</td>
<td>(-60)</td>
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<tr>
<td>Multi-family housing guarantees (sec. 538)</td>
<td>(99,790)</td>
<td>(99,770)</td>
<td>(99,770)</td>
<td>(+10)</td>
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<tr>
<td>Multi-family housing credit sales</td>
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<td>(1,779)</td>
<td>(1,779)</td>
<td>(-1)</td>
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<td>Single family housing credit sales</td>
<td>(10,000)</td>
<td>(10,000)</td>
<td>(10,000)</td>
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<td>Self-help housing land development fund</td>
<td>(1,500)</td>
<td>(1,500)</td>
<td>(1,500)</td>
<td>(+12)</td>
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<td>Loan subsidies:</td>
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<td></td>
<td></td>
<td></td>
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<td>Single family (sec. 502)</td>
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<td>140,106</td>
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<td>7,364</td>
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<td>Subtotal, Single family</td>
<td>183,735</td>
<td>180,274</td>
<td>180,274</td>
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<td>11,456</td>
<td>10,366</td>
<td>10,366</td>
<td>-1,090</td>
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<td>48,274</td>
<td>-7,928</td>
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<td>Site loans (sec. 524)</td>
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<td>26</td>
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<td>Multi-family housing guarantees (sec. 538)</td>
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<td>3,921</td>
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<td>572</td>
<td>750</td>
<td>750</td>
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<td>278</td>
<td>254</td>
<td>254</td>
<td>-24</td>
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<td>Total, Loan subsidies</td>
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<td>RHIF administrative expenses (transfer to RD)</td>
<td>408,393</td>
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<tr>
<td>Rental assistance program:</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(Sec. 521)</td>
<td>672,604</td>
<td>687,604</td>
<td>687,604</td>
<td>+15,000</td>
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<tr>
<td>(Sec. 502)(5)(O)</td>
<td>5,900</td>
<td>5,900</td>
<td>5,900</td>
<td>.................</td>
</tr>
<tr>
<td>Total, Rental assistance program</td>
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<td>693,504</td>
<td>693,504</td>
<td>+15,000</td>
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<td>1,357,132</td>
<td>1,360,301</td>
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<td>33,905</td>
<td>33,905</td>
<td>.................</td>
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<td>31,431</td>
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<td>Subtotal, grants and payments</td>
<td>107,742</td>
<td>101,270</td>
<td>104,270</td>
<td>-3,000</td>
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<td>Total, Rural Housing Service</td>
<td>1,448,649</td>
<td>1,458,402</td>
<td>1,464,571</td>
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<tr>
<td>Rural Business-Cooperative Service:</td>
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<td></td>
<td></td>
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<tr>
<td>Rural Development Loan Fund Program Account:</td>
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<tr>
<td>Loan authorization</td>
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<td>(38,171)</td>
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<td>Loan subsidy</td>
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<td>16,454</td>
<td>16,464</td>
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<td>Administrative expenses (transfer to RD)</td>
<td>5,632</td>
<td>3,723</td>
<td>3,761</td>
<td>+129</td>
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<td>Total, Rural Development Loan Fund</td>
<td>23,065</td>
<td>20,227</td>
<td>20,255</td>
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<td>Rural Economic Development Loans Program Account:</td>
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<td>(14,966)</td>
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<td>Direct subsidy</td>
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<td>6,466</td>
<td>6,466</td>
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<td>Rural empowerment zones and enterprise community grants</td>
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<td>14,967</td>
<td>14,967</td>
<td>.................</td>
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<td>Total, Rural Business-Cooperative Service</td>
<td>33,453</td>
<td>45,256</td>
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<tr>
<td>(Loan authorization)</td>
<td>(53,141)</td>
<td>(53,137)</td>
<td>(53,137)</td>
<td>(-4)</td>
</tr>
</tbody>
</table>
### AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES
### APPROPRIATIONS BILL, 2002 (H.R. 2330)—Continued
(Amounts in thousands)

<table>
<thead>
<tr>
<th></th>
<th>FY 2001 Enacted</th>
<th>FY 2002 Request</th>
<th>Bill</th>
<th>Bill vs. Enacted</th>
<th>Bill vs. Request</th>
</tr>
</thead>
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<tr>
<td><strong>Rural Utilities Service:</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Rural Electrification and Telecommunications Loans Program Account:</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Loan authorizations:</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Electric:</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Direct, 5%:</td>
<td>(121,107)</td>
<td>(121,107)</td>
<td>(121,107)</td>
<td><em>(21)</em></td>
<td><em>(21)</em></td>
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<tr>
<td>Guaranteed electric:</td>
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<td>(1,800,000)</td>
<td>(2,600,000)</td>
<td><em>(+1,000,000)</em></td>
<td><em>(+1,000,000)</em></td>
</tr>
<tr>
<td>Direct, Municipal rate:</td>
<td>(300,000)</td>
<td>(300,000)</td>
<td>(300,000)</td>
<td><em>(+300,000)</em></td>
<td><em>(+300,000)</em></td>
</tr>
<tr>
<td>Direct, FFB:</td>
<td>(120,000)</td>
<td>(120,000)</td>
<td>(120,000)</td>
<td><em>(+120,000)</em></td>
<td><em>(+120,000)</em></td>
</tr>
<tr>
<td>Guaranteed electric:</td>
<td>(100,000)</td>
<td>(100,000)</td>
<td>(100,000)</td>
<td><em>(+100,000)</em></td>
<td><em>(+100,000)</em></td>
</tr>
<tr>
<td><strong>Subtotal, Electric:</strong></td>
<td>(2,615,468)</td>
<td>(2,615,468)</td>
<td>(4,115,468)</td>
<td><em>(+1,499,979)</em></td>
<td><em>(+1,500,000)</em></td>
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<tr>
<td>Telecommunications:</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Direct, 5%:</td>
<td>(74,833)</td>
<td>(74,833)</td>
<td>(74,833)</td>
<td><em>(+74,833)</em></td>
<td><em>(+74,833)</em></td>
</tr>
<tr>
<td>Direct, Municipal rate:</td>
<td>(300,000)</td>
<td>(300,000)</td>
<td>(300,000)</td>
<td><em>(+300,000)</em></td>
<td><em>(+300,000)</em></td>
</tr>
<tr>
<td>Direct, FFB:</td>
<td>(120,000)</td>
<td>(120,000)</td>
<td>(120,000)</td>
<td><em>(+120,000)</em></td>
<td><em>(+120,000)</em></td>
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<tr>
<td><strong>Subtotal, Telecommunications:</strong></td>
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<td>(494,833)</td>
<td>(494,833)</td>
<td><em>(+494,833)</em></td>
<td><em>(+494,833)</em></td>
</tr>
<tr>
<td><strong>Total, Loan authorizations:</strong></td>
<td>(3,110,321)</td>
<td>(3,110,292)</td>
<td>(4,610,252)</td>
<td><em>(+1,499,971)</em></td>
<td><em>(+1,500,000)</em></td>
</tr>
<tr>
<td>Loan subsidies:</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Electric:</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Direct, 5%:</td>
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<td>3,608</td>
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<td><em>(+8,456)</em></td>
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<td>80</td>
<td>80</td>
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<td><em>(+70)</em></td>
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<td><em>(+20,458)</em></td>
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<td>3,688</td>
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<tr>
<td>Telecommunications:</td>
<td></td>
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<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Direct, 5%:</td>
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<td>1,736</td>
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<td><em>(+6,017)</em></td>
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<td>Direct, Municipal rate:</td>
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<td>300</td>
<td>300</td>
<td><em>(+300)</em></td>
<td><em>(+300)</em></td>
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<td><strong>Subtotal, Telecommunications:</strong></td>
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<td>2,036</td>
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<td><em>(+5,717)</em></td>
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<tr>
<td><strong>Total, Loan subsidies:</strong></td>
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<td>5,725</td>
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<td><em>(+34,560)</em></td>
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<td>RETLP administrative expenses (transfer to RD):</td>
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<td>35,604</td>
<td>36,322</td>
<td><em>(+1,682)</em></td>
<td><em>(+1,682)</em></td>
</tr>
<tr>
<td><strong>Total, Rural Electrification and Telecommunications Loans Program Account:</strong></td>
<td>(3,110,321)</td>
<td>(3,110,292)</td>
<td>(4,610,252)</td>
<td><em>(+1,499,971)</em></td>
<td><em>(+1,500,000)</em></td>
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<tr>
<td><strong>Rural Telephone Bank Program Account:</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Loan authorization:</td>
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<td>(174,615)</td>
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<td><em>(+174,615)</em></td>
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<tr>
<td>Direct loan subsidy:</td>
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<td>2,584</td>
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<td><em>(+2,584)</em></td>
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<tr>
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<td>3,082</td>
<td>3,107</td>
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<td><em>(+114)</em></td>
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<td><strong>Total, Rural Telephone Bank Program Account:</strong></td>
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<td>3,082</td>
<td><em>(+2,675)</em></td>
<td><em>(+2,675)</em></td>
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<td><em>(24,000)</em></td>
<td><em>(+24,000)</em></td>
<td><em>(+24,000)</em></td>
<td></td>
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<tr>
<td>Distance learning and telemedicine program:</td>
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</tr>
<tr>
<td>Loan authorization:</td>
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<td>(300,000)</td>
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<td><em>(+100,000)</em></td>
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<tr>
<td>(Loan authorization) (proposal):</td>
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<td><em>(+100,000)</em></td>
<td><em>(+100,000)</em></td>
<td><em>(+100,000)</em></td>
<td></td>
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<td>25,941</td>
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<td><em>(+1,000)</em></td>
<td></td>
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<tr>
<td><strong>Total, Rural Utilities Service:</strong></td>
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<td>71,352</td>
<td>74,679</td>
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<td><em>(+3,264)</em></td>
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<tr>
<td>(Loan authorization)</td>
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<td>(3,510,292)</td>
<td>(5,184,907)</td>
<td><em>(+1,499,971)</em></td>
<td><em>(+1,674,615)</em></td>
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<td><strong>Total, title III, Rural Economic and Community Development Programs:</strong></td>
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<td>2,401,500</td>
<td>2,488,414</td>
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<tr>
<td>(By transfer)</td>
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<td><em>(490,100)</em></td>
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<td><em>(+3,640)</em></td>
</tr>
<tr>
<td>(Loan authorization)</td>
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<td><em>(8,034,077)</em></td>
<td><em>(9,708,692)</em></td>
<td><em>(+1,649,455)</em></td>
<td><em>(+1,674,615)</em></td>
</tr>
</tbody>
</table>

### TITLE IV—DOMESTIC FOOD PROGRAMS

Office of the Under Secretary for Food, Nutrition and Consumer Services: 569 567 567 +23 +5

**Food and Nutrition Service:**

- Child nutrition programs: 4,457,445 4,729,490 4,746,036 +335,583 +16,548
- Transfer from section 35: 5,197,579 5,307,556 5,340,708 +213,152 +16,548
- Discretionary spending: 6,486 2,000 2,000 +4,486

- **Total, Child nutrition programs:** 5,941,510 10,088,746 10,088,746 +547,236

**Special supplemental nutrition program for women, infants, and children (WIC):**

- 4,043,086 4,137,066 4,137,066 +94,000 +94,000

**Food stamp program:**

- Expenses: 18,816,226 19,556,436 19,556,436 +638,206 +638,206
- Reserve: 100,000 1,000,000 1,000,000 +900,000 +900,000
- Nutrition assistance for Puerto Rico: 1,301,000 1,335,550 1,335,550 +34,550
- The emergency food assistance program: 100,000 100,000 100,000 +0 +0

- **Total, Food stamp program:** 20,119,226 21,991,986 21,991,986 +1,672,760 +1,672,760

**Commodity assistance program:**

- 139,191 139,651 152,813 +12,622 +12,622
- Rescission: *(300)* *(300)* *(300)* *(+300)*

**Food donations programs:**

- Needy family program: 1,081 1,081 1,081 +0 +0
- Elderly feeding program: 149,670 149,668 149,668 *(+2)* *(+2)*

- **Total, Food donations programs:** 150,751 150,749 150,749 *(+2)* *(+2)*
### APPROPRIATIONS BILL, 2002 (H.R. 2330) — Continued

#### TITLE V - FOREIGN ASSISTANCE AND RELATED PROGRAMS

<table>
<thead>
<tr>
<th>Program</th>
<th>FY 2001 Enacted</th>
<th>FY 2002 Request</th>
<th>Bill</th>
<th>Bill vs. Enacted</th>
<th>Bill vs. Request</th>
</tr>
</thead>
<tbody>
<tr>
<td>Foreign Agricultural Service:</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Salaries and expenses, direct appropriation</td>
<td>115,170</td>
<td>121,263</td>
<td>122,231</td>
<td>+7,461</td>
<td>+1,068</td>
</tr>
<tr>
<td>(Transfer from P.L. 480)</td>
<td>(3,224)</td>
<td>(3,224)</td>
<td>(3,224)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total, Program level</td>
<td>(119,427)</td>
<td>(125,020)</td>
<td>(125,456)</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

| Program account: | | | | | |
| Loan authorization, direct | (156,327) | (139,399) | (150,000) | +9,601 | +10,601 |
| Loan subsidy | 113,835 | 113,935 | 122,600 | +8,665 | +8,665 |
| Ocean freight differential | 20,277 | 20,277 | 20,277 | | |

| Program level: | | | | | |
| Foreign Agricultural Service (transfer to FAS) | 1,033 | 1,033 | 1,033 | | |
| Farm Service Agency (transfer to FSA) | 813 | 972 | 980 | +17 | +17 |
| Subtotal | 1,846 | 2,005 | 2,013 | +17 | +17 |

| Program level: | | | | | |
| CCC Export Loans Program Account (administrative expenses): | | | | | |
| Salaries and expenses (Export Loans) | 3,224 | 3,224 | 3,224 | | |
| Farm Service Agency (transfer to FSA) | 568 | 790 | 797 | +7 | +7 |
| Total, CCC Export Loans Program Account | 3,812 | 4,014 | 4,021 | +261 | +261 |

| Program level: | | | | | |
| CCC Export Loans Program Account (administrative expenses): | | | | | |
| Salaries and expenses (Export Loans) | 1,066,173 | 1,173,673 | 1,180,623 | +114,450 | +5,950 |
| Prescription drug user fee act | (146,273) | (161,718) | (161,718) | +12,443 | |
| Subtotal | 1,215,446 | 1,335,399 | 1,342,339 | +126,993 | +6,950 |

| Program level: | | | | | |
| Export and certification | (5,962) | (6,181) | (6,181) | | |
| Payments to USA | (104,736) | (105,116) | (105,116) | | |
| Drug reimportation | 2,950 | 2,950 | 2,950 | | |
| Buildings and facilities | 31,281 | 34,281 | 34,281 | +3,000 | |
| Total, Agriculture, Rural Development, Food and Drug Administration | 1,067,454 | 1,210,904 | 1,217,854 | +125,400 | +8,950 |

| Program level: | | | | | |
| Commodity Futures Trading Commission | 67,450 | 70,400 | 70,700 | +2,650 | +300 |
| Farm Credit Administration (limitation on administrative expenses) | (36,719) | (36,700) | (36,700) | | |
| Total, Agriculture, Rural Development, Food and Drug Administration | 1,165,304 | 1,281,304 | 1,288,554 | +123,250 | +7,250 |

| Program level: | | | | | |
| Hunger fellowships | 1,996 | 1,996 | 4,000 | +2,004 | +2,004 |
| National Sheep Industry Improvement Center revolving fund | 5,000 | 1,000 | 4,000 | | |
| FDA drug reimportation | 22,949 | | | | |
| CCC Apple market loss (contingent emergency appropriations) | 150,000 | | | | |
| Total, Agriculture, Rural Development, Food and Drug Administration | 1,267,354 | 1,288,554 | 1,291,554 | +13,000 | +3,000 |

**TITLE VI - FOOD AND DRUG ADMINISTRATION AND RELATED AGENCIES**

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

| Program level: | | | | | |
| Food and Drug Administration | | | | | |
| Salaries and expenses, direct appropriation | 1,066,173 | 1,173,673 | 1,180,623 | +114,450 | +5,950 |
| Prescription drug user fee act | (146,273) | (161,718) | (161,718) | +12,443 | |
| Subtotal | 1,215,446 | 1,335,399 | 1,342,339 | +126,993 | +6,950 |

| Program level: | | | | | |
| Export and certification | (5,962) | (6,181) | (6,181) | | |
| Payments to USA | (104,736) | (105,116) | (105,116) | | |
| Drug reimportation | 2,950 | 2,950 | 2,950 | | |
| Buildings and facilities | 31,281 | 34,281 | 34,281 | +3,000 | |
| Total, Agriculture, Rural Development, Food and Drug Administration | 1,067,454 | 1,210,904 | 1,217,854 | +125,400 | +8,950 |

| Program level: | | | | | |
| Commodity Futures Trading Commission | 67,450 | 70,400 | 70,700 | +2,650 | +300 |
| Farm Credit Administration (limitation on administrative expenses) | (36,719) | (36,700) | (36,700) | | |
| Total, Agriculture, Rural Development, Food and Drug Administration | 1,165,304 | 1,281,304 | 1,288,554 | +123,250 | +7,250 |

**INDEPENDENT AGENCIES**

| Program level: | | | | | |
| Agriculture, Rural Development, Food and Drug Administration | | | | | |
| Salaries and expenses, direct appropriation | 1,066,173 | 1,173,673 | 1,180,623 | +114,450 | +5,950 |
| Prescription drug user fee act | (146,273) | (161,718) | (161,718) | +12,443 | |
| Subtotal | 1,215,446 | 1,335,399 | 1,342,339 | +126,993 | +6,950 |

| Program level: | | | | | |
| Export and certification | (5,962) | (6,181) | (6,181) | | |
| Payments to USA | (104,736) | (105,116) | (105,116) | | |
| Drug reimportation | 2,950 | 2,950 | 2,950 | | |
| Buildings and facilities | 31,281 | 34,281 | 34,281 | +3,000 | |
| Total, Agriculture, Rural Development, Food and Drug Administration | 1,067,454 | 1,210,904 | 1,217,854 | +125,400 | +8,950 |

**TITLE VII - GENERAL PROVISIONS**

**TITLE VIII - FY 2001**

**NATURAL DISASTER ASSISTANCE AND OTHER**

**EMERGENCY APPROPRIATIONS**

**CHAPTER 1**

**DEPARTMENT OF AGRICULTURE**

| Program level: | | | | | |
| Office of the Chief Information Officer | 18,457 | | | | |
| Departmental administration (contingent emergency appropriations) | 200 | | | | |
AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS BILL, 2002 (H.R. 2330)—Continued (Amounts in thousands)

<table>
<thead>
<tr>
<th>FY 2001 Enacted</th>
<th>FY 2002 Request</th>
<th>Bill vs. Enacted</th>
<th>Bill vs. Request</th>
</tr>
</thead>
<tbody>
<tr>
<td>Farm Service Agency</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Salaries and expenses (contingent emergency appropriations)</td>
<td>48,890</td>
<td>48,890</td>
<td>-48,890</td>
</tr>
<tr>
<td>Emergency conservation program (contingent emergency appropriations)</td>
<td>79,824</td>
<td>79,824</td>
<td>-79,824</td>
</tr>
<tr>
<td>Federal Crop Insurance Corporation</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Federal crop insurance corporation fund (emergency appropriations)</td>
<td>12,971</td>
<td>12,971</td>
<td>-12,971</td>
</tr>
<tr>
<td>Watershed and flood prevention operations (contingent emergency appropriations)</td>
<td>109,758</td>
<td>109,758</td>
<td>-109,758</td>
</tr>
<tr>
<td>Rural Development</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Rural community advancement program (contingent emergency appropriations)</td>
<td>199,560</td>
<td>199,560</td>
<td>-199,560</td>
</tr>
<tr>
<td>Natural Resources Conservation Service</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total, Department of Agriculture</td>
<td>471,660</td>
<td>471,660</td>
<td>-471,660</td>
</tr>
<tr>
<td>General Provisions</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Conservation technical assistance (contingent emergency appropriations)</td>
<td>34,823</td>
<td>34,823</td>
<td>-34,823</td>
</tr>
<tr>
<td>CCC Disease loss compensation (contingent emergency appropriations)</td>
<td>19,000</td>
<td>19,000</td>
<td>-19,000</td>
</tr>
<tr>
<td>Dairy assistance (contingent emergency appropriations)</td>
<td>473,000</td>
<td>473,000</td>
<td>-473,000</td>
</tr>
<tr>
<td>CCC Livestock assistance program (contingent emergency appropriations)</td>
<td>488,922</td>
<td>488,922</td>
<td>-488,922</td>
</tr>
<tr>
<td>WRP Additional acreage enrollments (contingent emergency appropriations)</td>
<td>117,000</td>
<td>117,000</td>
<td>-117,000</td>
</tr>
<tr>
<td>CCC Sheep loss assistance (contingent emergency appropriations)</td>
<td>2,295</td>
<td>2,295</td>
<td>-2,295</td>
</tr>
<tr>
<td>CCC citrus canker compensation (contingent emergency appropriations)</td>
<td>57,872</td>
<td>57,872</td>
<td>-57,872</td>
</tr>
<tr>
<td>CCC apple/potatoes market loss and quality (contingent emergency appropriations)</td>
<td>137,666</td>
<td>137,666</td>
<td>-137,666</td>
</tr>
<tr>
<td>CCC Honey assistance (contingent emergency appropriations)</td>
<td>20,000</td>
<td>20,000</td>
<td>-20,000</td>
</tr>
<tr>
<td>CCC Livestock indemnity program (contingent emergency appropriations)</td>
<td>9,978</td>
<td>9,978</td>
<td>-9,978</td>
</tr>
<tr>
<td>CCC Wool/dairy assistance (contingent emergency appropriations)</td>
<td>19,956</td>
<td>19,956</td>
<td>-19,956</td>
</tr>
<tr>
<td>CCC Crop loss disaster assistance (contingent emergency appropriations)</td>
<td>1,622,000</td>
<td>1,622,000</td>
<td>-1,622,000</td>
</tr>
<tr>
<td>CCC Cranberry assistance (contingent emergency appropriations)</td>
<td>19,956</td>
<td>19,956</td>
<td>-19,956</td>
</tr>
<tr>
<td>Shared appreciation loan arrangements (contingent emergency appropriations)</td>
<td>2,000</td>
<td>2,000</td>
<td>-2,000</td>
</tr>
<tr>
<td>SC grain dealer's guarantee fund (contingent emergency appropriations)</td>
<td>2,455</td>
<td>2,455</td>
<td>-2,455</td>
</tr>
<tr>
<td>Puerto Rico food stamp block grant</td>
<td>5,000</td>
<td>5,000</td>
<td>-5,000</td>
</tr>
<tr>
<td>Hawaii sugar transportation cost assistance (contingent emergency appropriations)</td>
<td>7,184</td>
<td>7,184</td>
<td>-7,184</td>
</tr>
<tr>
<td>Rural development cooperative grants (contingent emergency appropriations)</td>
<td>9,978</td>
<td>9,978</td>
<td>-9,978</td>
</tr>
<tr>
<td>Business and industry loans:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(Loan authorization)</td>
<td>(1,160,323)</td>
<td>(1,160,323)</td>
<td>-1,160,323</td>
</tr>
<tr>
<td>CCC Tobacco quota compensation (contingent emergency appropriations)</td>
<td>9,978</td>
<td>9,978</td>
<td>-9,978</td>
</tr>
<tr>
<td>CCC Cooperative assistance (contingent emergency appropriations)</td>
<td>3,000</td>
<td>3,000</td>
<td>-3,000</td>
</tr>
<tr>
<td>CCC Burley tobacco (contingent emergency appropriations)</td>
<td>50,000</td>
<td>50,000</td>
<td>-50,000</td>
</tr>
<tr>
<td>CCC LDP delinquent borrower (contingent emergency appropriations)</td>
<td>5,000</td>
<td>5,000</td>
<td>-5,000</td>
</tr>
<tr>
<td>Food stamp vehicle allowance (contingent emergency appropriations)</td>
<td>25,000</td>
<td>25,000</td>
<td>-25,000</td>
</tr>
</tbody>
</table>

| TITLE X - ANTI-DUMPING |

| Anti-dumping | 39,912 | 39,912 | -39,912 |
| Grand total: |                   |                 |                 |
| New budget (obligational) authority | 78,678,577 | 73,976,108 | 74,360,443 |
| Appropriations | (73,034,628) | (73,981,408) | (74,210,443) |
| Rescission | -5,300 | -5,300 | -5,300 |
| Emergency appropriations | 12,971 | 12,971 | -12,971 |
| Contingent emergency appropriations | (3,600,978) | (150,000) | (3,450,978) |
| (By transfer) | (719,567) | (784,774) | (770,902) |
| (Limitation on administrative expenses) | 11,463,783 | (12,028,476) | (13,713,692) |
| (Limitation on administrative expenses) | (144,776) | (144,776) | (144,776) |

| RECAPITULATION |
| Title I - Agricultural programs | 33,249,900 | 31,836,339 | 31,769,514 |
| Title II - Conservation programs | 671,956 | 928,605 | 903,632 |
| Title III - Rural economic and community development programs | 34,111,685 | 36,629,391 | 36,648,628 |
| Title IV - Domestic food programs | 4,281,127 | 2,401,520 | 2,488,414 |
| Title V - Foreign assistance and related programs | 1,090,199 | 1,066,953 | 1,106,701 |
| Title VI - Related agencies and Food and Drug Administration | 1,165,304 | 1,281,304 | 1,288,554 |
| Title VII - General provisions | 29,945 | 1,996 | 155,000 |
| Title VIII, FY 2001 | 3,868,949 | 3,868,949 | -3,868,949 |
| Title X, Anti-dumping | 39,912 | 39,912 | -39,912 |
| Total, new budget (obligational) authority | 76,678,577 | 73,976,108 | 74,360,443 |

1/ In addition to appropriation.
Mr. Chairman, I reserve the balance of my time.

Ms. KAPTUR. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, let me rise to say that this is a good bill that, in fact, is getting the support of every stage of the legislative process.

The gentleman from Texas (Mr. BONILLA), chairman of the Subcommittee, and our committee staff have worked to draft a fair bill within tight budget allocations; but the underlying amounts in different sections of the bill are far from what is necessary, given many of the needs of rural America and our food assistance programs.

This is the first bill managed by our new chairman, the gentleman from Texas (Mr. BONILLA). Let me congratulate him on his maiden voyage as chairman of the Subcommittee on Agriculture, Rural Development, Food and Drug Administration and Related Agencies, and thank the gentleman for his cooperation throughout.

What we all learn together, hopefully, will put us in a position to continue to work towards the best possible bill for America’s future. I want to thank the Subcommittee staff: Hank Moore; Martin Delgado; Maureen Holohan; Joanne Orndorff; Jim Richards; Roger Szermaj; and our detaillee, Leslie Barrack.

I also want to thank our minority staff member, Martha Foley, very much for her hard work.

Mr. Chairman, let us put this bill in perspective. To begin with, overall we have a spending level for 2002 of $74,360 million, of which $15,695 billion is discretionary spending, plus an additional $150 million for the Hinchee apple disaster provisions.

Several times today already, each of us have been touched by agriculture and other agencies in this bill; the food that we have eaten; some of the clothes we are wearing; perhaps, even the blended fuels that were used in the vehicles that brought us to work; or the medications or vitamins that we take on any day.

We have been benefited by the research in this bill, by education and training, by inspection services that are operating at red alert levels now to keep hoof and mouth disease and mad cow disease out of this country, and by marks that take the bounty of this land around the world.

Truly, this is the committee that is concerned about food, fiber, the fuels of the future, and the condition of our forests.

Mr. Chairman, nearly 80 percent of the spending in this bill is mandatory spending, including our farm price support programs. Only one-fifth of the bill, 20 percent, is discretionary. Half of the spending in the bill is for food programs which keep America’s people the best-fed people on Earth.

The bill, as reported, is about $260 million in discretionary spending above the President’s request, but a little more than $3 billion below this year’s level due to the absence of natural disaster and other emergency farm provisions.

Earlier, during the discussion on the rule, we discussed several improvements that should be included in this bill that amendments could make possible, but amendments that were denied in the Committee on Rules.

There was an amendment offered by the gentleman from Connecticut (Ms. DeLAURO) that would recognize that we need more money for the WIC program, the Women, Infants, and Children feeding program, due to the fact that participation is running 80,000 people more per month than the administration had expected primarily due to higher unemployment levels.

The amendment of the gentleman from New York (Mr. HINCHEY) and others, to provide additional funds specifically for small specialty crop producers that are facing hard times. He has been successful in dealing with one sector, the apple sector, in this bill.

My own effort adopted by the full committee insists that the integrity of producer votes is protected in the pork checkoff program. It directs funds be spent only on those programs that the producers have approved and this directive has been included in the final bill.

Mr. Chairman, there are also other elements that we still need to work through as we amend here on the floor and then as we move to the Senate: one is the Global Food for Education program, which, the gentleman from Massachusetts (Mr. MCGOVERN) and the gentlewoman from Missouri (Mrs. EMERSON) have championed here in the House; improved food safety and increased food inspection need more attention; also new funding for environmental clean-up, including ethanol, biodiesel, and biomass-related fuel production to help move America toward energy independence.

There are six titles in this bill, and I just want to highlight a couple major points in each of those.

In Title I, Agricultural Programs, we have been able to take the first steps to fund relocation of some of our important laboratories in Arizona, as well as consolidating and modernizing our key agricultural research facilities in Ames, Iowa.

We are just so happy to be able to make progress there, the most important last in our country that protect the entire livestock production in our Nation, as well as maintain the best veterinary service that the world knows.

In the APHIS, Animal Planned Health Inspection Service, we have been able to improve by $2 million and increase the buildings account for a facility at the Miami International Airport.

In our conservation programs, the NRCS has scored below the administration request by $25 million.

In rural development in title III, the bill increases important programs by $87 million over the research request, in the important account of water and wastewater disposal grants funding is included at a level of $75 million over the request.

There is a dollar millions included for rural cooperative development grants beyond the request, and $3 million to restore the rural telephone loan program that the administration proposed to end.

In Title IV, Domestic Food Programs, the $18 million in increases above the request will help us to expand the TEFAP program, Temporary Emergency Food Assistance Program, and the Commodity Supplemental Food Program, Food Programs, Rural Development, Food and Drug Administration and Related Agencies, and he has done an outstanding job.

The gentleman came as a seasoned Member. The gentleman took over this very important role as chairman of the subcommittee, and he not only has produced a good bill, but he produced it in record time.

Although, he is a new chairman, he was the first one with a markup, and I congratulate the gentleman.

Mr. Chairman, I also congratulate the gentlewoman from Ohio (Ms. KAPTUR), the ranking minority member,
who worked very well in partnership to produce a pretty good bipartisan bill.

As usual, there will be some differences, as we proceed, and proceed we will, but I will urge Members to support the bill and be very logical and realistic as we approach the issue of amendments.

Now, on the subject of amendments. We are trying to accommodate Members, as I announced yesterday, to assess where we were in the afternoon and see if there was some way to get Members out here at a reasonable time this evening.

It is pretty obvious we cannot complete consideration of this bill today, so I see no reason to go on into the late hours of the night or the wee hours of the morning.

However, in order to arrive at a reasonable adjournment time today, it is going to be necessary for Members to be willing to limit some debate, to agree to some time limits, which the gentleman from Wisconsin (Mr. OBEY) and I are working on this very minute.

Also, I would like for the Members to know that if Members have an amendment that they would like to have considered on this bill, it would be a good idea to advise the gentlewoman from Ohio (Ms. KAPTUR) or the gentleman from Wisconsin (Mr. OBEY) on that side or myself and the gentleman from Texas (Mr. BONILLA) on this side so that we can put those potential amendments into the list of the universe of amendments that we have to deal with.

We will be better able to manage this bill if we can do that. I put Members on notice that it would be a good idea to do that as soon as possible.

Mr. OBEY. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Florida. I am happy to yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Speaker, I would simply like to repeat what the gentleman just said. For the benefit of all Members on the floor or all Members whose staff may be watching in their offices, every Member is coming up and telling us they want to get out of here early tonight. It is my understanding that the leadership intends to try to make that happen. But we need to know which Members intend to offer their amendment and which Members do not intend to offer their amendments.

So I would ask every single Member on our side of the aisle, if they are contemplating an amendment or a colloquy, because yesterday we took almost 2 hours on colleagues, if they are contemplating any of that, they need to let us know immediately, because we need to do two things.

We need, first of all, to try to establish which amendments are going to be offered today and how much time is going to be taken on them. We have had the cooperation of five or six Members who have told us that they will be happy to settle for 10 minutes a side, for instance. We need to fill out the rest of that. We need to know how far we are going to get in the bill today. Then if we can reach agreement on that, then that enables us to have some idea, perhaps, of what we can package so that we know what we are facing when we get back.

But what I would urge Members not to do to us is to neglect to contact us now, then see their point in the bill passed, so their amendment is not in order, and then try to redraft their amendment as a look-back at the end of the bill. We will not save any time that way.

If Members have amendments, we need them to be prepared now to bring them up today in the regular order on the bill so that we can get out of here at a reasonable time.

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

Mr. YOUNG of Florida. Mr. Chairman, will the gentleman from Texas (Chairman BONILLA) and the gentlewoman from Ohio (Ms. KAPTUR) to address these important issues and others as we debate this bill.

Mr. OBEY. Mr. Chairman, I yield 2 minutes to the gentlewoman from Connecticut (Ms. DELAURO), a very hard-working and able member of our subcommittee.

Ms. DELAURO. Mr. Chairman, I want to thank the gentlewoman from Texas (Chairman BONILLA), and to the gentlewoman from Ohio (Ms. KAPTUR), the ranking member of the committee. I thank them for their leadership.

Given the kind of budget constraints that we have, there was a lot of hard work and a good bill that has been produced, though there are a few critical issues that remain in that we need to continue to work on.

I also want to say thank you to this subcommittee and the associate staff for all of their help.

The bill addresses many of the urgent needs of American families. Let me just take a moment to focus on the crisis in agriculture today. America’s economy and security relies on the strength of agriculture. Yet America’s farmers are facing the toughest times since the Great Depression.

Connecticut is a leader in New England’s agriculture, in eggs, peaches, milk production per cow. The Nation’s oldest agriculture experiment station is just up the street from my home in New Haven. Like farmers everywhere, Connecticut farmers face plumping commodity prices and soaring gas prices.

Urban sprawl puts it in the top 10 States in lost farmland. This spring, record low temperatures eliminated almost 40 percent of our peach, pear, grape and apple crops.

I am proud of the funding for programs that reach out and help our farmers: rural development, conservation, pest management, commodity marketing assistance.

This bill also funds food safety efforts, but in my view, as I have expressed before in the House today, does not go far enough. It needs to do more. Americans are more likely to get sick from food that they eat today than they were a half century ago, and outbreaks of food sickness are expected to go up by more than 15 percent over the next decade.

Each year 5,000 Americans die from food-borne illnesses, 76 million get ill, 325,000 are hospitalized. Just 2 days ago, the Excel Corporation recalled 190,000 pounds of ground beef and pork because of possible contamination by deadly E. coli.

The Food and Drug Administration inspects all food except meat, poultry and eggs. Yet to cover the 30,000 U.S. companies that make this food, the FDA has only 400 inspectors. For the 4.1 million imported food items entering the country, the FDA has less than 120 inspectors. To address this crisis facing the families, I will offer an amendment to fund the FDA for food safety initiatives.

As we move toward the conference, I would also like to work with the chairman to address the funding shortage that threatens WIC. If the administration’s unemployment predictions come true, this essential nutrition program for low-income families, which yields more than $3 in savings to the government in reduced spending on programs such as Medicaid, will, in fact, not have enough funds to serve all who are eligible, all eligible women, infants and children.

I look forward to working with the gentleman from Texas (Chairman BONILLA) and the gentlewoman from Ohio (Ms. KAPTUR) to address these important issues and others as we debate this bill.

Mr. BONILLA. Mr. Chairman, I yield 2 minutes to the gentlewoman from Colorado (Mr. TANCREDO).

Ms. TANCREDO. Mr. Chairman, I, too, want to rise in, in a way, admiration of the committee for their work on this particular piece of legislation, on this bill. It is truly in a situation where profligate spending in this body is the norm, it is commendable to have a bill coming here that is only 1.5 percent above last year’s spending and only 1.7 percent above the President’s request.

There is no particular program in the bill with which I rise to take issue. I do wish, however, to just brieﬂy discuss a point of concern that I have with the general tenor of our agricultural support payments. It is the fact that welfare, whether it is provided for able-bodied individuals or large corporate farmers, has a corrupting inﬂuence on both. The welfare farm subsidies keep land prices high, makes it harder for
small farmers to enter into the market. Farm subsidies decrease the incentive for efficiency, which would greatly benefit the agricultural sector.

This is a list, by States, I have a list here from CBO of those States that receive or lose their net farm income as a result of government payments. It is quite astounding. In 1999, the State of Illinois had 112 percent of its net farm income a government check; Indiana, 93 percent; North Dakota, 87 percent; Mississippi, 78 percent; Montana, 77. At least 12 States have government checks representing more than 50 percent of their net farm income. This is an unsustainable activity, and I urge the committee to think carefully about it in the future.

Ms. KAPTUR. Mr. Chairman, I yield 3 minutes to the gentleman from New York (Mr. HINCHEY), a member of our subcommittee who, single-handedly turned this bill on its head and provided us language to deal with specialty crop producers across our country, a very, very hard-working and distinguished member of our subcommittee.

Mr. BONILLA. Mr. Chairman, I thank the gentlewoman from Ohio (Ms. KAPTUR), ranking member, for her leadership on this committee and on this issue. I also want to express my appreciation to the chairman of the subcommittee, I think that the gentleman from Texas (Mr. BONILLA), in his first year as chairman of the subcommittee, has produced a very good bill, and it has been a pleasure working with him in this endeavor.

The bill adds $250 million to the President’s request for the U.S. Department of Agriculture. It increases funding for farm programs, conservation, rural development, education and research, and food safety. When you add in the $5.5 billion in emergency agricultural spending that the House passed earlier this week, total funding for these programs is substantially increased over last year.

As with these bills, of course, it could be even better. I think we should have made in order the amendment of the gentlewoman from Connecticut (Ms. DeLAURO) to increase funding for food safety as well as the amendment of the gentleman from Ohio (Ms. KAPTUR) to fund the Global School Lunch Initiative.

But the gentleman from Texas (Chairman BONILLA) has written a balanced bill that addresses important priorities for rural America.

The bill also includes $150 million for a market loss assistance program for apple growers. I offered this provision in committee with the gentleman from New York (Mr. SWEENEY) and the gentleman from New York (Mr. SWELLEN) and it was adopted by a strong bipartisan vote of 34 to 24.

I appreciate everything that the gentleman from Texas (Chairman BONILLA), the gentleman from Florida (Chairman YOUNG) and the gentleman from California (Chairman DREIER) have done to protect this funding.

I also would like to thank the gentleman from Washington (Mr. HASTINGS) and the gentleman from New York (Mr. REYNOLDS) for their parts in writing the rule as well.

The U.S. apple industry is suffering seriously, and probably for the fifth straight year as a result of low prices, bad weather, and plant diseases. During this time, the total value of U.S. apple production fell more than 25 percent, and losses from the 2000 crop alone probably total $500 million. This is a nationwide figure and includes losses, not only in New York, but also in Massachusetts, Michigan, Washington State, Pennsylvania, and every other place where apples are grown as a commodity crop.

Some of the apple losses can be blamed on foreign competition, the Chinese, for example, who were found guilty of dumping apple juice concentrate into the United States at prices below production costs. Increased tariffs have not significantly improved the price of apple juice in the last year.

Apple producers in New York and the Northeast watched the value of their crop decline as a result of severe hail damage. In Michigan, growers suffered a crippling epidemic of fire blight that destroyed thousands of acres of orchards.

Compared with the billions of dollars that Congress routinely sends to commodity producers, $150 million is a drop in the bucket. This payment, however, will mean the difference between life and death for many growers across the country.

Mr. Chairman, apple growers face the same market, regulatory, trade and weather conditions that make the double AMTA payments necessary for row crop farmers. It is preposterous that our foreign policy differentiates so radically between them.

This is a good bill, Mr. Chairman. I am happy to support it.

Mr. BONILLA. Mr. Chairman, I yield 2 minutes to the gentleman from Alabama (Mr. RILEY).

Mr. RILEY. Mr. Chairman, I have an amendment at the desk that I intend to withdraw, but first I would like to engage the chairman in a colloquy.

Mr. Chairman, I rise to acknowledge a job well done by the chairman and the ranking member. Agricultural programs are often arcane and seem to benefit only the agricultural community, but through the chairman’s leadership, the committee has produced a sound bill that benefits not only the agricultural community, but the Nation as a whole.

It is my understanding that the constraints placed upon the committee prevented funding for nearly all new research projects. One such unfunded project would have been undertaken by researchers at Auburn University, one of the leading agricultural research institutions in the county. This project was sought to ensure public health through the development of improvements in poultry.

Mr. Chairman, this study, which I strongly support, will continue safely and efficiently producing poultry, and in an effort to address the environmental, human and animal concerns, I ask for your immediate consideration of a $1.3 million human health, poultry product stewardship study. This study will determine the risks associated with poultry production and the contributions the poultry community can make to environmental stewardship and food safety through the development of innovative techniques documenting the presence of pathogens in the various phases of the production cycle and instituting techniques to eliminate them. This study, Mr. Chairman, will safeguard public health, the end-use consumer and the environment, all at minimal taxpayer expense.

Mr. BONILLA. Mr. Chairman, will the gentleman yield?

Mr. RILEY. I yield to the gentleman from Texas.

Mr. BONILLA. Mr. Chairman, first, I want to acknowledge that the gentleman from Alabama (Mr. RILEY) has worked very hard on this issue that is very important to Auburn University, and I would be pleased to work with the gentleman as we go to conference on this issue. It is going to be a difficult issue, and the gentleman and I have had discussions about that before, but we are going to give it our best shot. Again, I know how significant and how important it is to the folks in Alabama.

Mr. RILEY. Mr. Chairman, I thank the gentleman from Texas (Chairman BONILLA) for his time and his consideration. I look forward to working with him.

Ms. KAPTUR. Mr. Chairman, I yield 3 minutes to the gentleman from Florida (Mr. BOYD), a member of our subcommittee, a rancher, and one of the most knowledgeable members of our subcommittee.

Mr. BOYD. Mr. Chairman, I want to thank the gentlewoman from Ohio for yielding me this time. I want to commend the gentleman from Texas (Mr. BONILLA), my chairman, and the gentlewoman from Ohio (Ms. KAPTUR), my ranking member, and their staff for their good work they have done on this bill.

Is it perfect? No, it is not perfect, but few things are. I believe this bill is as fair and as balanced a bill as is possible given the 302(b) allocations that we are working with.

Our committee has produced a bill that is less than the committee appropriated last year but slightly more than the President requested for discretionary spending. We provide an additional $60 million for the Animal and Plant Health Inspection Service, that is, APHIS, which is responsible for conducting inspections and quarantine activities to protect animals and plants from disease and pests. Personally, I
The House has already passed a bill providing immediate farm relief, and the Committee on Agriculture has moved aggressively to draft a new multiyear farm bill to secure greater long-term stability. Today, we are considering a bill for the next fiscal year that is more than the President’s budget; more for research, including some $7 million more in Georgia; more for crop insurance; more in rural electric and communications loans; more for child nutrition and WIC programs; and $79 billion over 10 years in new emergency aid, including $7.4 billion for next year.

While I support a higher overall agriculture budget, it is time to move the process forward and resolve any differences in House and Senate negotiations. Our goal is to save our agricultural system at a time of crisis, and today we can take another step in that direction.

Mr. Chairman, while I am concerned that the bill does not give enough help to small and disadvantaged farmers and research and capacity grants for the 1890 Land Grant Universities, I support the amendment of the gentlewoman from North Carolina (Mrs. Clayton) to do that.

Today, Mr. Chairman, we can move the process forward to bring more help to American agriculture. I urge my colleagues to join in support of this bill. It is a good bill. It moves the process forward, takes drastic steps in the right direction; and, hopefully, we can do what we need to do for America’s agriculture.

Mr. Bonilla, Mr. Chairman, I yield 3 minutes to the gentleman from Texas (Mr. Thornberry).

Mr. Thornberry. Mr. Chairman, I thank the distinguished chairman, the gentleman from Texas (Mr. Bonilla), for yielding me this time; and I rise for the purpose of inquiry.

As I am sure the chairman is aware, a serious threat has sprung up in wheat growing areas making the lives of our already-struggling farmers even more difficult. A fungus called Karnal bunt has been found in my district as well as in the district of our colleague, the gentleman from Texas (Mr. Stenholm).

While Karnal bunt poses no threat to humans or animals, it can make wheat kernels and flour ground from them inedible. As a result, some 10 countries have been quarantined. It appears it has been well contained, but we will have issues of compensation and appropriate action before us.

I have been working with the chairman and ranking member of the full committee, the gentleman from Texas (Mr. Combest) and the gentleman from Texas (Mr. Stenholm), as well as the chairman of the Subcommittee on Conservation, Credit, Rural Development and Research, the gentleman from Oklahoma (Mr. Clay). I would request the distinguished gentleman’s continued assistance in working with USDA and the administration to deal with this issue appropriately and to deal with those who have been affected fairly.

Mr. Stenholm. Mr. Chairman, will the gentleman yield?

Mr. Thornberry. I yield to the gentleman from Texas.

Mr. Stenholm. I thank my friend for yielding to me, and I would like to say that the situation the gentleman has described is accurate, but here are the facts to date:

Seven producers affected, 10 elevator operators affected, 17 fields tested positive, 1.4 million bushels contaminated, and 21 bushels yet to be tested. An elevator operator in my district first discovered the fungus and bunted kernels in a load of grain delivered to his facility.

For these and many other reasons, I join my colleagues in working with USDA to contain this outbreak and ensuring the critical assistance provided to producers, elevator operators, and others in agribusiness who have seen their livelihoods put on hold.

So we look forward to working with my colleague, with the chairman, and with USDA, who are on top of this, and APHIS, to make sure that we contain it. It is extremely important to our industry.

Mr. Bonilla. Mr. Chairman, will the gentleman yield?

Mr. Thornberry. I yield to the gentleman from Texas.

Mr. Bonilla. I thank my friend for yielding, and I would be more than happy and enthusiastic in helping my friend work on this problem. This is not a new problem for wheat producers. Accordingly, we will work to do everything possible to get USDA to act in a proper way, not only with the problems but to other producers with whatever ramifications may occur.

Ms. Kaptur. Mr. Chairman, will the gentleman yield?

Mr. Thornberry. I yield to the gentlewoman from Ohio.

Ms. Kaptur. Mr. Chairman, I would like to thank my chairman for generously yielding that minute, and I just want to say that I share the gentleman’s deep concern about what this particular condition can do to our export market.

We had a situation a couple of years ago where we had USDA officials up before our committee and we asked where on the continent does Karnal bunt occur? And I said was it Canada? No, we do not have it in Canada. Is it in the United States? No, it is not in the United States. I said, how about Mexico? Absolutely. I said, how did it get over the border? And this goes back to NAFTA and these inspection issues. They could not say whether it came in seed in a car trunk or whether some bird carried it over. But, honestly, we have to work together to try to deal with the conditions that can come in here from other countries.

Mr. Stenholm. I yield to the chairman of the Subcommittee on Agriculture, Rural Development, Food and Drug Administration and Related Agencies, to
the ranking member on the authorizing committee, and to the gentleman from Texas (Mr. Thornberry) that this Member is vitally interested in that problem, and he has my full cooperation on it.

Ms. TAPTUR. Mr. Chairman, I yield myself 30 seconds to say, however, that the costs of remediating that should not only be borne by the public sector. That is, if we are going to have problems related to trade, those participating in trade ought to bear the costs of what was wrong in the transaction. What has been happening within USDA is we have been transferring the cost of trade to the public sector, and the private entities that benefit have not been carrying their fair share of the load.

So let us hope we can find a solution to that that is fair to all.

Mr. Chairman, I yield 3 minutes to the gentlewoman from North Carolina (Mrs. Clayton), a very, very esteemed member of the authorizing committee, and one of the hardest-working Members of this Congress.

Mrs. CLAYTON. Mr. Chairman, I thank the gentlewoman for yielding me this time. I want to commend both the chairman and the ranking member for their time and effort. They have been given a very difficult task of meeting the ever-demanding needs of the agricultural sector in the face of a difficult economy for agriculture, but also in the face of a number of environmental threats that have been moving into the 21st century. They also have been given a very tight allocation, and I understand they are trying to work within the budget. I am on the Committee on the Budget, so I know the constraints that were imposed upon them.

There are many things they did very, very well; and I want to commend them on that. Indeed, they did increase allocations for APHIS, which I will talk a little more about, and that is significant. Those are some current threats that they are trying to provide sufficient funds to address those issues. They also recognized the ever-demanding need for research for agricultural communities and our institutions. Again, I think we have an opportunity to make sure as we increase those research dollars that there is some equity and parity among the institutions that we have. I will have a chance to discuss that a little later.

So let us commend them on all the things they have done. However, I do want to point out a couple of areas that I think we should give consideration to in the future. Although there were new dollars for APHIS, there is still environmental impact issues that we just heard about, the issue of the wheat. The funding in the bill is certainly to be commended. I had raised an amendment in the supplemental that was not approved, although in the notes that went forward, they acknowledged the need; and I want to say that we need to at least make the case to our Senator friends that we need to do even more. And as we write the farm bill, hopefully, we will be mindful of that fact.

Nutrition, which is very dear to my heart, I want to commend the Committee on Appropriations for what they have done in increasing those areas. However, I do not mention if I did not mention that WIC has identified that there is a need for 100,000 more eligible pregnant women and their children who may not receive basic needs. This is an issue I think we can do better on. I do not have an amendment for it, do not have an amendment on it; but I just want to acknowledge that it is an area where I think we all would acknowledge we need to do more.

In conclusion, Mr. Chairman, I plan to vote for this bill. I also plan to try to make this bill even better. It is a good bill that could be better.

My final point is that I had hoped that the Kaptur amendment for the global lunch program would have been in order by the Committee on Rules. That is not the problem of the agriculture appropriation, but it is an issue for this Congress to recognize that we have an opportunity here to not only feed our children but to respond to hungry children across the world.

Mr. BONILLA. Mr. Chairman, I yield myself 4 minutes.

Ms. DELAURO. Mr. Chairman, will the gentleman yield?

Mr. BONILLA. I yield to the gentlewoman from Connecticut.

Ms. DELAURO. Mr. Chairman, I thank the gentleman for agreeing to this colloquy.

I want to address the pressing need of adequate funding for the WIC program. At current funding levels, States may be unable to serve approximately 200,000 low-income mothers, infants and children. From my State of Connecticut alone, 1,300 people would not be served.

We know that the WIC program currently serves about 47 percent of all infants born in the United States, and we know the WIC dollars are excellent investments. Every dollar spent on WIC yields more than $3 in savings to the government in reduced spending on programs such as Medicaid.

WIC has contributed to better birth outcomes and reduction in childhood anemia, key indicators of the health of American children. The program provides medical, infants, and children with nutritious supplemental food packages, nutrition education and counseling, and a gateway to pre- and post-natal health care. The program also reduces fetal deaths and infant mortality and reduces low birth-weight rates.

I might just say we have an average participation rate for this fiscal year at about 7.2 million. That reflects the average participation for the first half of the year through March. That historically is the kind of participation that we have seen in the past. December and February are always the lowest participation months. Last year, average participation for the first half of the year was nearly 50,000 below average participation for the year as a whole. According to the Center for Budget and Policy Priorities, average WIC participation for the first 8 months of fiscal year 2000 was 80,000 higher than average participation for the first 6 months of the year.

Mr. Chairman, I have a concern that when unemployment increases, as it is doing, so does the poverty rate. And we need to understand that the WIC program cannot increase as unemployment rises if none of the families that are eligible for WIC as a result of increased unemployment enrolled.

I think if we are looking at the kinds of unemployment rates where there is the view that that unemployment rate is going to rise, then we are going to see an additional number of people who need to take advantage of the WIC program. We should do this now. State WIC programs make their decisions this fall about how to run their programs. As we move toward conference, and there are 362(b) reallocations, I want to ask the gentleman to address the potential funding shortage for the WIC program. If the administration's unemployment predictions come true, we will see that this very essential program will not have enough funds to serve all eligible women, infants and children.

Mr. BONILLA. Mr. Chairman, reclaiming my time, I would be pleased to work with the gentlewoman from Connecticut (Ms. DeLauro) on this issue. This program has widespread support of the Members in the whole House. As a result of the gentlewoman's efforts, the subcommittee has placed a priority on the program. We are aware that WIC participation levels can fluctuate above and below those forecasts in administration budgets.

I look forward to continuing my work with the gentlewoman to address the changes that may be brought on by adjustments in caseloads, and I thank the gentlewoman from Connecticut (Ms. DeLauro) for her efforts.

Ms. KAPITUR. Mr. Chairman, I yield 3 minutes to the gentleman from Vermont (Mr. Sanders).

Mr. SANDERS. Mr. Chairman, even the New York Yankees sometimes lose, and so has been known as occasion the Los Angeles Lakers lose a ballgame. But, Mr. Chairman, one organization never loses, and that organization has hundreds of victories to its credit and zero defeats in the United States Congress, and that is the pharmaceutical industry.

For decades now, good people in the House and Senate, Democrats and Republicans, have attempted to do something about lowering the cost of prescription drugs in this country so that we could not only consume them, but do not pay the highest prices in the world for the medicine they need. And year after year with lies, distortions, well-paid
lobbyst, massive amounts of advertising, and millions in campaign contributions, the pharmaceutical industry always wins. Americans die and suffer because they cannot afford the outrageous cost of prescription drugs, and we remain the only country in the industrialized world that does not in one way or another regulate the cost of prescription drugs.

As part of this bill, the gentlewoman from Connecticut (Ms. DEALAURO), the gentleman from California (Mr. ROHRABACHER) and the gentlewoman from Texas (Ms. PAUL) and I will be introducing an amendment which is exactly the same as the Crowley amendment that 365 Members of this House voted for last year. This amendment will serve as a placeholder so we can move the reimportation bill forward that was passed overwhelmingly last year, but was not implemented.

In a globalized economy, prescription drug distributors and pharmacists should be able to purchase and sell FDA safety-approved medicines at the same prices as in other countries. The passage of reimportation will lower the cost of medicine by 30 to 50 percent and enable American consumers to pay the same prices as people in Canada, Europe, Mexico and all over the world.

Mr. Chairman, this amendment is supported by the Alliance for Retired Americans; the Children’s Foundation; Communication Workers of America; Families U.S.A.; The National Education Association; Network, a national Catholic social justice lobby; the Presbyterian Church; Public Citizen; The Service Employees International Union, SEIU; and the Universal Health Care Action Network.

Mr. Chairman, every time anyone comes up here to talk on the pharmaceutical industry, their disinformation campaign goes in full swing. We are in opposition to this amendment the issue is, quote/quote, “safety.” Every Member here should understand that this amendment does nothing to compromise safety. It only makes it possible to move the reimportation bill that we passed last year forward.

Ms. KAPTUR. Mr. Chairman, I yield 3 minutes to the gentleman from Massachusetts (Mr. McGovern), who has fought so hard for the Global Food and Education Initiative.

Mr. McGovern. Mr. Chairman, I rise in support of this bill; and like many of my colleagues, I hope more funds may become available as we move forward in the appropriations process for critical programs that protect American farmers, conserve our soil and water, provide food aid abroad, and address hunger at home.

I would like to speak for a few moments about one such program. The Global Food for Education Initiative began last year as a pilot program; and want to make clear based on the report language accompanying this bill that the committee expects this program to continue through fiscal year 2002, and in turn this program will provide approximately 9 million hungry children in 38 countries with at least one nutritious meal each day and a chance to go to school.

The report accompanying H.R. 2330 contains strong and explicit language in support of this program saying, “The committee expects the Secretary of Agriculture shall continue in fiscal year 2002 the Global Food for Education Initiative program implemented in 2001 at the level implemented in fiscal year 2001. The assistance provided under this section shall be in addition to other demands for section 416(b) and Public Law 480 title II commodities.”

Mr. Chairman, I thank the gentleman from Texas (Mr. Bonilla), the gentlewoman from Ohio (Ms. Kaptur), and the gentlewoman from Missouri (Mrs. Emerson) for their leadership. This program, first proposed last year by former Senators George McGovern and Bob Dole, needs to be permanently established and authorized. Nothing illustrates this more than the difficult debates in the Committee on Appropriations and the Committee on Rules, whereby Members of both parties who support this initiative were faced with a difficult scoring issue because the program is funded under CCC authority.

The gentlewoman from Missouri (Mrs. Emerson), the gentlewoman from Ohio (Ms. Kaptur), and the gentleman from Ohio (Mr. Hall) have introduced H.R. 1700 to make this pilot initiative a permanent program so that this debate never happens again. I call upon my colleagues to join the broad bipartisan coalition of Members who have cosponsored H.R. 1700.

Mr. Chairman, I respectfully ask Secretary of Agriculture Ann Veneman to use her executive authority to extend funding for this program in fiscal year 2002. I also call upon the Secretary to provide immediately the basic administrative funding requested by such organizations as Catholic Relief Services and CARE so that they may carry out the pilot program in an efficient and productive manner. For the past 50 years, these organizations have implemented many of our best food and development programs. They are proven partners and they guarantee that our food aid programs have an American face and character on the ground. Along with our farmers, they are among our best ambassadors abroad, and they deserve our support.

Mr. Chairman, I thank the chairman and ranking member for their work on this bill, and I urge my colleagues to support it.

Mr. Bonilla. Mr. Chairman, I yield 2 minutes to myself.

Mr. Andrews. Mr. Chairman, will the gentlewoman yield to the gentleman from New Jersey.

Mr. Andrews. Mr. Chairman, the Repuapao Creek watershed in my dis-

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tract in New Jersey is in urgent need of a replacement tide gate and dike restoration project. The project is needed for several reasons, the most important of which is to provide flood protection for the residents of Logan and Green-which Townships in Gloucester County. The Department of Agriculture’s Natural Resource Conservation Service has the authority to undertake projects on watersheds that are smaller than 250,000 acres. This project meets that requirement.

Although the Repuapao Creek is a small watershed, the tide gate sits on the Delaware River, and there is some question whether a waiver will be required to do this project.

Given the urgent need for this work to be completed, and given that New Jersey officials of the Department of Agriculture have expressed a desire and willingness to work on this project, I ask the chairman on behalf of the sub-committee to agree to the jurisdiction under present law for USDA to do the work repairing the Repuapao tide gate.

Mr. Bonilla. Mr. Chairman, reclaiming my time, while I have not examined this issue in particular in detail, I assure the gentlewoman from New Jersey that I will work with him on this and will consider inserting language into the final report regarding this matter.

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

Ms. Kaptur. Mr. Chairman, I yield myself such time as I may consume.

Mr. Kaptur asked and was given permission to revise and extend her remarks.

Ms. Kaptur. Mr. Chairman, as we close down general debate, I want to state my sincere thanks to the gentlewoman from Texas (Mr. Bonilla) for his openness in working through this bill. He has been responsive to all of our Members. We have had some testy moments at the subcommittee and full committee level, but we have managed to keep walking forward; and I congratulate the gentleman on this first bill that he has brought to the full House.

Mr. Chairman, regarding the issue of Karn pours and the wheat supply in Texas, a couple of years ago post-NAFTA, we had a situation in Arizona and in Texas, and I believe even in parts of California, where it was suspected that this fungus had moved into our wheat supply and became a serious issue. It essentially can make our wheat product unexportable. Already we are having trouble in our wheat markets as China now exports to us more wheat than PNTR ever anticipated. Now we have a real contamination inside our country.

We need USDA’s attention to this issue. I am going to enter into the Record a Sunday, June 24 article from the Associated Press on this question.

Mr. Andrews. Mr. Chairman, the gentlewoman was absolutely right. We fought so hard in this budget and in this bill for additional help for the inspector general, additional help for the

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Animal, Plant Health Inspection Service so we could have timely inspections and also avoid of these problems in the first place.

Mr. Chairman, this bill is not perfect. Let us hope as we move toward the Senate it can be made even better. But we ask for the Members' support. In closing down this general debate period, I would hope that we can move through the amendments in a very expeditious manner so Members can catch airplanes late tonight in order to get home.

[From the Washington Post, June 24, 2001] USDA WHEAT DISEASE REACTION FAULTED GROWERS SAY THE SPREAD OF KARNAL BUNT FUNGUS COULD BE CRIPPLING (By Roxana Hegeman)

ANTHONY, Kan.—Bureaucratic bungling by the U.S. Department of Agriculture has allowed the spread of a plant disease that could prove as devastating to wheat exports as foot-and-mouth disease has been to European livestock, farmer groups said, Friday.

Wheat growers in Kansas, Oklahoma and Texas say the USDA responded too slowly to an outbreak of Karnal bunt at the southernmost edge of the nation's wheat belt just as harvest season was getting underway.

Karnal bunt is a fungus that is harmless to people but taints the taste and smell of flour made from infected kernels. It also slashes production in infected fields. The disease's main impact is economic: 80 countries ban imports of wheat grown in infected regions.

That could be as crippling for American growers, who last year produced nearly $6 billion of wheat, as it would be for the domestic flour producers. It also slashes production in infected fields. The disease's main impact is economic: 80 countries ban imports of wheat grown in infected regions.

The suspected Karnal bunt contamination was first reported to the USDA on May 25, and Michael Bryant, co-owner of the elevator in Olney, Tex., found it.

But it was seven days before the USDA's Animal and Plant Health Inspection Service (APHIS) confirmed the finding, and 15 days passed before it quarantined the first affected counties.

"The reaction to the situation was not as timely as we would have liked," said Kansas Agriculture Secretary Jamie Clover Adams.

Dr. Charles F. Schwalbe, deputy director of APHIS's plant protection and quarantine program, said his agency sent the sample away for testing at a national lab instead of using a local one to make sure it had accurate and legally defensible information before taking action.

"The decisions that emerge ... mean live-and-death for people from time to time," Schwalbe said.

The Karnal bunt found in Throckmorton and Young counties in Texas were the first confirmed cases in the nation's wheat belt, an area extending from central Texas to Alberta, Canada.

On June 19, concern grew as the USDA added neighboring Archer County to the quarantined area, followed by Baylor County the next day. One elevator has also been quarantined in Fort Worth, about 150 miles south.

Karnal bunt, which originated in India, was first detected in the United States in 1996 in Arizona and California. It has since spread to Texas and New Mexico.

In Arizona the amount of land used to grow wheat dropped almost 50 percent after a quarantine was imposed in 1996 in four counties, according to the Arizona Agricultural Statistics Service.

But Arizona is a minor durum wheat producer, and U.S. durum growers have reassured overseas buyers that the disease was far from the nation's major winter wheat producing region. Winter wheat, which is planted in the fall and harvested in the spring, accounts for about two-thirds of U.S. wheat and is used primarily for bread. Durum wheat is used for pasta.

With half the U.S. going to the export market, the discovery of the disease at the southernmost edge of the nation's breadbasket just as the wheat harvest was moving north sent shock waves through the wheat belt.

State regulators feared that custom harvesters—cutters who follow the ripening wheat harvest from Texas to the Canadian border—would spread the fungus.

Oklahoma, just 50 miles from the two Texas counties where the disease was first discovered, immediately closed its borders and ordered combines coming into the state to be blocked and inspected. Harvesters from infected areas were told a USDA certification of cleanliness were turned back.

"We need to preserve our heritage and our wheat industry. The spread of Karnal bunt in Texas could be considered a threat to Kansas wheat," said Kansas Gov. Bill Graves (R).

Karnal bunt was discovered in Olney, Tex., that found it.

"The spread of Karnal bunt in Texas should be considered a threat to Kansas wheat," said Kansas Gov. Bill Graves (R).

At the subcommittee and the full committee level, I had raised the issue of ecoterrorism. When we spend millions of dollars on agriculture research but yet some of that research gets destroyed by extremists, ecoterrorists who seek to destroy agriculture research, then we need to make sure we, as taxpayers and as members of this body, protect that research.

This is not the place or the time for that issue and the discussion surrounding it, but it is an issue that we need to attend to. My expectation is that we will attend to that through the legislative process later in this year. But I think those of us who care deeply about agriculture need to be critically aware that ecoterrorism is a reality in this country. We need to protect the research and the researchers.

I urge my colleagues to support this bill.

Mr. BONILLA. Mr. Chairman, I yield 2 minutes to the gentlewoman from Connecticut (Mrs. JOHNSON).

Mrs. JOHNSON of Connecticut. Mr. Chairman, I want to thank the gentleman for this opportunity to express my strong support for his bill and point out a small provision of it that is extremely important to the farmers of my State and particularly to those in Connecticut. I strongly support the increase in funding for the EQIP program, the Environmental Quality Incentives Program, because it will help us achieve our nation's attainment goals in the area of clean water.

The AFO/CAFO regulations are expensive. My State has adopted all of the implementing policy to assure compliance with the AFO/CAFO regulations; and the only reason frankly, the only possible way that small farmers can survive these costly regulations is through the technical assistance that the EQIP funds provide to them to help them determine what projects will, in fact, contain that waste. It will give them some help in offsetting the costs of developing manure management programs and other modern approaches that will enable them to make a significant contribution to the cleanliness of our waterways and also, in the long run, to the revitalization of Long Island Sound.

In New England, we have very steep, hilly farms. We also have more rainfall than other parts of the country. So the burden on us is, as we saw, higher than the burden on other parts of the country. We are not a part of the country that benefits much from the farm bill through its crop assistance and other programs, but so some of its conservation dollars, and these EQIP dollars, are extremely important to us. I thank the chairman for uncapping them and making more resources available for compliance with the AFO/CAFO requirements.

Mr. BONILLA. Mr. Chairman, our Committee has worked hard to bring a good bill to the House. We have made prudent recommendations for the use of the budgetary allocation available to us, and we have done yokeman
work in keeping the bill free of contentious issues such as trade policy, that have caused concern in prior years. I think we have a very good bill, and I know that we will have a good debate. In closing, I would certainly hope that everyone would support this bill on final passage.

Mr. KIND. Mr. Chairman, today the House is considering funding for the fiscal year 2002 Agriculture appropriations bill. This bill provides funding for U.S. Department of Agriculture and the Food and Drug Administration. As a member of Congress from a large agricultural district with a major concern about this Nation’s long-term fiscal health, I am concerned that this measure is yet another repeat of past agriculture spending packages—where Congress is providing fewer-and-fewer farmers with financial assistance.

The failure of this Congress to make fundamental changes to existing agriculture policy, which had led to many farmers being driven off their land due to the perverse financial incentives, is beyond reasonable belief.

It is my hope that future agriculture policy will be no less necessário, providing federal assistance—when needed—to all producers. It is my hope that future agriculture policy respects the broad diversity of rural America. It is my hope that future agriculture policy provides for clean and safe drinking water, along with improved soil and air quality.

Mr. Chairman, this measure obviously cov-

ers more than just financial assistance to American farmers. In addition, it provides important funding for nutrition programs, food inspection, and safety. For these reasons, it is very important that this measure is passed.

Ms. MALONEY of New York. Mr. Chair-

man, in January 1997, when the Asian Longhorned Beetle was first spotted in the United States right in the heart of Brooklyn, I called on the Department of Agriculture to do everything in its power to eradicate this tree-killing beetle before it devastated the Northeast urban forestry network. The strong efforts from the Agriculture Department, in close cooperation with the State and city agencies, slowed the beetles spread significantly, but sadly, New York has lost more than 5,000 trees in less than 5 years from beetle infestation.

In recent years, I have held numerous community forums on the issue to raise awareness about the beetle’s devastating effects and to discuss strategies to prevent the spread of beetle infestation.

I have also worked closely with my colleagues in the New York delegation to secure adequate funding to stop the beetle before it spreads deeply throughout the Northeast region and throughout the country.

My aim has always been the protection of our farmlands, our trees and our forests through the containment and complete eradication of the Asian Longhorned Beetle.

This year’s Agriculture Budget provides crucial resources toward that end, with $35 million appropriated to fight the Asian Longhorned Beetle, citrus canker, and the plum pox virus. This is a significant increase in funding for a very significant problem. Unchecked, costs from the spread of the Asian Longhorned Beetle could rise as high as $4.1 billion nationwide.

I want to thank Congressman BONILLA and Congresswoman KAPTUR for including these significant funds to battle the beetle.

I also want to note that the interior budget currently includes almost $24 million for the U.S. Forest Service for the Cooperative Law Forest Health Management program specifically to fight the spread of the gypsy moth and the Asian Longhorned Beetle.

Resources to fight against beetle infestations are especially important to New York. Just this month, 60 trees from Calvary Cemetery in my district in Queens were cut down, chipped, and burned to the root because of beetle infestation. Additional trees were recently cut down in Astoria and Woodside Queens.

In fact, since the beginning of this year, the Brooklyn, Queens region has lost close to 300 more trees to beetle infestation. Manhattan has lost more than 50 trees and the Bayside area lost more than 150 trees. The total loss for the New York City, Long Island area is up to 5,300 trees.

The beetle is simply devastating large portions of the region. With new resources, we will be able to fund areas where there have been significant shortfalls. We will be able to train farmers and local residents to identify the beetle and respond appropriately if they spot one. We will be able to increase funds for tree inspections, removal, and reforestation efforts.

Also, we will continue to move forward with new treatments for healthy trees that help prevent beetle infestation. In short, we will battle this menace on all fronts to protect our trees, our environment, and our quality of life.

Mr. BEREUTER. Mr. Chairman, this Member rises in support of H.R. 2330, the Agriculture appropriations bill for fiscal year 2002.

This Member would like to commend the distinguished gentleman from Texas (Mr. BONILLA), the chairman of the Agriculture Appropriations Subcommittee, and the distinguished gentlewoman from Ohio (Ms. KAPTUR), the ranking member of the subcommittee, for their hard work in bringing this bill to the floor.

Mr. Chairman, this Member certainly recognizes the severe budget constraints under which the full Appropriations Committee and the Agriculture Appropriations Subcommittee operate. In light of these constraints, this Member is grateful and pleased that this legislation includes funding for several important projects of interest to the State of Nebraska.

First, this Member is pleased that H.R. 2330 provides $461,000 for the Midwest Advanced Food Manufacturing Alliance (MAFMA). The alliance is an association of 12 leading research universities and corporate partners. Its purpose is to develop and facilitate the transfer of new food manufacturing and processing technologies.

The MAFMA awards grants for research projects on a peer review basis. These awards must be supported by an industry partner willing to provide matching funds. During the seventh year of competition, MAFMA received 39 proposals requesting a total of $1,382,555. Eleven proposals were funded for a total of $348,147. Matching funds from industry for these funded projects total $605,601 with an additional $57,115 from in-kind funds. These figures convincingly demonstrate how successful the alliance has been in leveraging support from the food manufacturing and processing industry.

Mr. Chairman, the future viability and competitiveness of the U.S. agricultural industry depends on its ability to adapt to increasing worldwide demands for U.S. exports of intermediate and consumer good exports. In order to meet these changing worldwide demands, agricultural research must also adapt to provide more emphasis on adding value to our basic farm commodities. The Midwest Advanced Food Manufacturing Alliance can provide the necessary collaborations between universities and industries for the development of competitive food manufacturing and processing technologies. This will, in turn, ensure that the U.S. agricultural industry remains competitive in an increasingly competitive global food economy.

This Member is also pleased that this bill includes $200,000 to fund the National Drought Mitigation Center (NDMC) at the University of Nebraska-Lincoln. This project is in its fourth year and has assisted numerous States and cities in developing drought plans and developing drought response teams. Given the nearly unprecedented levels of drought in several parts of our country, this effort is obviously important.

Furthermore, this Member is also pleased that the measure provides $700,000 for efforts at the University of Nebraska-Lincoln to improve biomass for feedstocks. The research will benefit the environment and the agricultural economy. It also holds the potential to greatly reduce the nation’s dependence on foreign sources of energy.

Another important project funded by this bill is the Alliance for Food Protection, a joint project between the University of Nebraska and the University of Georgia. The mission of this project is to assist and facilitate modification of food processing and preservation technologies. This technology will help ensure that Americans continue to receive the safest and highest quality food possible.

This Member is also pleased that the legislation funds the following ongoing Cooperative State Research, Education, and Extension Service (CSREES) projects at the University of Nebraska-Lincoln: Food Processing Center: $42,000; non-food agricultural products: $64,000; sustainable agricultural systems: $59,900; Rural Policy Research Institute (RUPRI) (a joint effort with Iowa State University and the University of Missouri): $1,300,000.

In addition, this Member is pleased that the bill directs the Agriculture Research Service to collect and focus $300,000 at the University of Nebraska-Lincoln to address sorghum fungal plant pathology concerns. This funding will fill a critical need for fungal pathology research for sorghum in the central Great Plains and the United States.

This Member would also note that H.R. 2330 includes $99.77 million for the section 538, the rural rental multifamily housing loan guarantee program. The program provides a Federal guarantee on loans made to eligible persons by private lenders. The guarantees will bring 10 percent of the cost of the project to the table, and private lenders will make loans for the balance. The lenders will be given a 100 percent Federal guarantee on the loans they make. Unlike the current section 515 direct loan program, where the full costs are underwritten by the Federal Government, only costs to the Federal Government under the 538 Guarantee Program will be for administrative costs and potential defaults.
Mr. Chairman, this Member certainly appreciates the $3.1 billion appropriation for the Department of Agriculture’s Section 502 Unsubsidized Loan Guarantee Program. The program has been very effective in rural communities by guaranteeing loans made by approved lenders to eligible homebuyers in small communities with up to 20,000 residents in nonmetropolitan areas and in rural areas. The program provides guarantees for 30-year fixed-rate mortgages for the purchase of an existing home or the construction of a new home.

Mr. Chairman, in conclusion, this Member supports H.R. 2330 and urges his colleagues to approve it.

Mr. LARGENT. Mr. Chairman, I rise today to express my support for H.R. 2330, the FY 2002 Agriculture appropriations bill. I am pleased that the Appropriations Committee has both supported our farmers and displayed fiscal discipline by remaining close to the President’s budget request. This responsible bill addresses the needs of our nation’s farmers and ranchers while keeping in mind the desire of consumers to buy affordable and safe agricultural products.

I want to commend the full committee for passing a number of important amendments. Specifically, I am pleased that employees of the Farm Service Agency will be better able to deliver, farm operating and disaster loans through improved salary and expense funding and through additional resources for agricultural credit programs. This assistance will come as a welcome relief as the workload of this vital agency has grown in response to a weakening farm economy. I am also pleased with the investment this bill makes in the future safety and health of our citizens and our environment. The research that will be facilitated and advanced through this bill will ensure the continued quality of our food supply by improving safeguards. The conservation programs within the bill also reflect foresight. The desire of farmers to preserve American soil exemplifies the respect and attachment they have for the land in which they are invested.

Last year, I was engrossed by the Distance Learning and Telemedicine Program which will link rural Americans with resources and opportunities previously available only in urban areas. As we seek a prosperous future for our rural residents, we must find ways to stimulate local economies. This bill advances that goal through education and enhanced services that will enable individuals and families to stay in their hometowns while receiving education and health services. Using technology to provide useful links between rural and urban areas will slow the flight to cities and preserve smaller towns and their economies, which are vital pieces of the American fabric.

I commend the chairman and all of the members of the committee for crafting this responsible bill.

Mr. TANCREDO. Mr. Chairman, I rise in opposition to H.R. 2330, the Agriculture Appropriations Act, a bill considered on the floor today which makes appropriations for the Department of Agriculture and related agencies. But more specifically, I rise in strong opposition to the measures provided in the bill for the Food and Drug Administration (FDA) and would like to call the House’s attention to a problem that one of my constituents has been having with the agency and one that I believe deserves careful consideration by the oversight committees in this chamber.

Recently, the FDA gave final approval of my constituent’s Pre-Market Application for both total and partial joint implants after an exhaustive and blatantly biased 2-year review, but not before causing my constituent $8 million in legal fees, lost wages, and profits.

In April 1999, I received a phone call and letter from TMJ Implants, a company located in Golden Colorado, in my district, which had been having problems with the review of its Premarket Approval Application of the TMJ Total and Fossa-Eminence Prosthesis. Up until last year, the company was the premier market supplier of temporomandibular joint prosthesis.

Over the last 2 years, I have taken an active interest and an active role in monitoring the progress of TMJ Implants’ application, which was finally approved in February. On numerous occasions, I met with Dr. Bob Christensen, president of TMJ Implants, to find out information about the approval of the partial and total joint, and personally talked to FDA officials, and to members of the Agency about the status of the company’s applications. I was also, and continue to be, in contact with the House Commerce Subcommittee on Oversight, which has sole jurisdiction over the FDA and issues relating to abuse and the internal operations of the agency.

Specifically, I closely followed this case since my office’s first contact with Dr. Christensen and TMJ Implants in early May 1999, after a meeting of the FDA’s Dental Products Panel of the Medical Devices Advisory Committee was held to review the company’s PMA and recommended approval of the PMA by a 90 vote. From this point onward, the FDA engaged in an obvious pattern of delay and deception and even went as far as to remove TMJ Implants’ Fossa-Eminence Prosthesis from the market, which had been available for almost 40 years. This had done nothing more than to cause harm to patients and cost the company millions of dollars.

This was done at the same time that the application for the competitor TMJ Implants, sailed through the process. Several allegations have come to light over the last two years detailing the fact that several Agency employees have worked under the direction of TMJ Concepts’ associates.

The agency went so far as to reconvene a new Medical Devices Advisory Committee late last year, with a clear majority of its members lacking the required expertise, which denied the company’s application.

It was not until Mr. Bernard Statland, the new Director of the Office of Device Evaluation (ODE) was brought in that the logjam was broken. The PMA was quickly approved.

As the above demonstrates, several concerns remain about the process that has taken place over the last two years. It is no secret that everyone involved in this case believes that the FDA’s approval of the TMJ implant was flawed. The significant question raised about the process—the sluggish pace of the review of the engineering data for both the total and partial joint and, more importantly, the constant “moving of the goal posts” during the review process, raises serious questions.

Over the last 2 years, my office has received numerous letters from physicians across the country—from the Mayo Clinic to the University of Maryland—each describing the benefit of the partial joint and the fact that the partial and total joint results in immediate and dramatic in pain, an increase in range of motion and increased function.

While I am, of course, pleased that the application has been approved by the FDA after 2 years, the circumstances the company spent 2 years calls into question the integrity of the agency and, it is for this reason that I bring it to the House’s attention.

Dr. Christensen is a true professional and a pioneer in his field and holder of truly first patents. His implants are widely accepted as effective and safe throughout the dental and surgery community—indeed, several of my constituents have literally had their lives changed by the procedure. I am convinced that the work of TMJ is and always has been based on solid, scientific principles and the remodel of the implants work of TMJ is and always has been on solid, scientific principles and the removal of the implants from the market had been erroneous, contrary to the Agency’s early findings and the statutory standard that should be applied relating to thousands to the general public and devastating to the financial status of the company.

Later this year, the House of Representatives will consider legislation reauthorizing the Food and Drug Administration and I want to urge the House Commerce Committee to hold hearings on the TMJ Implant case and to conduct a thorough investigation into the FDA’s review of the Premarket Approval Application of the TMJ Fossa-Eminence Prosthesis.

I would like to take this opportunity to submit to the RECORD two articles from FDAWebview which shed light on the TMJ implant case.

[From FDAWebview, Feb. 28, 2001]

"FULL DISCLOSURE" STANDARD IN TMJ APPROVAL OPENS NEW FDA ERA

Instead of FDA trying itself in knots trying to guarantee no inappropriate patient exposures to implanted devices—and stalling a product in mid-review as a result—yesterday’s approval of the TMJ Implants Fossa-Eminence Prosthesis set a new “full disclosure” labeling standard that lifts that self-imposed burden from the agency and could expedite other product reviews. TMJ Implants’ pre-1976 jaw joint devices was stalled for 20 months in a classification PMA review until new Office of Device Evaluation (ODE) director Bernard Statland broke the logjam.

In doing this, he was implementing one stage of a bold new Center policy on innovative public use of clinical device information articulated last year by Center director David Feigal—placing such FDA-held information in the hands of physicians and patients.

According to one of the attorneys who steered the TMJ Implants submission through its FDA ordeal, Mike Cole (Bergeson & Campbell), yesterday’s approval is the first he has seen in 25 years working with ODE where the agency stepped back from its “appropriate use” worries and left them to physicians and patients to decide, based on full disclosure in labeling of the device’s real-world limitations—including the availability of no-device alternative therapies.

Under the Fossa-Eminence labeling’s Warnings section is a boxed statement headlined, “The medical literature reports,” with four bulleted statements:

That many cases of Internal Derangement resolve after non-surgical treatment, or, in some cases, with no treatment at all.

That the complexity of contributing factors to the work of TMJ is and should be considered in the diagnosis and decision to surgically treat patients.

"[From FDAWebview, Feb. 28, 2001]"
That replacement surgery, therefore, should be utilized only as a last resort after other treatment options are exhausted or determined not to be warranted in the medical judgment of the physician/dentist in consultation with the patient.

That the Wilkes classification is a guide in determining the severity of the disease. This classification should be relied upon as a single criterion for surgical treatment.

“It really is a striking difference in philosophy,” Cole told FDA Webview. “It discloses that a device is safe and effective but fails to disclose that the agency found the device to be safe and effective.”

Over a sledgehammer point. When Dr. Statland a kind of subtle point, but in a way it demonstrated, thus preventing the agency from agonizing at the point where reasonable as-

TJM Fossa-Eminence Prosthesis. Without his personal involvement in the review—including private discussions with several oral surgeons, it would still be bogged down, ob-

At one point, FDA reviewers allegedly predicted the Fossa-Eminence, or partial jaw joint, which was a device of type every marketed, it attracted heavy reviewer skepticism. Then, last month, the company’s two-part total joint, of which the Fossa-Eminence is a compo-

A lot of times, what it really comes down to is demands for more data, more data, more data.” Cole explained, “because the re-

“The message is,” he told us, “that those companies that are very conscientious in prospective studies, that have the data, find that that speaks much louder than anything else. Anecdotal information is fine, opinions of various people and declarations are fine, but we have to look at the numbers. I think that’s the key to success.

To less invasive, conventional therapy; Recurrent fi-

Fossa-Eminence now actually gives his par-

“Internal derangement confirmed to be pathological in origin by both clinical obser-

That not to exceed $11,000 of this amount shall be available for official re-

It really is a striking difference in philosophy, ” Cole told FDA Webview. “It discloses that a device is safe and effective but fails to disclose that the agency found the device to be safe and effective.”

Ending a 20-month, $6 million ordeal for the company, he said, review

**AMENDMENT OFFERED BY MS. KAPTUR**

Ms. KAPTUR. Mr. Chairman, I offer an amendment.
So the purpose of this amendment as drafted really is to say, look, why are we involved in this budget charade of saying to the Congress: if we directly appropriate $300 million, we can’t do that because we break some sacerdotal budget rule here and, therefore, we can’t appropriate real dollars. So we’ll just put report language in the bill. Compare this to the other option that, well, if it goes over to the Secretary, she can spend the dollars out of the Commodity Credit Corporation and it doesn’t score.

I do not think there is a person in my district that would understand this kind of budget charade. So the purpose of this amendment is really to draw attention to what is happening here and to say that a large number of our Members on this side of the aisle really want this program to have permanently appropriated dollars. We want to be able to do that as a House. We are handcuffed in the procedures allowed through subcommittee and full committee in order to achieve that.

It is not my intention to move forward with this amendment because I do not want to do a fig leaf. I want to do a real appropriation. But I want to use this amendment mechanism to allow others who support this program to speak and to, in the strongest language possible, let the administration know that we are serious. Quite frankly, as this bill moves to conference, it is my intention, working with some of my other colleagues, to bring up this in the other body.

Mrs. EMERSON. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise to enter into a colloquy with the gentleman from Texas (Mr. BONILLA) as well as the gentleman from Massachusetts (Mr. McGOVERN) and the gentlewoman from Ohio (Ms. KAPTUR) with regard to the continuation of the Global Food for Education Initiative.

Mr. Chairman, the Global Food for Education Initiative was implemented as a pilot program during fiscal year 2001. The Department of Agriculture used $300 million of discretionary funds from the Commodity Credit Corporation to start this pilot program.

I have joined with the gentleman from Massachusetts (Mr. McGOVERN) and others in introducing the George McGovern-Robert Dole International Food for Education and Child Nutrition Act of 2001 so that we actually can authorize this program for a 5-year period. However, it is unlikely that this authorizing legislation will be approved in time to provide a seamless transition from the pilot to the authorized program for fiscal year 2002.

An amendment was offered to continue the pilot program at the current level of funding during our markup in the agriculture appropriations subcommittee, but we determined that, for two reasons, it would not be part of our bill today. However, I was pleased at the efforts of the gentleman from Texas to include language explaining that the House of Representatives expects the Department of Agriculture to continue the GFEI pilot program in the fiscal year 2002.

Mr. Chairman, it is my hope that the committee supports the international school feeding programs and would like to see the GFEI continued for the next fiscal year. Is it the gentleman from Texas’ expectation that the Department of Agriculture will continue to fund this program at its current level in fiscal year 2002?

Mr. BONILLA. Mr. Chairman, will the gentlewoman yield?

Mrs. EMERSON. I yield to the gentleman from Texas.

Mr. BONILLA. It is hard to speculate as to what the Department is going to do, but I can assure her that this is something that we are all concerned about. I know the gentlewoman from Ohio (Ms. KAPTUR) has worked on this as well, along with the gentleman from Massachusetts (Mr. MCGOVERN), the gentleman from New York (Mr. WALSH), and others. The subcommittee included report language that encourages the Secretary to continue this program at the same level as the current fiscal year. Accordingly, I will be pleased to work with the gentlewoman to see that USDA continues a program they initiated administratively.

Mrs. EMERSON. I thank the gentleman.

Mr. McGOVERN. Mr. Chairman, will the gentlewoman yield?

Mrs. EMERSON. I yield to the gentleman from Massachusetts.

Mr. McGOVERN. First of all, I want to thank the gentlewoman from Missouri for yielding and for her incredible leadership on this issue; and I want to thank the gentleman from Texas for his work on this issue and for the strong language included in the fiscal year 2002 agriculture appropriations report. I appreciate the gentleman’s words and his dedication to the continuation of this important program. I look forward to working with him and others on this committee to try to persuade Secretary Veneman to make sure that she does continue this program at the current level.

Mr. Chairman. I include for the RECORD a letter of support for this program co-signed by former Senators Bob Dole and George McGovern.

WASHINGTON, DC, June 12, 2001.

Hon. C.W. YOUNG,
Chairman, House Appropriations Committee,
Washington, DC.

DEAR Mr. CHAIRMAN: We would like to encourage you to ensure that funding continues for fiscal year 2002 for the President’s Global Food for Education Initiative.

It would be tragic to initiate school feeding programs that benefit 9 million children only to have those programs abruptly terminate.

We hope that you will support continuing funding for this program in fiscal year 2002 at the same levels as fiscal year 2001 when you consider the FY02 Agriculture Appropriations Bill in Committee this week.

Sincerely,
GESRGE McGOVERN.
Bob Dole.
Ms. KAPTUR. Mr. Chairman, will the gentlewoman yield?

Mrs. EMERSON. I yield to the gentlewoman from Ohio.

Ms. KAPTUR. Mr. Chairman, I wanted to thank the gentlewoman from Missouri for her tremendous leadership on this issue and also the gentlewoman from Massachusetts, Mrs. McGovern. The two of them have been vigilant all through our efforts in subcommittee and full committee. I want to thank the gentlewoman from Texas, Mrs. Bonilla, for doing as much as she could. I would hope that we might even consider doing a joint letter to the Secretary as we move toward conference, if that is possible, in order that this program be given the serious attention that it demands at the Department of Agriculture. I want to thank all my colleagues for their tremendous efforts.

Also, I understand Senator Dole has gone through a bit of a procedure at the Capitol for a while recently. If he is watching this, I hope our remarks make him feel better. I also want to thank Senator McGovern who has been such a stalwart supporter and innovator, a genius really on this program. We thank him for traveling up here recently to join us in a press conference in front of the Capitol. We hope in their stead here today that we do what is necessary to continue this program.

Mrs. EMERSON. I thank the gentlewoman from Ohio. The gentleman from Massachusetts I thank the gentleman from Texas for his clarification on this issue.

Mr. OB cry. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to make a few observations about the conversation that we have just heard with respect to this proposal. I think the key words that Members ought to keep in mind were the words of the subcommittee chairman. When he was asked whether or not he did expect the amendment to pass the buck. For bookkeeping reasons, this Congress has decided to pass the buck. I think that is unfortunate. It seems to me that if the Congress had indicated today, through an amendment on this legislation, that we were directing them to proceed, the agency would have proceeded. We would then have not had the accounting problem and we could have, in fact, delivered on this program.

We have a simple choice. We have surplus commodities in this country. The question is, will the taxpayers be asked to pay money in order to store them or will they be asked to pay money in order to ship them so they can be used to provide nutrition for young children abroad who need them? That is a win-win proposition, both for those kids and our farmers. It ought to also help our consciences as well, and I think it is indeed unfortunate that we have been prevented from offering the amendment today.

Ms. KAPTUR. Mr. Chairman, if the gentleman will yield, I reserve the right, as we move toward conference, to reintroduce this issue into the debate as we further perfect this bill.

Mr. Chairman, I ask unanimous consent to withdraw the amendment.

The CHAIRMAN. Is there objection to the request of the gentlewoman from Ohio?

There was no objection.

The CHAIRMAN. The amendment is withdrawn.

The Clerk will read.

The Clerk read as follows:

EXECUTIVE OPERATIONS
CHIEF ECONOMIST

For necessary expenses of the Chief Economist, including economic analysis, risk assessment, cost-benefit analysis, energy and new uses, and the functions of the World Agricultural Outlook Board, as authorized by the Agricultural Marketing Act of 1946 (7 U.S.C. 1622g), and including pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), of which not to exceed $25,000 is for employment under 5 U.S.C. 3109, $7,820,000.

NATIONAL APPEALS DIVISION

For necessary expenses of the National Appeals Division, including employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), of which not to exceed $25,000 is for employment under 5 U.S.C. 3109, $12,890,000.

Ms. LEE. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise to enter into a colloquy with the chairman of the committee. I had intended to offer an amendment today to provide funding to make it easier for students to purchase fresh foods at school. I believe we would be better. In my district, for example, school breakfast and lunch programs. But I will not offer my amendment today. I want to thank the gentleman from Texas (Mr. Bonilla) and the ranking member, the gentlewoman from Ohio (Ms. Emerson), for their support of my intention to assist schools in providing healthy foods for their school breakfast and lunch programs.

This would include organic, locally grown and fresh produce. At a time when our children’s health is threatened by such conditions as obesity and type II diabetes, it is more important than ever to ensure that they have healthy options when they eat at school.

Currently, our tax dollars buy a high fat, high caffeine, fast food diet, which is turning into an extremely expensive public health problem. According to the Centers for Disease Control and Prevention, youth nutrition and obesity are an epidemic in the United States. The Healthy Farms and Healthy Kids Report states that the awkward irony is that our multibillion dollar public health crisis is created with our dollars. We believe we will
demonstrate that we can bring more healthy foods into our schools while lowering the costs but still supporting our farmers. So I would just like to ask the gentleman from Texas (Mr. BONILLA) for his help really in the future to allow us to encourage our children to get healthy foods from our farms to our children and to our schools, of course. I look forward to working with him and our ranking member, the gentlewoman from Ohio (Ms. KAPTUR), to ensure that this provision could possibly be included in the final version of the fiscal year 2002 Agricultural Appropriations Act.

Mr. BONILLA. Mr. Chairman, will the gentlewoman yield?

Ms. LEE. I yield to the gentleman from Texas.

Mr. BONILLA. Mr. Chairman, I would be happy to work with the gentlewoman from California (Ms. LEE) and the folks at USDA to provide some positive direction in this area. There is not a doubt that that is not concerned about good nutrition for children so I thank the gentlewoman for bringing this up and would look forward to again trying to direct USDA, somehow working with the gentlewoman to get the Department of Agriculture support our rural and urban legislators on this.

The Chairman. The Clerk will read. The Clerk reads as follows:

OFFICE OF BUDGET AND PROGRAM ANALYSIS

For necessary expenses of the Office of Budget and Program Analysis, including employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), of which not to exceed $5,000 is for employment under 5 U.S.C. 3109, $7,041,000.

OFFICE OF THE CHIEF INFORMATION OFFICER

For necessary expenses of the Office of the Chief Information Officer, including employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), of which not to exceed $10,000 is for employment under 5 U.S.C. 3109, $10,325,000.

COMMON COMPUTING ENVIRONMENT

For necessary expenses to acquire a Common Computing Environment for the Natural Resources Conservation Service, the Farm Service Agency and the Rural Development mission areas for information technology, systems, and services, $59,360,000, to remain available until expended.

ONCOMMON COMPUTING ENVIRONMENT

For necessary expenses to acquire a Common Computing Environment for the Natural Resources Conservation Service, the Farm Service Agency and the Rural Development mission areas for information technology, systems, and services, $59,360,000, to remain available until expended.

Provided, That the Chief Financial Officer shall ensure that this appropriation be consistent with the Department of Agriculture Service Center Modernization Plan of the county-based agencies, and shall be with the concurrence of the Department's Chief Information Officer.

OFFICE OF THE CHIEF FINANCIAL OFFICER

For necessary expenses of the Office of the Chief Financial Officer, including employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), of which not to exceed $10,000 is for employment under 5 U.S.C. 3109, $5,384,000: Provided, That the Chief Financial Officer shall expedite grants, cooperative agreements, and interagency agreements and contracts;

Provided, That these funds may be transferred to agencies of the Department of Agriculture funded by this Act to maintain personnel at the agency level: Provided further, That no other funds appropriated to the Department by this Act shall be available to the Department for support of activities of congressional relations.

OFFICE OF THE ASSISTANT SECRETARY FOR CONGRESSIONAL RELATIONS

For necessary salaries and expenses of the Office of the Assistant Secretary for Congressional Relations to carry out the programs funded by this Act, including programs involving intergovernmental affairs and liaison within the Department, $3,716,000: Provided, That these funds may be transferred to agencies of the Department of Agriculture funded by this Act to maintain personnel at the agency level: Provided further, That no other funds appropriated to the Department by this Act shall be available to the Department for support of activities of congressional relations.

OFFICE OF COMMUNICATIONS

For necessary expenses to carry out services relating to the coordination of programs involving public affairs, for the dissemination of agricultural information, and for the coordination of information, work, and programs authorized by Congress in the Department, $8,975,000: Provided, That these funds may be transferred to agencies of the Department of Agriculture funded by this Act to maintain personnel at the agency level: Provided further, That no other funds appropriated to the Department by this Act shall be available to the Department for support of activities of congressional relations.

OFFICE OF THE INSPECTOR GENERAL

For necessary expenses of the Office of the Inspector General, including employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and the Inspector General Act of 1978,
For necessary expenses of the Economic Research Service in conducting economic research and analysis, as authorized by the Agricultural Marketing Act of 1946 (7 U.S.C. 1621-1627), for salaries, expenses, and travel of such Service, $67,800,000, provided, that this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225).

For necessary expenses of the National Agricultural Statistics Service in conducting statistical reporting and service work, including crop and livestock estimates, statistical research, and agricultural information dissemination, and operation of the Agricultural Statistics Service in conducting economic research and analysis, as authorized by the Agricultural Marketing Act of 1946 (7 U.S.C. 1621-1627), for salaries, expenses, and travel of such Service, $114,546,000, of which up to $25,456,000 shall be available until expended for the Census of Agriculture: Provided, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225).

For necessary expenses of the Agricultural Research Service to perform agricultural research and demonstration relating to production, marketing, and distribution of agricultural commodities, $578,000,000: Provided, That appropriations hereunder shall be available for temporary employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $15,000,000 shall be available for employment under 5 U.S.C. 3109: Provided further, That this appropriation shall be available for the construction, alteration, and repair of buildings to be constructed or improved at a cost not to exceed $750,000 each, and the cost of altering any one building during the fiscal year in which the funds are made available, at the rate of the current replacement value of the building or $750,000, whichever is greater: Provided further, That the limitations on alterations contained in this section shall not apply to construction or conversion or replacement of existing facilities at Beltsville, Maryland: Provided further, That appropriations hereunder shall be available for temporary employment pursuant to the Agricultural Research Act of 1944 (7 U.S.C. 2225).

In fiscal year 2002, the agency is authorized to charge fees, commensurate with the fair market value, for any permit, easement, lease, or other special use authorization for the occupancy or use of land and facilities (including land and facilities at the Beltsville Agricultural Research Center) issued by the agency, and such fees shall be credited to this account, and shall remain available until expended for authorized purposes.

Amendment No. 24 offered by Mr. TIERNEY.

Mr. TIERNEY. Mr. Chairman, I offer amendment No. 24. The CHAIRMAN. The Clerk will designate the amendment. The text of the amendment is as follows:

Amendment No. 24 offered by Mr. TIERNEY:

In title I, under the heading "AGRICULTURAL RESEARCH SERVICE—SALARIES AND EXPENSES," insert the following:

SEC. 7. REPORT REGARDING GENETICALLY ENGINEERED FOODS.

(a) IN GENERAL.—Not later than one year after funds are made available to carry out this section, the Secretary of Agriculture, acting through the National Academy of Sciences, shall complete and transmit to Congress a report that includes recommendations for the following:

(1) DATA AND TESTS.—The type of data and tests that are needed to sufficiently assess and evaluate human health risks from the consumption of genetically engineered foods.

(2) MONITORING SYSTEM.—The type of Federal monitoring system that should be created to assess any future human health consequences from the consumption of genetically engineered foods.

(c) REGULATIONS.—A Federal regulatory structure to approve genetically engineered foods that are consumed.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary of Agriculture $500,000 to carry out this section.

Mr. BONILLA. Mr. Chairman, I reserve a point of order on this amendment.

The CHAIRMAN. The point of order is sustained.

Mr. TIERNEY. Mr. Chairman, there is probably no more important responsibility for a government than to protect the well-being of its citizens. For this reason, it is important that we try to do the best we can to ensure the health safety of genetically engineered foods.

This amendment presented at the desk seeks a National Academy of Sciences study to examine important health-related aspects of genetically engineered foods. One, whether or not the tests being performed on genetically engineered foods really ensure their health safety and whether or not they are adequate and relevant; two, what type of monitoring system is needed to assess future health consequences from genetically engineered foods; and, lastly, what type of regulatory structure should be in place to approve genetically engineered foods for human consumption.

In the year 2000, more than 100 million acres of land around the world were planted with genetically engineered crops. This is 25 times as much as was planted just 4 years before. In fact, genetically engineered food crops planted and marketed by United States farmers include 45 kinds of corn, canola, tomatoes, potatoes, soybeans, and sunflowers.

Today, genetically engineered ingredients are found in virtually all of our foods that are sold on supermarket shelves, and that includes baby foods, potato chips, snacks, and vegetables.

Despite the growing presence of genetically engineered foods and despite industry assertions that the foods are safe to eat, the public remains unconvinced. The discovery last year of genetically engineered Starlink corn that was not approved for humans to eat in tacos and chips was a wake-up call. Now that we have eaten this genetically engineered food, Starlink's manufacturer wants the Environmental Protection Agency to declare Starlink safe for human consumption.

Mr. Chairman, that is no way to protect our health. As the Centers for Disease Control noted earlier this month, we need to properly evaluate genetically engineered foods before they get into the food supply. In my home State of Massachusetts, the State legislature is considering a bill that would impose a 5-year moratorium on the growing of genetically engineered crops. Similar legislation is pending in New York. In fact, according to the Grocery Manufacturers of America, as of March this year there were eight bills in six States that would ban or put a moratorium on the planting of genetically engineered crops.

We cannot afford to bury our heads in the sand and let the public's concerns continue to grow. We need to devise a standard of tests that can be applied to all genetically engineered food to ensure that it is safe for our children and ourselves to eat.
The Food and Drug Administration does not conduct its own testing of genetically engineered products. Instead, the Food and Drug Administration provides guidelines and then relies upon the companies who produce genetically engineered foods to test their own products. Companies voluntarily share the results of the tests on genetically engineered products with the Food and Drug Administration.

Under new rules proposed on January 17 by the Department of Agriculture, companies in the future will have to give 120 days’ notice to the Food and Drug Administration before producing new genetically engineered products on the market. But even with these new rules, it remains the responsibility of the companies that create the market and market these products to test for their safety. We need to be sure that these companies are doing the right tests in the right way.

In addition to ensuring that testing methods are adequate, we need to ensure that our regulatory system is also sufficient to protect our health. The National Academy of Sciences has said, “A strong regulatory system with a scientific base are important for acceptance and safe adoption of agricultural biotechnology, as well as for protecting the environment and public health.”

Our current regulatory system, in which the Food and Drug Administration, the Environmental Protection Agency, and the United States Department of Agriculture share jurisdiction over genetically engineered food, may not be the best way to ensure the health and safety of the foods we eat. We need to be certain that testing, regulation, and monitoring of genetically engineered foods over the long term are effective and appropriate in determining whether potential health effects of eating genetically engineered foods.

Even the center for Science in the Public Interest, an organization devoted to improving the safety and nutritional quality of our food supply, has said that the National Academy of Sciences study would provide regulators with a scientific road map of tests to ensure the safety of genetically engineered foods over the long term are effective and appropriate in determining whether potential health effects of eating genetically engineered foods.

I think that is what we are looking for, Mr. Chairman. We want consumers to feel secure when they eat, and we want farmers to be confident when they market their products. We should heed the words from that study, and we should fund the study proposed in this amendment.

I think that is what we are looking for, Mr. Chairman. We want consumers to feel secure when they eat, and we want farmers to be confident when they market their products. We should heed the words from that study, and we should fund the study proposed in this amendment.

The CHAIRMAN. Does the gentleman from Texas (Mr. BONILLA) still insist upon his point of order?

Mr. TIERNEY. Mr. Chairman, will the gentleman yield?

Mr. KUCINICH. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of the Tierney amendment. I think the gentleman from Massachusetts (Mr. TIERNEY) should be congratulated for raising this issue and for asking for a more thorough review of this. I can say that I think most people in this country would support such a move. People are concerned about the food they eat, and they are certainly concerned about any new technology which may, in one way or another, change the functional characteristics of the food, as well as the properties of the foods they eat in which the food interacts in the human medium.

So I want to thank the gentleman from Massachusetts (Mr. TIERNEY) for his work.

Mr. TIERNEY. Mr. Chairman, will the gentleman yield?

Mr. KUCINICH. I yield to the gentleman from Massachusetts.

Mr. TIERNEY. Mr. Chairman, I would hope that the chairman would just know, this is the second year we have presented this motion; and I think it is a pretty balanced motion. We are seeking here to both give consumers confidence, that the gentleman from Ohio points out very clearly is a very big concern for people; but we also know that our farmers today, as they have pointed out, know that they can go to the market with confidence. It is going to do us no good in terms of the economics of our society to have a bunch of farmers that are creating a product in which the consumers have no confidence, so there is no market there.

This particular amendment was a hope to strike the point where we get the National Academy of Science to determine for us what is the best testing regime, what is the best way to monitor this as it goes through, and what is the best way to make sure that we have a regulatory structure to give the confidence at both of those levels.

Mr. KUCINICH. Mr. Chairman, reclaiming my time, the gentleman is correct on that. As a matter of fact, American farmers are quite concerned about the impact of genetically engineered products on their markets, because if their markets begin to dry up, as they have in some countries, then American farmers will not be able to sell what we know is the best agriculture in the world, here from America. But if the products are genetically engineered, if there has not been much study and there is concern about quality, safety and other things, then our farmers can endure economic loss.

So I want to again thank the gentleman from Massachusetts (Mr. TIERNEY) for raising this issue, and I would hope that the chair would respectfully consider his amendment as being in order.

The CHAIRMAN. The gentleman from Texas (Mr. BONILLA) still insist on his point of order?

Mr. BONILLA. Mr. Chairman, I continue to reserve my point of order.

The CHAIRMAN. The gentleman continues to reserve his point of order.

Mr. SMITH of Michigan. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I commend the gentleman for their interest in providing wholesome food. It is important. I would like to point out, however, that regarding the Starlink corn question, it has now been certified that there has been no ill effects to humans. That is good news.

I would like to also point out that, because we have been cross-breeding for 1,000 years, every food item that we buy in a store, except a couple varieties of fish, have been genetically modified. This has happened simply because farmers have been looking for ways to improve the quality and cost of food.

I think it is very important that we continue our scientific effort with this new technology of genetic modification. We must also consider the importance of its tremendous potential in developing better food products and more healthy products. We can develop food products that have vaccines. Also, especially in the developing countries of this world, we now have the potential of developing the kind of plants and seeds that can grow in those arid soils or those other types of climatic conditions where they could not grow food before. So we need to proceed in our scientific research.

Just a point before I yield for a comment. We have the best regulatory system in the world in terms of our oversight of genetically engineered products. Between the United States Department of Agriculture, the Food and Drug Administration and the Environmental Protection Agency, we now have the ability to review, regulate and test to make sure products are coming to market to assure safety.

Mr. TIERNEY. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Michigan. Mr. Chairman, I yield to the gentleman from Massachusetts (Mr. TIERNEY) for raising this issue, and I respectfully just disagree with the gentleman on the last point, as I think the National Academy of Science does, when they indicated that they think this idea of having three different agencies with overlapping and different responsibilities is the best way to look at what other kind of regulatory structure we could put in place that would give us more confidence.

The CHAIRMAN. The gentleman from Massachusetts (Mr. TIERNEY) for raising this issue, and I would hope that the chair would respectfully consider his amendment as being in order.

The CHAIRMAN. Does the gentleman from Texas (Mr. BONILLA) still insist on his point of order?
Also I want to draw a point on the study the gentleman talked about on Starlink. One, I think we want that kind of information before the problem arises, and that is partly why I filed this bill; and, secondly, there is still some controversy swirling around the study the gentleman talked about and the results of it.

I suspect from the gentleman’s comments and the importance he puts on genetically engineered foods that he favors my bill, which would be a conditioned measure, if we put up the right kinds of test that people could have confidence in, if we set up the right kind of monitoring system that people would know would be something we could rely on, and if we had the right kind of regulatory structure, it would benefit people that take the gentleman’s position, as well as people that might be skeptical or more on that.

The idea is to follow the advice of the National Academy and do just that. Let them give us the advice through this study that I propose, to tell us what would be the best testing regime, how would you monitor it, and how would you regulate it.

Mr. SMITH of Michigan. Mr. Chairman, at this point in time I understand the gentleman’s objections on technical matters on this, and I ask unanimous consent to withdraw the amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The CHAIRMAN. The Clerk will read. The Clerk reads as follows:

BUILDINGS AND FACILITIES

For acquisition of land, construction, repair, extension, alteration, and purchase of fixed equipment or facilities as necessary to carry out the agricultural research programs of the Department of Agriculture, where not otherwise provided, $78,862,000, to remain available until expended (7 U.S.C. 2209b); for a secondary agriculture education program and 2-year post-secondary education (7 U.S.C. 3152b(h)), $1,000,000; for aquaculture grants (7 U.S.C. 2209b); and for sustainable agriculture research and education (7 U.S.C. 5811), $12,000,000; for a program of capacity building grants (7 U.S.C. 3152(b)(4)) to colleges eligible to receive funds under the Act of August 30, 1890 (7 U.S.C. 321-326 and 328), including Tuskegee University, $9,479,000, to remain available until expended (7 U.S.C. 328); and for a program to support research and education activities of institutions pursuant to section 534(a)(1) of Public Law 103–382, $1,549,000; and for necessary expenses of Research and Education Activities of the Foundation, $100,000 shall be for employment under 5 U.S.C. 3109, $18,399,000.

AMENDMENT NO. 22 OFFERED BY MR. SMITH OF MICHIGAN

Mr. SMITH of Michigan. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 22 offered by Mr. Smith of Michigan:

In title I under the heading “COOPERATIVE STATE RESEARCH, EDUCATION, AND EXTENSION SERVICE

RESEARCH AND EDUCATION ACTIVITIES

For payments to agricultural experiment stations, for cooperative forestry and other research, for facilities, and for other expenses, $507,452,000, as follows: to carry out the provisions of the Hatch Act (7 U.S.C. 361a–1), $130,148,000; for grants for cooperative forestry research (16 U.S.C. 564a–47), $21,981,000; and to the 1890 land-grant colleges, including Tuskegee University (7 U.S.C. 3222), $32,604,000, of which $998,000 shall be made available to West Virginia University, the Institute of Technology, West Virginia; for special grants for agricultural research (7 U.S.C. 450(c)), $82,409,000; for special grants for agricultural research (7 U.S.C. 450(c)), $15,721,000; for competitive research grants (7 U.S.C. 450(b)), $105,767,000; for the support of animal health and disease programs (7 U.S.C. 315b), $5,098,000; for supplemental and alternative crops and products (7 U.S.C. 3319d), $650,000; for grants for research pursuant to the Cooperative Materials Act of 1994 (7 U.S.C. 178) and section 1472 of the Food and Agriculture Act of 1977 (7 U.S.C. 3318), $639,000, to remain available until expended (7 U.S.C. 3101 note), $998,000, to remain available until expended; for higher education graduate fellowship grants (7 U.S.C. 3152(b)(5)), $2,060,000; for grants made pursuant to the Hatch Act (7 U.S.C. 2209b); for higher education graduate fellowship grants (7 U.S.C. 3152(b)(1)), $1,430,000; for a higher education multicultural scholars program (7 U.S.C. 3152(b)(5)), $998,000, to remain available until expended (7 U.S.C. 2209b); for an education grants program for Hispanic-serving Institutions (7 U.S.C. 3241), $3,492,000; for a program of noncompetitive grants, to be awarded on an equal basis, to Alaska Native-serving and Native Hawaiian-serving Institutions to carry out higher education programs, $27,000,000; for a secondary agriculture education program and 2-year post-secondary education (7 U.S.C. 3152b(h)), $1,000,000; for aquaculture grants (7 U.S.C. 2209b); for a program for sustainable agriculture research and education (7 U.S.C. 5811), $12,000,000; for a program of capacity building grants (7 U.S.C. 3152(b)(4)) to colleges eligible to receive funds under the Act of August 30, 1890 (7 U.S.C. 321–328) and 328), including Tuskegee University, $9,479,000, to remain available until expended (7 U.S.C. 328); and for a program to support research and education activities of the Foundation, $100,000 shall be for employment under 5 U.S.C. 3109, $18,399,000.

Mr. SMITH of Michigan. Mr. Chairman, briefly, what this amendment does is to increase the number of competitive grants that would address the challenge of increased fuel costs. In the 2001 crop year, energy costs increased over 350 percent. This huge increase obviously left farmers scrambling to modify planting decisions and find other ways to cut fertilizer input costs.

One way that we can do this is by developing plants that put nitrogen in the soil. For example, in a typical soybean-corn rotation—

I believe there is great potential for improvements in this area, and I ask unanimous consent to withdraw the amendment.
Mr. BONILLA. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Michigan. I yield to the gentleman from Texas.

Mr. BONILLA. Mr. Chairman, we support the amendment.

Mr. HANSEN. Mr. Chairman, the question is on the amendment offered by the gentleman from Michigan (Mr. Smith).

The amendment was agreed to.

Mr. HANSEN. Mr. Chairman, I move to strike the last word.

Mr. CHAIRMAN. The question is on the amendment offered by the gentleman from California.

Mr. BONILLA. Mr. Chairman, I come to the floor today on behalf of all the farmers and ranchers in Utah and other western States who are dealing with the devastating outbreaks of Mormon Crickets and grasshoppers. This outbreak, now under declaration of emergency by the Governor of Utah, is considered to be the worst in over 60 years and is spreading over 1.5 million acres.

These insects, which breed undisturbed and untreated on the vast acres of Bureau of Land Management and Forest Service land and then spread to neighboring State and private land, are devouring the crops and rangeland to the tune of what is expected to be at least $20 million worth of damage.

However, this is not all. In Oak City, Utah, for example, the mayor informs me that the crickets have now inundated the community water system at the sealed collection boxes and tanks. They are now moving into towns, where people are attempting to burn them from their homes, and children are kept indoors.

Line-item funding has been eliminated, and formerly available funds from previous years have all been expended in battling these insects. The plight of these lands has become such a critical concern, that I have asked our Subcommittee on Public Lands to hold oversight hearings on this issue next month. Timely and adequate funding has been the subject issue for us.

While I understand there are not any line-item funds for Mormon Cricket and grasshopper treatment in this bill as it stands today, I understand the chairman is aware of the problem we are facing and has committed to ensure there is sufficient APHIS funds for the 2002 fiscal year specific to Mormon Cricket and grasshopper treatment, as well as working with us to ensure the Secretary addresses our emergency problems with contingency funds.

I thank the chairman and look forward to working with him and obtaining emergency funds.

Mr. BONILLA. Mr. Chairman, will the gentleman yield?

Mr. HANSEN. Mr. Chairman, I yield to the gentleman from Texas.

Mr. BONILLA. Mr. Chairman, I thank my friend for yielding. I appreciate the hard work that the gentleman has undertaken on this issue. I know it is a very serious problem.

The committee and this chairman are aware of the emergency conditions that exist in Utah and throughout the Great Basin region caused by the Mormon Crickets. The gentleman from Utah has my commitment to ensure that proper funding for this problem is obtained in a timely manner this year and that specific funding for addressing the Mormon Cricket and grasshopper problem is identified to meet future needs in the FY 2002 bill.

Mr. HANSEN. Mr. Chairman, reclaiming my time, I thank the chairman and appreciate his help on this critical matter and look forward to addressing this issue in conference and with the Secretary’s help.

Mr. GEORGE MILLER of California. Mr. Chairman, I move to strike the last word.

Mr. GEORGE MILLER of California. Mr. Chairman, I rise in support of ensuring that all warm-blooded animals used in U.S. Department of Agriculture Appropriations Subcommittees?
For the Native American Institutions Endowment Fund authorized by Public Law 103-382 (7 U.S.C. 301 note), $17,100,000: Provided, That funds herein appropriated may be transferred to other appropriations for the purpose of strengthening the institutions in accordance with the Act of October 3, 1980 (7 U.S.C. 301 note), $7,100,000.

For the integrated research, education, and extension activities of the U.S. Department of Agriculture, including the Agricultural Research Service, as authorized under section 406 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7626), $45,355,000, as follows: (1) for the Food Safety and Inspection Service and the Food Safety and Inspection Service of the Department of Agriculture, $14,967,000; payments for the national agriculture pesticide impact assessment program, $4,531,000; payments for the Food Safety and Inspection Service of the Department of Agriculture, $4,889,000; payments for the crops affected by Food Quality Protection Act implementation, $1,270,000; payments for the broiler breeder and turkey breeder transition program, $2,500,000; and payments for the organic transition program, $2,000,000.

For the Office of the Under Secretary for Marketing and Regulatory Programs for necessary salaries and expenses of the Office of the Under Secretary for Marketing and Regulatory Programs to administer programs under the laws enacted by the Congress for the Animal and Plant Health Inspection Service; the Agricultural Marketing Service; and the Grain Inspection, Packers and Stockyards Administration: $669,000.

ANIMAL AND PLANT HEALTH INSPECTION SERVICE

This account, to remain available until expended, shall be awarded competitively under section 3(d) of the Act for the construction, operation, maintenance, and repayment of obligations, $2,500,000; and for the milk inspection program, $5,000.

For necessary expenses to carry out the Animal and Plant Health Inspection Service programs, including the Animal and Plant Health Inspection Service, National Veterinary Services Laboratories, and the Animal and Plant Health Inspection Service, including the National Veterinary Services Laboratories, including those pursuant to the Agricultural Marketing Act of 1946 (7 U.S.C. 2252), and not to exceed $300,000,000 for the construction, operation, maintenance, and repayment of obligations, $5,000,000.

For the Animal and Plant Health Inspection Service, including the Animal and Plant Health Inspection Service, National Veterinary Services Laboratories, $2,500,000; and for the National Veterinary Services Laboratories, $5,000,000.

For construction and operation of the Animal and Plant Health Inspection Service laboratories, including the National Veterinary Services Laboratories, $5,000,000.

For emergency conditions: Provided, That appropriations hereunder shall be used only for commodity program expenses as authorized therein, and other related operations. Provided further, That funds herein appropriated shall be used for the construction, operation, and maintenance of structures, not to exceed four, of which two shall be for replacement only: Provided further, That, in addition, in emergencies which threaten any area of the country:

For necessary expenses to carry out programs related to the production, processing, and marketing of agricultural commodities, and for the prevention, control, and eradication of pests and diseases, and for the development of wholesale and farmer market facilities for the major metropolitan areas of the country: Provided, That this appropriation shall be available pursuant to law (7 U.S.C. 2250) for the alteration and repair of buildings and improvements, but the cost of altering any one building during the fiscal year shall not exceed 10 percent of the current replacement value of the building.

In fiscal year 2002 the agency is authorized to collect fees to cover the total costs of providing technical assistance, goods, or services requested by States, other political subdivisions, Indian tribes or tribal organizations, foreign governments, or individuals, provided that such fees are structured such that any entity's liability for such fees is reduced based on the entity's size, income, or ability to pay, and that such fees shall be credited to this account, to remain available until expended, without further appropriation, for providing such assistance, goods, or services. Of the total amount available under this heading for fiscal year 2002, $13,154,000 shall be derived from user fees deposited in the Agricultural quarantine Inspection User Fee Account.

BUILDINGS AND FACILITIES

For plans, construction, repair, preventive maintenance, environmental support, improvement, extension, alteration, and purchase of fixed equipment or facilities, as authorized by 7 U.S.C. 2252, and acquisition of land as authorized by 7 U.S.C. 328a, $7,189,000, to remain available until expended.

AGRICULTURAL MARKETING SERVICE

For necessary expenses to carry out services related to consumer protection, agricultural marketing and distribution, transportation, and regulatory programs, as authorized by law and for the coordination of payments to States, including field employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2252) and not to exceed $90,000 for employment under 5 U.S.C. 3109, $71,774,000, including funds for the wholesale market development program for the design and development of farmer market facilities for the major metropolitan areas of the country: Provided, That this appropriation shall be available pursuant to law (7 U.S.C. 2250) for the alteration and repair of buildings and improvements, but the cost of altering any one building during the fiscal year shall not exceed 10 percent of the current replacement value of the building.

For necessary expenses to carry out programs related to the production, processing, and marketing of agricultural commodities, and for the prevention, control, and eradication of pests and diseases, and for the development of wholesale and farmer market facilities for the major metropolitan areas of the country: Provided, That this appropriation shall be available pursuant to law (7 U.S.C. 2250) for the alteration and repair of buildings and improvements, but the cost of altering any one building during the fiscal year shall not exceed 10 percent of the current replacement value of the building.

For fees collected under section 549 of the Agricultural Marketing Act of 1946 (7 U.S.C. 1623(b)), $1,387,000.

Funds available under section 22(b) of the Act of August 24, 1935 (7 U.S.C. 612c), shall be used only for commodity program expenses as authorized therein, and other related operations. Provided, That if crop failures in one or more States or other uncontrollable events occur, the agency may exceed this limitation by up to 10 percent with notification to the Committees on Appropriations of both Houses of Congress.
In addition, for the Food Safety and Inspection Service to improve food safety and reduce the incidence of foodborne illnesses, $50,000,000; Provided, That such amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985: Provided further, That such amount shall be available only to the extent that an official budget request, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, is transmitted by the President to the Congress.

In title VI, in the item relating to “Food and Drug Administration—salaries and expenses”, insert at the end the following:

Not to exceed $42,463,000 (from fees collected) shall be obligated during the current fiscal year for inspection and weighing services: Provided, That if grain export activities require additional supervision and oversight, or other uncontrollable factors occur, this limitation shall be increased by up to 10 percent with notification to the Committees on Appropriations of both Houses of Congress.

For necessary salaries and expenses of the Office of the Under Secretary for Food Safety to administer the laws enacted by the Congress, the Food Safety and Inspection Service, $481,000.

Mr. BONILLA (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

The CHAIRMAN. The Clerk will read.

The Clerk reads as follows:

FOOD SAFETY AND INSPECTION SERVICE

For necessary expenses to carry out services authorized by the Federal Meat Inspection Act, the Poultry Products Inspection Act, and the Egg Products Inspection Act, including not to exceed $50,000 for representation for expenses not provided for in section 8 of the Act approved August 3, 1966 (7 U.S.C. 1766), $720,622,000, and in addition, $1,000,000 may be credited to this account for fees collected for the cost of labor and services authorized by section 1017 of Public Law 102-237: Provided, That this appropriation shall be available for field employment pursuant to section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $75,000 shall be available for employment under section 706(b). Provided further, That this appropriation shall be available pursuant to law (7 U.S.C. 2250) for the alteration and repair of buildings and improvements, but the cost of altering any one building during the fiscal year shall not exceed 10 percent of the current replacement value of the building.

AMENDMENT OFFERED BY MS. DELAURO

Ms. DELAURO. Mr. Chairman, I offer an amendment.

The Clerk reads as follows:

Amendment offered by Ms. DELAURO.

In the item relating to “Food Safety and Inspection Service”, insert at the end the following:

For necessary expenses to carry out services authorized by the Federal Meat Inspection Act, the Poultry Products Inspection Act, and the Egg Products Inspection Act, including not to exceed $50,000 for representation for expenses not provided for in section 8 of the Act approved August 3, 1966 (7 U.S.C. 1766), $720,622,000, and in addition, $1,000,000 may be credited to this account for fees collected for the cost of labor and services authorized by section 1017 of Public Law 102-237: Provided, That this appropriation shall be available for field employment pursuant to section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $75,000 shall be available for employment under section 706(b). Provided further, That this appropriation shall be available pursuant to law (7 U.S.C. 2250) for the alteration and repair of buildings and improvements, but the cost of altering any one building during the fiscal year shall not exceed 10 percent of the current replacement value of the building.
Why are we in this position? Because the majority party and the White House insisted early on to take virtually every dime of the surpluses that we were hoping to have over the next 10 years and pour all of those monies into tax cuts. They put the lion’s share of those tax cuts into the pockets of the very wealthiest people in this country.

So this Congress decided it was more important to give the wealthiest 1 percent of people in this country, who, by the way, have seen an after-tax rise in their income of $144,000 per family, that it was more important to give those people an additional tax cut of $33,000 a year than it is to meet our primary obligations to strengthen Social Security, to strengthen education, to strengthen Medicare, and to do all of these other little things that we need to do if we are going to protect the food supply of this country and the environment in which we all live.

Well, there is very good reason for that. It is because we are not providing the resources necessary to provide an absolutely safe source of food in this country.

The purpose of this amendment is to, over a 3-year period of time, bring us to where the FDA says we should be in protecting the public health of this country.

When we had subcommittee hearings earlier in the year, here is what FDA said in response to questions: “The inspection coverage of food manufacturer, particularly those high-risk manufacturer, is inadequate over the past several years.” FDA estimated we would need at least $220 million for an optimum inspection schedule of domestic food facilities under our jurisdiction. This would provide inspection of high-risk firms twice each year, warehouse every 3 years, and all other food firms every 2 years.

Now, people can argue all day long about government priorities, but the fact is that we are here today unable to offer this amendment because the budget limitations under which we are operating prevents us from even getting a vote on the amendment offered by the gentleman.

As modern a society as we are, we question, why does this happen? Part of the reason for it is because our food system, over the last 10 years, has been moving very far away from home.

It used to be that you knew the farmer where your eggs came from. You knew the farmer who grew your strawberries. There was local accountability. You knew where your chickens came from. You knew where your beef for your sausage came from, because the people lived in your community and you went to the stores and the outlying thrift shops.

Mr. Chairman, today we live in a very industrialized food system, and industrialized food processing has not necessarily brought with it a safer food system. In fact, last year, 315 Food and Drug Administration regulated food products were recalled, the most recalls in 1 year since the mid-1980s.

It was a 36 percent increase above the average, and part of the reason for that is, even though we have certain scientific methods in place, the way in which our food is processed actually encourages food-borne illness.

For example, in the area of beef, if you go into some of our slaughter houses and meat-packing plants now, they are very, very sanitized, often, an intestine will be pierced and E. coli will be driven into flesh in the animal that is ultimately then cut up and sold on the supermarket shelf.

Mr. Chairman, some of that is not detected by the Industrial slaughtering is different than when animals were cut by hand and there were not so many animals slaughtered per day and there was closer oversight.

It has never been easy to work in a meat processing facility. At the beginning of the 20th century, books were written about what was going on inside these meat-packing plants, and through the 20th century, we tried to improve the situation.

In poultry, for example, if you look at the USDA inspectors who are on a line, the rate at which birds move by them has become so fast, the human eye cannot necessarily detect the different types of salmonella and staphylococci and other bacteria and microbes that can infect the meat product.

In spite of the fact that we seem to be so modern, some of the procedures that we have as well as the fact that food is grown and processed very far from home has made the system in some ways extremely vulnerable.

It is surprising to us also that in a country as bountiful as ours that we have increasing amounts of food imports.

Over the last 4 years alone, imported foods sold in the United States have increased by 50 percent, from 2.7 million items in 1997 to 4.1 million last year alone. But of all the foreign imports coming in here, as the gentleman from Connecticut (Ms. DeLAuro) has accurately described, only 1 percent are inspected.

When most people get sick from food poisoning, they do not report it to the Centers for Disease Control. A lot of times they do not realize what is wrong with them until a couple of days later. At the local level, there is not an automatic reporting upstream to the CDC. So a lot of the food poisoning...
goes unreported. The DeLauro amendment would provide additional funds for food inspection.

There is $38 million more for imported food inspection, which we so desperately need at our borders; $73 million for modern FDA inspections of domestic food processors. Many processors do not even get inspected once a year; sometimes it takes up to 2 years. The FDA actually is the agency where the problems, 75 percent of the outbreaks and problems relate to FDA-inspected facilities. This means inspection is inadequate.

The DeLauro amendment also would provide $50 million for USDA food safety and inspection service to carry out new procedures and regulations for meat and poultry food products. For example, USDA is currently addressing port of entry procedures and the development of contingency plans for emergency food inspection. Remember, we had that problem of strawberries in Michigan causing children to become sick.

To this day, we were never actually able to track back where the problem with those strawberries came from. We knew they were processed in a country somewhere in California. Their origin was Mexico, but we just could not track it back. So I think the DeLauro amendment is more than worthy; it is essential. She has my full support on this. I hope she has the attention of the membership. Let us get this DeLauro amendment incorporated in the final bill that we bring back from the other body.

Ms. DeLAURO. Mr. Chairman, I yield myself such time as I may consume. Mr. Chairman, this is simply an effort to try to build the infrastructure of the agencies that we charge with protecting our food, our food supply, which is ultimately about the food, but it is also about the health of our children and women and child in this country. That is all that we are asking about here.

Given the statistics, which are staggering, 5,000 deaths, 73 million people ill, 325,000 people hospitalized, it is unconscionable we do not recognize this as a crisis and as an emergency. We cannot allow this to continue. We can do something about it.

PARLIMENTARY INQUIRY

Mr. BONILLA. Mr. Chairman, I have a parliamentary inquiry. Is the gentleman from Connecticut (Ms. DeLAURO) withdrawing her amendment?

The CHAIRMAN pro tempore (Mr. WITTFIELD). Is the gentleman from Connecticut (Ms. DeLAURO) withdrawing her amendment, or does she continue to want to move forward on her amendment?

Ms. DeLAURO. Mr. Chairman, I would like to continue to move forward with my amendment.

POINT OF ORDER

The CHAIRMAN pro tempore. Does the gentleman from Texas (Mr. BONILLA) insist on his point of order?

Mr. BONILLA. Mr. Chairman, I do.

The CHAIRMAN pro tempore. The gentleman will state his point of order.

Mr. BONILLA. Mr. Chairman, I make a point of order against the amendment, because it proposes to change existing law and constitutes legislation in an appropriations bill, and, therefore, violates clause 2 of rule X XI. The rule states, in pertinent part, an amendment to a general appropriation bill shall not be in order if changing existing law.

The amendment includes an emergency designation under section 251(b)(2)(a) of the Balanced Budget and Emergency Deficit Control Act of 1985, and, as such, constitutes legislation in violation of clause 2 of rule X XI.

I ask for a ruling from the Chair.

The CHAIRMAN pro tempore. The gentleman from Connecticut want to be heard on the point of order?

Ms. DeLAURO. No, Mr. Chairman.

The CHAIRMAN pro tempore. Then the Chair is prepared to rule on the gentleman’s point of order.

The Chair finds that this amendment includes an emergency designation under section 251(b)(2)(a) of the Balanced Budget and Emergency Deficit Control Act of 1985, and, as such, constitutes legislation in violation of clause 2 of rule X XI.

The point of order is sustained. The amendment is not in order.

The CHAIRMAN pro tempore (Mr. WITTFIELD). The Committee will rise informally.

The SPEAKER pro tempore (Mr. LATHAM) assumed the Chair.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Edwin Thomas, one of his secretaries.

The SPEAKER pro tempore. The Committee will resume its sitting.

AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2002

The Committee resumed its seating. The CHAIRMAN pro tempore. The Clerk will read.

The Clerk read as follows:

OFFICE OF THE UNDER SECRETARY FOR FARM AND FOREIGN AGRICULTURAL SERVICES

For necessary salaries and expenses of the Office of the Under Secretary for Farm and Foreign Agricultural Service to administer the laws enacted by Congress, $118,000,000, of which $112,300,000 shall be for direct loans; Indian tribe land acquisition loans as authorized by 25 U.S.C. 488, $1,128,000,000, of which $1,000,000,000 shall be for unsubsidized guaranteed loans, $500,000,000 shall be for subsidized guaranteed loans, and $600,000,000 shall be for direct loans; Indian tribe land acquisition loans as authorized by 25 U.S.C. 488, $2,000,000; for emergency insured loans, $25,000,000 to meet the needs resulting from natural disasters; and for boll weevil eradication program described in the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (Public Law 106-387; 114 Stat. 1549A-12). AGRICULTURAL CREDIT INSURANCE FUND PROGRAM ACCOUNT (INCLUDING TRANSFER OF FUNDS)

For gross obligations for the principal amount of direct and guaranteed loans as authorized by 7 U.S.C. 1928-1929, to be available from funds in the Agricultural Credit Insurance Fund, as follows: for farm ownership and operating direct loans, $500,000,000 shall be for guaranteed loans and $5,000,000 shall be for direct loans; operating loans, $600,000,000, of which $5,000,000 shall be for unsubsidized guaranteed loans, $500,000,000 shall be for subsidized guaranteed loans, and $500,000,000 shall be for guaranteed loans; $700,000,000 shall be for rural development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (7 U.S.C. 5101-5106), $2,993,000. DAIRY INDEMNITY PROGRAM (INCLUDING TRANSFER OF FUNDS)

For necessary expenses in making indemnity payments to dairy farmers and manufacturers of dairy products under a dairy indemnity program, $100,000, to remain available until expended: Provided, That such program is carried out in the same manner as the dairy indemnity program described in the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (7 U.S.C. 5101-5106), $2,993,000.

For gross obligations for the principal amount of direct and guaranteed loans, including the cost of modifying loans as defined in section 502 of the Congressional Budget Act of 1974, as follows: for farm ownership and operating direct loans, $118,000,000, of which $112,300,000 shall be for direct loans; Indian tribe land acquisition loans as authorized by 25 U.S.C. 488, $2,000,000; for emergency insured loans, $25,000,000 to meet the needs resulting from natural disasters; and for boll weevil eradication program as authorized by 7 U.S.C. 1989, $100,000,000.

For the cost of direct and guaranteed loans, including the cost of modifying loans, $500,000,000 shall be for subsidized guaranteed loans, and $600,000,000 shall be for unsubsidized guaranteed loans, $67,800,000 shall be for guaranteed loans and $53,580,000 shall be for direct loans; operating loans, $274,769,000, of which $257,650,000 shall be for unsubsidized guaranteed loans, $87,900,000 shall be for subsidized guaranteed loans, and $53,580,000 shall be for direct loans; Indian tribe land acquisition loans as authorized by 25 U.S.C. 488, $1,128,000,000, of which $1,000,000,000 shall be for guaranteed loans and $3,363,000 to meet the needs resulting from natural disasters.

In addition, for administrative expenses necessary to carry out the direct and guaranteed loan programs, $282,769,000, of which $274,769,000 shall be transferred to and merged with the appropriation for ‘‘Farm Service Agency, Salaries and Expenses’’.

Funds appropriated by this Act to the Agricultural Credit Insurance Program Account for farm ownership and operating direct loans and guaranteed loans may be transferred among these programs: Provided, That the Appropriations Committees of both Houses of Congress be notified at least 15 days in advance of any transfer.

RISK MANAGEMENT AGENCY

For administrative and operating expenses, as authorized by the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 9833), $75,142,000, to remain available until expended: Provided, That not to exceed $700 shall be available for official reception and representation expenses, as authorized by 7 U.S.C. 9916.

CORPORATIONS

The following corporations and agencies are hereby authorized to make expenditures,
within the limits of funds and borrowing author-
ity available to each such corporation or
agency and in accord with law, and to make
contracts and commitments without regard to
disbursements as provided in section 104 of the
Government Corporation Control
Act as may be necessary in carrying out
the programs set forth in the budget for the
current year for such corporation or
agency, except as hereinafter provided.

FEDERAL CROP INSURANCE CORPORATION FUND
For payments as authorized by section 516
of the Federal Crop Insurance Act, such sums
appropriated in addition to the amounts
available until expended (7 U.S.C. 2209b).

COMMODITY CREDIT CORPORATION FUND
REIMBURSEMENT FOR NET REALIZED LOSSES
For fiscal year 2002, such sums as may be
necessary to reimburse the Commodity Credi-
tion for the net realized losses sus-
tained, but not previously reimbursed, pur-
suant to section 2 of the Act of August 17,

OPERATIONS AND MAINTENANCE FOR
Hazardous Waste Management
For fiscal year 2002, the Commodity Credit
Corporation shall not expend more than
$5,000,000 for site investigation and cleanup
expenses, and must use such funds in addition
to other authorized expenses to comply with
the requirement of section 107(g) of the
Comprehensive Environmental
Response, Compensation, and Liabil-
ity Act, 42 U.S.C. 9607(g), and section 6001 of the

TITLE II
CONSERVATION PROGRAMS
OFFICE OF THE UNDER SECRETARY FOR
NATURAL RESOURCES AND ENVIRONMENT
For costs and expenses of the Office of the Under Secretary for Natural Re-
sources and Environment to administer the
laws enacted by the Congress for the Forest Service
and the United States Forest Service
Service, $736,000.

NATURAL RESOURCES CONSERVATION SERVICE
CONSERVATION OPERATIONS
For necessary expenses for carrying out
the provisions of the Act of April 27, 1935 (16
U.S.C. 590 et seq.), including costs of prepara-
tion of conservation plans and establishment of
measures to conserve soil and water (including farm irrigation and land drainage and such special additional measures as may be necessary to prevent floods
and the siltation of reservoirs and to control agricultural related pollutants); operation of
conservation materials centers; acquisition, categ-
rification and mapping of soil; dissemination of
information; acquisition of lands, water, and
interests therein for use in the plant ma-
terials program by donation, exchange, or
purchase at a nominal cost not to exceed $100
pursuant to the Act of August 3, 1956 (7
U.S.C. 423a); purchase and erection or alter-
ation of structures, including buildings and public
improvements at plant materials centers, except
that the cost of alter-
ations and improvements to other build-
ings and other public improvements shall not
exceed $250,000: Provided further, That
such funds shall be available to the extent
that such funds are not employed at per diem rates to perform the technical planning work of the Service (16 U.S.C. 590e–2).

WATERSHED SURVEYS AND PLANNING
For necessary expenses to conduct re-
sor受损的河床和水道, and for small watershed investigations and planning, in accordance with the Watershed Protection and Flood Prevention Act approved August 4, 1954 (16 U.S.C. 1001–1009), $11,030,000:
Provided, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $25,000 shall be available for employment under 5 U.S.C. 3109: Provided further, That
such appropriation shall be available for technical assistance:
Provided further, That this appropriation shall be available for
employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $100,000 shall be available for employment under 5 U.S.C. 3109.

WATERSHED AND FLOOD PREVENTION OPERATIONS
For necessary expenses to carry out pre-
ventive measures, including but not limited to
research, engineering operations, methods of
cultivation, the growing of vegetation, re-
habilitation of existing works and changes in
use of land, in accordance with the Waters-
head Protection and Flood Prevention Act
approved August 4, 1954 (16 U.S.C. 1001–1009), and not to exceed
$250,000 shall be available for employment
under 5 U.S.C. 3109: Provided further, That
such appropriation shall be available for
employment pursuant to the second sentence of section 706(a) of the
Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $100,000 shall be available for employment under 5 U.S.C. 3109.

Provided further, That appropriations here-
derunder shall be available pursuant to 7 U.S.C. 2250 for construction and improvement of
buildings and public improvements at plant materials centers, and of
which not less than amount appropriated for
the grazing lands conservation initiative:

Provided further, That this appropriation shall be available for
employment pursuant to the second sentence of sec-
tion 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $50,000 shall be available
for employment under 5 U.S.C. 3109.

AGRICULTURAL CONSERVATION PROGRAM
PROVISIONS OF FUNDING
Of the funds appropriated for “Agricultural Conservation Program” under Public Law
104–37, $45,000,000 is hereby rescinded.

TITLE III
RURAL DEVELOPMENT PROGRAMS
OFFICE OF THE UNDER SECRETARY FOR RURAL
DEVELOPMENT
For necessary salaries and expenses of the
Office of the Under Secretary for Rural De-
velopment to administer programs under the
laws enacted by the Congress for the Rural
Housing Service, the Rural Business-Coopera-
tive Service, and the Rural Utilities Service of the Department of Agriculture, $658,000.

RURAL COMMUNITY ADVANCEMENT PROGRAM
(INCLUDING TRANSFERS OF FUNDS)
For the cost of direct loans, loan guaran-
tees, and grants, as authorized by 7 U.S.C. 1926, 1926a, 1926c, and 1922, except for the Consolidated Farm and Rural Development Act, 767,465,000, to remain available until expended, of which $34,503,000 shall be for rural conservation programs described in 43 U.S.C. 1561 et seq., $25,000 shall be available for employment under 5 U.S.C. 3109: Provided further, That such appropriation shall be available for
employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $7,500,000 shall be available for the rural business and coopera-
tive development programs described in sections 381E(d)(2) and 396d of such Act; of which
$658,000,000 shall be available for the rural utilities programs de-
scribed in sections 306B, 306C, and 396d of such Act; and of which
$73,968,000 shall be for the rural and cooper-
aive development programs described in sec-
tions 381E(d)(3) and 381E(d)(3); Provided further, That the total amount appropriated in this account, $24,000,000, shall be for loans and grants to benefit Federally Recognized Native American Tribes for drinking water and waste disposal systems pursuant to section 306C of such Act, of which $4,000,000 shall be available for
community facilities grants to tribal colleges, as authorized by section 306(a)(19) of the
Consolidated Farm and Rural Development Act, and of which $250,000 shall be available for a program to develop the abil-
ity of private, nonprofit community-based housing and community development organiza-
lizations, low-income rural communities, and Federally Recognized Native American tribes to undertake projects to improve
housing, community facilities, community
and economic development projects in rural
areas: Provided further, that such funds shall be made available to qualified private and nonprofit intermediary organizations providing technical assistance for rural transpor-
tation in order to promote economic de-
velopment: Provided further, That the
amount appropriated for the Rural Development Initiative: Provided further, That such funds shall be made available to qualified private and nonprofit intermediary organizations providing for
carry out a program of financial and tech-
nical assistance: Provided further, That
such intermediary organizations shall provide matching funds from other sources, includ-
ing Federal funds for related activities, in an amount not less than funds provided: Provided fur-
ther, That of the amount appropriated for
the rural business and cooperative
development programs, not to exceed $500,000 shall be available to a qualified national organization to provide
 technical assistance for rural transportation in
order to promote economic development; Provided further, That of the amount appropriated for
the rural business and cooperative
development programs, not to exceed $500,000 shall be available to a qualified national organization to provide
technical assistance for rural transportation in
order to promote economic development; Provided further, That of the amount appropriated for
such program shall be available to
the Mississippi Delta region: Provided fur-
ther, That of the amount appropriated for

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rural utilities programs, not to exceed $20,000,000 shall be for water and waste disposal systems to benefit the Colonias along the United States-Mexico borders, including grants of section 306 of such Act, not to exceed $20,000,000 shall be for water and waste disposal systems for rural and native villages in Alaska pursuant to section 306D of such Act, not to exceed $16,215,000 shall be for technical assistance grants for rural water and waste systems pursuant to section 306(a), and not to exceed $11,000,000 shall be for contracting with qualified national organizations for a circuit rider program to provide technical assistance.

For necessary expenses for carrying out the administration and implementation of programs in the Rural Development mission area, including activities with institutions concerning the development and operation of agricultural cooperatives, and for cooperative agreements; $134,733,000: Provided, That this appropriation shall be available for employment pursuant to the second sentence of section 19 of the Agricultural Act of 1981 (7 U.S.C. 2225), and not to exceed $1,000,000 may be used for employment under 5 U.S.C. 3109: Provided further, That not more than $10,000 may be used for the purpose of providing modest monetary awards to non-U.S.D.A. employees: Provided further, That any balances available from prior years for the Rural Utilities Service, and the Rural Business-Cooperative Service salaries and expenses accounts shall be transferred to and merged with this account.

For necessary expenses for the administration and implementation of programs in the Rural Development mission area, including activities with institutions concerning the development and operation of agricultural cooperatives, and for cooperative agreements; $134,733,000: Provided, That this appropriation shall be available for employment pursuant to the second sentence of section 19 of the Agricultural Act of 1981 (7 U.S.C. 2225), and not to exceed $1,000,000 may be used for employment under 5 U.S.C. 3109: Provided further, That not more than $10,000 may be used for the purpose of providing modest monetary awards to non-U.S.D.A. employees: Provided further, That any balances available from prior years for the Rural Utilities Service, and the Rural Business-Cooperative Service salaries and expenses accounts shall be transferred to and merged with this account.

For necessary expenses for the administration and implementation of programs in the Rural Development mission area, including activities with institutions concerning the development and operation of agricultural cooperatives, and for cooperative agreements; $134,733,000: Provided, That this appropriation shall be available for employment pursuant to the second sentence of section 19 of the Agricultural Act of 1981 (7 U.S.C. 2225), and not to exceed $1,000,000 may be used for employment under 5 U.S.C. 3109: Provided further, That not more than $10,000 may be used for the purpose of providing modest monetary awards to non-U.S.D.A. employees: Provided further, That any balances available from prior years for the Rural Utilities Service, and the Rural Business-Cooperative Service salaries and expenses accounts shall be transferred to and merged with this account.

For necessary expenses for the administration and implementation of programs in the Rural Development mission area, including activities with institutions concerning the development and operation of agricultural cooperatives, and for cooperative agreements; $134,733,000: Provided, That this appropriation shall be available for employment pursuant to the second sentence of section 19 of the Agricultural Act of 1981 (7 U.S.C. 2225), and not to exceed $1,000,000 may be used for employment under 5 U.S.C. 3109: Provided further, That not more than $10,000 may be used for the purpose of providing modest monetary awards to non-U.S.D.A. employees: Provided further, That any balances available from prior years for the Rural Utilities Service, and the Rural Business-Cooperative Service salaries and expenses accounts shall be transferred to and merged with this account.

Rental Assistance Program
For rental assistance agreements entered into after July 1996, and for loan guarantees under section 381E(d)(1) of such Act: Provided further, That this amount may be used for loan guarantees entered into after July 1996, and for rental assistance agreements: Provided further, That the amount appropriated for rental assistance agreements is to be reduced by not more than $5,900,000 if the Secretary of Agriculture determines that the amount is not necessary.

Ms. KAPTTUR. Mr. Chairman, will the gentleman yield?
Mr. CLAYTON. I yield to the gentlewoman from Ohio.

Ms. KAPTTUR. Mr. Chairman, just so we understand what is occurring here, I just want to make sure that the gentlewoman from North Carolina will have the opportunity to bring up her amendment at a later time, even if it might be out-of-page order, and it may not be able to come up later today, but maybe when we come back from the 4th of July.

Mr. Chairman, we just want to reserve her rights to bring this up and work out whatever needs to be done with the majority.

Mr. BONILLA. Mr. Chairman, if the gentlewoman will yield, we would have no objection to that, and she would be allowed to do that.

Ms. KAPTTUR. Mr. Chairman, I thank the gentleman.

The CHAIRMAN pro tempore. Without objection, the gentlewoman from North Carolina (Mrs. CLAYTON) will be able to reoffer her amendment.

Mrs. CLAYTON. Do I need further instruction from the Chair? I just want to make sure, have I reserved my right? Is my amendment protected? All right.

The CHAIRMAN pro tempore. The gentlewoman will be allowed to at a later point in the reading to offer her amendment notwithstanding having reserved the appropriate point in the reading.

The Clerk will read.

The Clerk read as follows:

Rental Assistance Program
For rental assistance agreements entered into after July 1996, and for loan guarantees under section 381E(d)(1) of such Act: Provided further, That the amount appropriated for rental assistance agreements is to be reduced by not more than $5,900,000 if the Secretary of Agriculture determines that the amount is not necessary.
U.S.C. 1490(c), $33,925,000, to remain available until expended (7 U.S.C. 2209b): Provided, That the total amount appropriated, $1,000,000 shall be available through June 30, 2002, for authorized empowerment zones and enterprise communities and communities designated by the Secretary of Agriculture as Rural Economic Area Partnership Zones.

RURAL HOUSING ASSISTANCE GRANTS
For grants and contracts for very low-income housing repair, supervisory and technical assistance, compensation for construction defects, and rural housing preservation made through Rural Housing Service, as authorized by 42 U.S.C. 1474, 1476(c), 1490e, and 1490m, $38,914,000, to remain available until expended: Provided, That of the total amount appropriated the principal amount of direct loans shall be available through June 30, 2002, for authorized empowerment zones and enterprise communities and communities designated by the Secretary of Agriculture as Rural Economic Area Partnership Zones.

FARM LABOR PROGRAM ACCOUNT
For the cost of direct loans, grants, and contracts, as authorized by 42 U.S.C. 1494 and 1496, $31,431,000, to remain available until expended for farm labor housing grants and contracts.

RURAL BUSINESS—COOPERATIVE SERVICE
RURAL DEVELOPMENT LOAN FUND PROGRAM ACCOUNT
(INCLUDING TRANSFER OF FUNDS)
For the principal amount of direct loans, as authorized by the Rural Development Loan Fund (42 U.S.C. 9812(a)), $38,171,000.

For the cost of direct loans, $16,494,000, as authorized by the Rural Development Loan Fund (42 U.S.C. 9812(a)), of which $1,724,000 shall be for Federally Recognized Native American Tribes and of which $3,468,000 shall be for Puerto Rico and the Virgin Islands (defined by Public Law 100-460): Provided, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: Provided further, That these funds are available to subsidize gross obligations for the principal amount of direct loans of $38,171,000: Provided further, That the total amount appropriated, $2,730,000 shall be available through June 30, 2002, for the cost of direct loans for authorized empowerment zones and enterprise communities and communities designated by the Secretary of Agriculture as Rural Economic Area Partnership Zones.

In addition, for administrative expenses to carry out the direct loan programs, $3,761,000 shall be transferred to and merged with the appropriation for “Rural Development, Salaries and Expenses”.

RURAL ECONOMIC DEVELOPMENT LOANS PROGRAM ACCOUNT
(INCLUDING RESCSSION OF FUNDS)
For the principal amount of direct loans, as authorized under section 318 of the Rural Electrification Act, for the purpose of promoting rural economic development and job creation projects, $14,967,000, to remain available until expended, for designated rural empowerment zones and rural enterprise communities as authorized in the Taxpayer Relief Act of 1997.

RURAL UTILITIES SERVICE
RURAL ELECTRIFICATION AND TELECOMMUNICATIONS LOANS PROGRAM ACCOUNT
(INCLUDING TRANSFER OF FUNDS)
Insured loans pursuant to the authority of section 306 of the Rural Electrification Act of 1936 (7 U.S.C. 935) shall be made as follows: 5 percent rural electrification loans $121,107,000; municipal rate rural electric loans, $764,383,000; guaranteed electric loans pursuant to section 306 of that Act, rural electric, $2,600,000,000; Treasury rate direct electric loans, $16,500,000,000; guaranteed electric loans, $100,000,000; rural telecommunications loans, $74,827,000; cost of money rural telecommunications loans, $500,000,000; and rural telecommunications loans, $120,000,000.

For the cost, as defined in section 502 of the Congressional Budget Act of 1974, including the cost of making of direct and guaranteed loans authorized by the Rural Electrification Act of 1936 (7 U.S.C. 933 and 934), as follows: cost of rural electric loans, $5,685,000,000; guaranteed electric loans, $2,036,000,000: Provided, That notwithstanding section 306(d)(2) of the Rural Electrification Act of 1996, borrower interest rates may exceed 7 percent per year.

In addition, for administrative expenses necessary to carry out the direct and guaranteed loan programs, $36,322,000, which shall be transferred to and merged with the appropriation for “Rural Development, Salaries and Expenses”.

RURAL TELEPHONE BANK PROGRAM ACCOUNT
(INCLUDING TRANSFER OF FUNDS)
The Rural Telephone Bank is hereby authorized to purchase, within the limits of funds available to such corporation in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as may be necessary in carrying out its authorized programs. During fiscal year 2002 and within the resources and authority available, gross obligations for the principal amount of direct loans shall be $174,615,000.

For the cost, as defined in section 502 of the Congressional Budget Act of 1974, including the cost of modifying loans, of direct loans authorized by the Rural Electrification Act of 1936 (7 U.S.C. 935), $2,584,000.

In addition, for administrative expenses, including audits, necessary to carry out the loan programs, $3,107,000 which shall be transferred to and merged with the appropriation for “Rural Development, Salaries and Expenses”.

DISTANCE LEARNING AND TELEMEDICINE PROGRAM
For the principle amount of direct distance learning and telemedicine loans, $300,000,000; and for the principle amount of broadband telecommunication loans, contingent upon the enactment of authorizing legislation, $100,000,000.

For the cost of direct loans and grants, as authorized by 7 U.S.C. 950aaa et seq., $28,041,000, to remain available until expended, for agricultural and rural development and distance learning services in rural areas: Provided, That, contingent upon the enactment of authorizing legislation, $1,996,000 may be available for a loan and grant program to finance broadband transmission and local dial-up Internet service in areas that meet the definition of “rural area” used for the Distance Learning and Telemedicine Program authorized by 7 U.S.C. 950a; Provided further, That the cost of direct loans shall be as defined in section 502 of the Congressional Budget Act of 1974.

TITLE IV
DOMESTIC FOOD PROGRAMS
OFFICE OF THE UNDER SECRETARY FOR FOOD, NUTRITION AND CONSUMER SERVICES
For necessary salaries and expenses of the Office of the Under Secretary for Food, Nutrition and Consumer Services to administer the laws enacted by the Congress for the Food and Nutrition Service, $592,000.

FOOD AND NUTRITION SERVICE
PROGRAM ACCOUNT
(INCLUDING TRANSFER OF FUNDS)
For necessary expenses to carry out the National School Lunch Act (42 U.S.C. 1751 et seq.), except section 21, and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), except sections 17 and 21, $13,088,746,000, to remain available until September 30, 2003, of which $4,748,038,000 is hereby appropriated and $5,340,708,000 shall be derived by transfer under this heading as authorized in the Food and Nutrition Service Act of August 24, 1935 (7 U.S.C. 612c): Provided, That except as specifically provided under this heading, none of the funds made available under this heading shall be used for studies and evaluations: Provided further, That up to $4,507,000 shall be available for independent verification of school food service claims: Provided further, That of the funds provided under this heading, $2,000,000 shall be available for new activities to enhance integrity in the National School Lunch Program.

AMENDMENT OFFERED BY MRS. DAVIS OF CALIFORNIA
Mrs. DAVIS of California. Mr. Chairman, I offer an amendment.

The Clerk read as follows: Amendment offered by Mrs. Davis of California:

In title IV under the heading “CHILD NUTRITION PROGRAMS”, insert before the period at the end the following: “Provided further, That the Secretary of Agriculture may not take into account the availability of a basic allowance for housing for members of the Armed Forces when determining the eligibility of persons for free or reduced-price lunch programs.”

Mr. BONILLA. Mr. Chairman, I reserve a point of order. We have not seen this amendment.

The CHAIRMAN pro tempore. The point of order is overruled.

Mrs. DAVIS of California. Mr. Chairman, I realize this amendment will most likely not be ruled in order, but I offer it to raise awareness to a critical problem.

In an effort to leverage its limited quality-of-life resources, the armed services are privatizing military family housing. I support this effort. In fact, we have some wonderful projects online
in San Diego. But as you know, obviously there are unintended consequences of a good program. I would like to point out two in particular.

This is creating a loss of income to school districts, and it is affecting the eligibility for free and reduced school lunch programs for the children of military families.

Let me give my colleagues some background. When a family lives in a military family housing community, they do not forfeit their basic housing allowance. But when that community housing becomes privatized, this basic allowance for housing is included on the servicemembers’ pay statement. That is called an EES. Servicemembers do not actually receive this income, however. It is basically pass-through.

Unfortunately, under the Department of Agriculture rules, this amount is included as income in determining eligibility for free and reduced school lunches.

The Department of Defense adds the allowance to the pay statement to assist them in accounting, but the servicemember is not getting any additional pay for the family, and certainly not for food for their children.

Then, perhaps, on a Sunday, the military housing community is owned and operated by the military. But on Monday, that housing community is operated by a private company, still on the Federal land, but the company has never moved, but has less money really in his pocket if his child does not become eligible for free and reduced lunch. They had that eligibility before.

So families are losing some assistance. Children are losing their free lunches, and school districts are losing Federal funds. It is the smaller school districts particularly that are especially affected by this. So we need to take a look at this issue, and I think we need to change the rules. This is no way, I believe, to treat the men and women who sacrifice so much in service to our country. So what my amendment would do would be to prevent the housing allowance from being used when determining eligibility for child nutrition programs.

There is another issue that we are going to face as well. I hope that we can increase the basic housing allowance for all servicemembers regardless of where I know in my community of San Diego, people are paying far greater than they should out of pocket.

As we increase that need and keep pace with rising housing costs, we need to be certain that it is indexed at the end of the day so that there is still more money for the families to feed their children. We do not want to cause them to lose this valuable assistance that they receive, the children receive at school, if it looks as if their incomes have increased when in fact, we know they really have not.

So I asked the assistance of my colleagues on this issue and the commitment of the chairman to work with me to resolve this issue.

The CHAIRMAN pro tempore. Does the gentleman from Texas (Mr. BONILLA) insist on his point of order? Mr. BONILLA. Mr. Chairman, I would let the gentleman from California (Mrs. DAVIS) go on.

The CHAIRMAN pro tempore. Does the gentleman from California intend to withdraw her amendment? Mrs. DAVIS of California. Mr. Chairman, yes. I hope that we can work together on this, and I certainly will ask to withdraw my amendment.

Ms. KAPTUR. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would just like to say to the gentleman from California (Mrs. DAVIS) and to the chairman of the subcommittee that I do believe the gentleman has really brought up an issue that we never have considered, never were asked to consider during our regular hearings and so forth.

I think this does involve also the authorizing of the Committee on Education and the Workforce since they have jurisdiction over the school lunch program, the Department of Defense adds the allowance to the pay statement, although we have jurisdiction over the expenditures for that.

Knowing that some of our military personnel are extremely pressed, even some eligible for food stamps when serving the Government of the United States at points around the world, it would seem to me that we should find a way to encourage the Department of Education, the Department of Agriculture to treat our military personnel with the respect that they deserve.

I want to compliment the gentlewoman for bringing this issue to the attention of our subcommittee and pledge my own cooperation with her in resolving this in the weeks and months ahead. I would also encourage her to testify before the Committee on Education and the Workforce as well as the authorizing Committee on Agriculture.

We here on the Committee on Appropriations will continue to work with the gentlewoman from California (Mrs. DAVIS) as we move to conference with the other body.

The CHAIRMAN pro tempore. Does the gentlewoman from California (Mrs. DAVIS) intend to withdraw her amendment? Mrs. DAVIS of California. Yes, Mr. Chairman, I will do that. I know that there are colleagues on the other side of the aisle as well who have confronted this problem in their community, and I appreciate their help and support on this as well.

Mr. Chairman, I ask unanimous consent to withdraw my amendment.

The CHAIRMAN pro tempore. Is the gentlewoman from California (Mrs. DAVIS) going to withdraw her amendment?

Mr. Chairman, I would like to take this opportunity to speak on behalf of this amendment which was introduced by the gentlewoman from California (Mrs. DAVIS). At a time when retention in the military is down, we need to find as many ways as possible to support our soldiers, airmen, marines, and their families.

The Department of Agriculture’s current policy of counting the basic allowance for housing as part of income is unfair to the young men and women of the military who have dedicated their lives in service to our country.

Many military families, many new military families are finding it difficult just to make ends meet. Many are living just above the poverty level. The long hours, the months away from loved ones and low-paying jobs for spouses is often the norm for these families. When military communities introduced privatized housing to help military bases save on operating costs, it, unfortunately, does not always save money for the servicemember.

When a member lives on base, they forfeit their basic allowance for housing. When a member lives in a privatized community, the Department of Defense adds the allowance to their pay statement, but this is money they never see.

When the Department of Agriculture includes this amount as income, it affects many families’ eligibility for free or reduced school lunches. School districts lose their assistance, and school districts lose Federal funds that receive this money to assist for free and reduced school lunch programs.

At the Naval Amphibious Base Little Creek in Virginia Beach, they are working with the Department of Housing Authority to plan for privatized housing in Virginia Beach and Norfolk, which I represent. I do not want to see what is happening in the district of the gentlewoman from California (Mrs. DAVIS) happen to the military families in our area.

I urge my colleagues to support this amendment. I thank the gentlewoman from California (Mrs. DAVIS) for introducing this amendment.

The CHAIRMAN pro tempore. The Clerk will read.

The Clerk read as follows:

SPECIAL SUPPLEMENTAL NUTRITION PROGRAM FOR WOMEN, INFANTS, AND CHILDREN (WIC) (INCLUDING TRANSFERS OF FUNDS)

For necessary expenses to carry out the special supplemental nutrition program as authorized by section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786), $4,137,086,000, to remain available through September 30, 2003: Provided, That none of the funds made available under this heading shall be used for studies and evaluations: Provided further, That of the total amount available, the Secretary may obligate up to $25,000,000 for the farmers’ market nutrition program and up to $15,000,000 for senior farmers’ market activities from any funds not needed to maintain the caseload levies further. That notwithstanding section 17(h)(10)(A) of such Act, up to $10,000,000 shall be available...
for the purposes specified in section 17(b)(10)(B), no less than $6,000,000 of which shall be used for the development of electronic benefit transfer systems: Provided further, That none of the funds provided herein shall be available for the purchase of infant formula except in accordance with existing or future competitive bidding requirements specified in section 17 of such Act: Provided further, That none of the funds provided herein shall be available only for simplifying procedures, improving food stamp benefit delivery, and assisting in the prevention, identification, and prosecution of fraud and other violations of law and of which not less than $4,500,000 shall be available to improve integrity in the Food Stamp and Child Nutrition programs: Provided, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Omnibus Trade and Competitiveness Act of 1982, and not to exceed $150,000 shall be available for employment under 5 U.S.C. §109.

TITLE V
FOREIGN ASSISTANCE AND RELATED PROGRAMS
FOREIGN AGRICULTURAL SERVICE
SALARIES AND EXPENSES
(INCLUDING TRANSFERS OF FUNDS)
For necessary expenses of the Foreign Agricultural Service, including carrying out title VI of the Agricultural Act of 1954 (7 U.S.C. 1761-1768), market development activities abroad, and for enabling the Secretary to coordinate and integrate activities of the Department in connection with foreign agricultural work, including not to exceed $158,000 for representation allowances and for expenses pursuant to section 8 of the Act approved May 18, 1970, §122,631,000, Provided, That the Service may utilize advances of funds, or reimburse this appropriation for expenditures made on behalf of Federal, State and private organizations and institutions under agreements executed pursuant to the agricultural food production assistance programs (7 U.S.C. 1757) and the foreign assistance programs of the United States Agency for International Development: Provided further, That none of the funds appropriated in this account may be used to pay the salaries and expenses of personnel to disburse funds to any rice trade association under the market access program or the foreign market development program, or the applicable international activity agreement for such program is not in effect.

FOOD STAMP PROGRAM
SALARIES AND EXPENSES
(INCLUDING TRANSFERS OF FUNDS)
For necessary expenses to carry out the commodity supplemental food program as authorized by section 4(a) of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 1737), and the Emergency Food Assistance Act of 1983, §52,813,000, to remain available through September 30, 2003: Provided, That none of these funds shall be available for employment purposes except as permitted by law: Provided further, That funds made available for Employment and Training under this heading shall remain available until expended, as authorized by section 16(b)(1) of the Food Stamp Act: Provided further, That funds provided under this heading shall be available only for purposes necessary for program operations in this or subsequent fiscal years until electronic benefit transfer implementation is complete.

FOOD DONATIONS PROGRAM
SALARIES AND EXPENSES
(INCLUDING TRANSFERS OF FUNDS)
For necessary expenses to carry out the commodity food donation programs as authorized by section 6 of the Emergency Food Assistance Act of 1983, §52,813,000, to remain available through September 30, 2003: Provided, That none of these funds shall be available for Employment purposes except as permitted by law: Provided further, That none of the funds provided in this account shall be available for the purchase of infant formula except in accordance with existing or future competitive bidding requirements specified in section 17 of such Act: Provided further, That none of the funds provided in this account shall be available only for simplifying procedures, improving food stamp benefit delivery, and assisting in the prevention, identification, and prosecution of fraud and other violations of law and of which not less than $4,500,000 shall be available to improve integrity in the Food Stamp and Child Nutrition programs: Provided, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Omnibus Trade and Competitiveness Act of 1982, and not to exceed $150,000 shall be available for employment under 5 U.S.C. §109.

PUBLIC LAW 98-477
TITLE I
OCEAN FREIGHT DIFFERENTIAL GRANTS
(INCLUDING TRANSFERS OF FUNDS)
For expenses during the current fiscal year, not otherwise recoverable, and unrecovered prior years' costs, including interest thereon, under the Agricultural Trade Development and Assistance Act of 1954, $20,277,000, to remain available until expended, for ocean freight differential costs for the shipment of agricultural commodities under that Act: Provided, That none of the funds made available for the cost of title I agreements and for title I ocean freight differential may be used interchangeably between the two accounts with prior notice to the Committees on Appropriations of both Houses of Congress.

PUBLIC LAW 98-478
TITLES II AND III
For expenses during the current fiscal year, not otherwise recoverable, and unrecovered prior years' costs, including interest thereon, under the Agricultural Trade Development and Assistance Act of 1954, $835,159,000, to remain available until expended, for commodities supplied in connection with dispositions abroad under title II of said Act.

COMMODITY CREDIT CORPORATION EXPORT LOANS PROGRAM ACCOUNT
(INCLUDING TRANSFERS OF FUNDS)
For administrative expenses to carry out the Commodity Credit Corporation's export guarantee program, GSM 102 and GSM 103, $4,021,000, to cover common overhead expenses as permitted by section 11 of the Commodity Credit Corporation Charter Act and in conformity with the Federal Credit Reform Act of 1990, of which $3,224,000 may be transferred to and merged with the appropriation for "Foreign Agricultural Service, Salaries and Expenses" and $797,000 may be transferred to and merged with the appropriation for "Farm Service Agency, Salaries and Expenses".

TITLE VI
RELATED AGENCIES AND FOOD AND DRUG ADMINISTRATION
DEPARTMENT OF HEALTH AND HUMAN SERVICES
FOOD AND DRUG ADMINISTRATION
SALARIES AND EXPENSES
For necessary expenses of the Food and Drug Administration, including hire and purchase of passenger motor vehicles; for payment of space rental and related costs pursuant to the Public Law 92-379, and for carry out the requirements and activities of the Food and Drug Administration which are included in this Act; for rental of special purpose space in the District of Columbia or elsewhere; and for miscellaneous and emergency expenses of enforcement activities, authorized and approved by the Secretary and to be accounted for solely in the annual appropriations for such enforcement activities, not to exceed $25,000; $872,000, of which not to exceed $161,716,000 to be derived from prescription drug user fees authorized by 21 U.S.C. §379(e), from a credit appropriation prior to the current fiscal year but credited during the current year, in accordance with 21 U.S.C. §379(e)(4), and shall be credited to this appropriation and remain available until expended: Provided, That of the total amount appropriated $6,000,000 for costs related to occupancy of new facilities at White Oak, Maryland, shall remain available until September 30, 2003.

AMENDMENT OFFERED BY MR. BROWN OF OHIO
Mr. BROWN of Ohio. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Brown of Ohio: In title VI, in the item relating to "DEPARTMENT OF HEALTH AND HUMAN SERVICES—FOOD AND DRUG ADMINISTRATION—SALARIES AND EXPENSES", insert before the period at the end of the paragraph the following:

Provided further, That of the total amount appropriated, $2,500,000 is available for the purpose of carrying out activities of the Food and Drug Administration with respect to abbreviated applications for the approval of new drugs under section 505(j) of the Food, Drug and Cosmetic Act, and $250,000 is available under section 908(d)(2)(D) of such Act for the purpose of
carrying out public information programs regarding drugs with approved such applications, in addition to other allocations for such purposes made from such total amount

Mr. BROWN of Ohio (during the reading). Mr. Chairman, I ask unanimous consent that the remainder be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. BROWN of Ohio. Mr. Chairman, I ask unanimous consent that all debate on this amendment be limited to 20 minutes and that the time be equally divided.

The CHAIRMAN pro tempore (Mr. WHITFIELD). The time equally divided between the proponent and an opponent?

Mr. BONILLA. Yes, Mr. Chairman.

The CHAIRMAN pro tempore. The time objection to the request of the gentleman from Texas?

There was no objection.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Ohio, Mr. BROWN.

Mr. BROWN of Ohio. Mr. Chairman, I yield myself 3 minutes and 15 seconds.

Within the next 5 years, patents on brand-name drugs with combined U.S. sales approaching $20 billion will expire. Within some segment of the savings with generic competition, it has never been more important to reduce unnecessary delays in FDA approval of generic drugs.

The amendment I am offering today, along with the gentleman from California (Mr. WAXMAN), the gentleman from Michigan (Mr. DINGELL), the gentleman from Arkansas (Mr. BERRY), and the gentleman from New Jersey (Mr. PALLONE), would increase funding for the Office of Generic Drugs by $2.5 million. Our amendment builds on the Office of Generic Drugs the resources it needs, we can make a tangible difference in easing the prescription drug spending burden. Opportunities to reduce both public and private spending on prescription drugs using savings in cost or quality are very hard to come by.

Our amendment provides an additional $250,000 to fully fund a national campaign to raise public awareness about generic drugs. Generic drugs are just as safe and just as effective as brand-name drugs; they are just cheaper. But there is clearly an information gap when it comes to generics. Eighty-three percent of Americans report no bias against generic drugs, but 54 percent of patients fill prescriptions with the generics. There is a misperception that as conditions become more serious, the use of generic drugs becomes more risky. The greatest bias against generic drugs exists when cost savings, unfortunately when cost savings are potentially the greatest for serious conditions requiring expensive long-term treatment.

If we can get generic drugs to market on a more timely basis and encourage more widespread use of these products, the public and private sector savings will quickly dwarf our investment. I ask the Members of this Congress to support the amendment.

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

Mr. Chairman, I rise in opposition to the amendment. The bill that the committee has presented to the House includes a very carefully balanced recommendation for funding for the Food and Drug Administration. The $39 million provided in this bill for generic drug activities includes a 17 percent increase for generic drug review, generous by any standard. I should also note that the funding for generics includes the only FDA program increase above the President’s budget, which certainly demonstrates our commitment to affordable, effective, and safe generic drugs. So, again, I rise in opposition to the amendment.

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

Mr. BROWN of Ohio. Mr. Chairman, I yield 2 minutes to the gentleman from Arkansas (Mr. BERRY), who has fought for low-cost prescription drugs for several years in this body.

Mr. BERRY. Mr. Chairman, I want to thank the distinguished gentleman from Ohio for his leadership in this effort.

The American people, Mr. Chairman, are continuing to be robbed by the actions of a few hundred manufacturers in this country. The reason that happens is because they have patent protection, they have trade barriers to protect them, and they have limited access to generic medicine. It is time that we do something about that. It is time that we make reasonably priced prescription medicine available to the American people. We know that they could be saving $20 billion a year today if they had access to generic medicine that is not available to them today.

What we are asking in this amendment is that we provide $2.5 million to the FDA so they can have the ability to approve more generic medicine to provide the American people that would be offered at a much more reasonable price and create competition in the prescription medicine market that we have to deal with today. Generic drugs cost, on the average, 75 percent less than brand name.

As I said, we know that we can save the American people $20 billion a year if we do this. It takes 6 to 12 months to review a new drug application, but it takes 18 months today, because of FDA’s limited ability, to approve a generic drug application. This does not make any sense that this would be the case.

So I urge the Members of this House to vote for this amendment and support the effort of the gentleman from Ohio to provide the American people with reasonably priced prescription medicine. 

Mr. BROWN of Ohio. Mr. Chairman, I yield 1½ minutes to the gentleman from New Jersey (Mr. PALLONE), who has been very involved in health care issues, especially prescription drug and managed care issues.

Mr. PALLONE. Mr. Chairman, I rise in support of the Brown amendment. There is a need for statutory or legislative initiatives that allow timely access and availability of generic drugs once the patent on a brand-name drug expires. Brand-name companies have become proficient in manipulating Hatch-Waxman law and aggressive campaigns to block or delay generic alternatives from reaching the market.

One way of alleviating this problem is to provide more funding to the FDA’s Office of Generic Drugs. Currently, the agricultural appropriation bill includes a $1.75 million increase in funding for this office, and I would like to see an additional $125 million for the Office of Generic Drugs. In addition, I would like to see an investment of an additional $250,000 on top of the $250,000 already in the bill for a national campaign to raise public awareness about the safety and cost effectiveness of generics.

The tactics used by the brand-name industry to delay generic drugs from
coming on the market are widespread and well known. By giving the FDA Office of Generic Drugs the appropriate levels of funding, it will have the resources to help move generic drugs to the market more quickly, to run an education campaign, and to overall significantly lower the cost of prescription drugs.

We need more money for this office so we can reduce the cost of prescription drugs, which is so important to our seniors and to so many Americans. I congratulate the gentleman from Ohio (Mr. BROWN) for bringing this up, and I urge all my colleagues to support the amendment.

Mr. BROWN of Ohio. Mr. Chairman, I yield 1 minute to the gentlewoman from Missouri (Mrs. EMERSON).

Mrs. EMERSON. Mr. Chairman, I would like to speak in favor of this amendment. This is a very critical allocation of funds, primarily because we are having such a difficult time in getting generic drugs to the market.

Let me just point out that I am the sole person who is responsible for my mother-in-law. I just wrote a check to Bill’s Pharmacy in Cape Girardeau, Missouri, $536 for four different medicines. The month before that I wrote a check for $572. The month before that I wrote a check for $335. And these are for brand-name drugs because it is very difficult to get a generic equivalent to market. It is atrocious.

Now, my mother-in-law has a supplemental Blue Cross/Blue Shield policy. It only goes up to $1,500, so my colleagues can imagine how quickly she uses that, because of the money that I have had to spend on her behalf.

So, Mr. Chairman, I think this is an absolutely important and critical amendment, and I hope that the chairman will allow it to be considered.

Mr. BROWN of Ohio. Mr. Chairman, I thank the gentleman from Missouri. Mr. Chairman, I yield 30 seconds to my friend, the gentleman from Texas (Mr. GREEN).

Mr. GREEN of Texas. Mr. Chairman, I am proud to stand in support of the bill. I want to thank both the chairman of the subcommittee and also the ranking member because this amendment actually builds on the $1.5 million increase they have in the bill. This will help move generic drugs to the market quicker. We are talking about $2.5 million. That typically takes 6 to 12 months to review a new drug application, but 18 months for the generic drugs.

This will help all our people, but particularly our seniors, who take more prescription drugs and spend billions every year on prescription drugs. Let us see if we can get generics there to save our seniors some dollars.

Mr. BROWN of Ohio. Mr. Chairman, how much time do I have remaining?

The CHAIRMAN. The gentleman from Ohio has 2 minutes remaining.

Mr. BROWN of Ohio. Mr. Chairman, I yield 1½ minutes to the gentlewoman from Ohio (Ms. KAPTUR).

Ms. KAPTUR. Mr. Chairman, I thank the gentleman for yielding me this time, and I thank him so very much for bringing up this important amendment.

I think it is important for the membership to know that the bill does not involve any new money but merely a reallocation of funds within the Food and Drug Administration itself. So this is a very, very worthy amendment.

We have had to try to fight in this bill and the bill last year to try to get more attention to the approval of generic drugs, which so many Americans obviously need. They are a lot less expensive. I can remember when Claude Pepper used to stand on this floor trying to get generic drug incentives put into the law.

So I want to thank the gentleman from Ohio, as always, taking the leadership on health questions and certainly trying to get medicine to people who need it. In my neighborhood, there are many people who make a choice, between food and medicine every weekend when they shop at the local supermarket. This will help families like them.

We need to get FDA working more quickly. And I am so happy that the gentleman from the Committee on Energy and Commerce has brought this to our attention and has given us additional drive to get additional generic drugs approved. So I fully support his amendment. It is within the budget resolution within our allocation, and I would urge the membership to support him.

Mr. BROWN of Ohio. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I thank the gentlewoman from Toledo.

In summary, Mr. Chairman, this amendment increases funding for the Office of Generic Drugs, to speed the approval process for generic drugs, to get them on the market more quickly, because generic drugs save money; always 40 to 60 to 80 percent over the price of a name-brand drug, sometimes as much as 90 percent. Consumers deserve access to generic drugs as quickly as possible. It will save money for America’s consumers; it will save money for all levels of government that provide prescription drugs to employees and to citizens of this country; it will save money for employer health care plans designated 13 near-term priorities to deal with the problem of antibiotic resistance.

Mr. Chairman, I ask for support of the Brown amendment on generics.

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

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. BROWN).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. BROWN of Ohio. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Ohio (Mr. BROWN) will be postponed.

AMENDMENT OFFERED BY MR. BROWN OF OHIO

Mr. BROWN of Ohio. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BROWN of Ohio.

In title VI, in the item relating to ‘DEPARTMENT OF HEALTH AND HUMAN SERVICES—FOOD AND DRUG ADMINISTRATION—SALARIES AND EXPENSES’; insert before the period at the end of the first paragraph the following:

: Provided further, That of the total amount appropriated, $5,000,000 is available for the purpose of carrying out the responsibilities of the Food and Drug Administration with respect to antibiotic drugs, in addition to the other allocations for such purpose made from such total amount.

Mr. BROWN of Ohio (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio? There was no objection.

Mr. BONILLA. Mr. Chairman, I ask unanimous consent that all debate on this amendment be limited to 20 minutes and that the time be equally divided.

The CHAIRMAN. The Chair would seek clarification. The time divided is between the gentleman from Ohio (Mr. BROWN) and the gentleman from Texas (Mr. BONILLA)?

Mr. BONILLA. The Chair is correct.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

The CHAIRMAN. The gentleman from Ohio (Mr. BROWN) and the gentleman from Texas (Mr. BONILLA) each will control 10 minutes.

The Chair recognizes the gentleman from Ohio (Mr. BROWN).

Mr. BROWN of Ohio. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, this amendment allocates funds to carry out the FDA’s antibiotic resistance plan. On January 18, 2001, the FDA, the Centers for Disease Control and Prevention, and the National Institutes of Health unveiled an action plan developed by an interdepartmental task force that provides the United States with a comprehensive approach to combat the emerging threat of antimicrobial resistance. The plan designated 13 near-term priorities to deal with the problem of antibiotic resistance.

The introduction of antibiotics in the 1940s gave the medical community an overwhelming advantage in its fight against infectious diseases, against TB and pneumonia, against cholera and typhoid, against many other long-time killers. But as bacteria have become drug-resistant strains have emerged as a real threat to the efficacy of antibiotic drugs and to human health. The recent experience of the
global medical community with tuberculosis is an excellent example of what can happen when an infectious disease develops antibiotic-resistant strains, and the threat that this poses to public health in the United States and around the world.

Mr. Chairman, multidrug-resistant TB is a result of antibiotic overuse, incorrect or interrupted treatment, and an inadequate supply of effective drugs. While outpatient treatment for standard TB costs a few thousand dollars, the treatment of multidrug-resistant TB, MDRTB, costs as much as $250,000, and it may not be successful.

Mr. Chairman, we do not want to see this scenario of increased costs and increased mortality repeated with other infectious diseases. The first step in addressing the problem of antibiotic resistance is to identify the true scope of the problem. We know that AR infections are seen more often in emergency rooms. We know that antibiotic resistance is a problem wherever antibiotics are used, and we know that overuse and misuse of antibiotics exacerbates the problems of antibiotic resistance.

But we need to know which drugs are being affected most, and when, how and why antibiotic drugs are being prescribed. We must educate the American public on the proper use of antibiotics, and we must encourage the development of new antimicrobial therapies.

The amendment I am proposing today does not seek to ban the use of any antibiotics, it would simply appropriate the funds necessary to implement those near-term priorities of the government’s action plan that would take place at FDA. These priorities were not set by me. They were not set by any special interest groups. They were established by doctors and scientists and public health officials from FDA, CDC, NIH and other Federal agencies. The amendment Appropriations has recommended a $126 million budget increase for FDA over last year. This $5 million set aside would allow FDA to begin to execute the portions of the antibiotic resistance action plan within its responsibility and would leave the decision on the sources of the offset to the Agency.

Mr. Chairman, I ask for Members to support the Brown amendment on antibiotic resistance.

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

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

Mr. Chairman, I rise in opposition to the amendment. The bill that the committee has presented to the House includes a very carefully balanced recommendation for funding for the Food and Drug Administration, including $27 million for antimicrobial resistance activities. This is an increase of over 70 percent from just 2 years ago, which clearly demonstrates our commitment in this area.

The gentleman’s amendment proposes to increase funding for certain purposes, but it makes no proposal on where the money should come from. I would like to say that I am very happy that we were able to provide significant increases for the FDA. It is vitally important for that agency to have the resources to perform its public health mission. We approved the following increases above last year’s level: $15 million to prevent BSE, or bovine spongiform encephalopathy, which is commonly known as mad cow disease; $10 million to increase antimicrobial and antibiotic resistance surveillance, foreign inspections, and to expand import coverage in all product areas; $10 million to reduce adverse events related to medical products; $10 million to better protect volunteers who participate in clinical research studies; $9 million to provide a safer food supply; $1.75 million to improve the timeliness of generic drug application review and to provide generic drug education; and full funding of increased payroll costs for increasing employees.

I want to stress how important this is. In the past, FDA and all other agencies in this bill were forced to reduce the level of services provided to the public in order to absorb payroll increases. This year we want to assure that does not happen. I am sure that all we want to see is that there is no slippage of activities at FDA involving research, application review, inspections, and all of the other payroll-intensive operations that are financed through our bill. We worked hard to find these resources. I am glad we were able to do it, and I am sure FDA will put them to good use.

Now here is my point. In the real world, when we go to conference with the other body, the increase that the gentleman’s amendment proposes would have to come out of other increases that the committee provided. So where should it come from? Should we reduce FDA’s food safety activities? We have heard a number of speeches today that told us not to do that. Should we reduce protection for people participating in clinical trials, or reduce resources for blood safety or BSE prevention?

Mr. Chairman, I ask all Members to support the committee’s recommended increases in FDA. I oppose the gentleman’s amendment, and I ask for its defeat.

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

Mr. BROWN of Ohio. Mr. Chairman, I yield 3 minutes to the gentlewoman from New York (Ms. SLAUGHTER).

Ms. SLAUGHTER. Mr. Chairman, I rise in opposition to support the Brown-Slaughter amendment. This amendment would set aside $5 million in the FDA’s budget for the purpose of implementing FDA’s portion of the public health action plan to combat antimicrobial resistance. As a former microbacteriologist with a master’s degree in microbiology, I am profoundly concerned over the rising number of infections that do not respond to the major-
the rising tide of antimicrobial resistance. This modest investment has the potential to save untold numbers of lives.

I urge my colleagues in the strongest possible terms to support the Brown-Slaughter amendment. Antimicrobial resistance crisis is an urgent and growing problem in the United States, and we ignore it at our own risk.

Mr. BROWN of Ohio. Mr. Chairman, I yield 1 minute to the gentleman from Ohio (Mr. Kucinich).

Mr. KUCINICH. Mr. Chairman, I thank the gentleman for yielding me this time, and thank him for his leadership on this issue.

Mr. Chairman, how many times have Americans gone to a doctor, been prescribed an antibiotic only to find out it did not work, that it was not effective for them? This vignette of a patient taking medication, hoping it is going to be of value to fight infection is something that is repeated many times around the world. Yet we know for some reason antibiotics are not effective because of certain resistance. What the gentleman from Ohio (Mr. BROWN) is doing is trying to get an additional $5 million to fund components of the action plan to combat antimicrobial resistance.

Mr. Chairman, this money will be money well spent because this is not only a health problem in this country, this is a world health problem. I thank the gentleman for his dedication.

Mr. BROWN of Ohio. Mr. Chairman, I yield 2 minutes to the gentlewoman from Ohio (Ms. Kaptur), who is the ranking member of the subcommittee.

Ms. KAPTUR. Mr. Chairman, I want to compliment the gentleman from Ohio (Mr. BROWN) for taking leadership on this important issue of antimicrobial resistance.

Mr. Chairman, it has been amazing to me among families and friends, staff members and their families back home, how many individuals go into a hospital and are the victims of an infection. In spite of some of the best knowledge we have with modern medicine, yet we find that there is this antimicrobial resistance that in some ways is as a result of the technologies that we brought on board in the 20th century.

As we now embark on the 21st century, this research to add funding to help to implement the action plan to combat antimicrobial resistance is essential. We know that life transforms and that every action has an equal and opposite reaction. I am sure that is the case, that scientists note every day, whether we are talking about HIV/AIDS or whether we are talking about some type of staphylococcus infection which becomes resistant to antibiotics which have been brought on board in years past.

We need to know which drugs are being affected most; how, when and why antibiotic drugs are being prescribed. We must educate physicians and the public on the proper use of antibiotics. I have been amazed at people who have taken antibiotics and find their systems having to readjust anywhere from 6 months to a year.

Mr. Chairman, I want to compliment the gentleman. The amendment would simply authorize funding for priorities already set in this government. I urge my colleagues for a “yes” vote on this important amendment on antimicrobial research. It provides $5 million to the FDA to expedite the carrying out of priority action items designated under an adopted action plan.

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

I ask my colleagues to speak to a physician or to a nurse or to a hospital administrator or to a medical researcher about this problem of antibiotic resistance. Every one of them will tell you that they know of cases, unique cases, they have seen cases, they have seen the damage done by cases where antibiotic resistance is very real. Antibiotics are not as effective as they were a year ago or 5 years ago or 10 years ago. There are questions that we need action, we need to begin to recognize the problem, we need to anticipate the problem of growing resistance to antibiotics, and we need to do something about the problem.

This action plan does not ban any antibiotics. It simply carries out the action plan that our government has suggested. I ask for support for the Brown-Slaughter amendment.

The CHAIRMAN pro tempore (Mr. BASS). The question is on the amendment offered by the gentleman from Ohio (Mr. BROWN).

Mr. BROWN of Ohio. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Ohio (Mr. BROWN) will be postponed.

AMENDMENT OFFERED BY MR. ENGEL

Mr. ENGEL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ENGEL:

In title VI, in the item relating to “DEPARTMENT OF HUMAN SERVICES—FOOD AND DRUG ADMINISTRATION—SALARIES AND EXPENSES”, insert before the period at the end of the first paragraph the following:

: Provided further. That of the total amount appropriated, $250,000 is available for the purpose of carrying out the responsibilities of the Food and Drug Administration with respect to food and cosmetic Act, in addition to other allocations for such purpose made from such total amount.

Mr. LATHAM. Mr. Chairman, I ask unanimous consent that all debate on this amendment be limited to 30 minutes and that the time be equally divided between the proponent and an opponent.

The CHAIRMAN pro tempore. Without objection, the gentleman from New York (Mr. ENGEL) will be recognized for 15 minutes and the gentleman from Iowa (Mr. LATHAM) will be recognized for 15 minutes.

There was no objection.

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

Mr. Chairman, my amendment sets aside $250,000, which is the totality of this budget, very small, for the FDA to develop labeling requirements indicating that no child slave labor was used in the growing and harvesting of cocoa.

Forty-three percent of the world’s cocoa comes from small scattered farms in the Ivory Coast. The beans are prized for their quality and abundance. In the first 3 months of 2001, more than 47,300 tons of them were shipped to the United States to be processed by U.S. cocoa processors.

There are more than 600,000 small farms and no corporate or government agency in the Ivory Coast is monitoring them for slave trade. The United Nations estimates that there are 200,000 slaves and that every year 15,000 children between the ages of 9 and 12 have been sold into forced labor. In the last 10 years, only approximately 20,000 slaves are working in various trades in West Africa and the State Department has estimated that about 15,000 children between the ages of 9 and 12 have been sold into forced labor in northern Ivory Coast in recent years.

On many of the farms, the fields are cleared and the crops are harvested by boys between the ages of 12 and 16 who were sold or tricked into slavery. Some are even as young as 9. These boys come from neighboring countries, including Mali, Burkina Faso, Benin, and Togo and do not speak the most common language used in the Ivory Coast, French. They are children, who, out of respect, will do anything to help their parents. The boys are uneducated, come from poor countries and are housed by offers of money, bicycles, and trade jobs. “Locateurs” offer them work as welders or carpenters, and they are told falsely that they will be paid $170 a year. As soon as they arrive in the United States, they are sold into slavery and are forced to clear the fields and harvest the cocoa crop. They live on corn paste and bananas, work 12 to 14 hours a day for no pay, suffer from whippings, are locked up at night in small, windowless rooms, and are given crops to urinate in.

One of these boys, Aly Diabate, was sold into slavery when he was barely 4 feet tall. He said, “Some of the bags were taller than me. It took two people to pick the bag on my head. And when you didn’t hurry, you were beaten. The beatings were a part of my life. Anytime they loaded you with bags and you fell while carrying them, nobody
Mr. Chairman, this must be stopped. Just like we cannot accept slave labor in factories in Asia, we must not accept products being sold in this country that are made by enslaved child labor. In 1999, former President Clinton issued an executive order prohibiting Federal agencies from purchasing products made by enslaved children. However, cocoa products were not included on this list.

Americans spend $13 billion a year on chocolate. I love chocolate. But most of them are ignorant of where the cocoa beans come from. And a lot of the cocoa beans come from the Ivory Coast. We must change that. This amendment provides funding for the FDA to develop a label indicating that enslaved child labor was not used to harvest the cocoa beans. That is all this does. We want to ensure that when people of this country eat chocolate, they can be sure they are eating chocolate that was processed by child slavery.

I urge my colleagues to support this amendment.

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

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

I rise in opposition to the amendment. As with the prior two amendments, we have fully funded FDA's budget request for this activity. Additional money for food labeling will come from other vital areas.

I ask rhetorically, from which priority would the gentleman prefer to delete the $250,000? From blood safety, from developing methods to detect food pathogens, or even generic drug review?

I oppose this amendment and urge my colleagues to do the same.

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

Mr. ENGEL. Mr. Chairman, I yield 2 minutes to the gentleman from New York (Mr. HINCHHEY).

Mr. HINCHHEY. Mr. Chairman, I hope that the Members will take this amendment seriously, because it is in fact a very serious matter. It is, in some measure, a result of this global trading pattern that we have engaged in without really examining closely and understanding fully the consequences of this system.

A recent report of your own State Department estimated that there are currently some 15,000 children working on cocoa and similar plantations in the Ivory Coast alone. That is the source of about 43 percent of the cocoa that is imported into this country. I think that if people in this country knew that they were buying products that were the result of slave labor, primarily the labor of children as young as 8 or 9 years old, they would not buy it. And I think that this amendment which sets up the labeling mechanism to indicate where this cocoa is coming from and the slave conditions under which it is being farmed and harvested is a good amendment and it ought to be adopted.

Mr. ENGEL. Mr. Chairman, I yield 3 minutes to the gentlewoman from Ohio (Ms. KAPTUR), the ranking member on the agriculture subcommittee.

Ms. KAPTUR. Mr. Chairman, I thank my esteemed colleague the gentleman from New York for yielding me this time and rise in support of his amendment which is a very straightforward and simple amendment to ask FDA to engage itself in the proper labeling of goods that come into this country. In the area of cocoa beans and chocolate, I think we do not often think of where a product's ingredients come from.

Mr. Chairman, I include for the Record an article that was published in the St. Paul Pioneer Press on June 24 of this year that talks about the cocoa beans that come here to America blended into our product from places like the Ivory Coast.

From the St. Paul Pioneer Press, June 24:

DALO, IVORY COAST

There may be a hidden ingredient in the chocolate cake you baked, the candy bars your children sold for their school fund-raiser, or the fresh-baked bread you enjoyed on Saturday afternoon. Slave labor. Forty-three percent of the world's cocoa beans, the raw material in chocolate, come from the Ivory Coast, the poorest West African country of Ivory Coast. And on some of the farms, the hot, hard work of clearing the fields and harvesting the crop is done by boys as young as 9. The slaves live on corn paste and bananas. Some are whipped, beaten and broken like horses to harvest the almond-size beans.

The State Department's human rights report last year concluded that some 15,000 children ages 9 to 12 have been sold into forced labor on cocoa, coffee and cocoa plantations in northern Ivory Coast in recent years.

Aly Diabate was almost 12 when a slave trader promised him a bicycle and $150 a year to help support his poor parents in Mali. He worked for a year and a half for a farmer who called himself “Le Gros” (“The Big Man”) but he said his only rewards were the rare days when Le Gros' overseers or older slaves didn't flog him with a bicycle chain or branches from a cacao tree.

Cocoa beans come from pods on the cacao tree. To get the 400 or so beans it takes to make a pound of chocolate, the boys who work on Ivory Coast's cocoa farms cut pods from the trees, slice them open, scoop out the beans, spread them in baskets or on mats and cover them to ferment. They then unload the beans into the sun to dry, bag them and load them onto trucks to begin the long journey to America or Europe.

Aly said they hadn't had water since the cacao tree taste like after they've been processed and blended with sugar, milk and other ingredients.

He said many of the beans came from the cacao tree taste like after they've been processed and blended with sugar, milk and other ingredients. That happens far away from the farm where he worked, in places such as Hershey, Pa., Milwaukee and San Francisco.

I don't know what chocolate is," said Aly. The chocolate is sold for $18 billion a year on chocolate, but most of them are ignorant of where it comes from as the boys who harvest cocoa beans are about where their parents.

More cocoa beans come from Ivory Coast than from anywhere else in the world. The country's beans are prized for their quality and abundance, and in the first three months of this year, more than 47,300 tons of them were shipped to the United States through Philadelphia and Boston according to the Port Import Export Reporting Service. At other times of the year, Ivory Coast cocoa beans are delivered to Camden, N.J., Norfolk, Va., and San Francisco.

From the ports, the beans are shipped to cocoa processors. America's biggest are ADM Cocoa in Milwaukee, a subsidiary of Decatur, Ill.-based Archer Daniels Midland; Barry Callebaut, which has its headquarters in Zurich, Switzerland; Minneapolis-based Cargill; and Nestle USA of Glendale, Calif., a subsidiary of the Swiss food giant.

But by the time the beans reach the processors, those picked by slaves and those harvested by free field hands have been jumbled together in railroad cars. By the time they reach consumers in America or Europe, free beans and slave beans are so thoroughly blended that there is barely any difference between the two. We treat products taste of slavery and which do not.

Even the Chocolate Manufacturers Association, a trade group for American chocolate makers, acknowledges that some Ivory Coast farmers use enslaved children, many of them from the poorer neighboring countries of Mali, Burkina Faso, Togo and Benin and Togo. A report by the Geneva-based International Labor Organization, released June 15, found that trafficking in children is widespread in West Africa.

SOME OF THE BAGS WERE TALLER THAN ME

Aly Diabate and 18 other boys labored on a 494-acre farm, very large by Ivory Coast standards, in the southwestern part of the country.

Their days began when the sun rose, whether or not at this time of year in Ivory Coast is a few minutes after 6 a.m. They finished work about 6:30 in the evening, just before nightfall, trudging home to a dinner of banana bread. A treat would be yams seasoned with saltwater "gravy."

After dinner, the boys were ordered into a 26 by 28-foot room, where they slept on wooden planks. The window was covered with hardened mud except for a baseball-size hole to let some air in. "Once we entered the room, nobody was allowed to go out," said Mamadou Traore, a thin, frail youth with serious brown eyes who is 19 now. "Le Gros gave us cans to urinate. He locked the door and kept the key."

"We didn’t cry, we didn’t scream," said Aly. "We thought we had been sold, but we weren’t sure." The boys became sure one day when Le Gros walked up to Mamadou and ordered him to work harder. "I bought each of you for 25,000 francs" (about $35), the farmer said, according to Mamadou. "So you have to work harder to repay me."

Aly was barely 4 feet tall when he was sold into slavery, and he had a hard time carrying the heavy bags of cocoa beans. "Some of the bags were taller than me," he said. "It took two people to put the bag on my head. And when you didn’t hurry, you were beaten."

"You can still see the faint scars on his back, right shoulder and left arm," they said. "He said he wasn’t working very hard," said Mamadou.

The beatings were a part of my life," Aly said. "They threatened they would kill you if you fell while carrying them, nobody helped you. Instead, they beat you and beat you until you picked it up again."

Gros, whose name is Le Gros, denied that he paid for the boys who worked for him, although Ivory Coast farmers often
pay a “finder’s fee” to someone who delivers workers to them. He also denied that the boys were underfed, locked up at night or forced to work more than 12 hours a day without being paid. He said that they were treated well, and that he paid for their medical treatment. “When I go hunting, when I get a kill, I divide it half—one for my family and the other for them. Even if I kill a gazelle, the workers come and share it.”

He denied beating any of the boys. “I have never, ever, laid hands on any one of my workers,” he said. “Maybe I committed them bad words if I was angry. That’s the worst I did.” Le Gros said a Malian overseer beat one boy who had run away, but he said he himself did not order any beatings. A BOY ESCAPES

One day early last year, a boy named Oumar Kone was caught trying to escape. One of Le Gros’ overseers beat him, said the other boys and local authorities. A few days later, Oumar ran away again, and this time he escaped. He told elders in the local Malian immigrant community what was happening on Le Gros’ farm. They called Abdoulaye Macco, who was then the Malian consul general in Bouake, a town north of Daloa, in the heart of Ivory Coast’s cocoa and coffee-growing region. Macco went to see several police officers, and he found the 19 boys and young men there. Aly, the youngest, was 13. The oldest was 21.

“They were tired, slim, they were not smiling,” Macco said. “Except one child was not there. This one, his face showed what was happening. He was sick; he had (excrement) in his pants. He was lying on the ground, covered with cacao leaves because they were sure he was dying. He was almost dead. . . . He had enemas for 21 days.”

According to medical records, other boys had healed scars as well as open, infected wounds all over their bodies. Police freed the boys, and a few days later the Malian consul in Bouake sent them all home to their villages in Mali. The sick boy was treated at a local hospital, and then he was sent home, too.

Le Gros was charged with assault against children and suppressing the liberty of people. The latter crime carries a five-to-10-year sentence, and a hefty fine. Daleba Rouba, attorney general for the region, “In Ivorian law, and adult who orders a minor to hit and hurt somebody is automatically guilty; he has committed an assault act,” said Rouba. “Whether or not Le Gros did the beatings himself or ordered somebody, he is liable.” Le Gros spent 24 days in jail, and today he is a free man pending a court hearing that is scheduled for Thursday.

He said the case against Le Gros is weak because the witnesses against him have all been sent back to Mali. “If the Malian authorities are willing to cooperate, if they can bring back the children being held as witnesses, our case will be stronger,” Rouba said. Mamadou Diarra, the Malian consul general in Bouake, said he would look into the matter.

OFFICIAL RESPONSES

Child trafficking experts say inadequate legislation, ignorance of the law, poor law enforcement, porous borders, police corruption and abuse are factors that perpetuate the problem of child slavery in Ivory Coast. Only 12 convicted slave traders are serving time in Ivorian prisons. Another eight, including Le Gros, are on the lam.

Ivorian officials have found scores of enslaved children from Mali and Burkina Faso and sent them home, and they have asked the New York City Labor Organization, a global workers’ rights agency, to help them conduct a child-labor survey that is expected to be completed this year. But they continue to blame the problem on immigrant farmers from Mali and on world cocoa prices that have fallen almost 24 percent since 1996, from $1.95 to $1.51 a pound. Some Ivorians blame impoverished farmers to use the cheapest labor they can find.

Ivory Coast Agriculture Minister Alfonse Douaout said that “the slave trade phenomenon” that exists only on a handful of the country’s more than 600,000 cocoa and coffee farms. “Those who do this are like demons,” he said. “I won’t revert to the slavery that was here before. . . . I think it’s a very, very small price to pay.”

Douaout said child labor is Ivory Coast should not be called slavery, because the word conjures up images of chains and whips. He prefers the term “indentured labor.”

Ivory Coast authorities ordered Le Gros to pay Aly and the other boys a total of 4.3 million African Financial Community francs (about $6,150) for their time as indentured laborers. Aly got 125,000 francs (about $180) for the 18 months he worked on the cocoa farm. Aly has been trying to get the master slave trader who enslaved him promised: a bicycle. It has a light, a yellow horn and colorful bottle caps in the spokes. He rides it everywhere.

I cannot read the entire article, but I will just read a few sentences, where it indicates 43 percent of the world’s cocoa beans come from small scattered farms in poor West African countries like Ivory Coast where harvesting of the crop is done by boys who were sold or tricked into slavery. They talk about 15,000 children ages 9 to 12 sold into forced labor and that it takes 400 or so beans to make one pound of chocolate. The boys who pick these beans do not know what chocolate tastes like because they never have a chance to eat the final product.

The beans that they harvest go to places like Hershey, Pennsylvania; Milwaukee, Wisconsin; and San Francisco. American brands like these beans are ADM Cocoa in Milwaukee, a subsidiary of Illinois-based Archer Daniels Midland; Barry Callebaut, which has its headquarters in Zurich, Switzerland; Minneapolis-based Cargill; and Nestle USA of Glendale, California, a subsidiary of the Swiss food giant.

It talks about these boys being beaten and held, being tired, slim with no smiles, and many boys having healed scars as well as open infected wounds all over their bodies. It talks about the reasons that there is no law enforcement—law enforcement in the countries which are the suppliers. And it talks about the amount of money being made by the firms that use this kind of indentured servitude. I think $250,000 out of a multibillion-dollar budget is almost nothing to ask to have proper labeling of a product. If we can have happy faces on carpets that come from the Indian subcontinent, we can certainly have proper labeling of chocolate products that come into this country from Ivory Coast. I really want to thank the gentleman from New York. This is a very, very very small amount of money, it is in the budget, it will not do any harm whatsoever; and I think that it will certainly bring us to the point that this Congress can look with pride and say that we are making an attempt to stop something that we thought did not exist anymore and only now are we being made aware of the fact that slavery is continuing to rear its ugly head in the year 2001.

I want to just again urge my colleagues to support this. This should have bipartisan support because again we are talking about children and we are talking about slavery. I do not think the American people want to knowingly eat chocolate or cocoa that was harvested by children who have been tricked into slavery.

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

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

I think that the gentlewoman from Ohio made two very, very good points at the end. Throughout her speech she made good points, but I want to raise two that she made at the end. This is only $250,000. It is a very, very small amount of money, and such a small amount to ensure that the cocoa and the chocolate in this country has not come to be by slave labor of children. I think that is a very, very small price to pay.

There is a moral responsibility as the gentlewoman points out, a moral responsibility for us not to allow slavery, child slavery, in the 21st century. This is a small amount of money, it is in the budget, it will not do any harm whatsoever; and I think that it will certainly bring us to the point that this Congress can look with pride and say that we are making an attempt to stop something that we thought did not exist anymore and only now are we being made aware of the fact that slavery is continuing to rear its ugly head in the year 2001.

I want to just again urge my colleagues to support this. This should have bipartisan support because again we are talking about children and we are talking about slavery. I do not think the American people want to knowingly eat chocolate or cocoa that was harvested by children who have been tricked into slavery.

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from New York (Mr. ENGEL) will be postponed.

Mr. BONILLA. Mr. Chairman, I move that the Committee do now rise.
Bass, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that the Committee, having had under consideration the bill (H.R. 2330) making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2002, and for other purposes, had come to no resolution thereon.

LIMITING AMENDMENTS DURING FURTHER CONSIDERATION OF H.R. 2330, AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2002

Mr. BONILLA. Mr. Speaker, I ask unanimous consent that during further consideration of H.R. 2330 in the Committee of the Whole pursuant to House Resolution 183, no further amendment to the bill may be offered except the following amendments, each of which shall be debatable for 10 minutes:

An amendment offered by Mrs. CLAYTON related to rental assistance, which may be offered at any time during consideration; an amendment offered by Mr. TRAFICANT related to Buy American; an amendment offered by Mr. ALLEN related to total cost of research and development and approvals of new drugs; an amendment offered by Ms. KAPTUR related to the biofuels; an amendment offered by Ms. KAPTUR related to BSE; an amendment offered by Ms. KAPTUR related to 4-H Program Centennial; an amendment offered by Mr. LUCAS of Oklahoma related to watershed and flood operations; an amendment offered by Mrs. MINK of Hawaii related to the Hawaii Agriculture Research Center; an amendment offered by Drs. MINK of Hawaii related to the Oceanic Institute of Hawaii; an amendment offered by Mr. BLUMENAUER related to price supports; an amendment offered by Mr. ROYCE related to allocations under the market access program; an amendment offered by Mr. SMITH of Michigan related to the Food Security Act; an amendment offered by Mr. SMITH of Michigan related to the Agriculture Market Transition Act; an amendment offered by Mr. BACA related to Hispanic-serving institutions; an amendment offered by Ms. PELOSI related to HIV.

Two, the following additional amendment, each of which shall be debatable for 20 minutes:

An amendment offered by Mr. BROWN related to abbreviated applications for the approval of new drugs under section 505(j) of the Food, Drug and Cosmetic Act; an amendment offered by Mr. STRICKLAND; an amendment offered by Mr. BONILLA related to nutrition; an amendment offered by Mrs. CLAYTON related to socially disadvantaged farmers.

Three, the following additional amendments, each of which shall be debatable for 30 minutes:

An amendment offered by Mr. HINCHEN related to American Rivers Heritage; an amendment offered by Mr. KUCZYNSKI related to transgenic fish; an amendment offered by Mr. GUTKNECHT related to drug importation.

Four, the following additional amendments, each of which shall be debatable for 40 minutes:

An amendment offered by Mr. SANDERS related to drug importation; an amendment offered by Mr. WEINER related to mohair.

Five, the following additional amendment, which shall be debatable for 60 minutes, and which may be brought up at any time during consideration:

An amendment offered by Mr. OLVER or Mr. GILCHRIST related to Kyoto.

Each additional amendment may be offered of the bill; may be designated in this request, or a designee; shall be considered as read; shall be debatable for the time specified equally divided and controlled by the proponent and an opponent; shall not be subject to written objection; shall be subject to a demand for a division of the question in the House or in the Committee of the Whole.

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

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

Mr. OBEY. I yield to the gentleman from Texas.

Mr. BONILLA. Mr. Speaker, that is correct.

Mr. OBEY. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. The SPEAKER pro tempore. Pursuant to House Resolution 183 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 2330.

□ 1724

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 2330) making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2002, and for other purposes, with Mr. Bass (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. The CHAIRMAN pro tempore. When the Committee of the Whole rose earlier today, a request for a recorded vote on the amendment by the gentleman from New York (Mr. ENGEL) had been postponed and the bill was open for amendment from page 49 line 9 through page 57 line 15.

AMENDMENT OFFERED BY MRS. CLAYTON

Mr. CLAYTON. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The CHAIRMAN pro tempore. The text of the amendment is as follows:

Amendment offered by Mr. CLAYTON:

In title III, in the item relating to “Rural Housing Insurance Fund Program Account” add at the end the following:

Of the amounts made available under this heading in chapter 1 of title II of Public Law 106-256 (114 Stat. 540) for gross obligations for principal amount of direct loans authorized...
by title V of the Housing Act of 1949 for section 515 rental housing, the Secretary of Agriculture may use up to $5,966,197 for rental assistance agreements described in the item relating to "Rental Assistance Program" in such chapter: Provided, That such amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Consolidated and Emergency Control Act of 1985, as amended.

In making available for occupancy dwelling units in housing that is provided with funds available under the heading referred to in the preceding paragraph, the Secretary of Agriculture may give preference to prospective tenants who are residing in temporary housing provided by the Federal Emergency Management Agency as a result of an emergency.

The CHAIRMAN pro tempore. The Chair would inquire of the gentlewoman from North Carolina (Mrs. CLAYTON), is this the amendment that the Committee of the Whole permitted the gentlewoman to offer?

Mrs. CLAYTON. Mr. Chairman, yes.

Mr. Chairman, the amendment I have offered amend the III of the National Housing Insurance Act. Mr. Chairman, this is an amendment that allows us to speak to the issue of rural housing, particularly rental housing, that are not available in our area. This particular amendment does, it allows for monies that were not spent, that were allocated by this Congress during the floods, on the rental housing. It provides the opportunity to redirect some balance of dollars available. It simply gives authority of those monies to use up to $5.9 million of the balance it has. Originally in the year 2000, the Supplemental Appropriation Act provided $32 million to section 515 and $13.6 million for 1,000 units in section 521.

At the end of this year, they spent $20 million. There remains $12 million unspent.

Mr. BONILLA. Mr. Chairman, will the gentlewoman yield?

Mr. BARR. Mr. Chairman, I yield to the gentlewoman from Texas.

Mr. BONILLA. Mr. Chairman, I apologize for the confusion that we had a few minutes ago, and we would be delighted to accept the amendment of the gentlewoman from North Carolina.

Mrs. CLAYTON. Without me explaining it, the gentleman will accept it? I apologize for the confusion that we had.

Mr. Chairman, I understand that he is willing to accept my amendment, which gives the opportunity for the five States to now have rental assistance so senior citizens and single family members can have an apartment. I am delighted.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentlewoman from North Carolina (Mrs. CLAYTON).

The amendment was agreed to.

SequENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE.

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, proceedings will now resume on those amendments on which further proceedings were postponed in the following order: amendment by the gentleman from Ohio (Mr. BROWN); amendment by the gentleman from Ohio (Mr. BROWN); amendment by the gentleman from New York (Mr. ENGEL).

The Chair will reduce to 5 minutes the time for any electronic vote after the first vote in this series.

AMENDMENT OFFERED BY MR. BROWN OF OHIO

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Ohio (Mr. BROWN) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will designate the amendment.

The Clerk designated the amendment.

The vote was taken by electronic device, and there were—aye 204, noes 89, not voting 20, as follows:

[Roll No. 208]

AYS—204

Abercrombie
Ackerman
Aderhold
Allen
Andrews
Baca
Baldacci
Barton
Barrett
Bascom
Bass
Becerra
Benten
Berenstein
Berman
Berry
Bilirakis
Bishop
Blansfield
Boehlert
Bonita
Bono
BosBoyd
Braun (FL)
Camp
Cannon
Capito
Capp
Carbone
Carson (IN)
Carson (OK)
Castle
Clay
Clayton
Climent
Clifford
Conaway
Cooksey
Costello
Crowley
Cuyen
Crum
Cummings
Cunningham
Davis (CA)
Davis (FL)

Hoe Chair
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Israel
Jackson (IL)
Jefferson
John
Johnson (CT)
Johnson (IL)
Johnson, K. B.
Jones (NC)
Jones
Kanjorski
Kaptur
Kelley
Kennedy (MN)
Kennedy (RI)
Klise
Kolbe
Lathrop
Lazenko
Larson
Larson
LaTourette
Lee
Levin
Lewis (GA)
Lewis (KY)
Lipinski
LoBiondo
Lowry
Lucas (KY)
Luther
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Maseara
Matheson
Matsui
McCormack (NY)
McCulloch
McCreary
McEoin
McGovern
McHugh
McKeon
McKinney
Meek (FL)
Mencia
Mica
Millender-McDonald
Miller, George
Moloney
Moores
Moran (VA)
Morella
Nadler
Napolitano
Ney
Northrup
Nussle
Oberstar
Obey
Ossie
Owens
Pallone
Pawlak
Pei
Pelosi
Penn
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pitman
Pomeroy
Price (NC)
Pringle
Quinn
Rahall
Ramstad
Rangel
Rayburn
Rehberg
Reyes
Roelvink
Rivera
Rodriguez
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ross
Rothman
Roybal-Allard
Royce
Rush
Ryan (WI)
Sabo
Sanches
Sanders
Sandlin
Sarvis
Saxton
Schaub
Schiff
Schueller
Shaw
Shays
Shiner
Sherwood
Shrum
Shuster
Showe
Simmons
Skelton
Slaughter
Smith (MI)
Smith (PA)
Smith
Snyder
Solis
Solomon
Sprat

NOT VOTING—20

Akin
Army
Arts
Baris
Barrett
Bass
Beaumesser
Bechelter
Bono
Bos
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Calvert
Camp
Cannon
Capito
Capp
Carbone
Carson (IN)
Carson (OK)
Castle
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Clayton
Climent
Clifford
Conaway
Cooksey
Costello
Crowley
Cuyen
Crum
Cummings
Cunningham
Davis (CA)
Davis (FL)

Hoe Chair
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Israel
Jackson (IL)
Jefferson
John
Johnson (CT)
Johnson (IL)
Johnson, K. B.
Jones (NC)
Jones
Kanjorski
Kaptur
Kelley
Kennedy (MN)
Kennedy (RI)
Klise
Kolbe
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Larson
Larson
LaTourette
Lee
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Lewis (GA)
Lewis (KY)
Lipinski
LoBiondo
Lowry
Lucas (KY)
Luther
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Maseara
Matheson
Matsui
McCormack (NY)
McCulloch
McCreary
McEoin
McGovern
McHugh
McKeon
McKinney
Meek (FL)
Mencia
Mica
Millender-McDonald
Miller, George
Moloney
Moores
Moran (VA)
Morella
Nadler
Napolitano
Ney
Northrup
Nussle
Oberstar
Obey
Ossie
Owens
Pallone
Pawlak
Pei
Pelosi
Penn
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pitman
Pomeroy
Price (NC)
Pringle
Quinn
Rahall
Ramstad
Rangel
Rayburn
Rehberg
Reyes
Roelvink
Rivera
Rodriguez
Roemer
Rogers (KY)
Rogers (MI)
Roehrbacker
Ross
Rothman
Roybal-Allard
Royce
Rush
Ryan (WI)
Sabo
Sanches
Sanders
Sandlin
Sarvis
Saxton
Schaub
Schiff
Schueller
Shaw
Shays
Shiner
Sherwood
Shrum
Shuster
Showe
Simmons
Skelton
Slaughter
Smith (MI)
Smith (PA)
Smith
Snyder
Solis
Solomon
Sprat

NOT VOTING—20

Akin
Army
Arts
Baris
Barrett
Bass
Beaumesser
Bechelter
Bono
Bos
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Calvert
Camp
Cannon
Capito
Capp
Carbone
Carson (IN)
Carson (OK)
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Clayton
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Clifford
Conaway
Cooksey
Costello
Crowley
Cuyen
Crum
Cummings
Cunningham
Davis (CA)
Davis (FL)
CONGRESSIONAL RECORD — HOUSE

June 28, 2001

H3786

TANCREDO, HOEKSTRA, BASS, DUNCAN, ROGERS of Kentucky, GALLEGGY, KIRK, TIBERI, MCERY, TAUSIN, GOODLATTE, and TERRY, and Ms. PRYCE of Ohio changed their vote from “no” to “aye.”

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. ENGEL

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from New York (Mr. ENGEL) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will designate the amendment.

The Clerk designated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 291, noes 115, not voting 27, as follows:

(Ayayes—291)

Noes 115

Not Voting 27

So the amendment was agreed to. The result of the vote was announced as above recorded.
Mr. BONILLA. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. LAHOOD) having resumed the chair, Mr. GOODLATTE, Chairman of the Committee of the Whole House on the State of the Union, reported that the Committee, having had under consideration the bill (H.R. 2380) making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2002, and for other purposes, had come to no resolution thereon.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregen, one of its clerks, announced that the Senate had passed without amendment a concurrent resolution of the title:

H. Con. Res. 176. Concurrent resolution providing for a conditional adjournment of the House of Representatives and a conditional recess or adjournment of the Senate.

HEARTFELT THANKS TO ANNE HOLCOMBE, CINDY SEBO, AND VICKY STALLSWORTH

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

Mr. EHLERS. Mr. Speaker, I hope you will be kind on the time allotted, because I want to take a few moments to recognize a very special person who has worked in this Chamber for some time, who has graced this Chamber and has helped us a great deal, and she will soon be leaving, and that is Ms. Anne Holcombe, who is seated at the front desk.

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

Mr. EHLERS. I yield to the gentleman from California.

Mr. DREIER. Mr. Speaker, I thank the gentleman from Michigan (Mr. EHLERS), my friend, for yielding to me.

I join today in recognizing Anne Holcombe. This is her last day as the senior legislative clerk, so I, along with my colleagues, thought it appropriate that we take a 1 minute, since you enjoy them so much, Anne, a special order.

I know that you enjoy sitting here through special orders. If you had a chance of a 1 minute or a special order, I suspect that you might prefer a 1 minute.

Anne is moving to Charlotte, North Carolina, to be closer to her family and to start a new chapter in her life.

I want to wish her well. Our colleague, the former Mayor of Charlotte, North Carolina, a distinguished member of the Committee on Rules, Sue Myrick, will become your representative here in the House.

Anne’s professionalism on the dais has been a steady source of confidence that the records of the House will always be in order, that is why we are all very sad to see her leave.

I cannot imagine why Anne would want to leave the House. I know that you greatly enjoy sitting here waiting until 3 o’clock in the morning until the Committee of the Whole issued its report to Chair reports a rule down here.

As I said, I know how much you enjoy special orders that often extend up, under our great reform process, midnight we know, but you do, obviously, grace the dais extraordinarily well.

You have worked here for many years. Anne started in September of 1996, Mr. Speaker, as a legislative information specialist and was responsible for researching, editing, and maintaining the legislative database that we, in the House, as well as the general public, depend on for information about what is happening here in the Congress.

In October of 1997, Anne was promoted to assistant chief floor clerk, where she made sure that the words we spoke on the House floor were transposed into marvelous eloquence, of course, while still complying with the rules of the House.

Then in January of 2000, Anne was promoted again to senior legislative floor clerk. She has done a terrific job in serving this institution and her country very well.

Mr. Speaker, if the gentleman will continue to yield, I would also like to note that we also have two official reporters, one of whom is right here, who is actually finishing her last day, Cindy Sebo, who has worked long and hard, and also Vicky Stallsworth, who is also completing her last day here.

I guess the place is going to be empty when we come back. No one will be here to do any work. I hope very much that these positions are filled.

Let me say to all three that we wish them well in other endeavors, and I thank my friend for yielding.

Mr. EHLERS. Mr. Speaker, reclaiming my time, I want to add my congratulations to all three of them and especially my heartfelt thanks. I have always made a point of trying to get to know the individuals who work in the front of this Chamber, who keep very long hours and transcribe everything we do and keep good order out of it.

□ 1815

I am delighted that both of the reporters who are leaving us are here present so we can thank both Cindy and Vicky as well. I hope you spell your names properly as you transcribe this.

They work tirelessly. They are going on to other things and other lands. I cannot imagine why Vicky, who is moving to Fort Collins, Colorado; and Anne, who is moving to North Carolina, if you are ill in law, we can find a better place. I can understand that; but I would certainly recommend Grand Rapids, Michigan,
especially this time of year. So come up there and stop in and see us.

Cindy will be leaving for the private sector. She will remain in this area, and we hope we see her around here occasionally.

So from the bottom of my heart, thank you to all of you. Congratulations. God bless you in your future endeavors and employment.

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

Mr. EHLERS. I yield to the gentleman from Maryland.

Mr. HOYER. Mr. Speaker, I appreciate the gentleman yielding.

I did not rise to defend the Washington metropolitan area as a place to live, notwithstanding his observations. But I did rise to say thank you on behalf of all of us, not on a partisan sense, although I am on this side of the aisle, and there are others on the other side of the aisle, but to, again, remind ourselves how critically important it is that the operations of the people's House are those who never rise and speak. They also serve who stand and record, the poet might have said.

To Anne and Cindy and Vicky, we appreciate what you have done. You have at times been asked to spend long, long, long hours. You have fought fatigue; and I am sure, although you do not have to admit this, fought boredom as well in the operations that you have been responsible for.

You make it possible for the American public, even if they cannot see us on C-SPAN, even if they cannot be in the gallery, even if years later they are trying to find out what happened on the floor of the House, their House, doing their business, you make it possible for them to find out. You do so with incredible accuracy and efficiency. We thank you for that, and we acknowledge how critically important you are to the operations of this House. I am not surprised that one of you is going into the private sector. Maybe both of you are going into the private sector, I am not sure, our two reporters, or Anne returning to North Carolina to be closer to her family, because there are, in my opinion, no more talented, no more highly motivated, no more productive people that could be hired by the private sector than those who work on this Hill and certainly, all those who work at the desk and who record our deliberations.

It is a hallmark of American democracy that we want to be open to the public. We want to have a historic and accurate record of proceedings. You have enabled us to continue to do that. We thank you. We wish you Godspeed. We hope that you take with you very positive feelings about this House, that you know firsthand that, although there are fights and disagreements, and sometimes we are much smaller than we ought to be, that, at bottom, almost everybody in this House, cares about their country and cares about their constituents. You have had the opportunity to see that firsthand. As I tell the pages, I hope you will tell that story wide and far.

We thank you, and we wish you the best of everything in the days ahead. Thank you for yielding.

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

Mr. EHLERS. I am happy to yield to the gentleman from Missouri.

Mr. SKELTON. Mr. Speaker, I, too, would like to add my best wishes to Anne Holcombe as she leaves and also say farewell to Cindy and Vicky for the work that they have done.

Regarding Anne, I was sitting here thinking of the old Irish tune that has the melody of "When Johnny Comes Marching Home." A phrase in there is "Johnny, we hardly got to know you." It just seems like you came last week, and time flies so fast, and we hardly got to know you.

You have done so well. You have been very friendly. You have been very particularly kind to me in making sure the podium is at the right height. Your professionalism and your competency is beyond match. So we thank you for your efforts, your hard work. We wish you the very best in your next chapter of life, and do not forget us. God bless.

Mr. EHLERS. Mr. Speaker, reclaiming my time, I want to thank all three of the speakers, the gentleman from California (Mr. DREIER), the gentleman from Maryland (Mr. HOYER), and the gentleman from Missouri (Mr. SKELTON) for their eloquent comments.

Frankly, they stole my speech, and there is not much I can add to it other than to say, on behalf of all of those who use this Chamber and rely on you as well as the broader American public who sees your work constantly on the screen of their computer or in the journal, the CONGRESSIONAL RECORD, I want to thank all of you for your hard service here. I wish you well. God bless you wherever you go.

ELECTION OF MEMBER TO COMMITTEE ON ARMED SERVICES AND COMMITTEE ON SCIENCE

Mr. FOLEY. Mr. Speaker, I offer a resolution (H. Res. 184), and I ask unanimous consent for its immediate consideration.

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

There was no objection.

PERMISSION FOR COMMITTEE ON THE JUDICIARY TO HAVE UNTIL MIDNIGHT, FRIDAY, JULY 6, 2001, TO FILE REPORTS ON H.R. 2215, 21ST CENTURY DEPARTMENT OF JUSTICE APPROPRIATIONS AUTHORIZATION ACT, AND H.R. 2137, CRIMINAL LAW TECHNICAL AMENDMENTS ACT OF 2001

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary have until midnight on Friday, July 6 to file the reports to accompany H.R. 2215 and H.R. 2137.

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

There was no objection.

AUTHORIZING THE SPEAKER, THE MAJORITY LEADER, AND THE MINORITY LEADER TO ACCEPT RESIGNATIONS AND MAKE APPOINTMENTS AUTHORIZED BY LAW OR THE HOUSE NOTWITHSTANDING ADJOURNMENT

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that, notwithstanding any adjournment of the House until Tuesday, July 10, 2001, the Speaker, Majority Leader, and Minority Leader be authorized to accept resignations and to make appointments authorized by law or by the House.

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

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY, JULY 11, 2001

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday, July 11, 2001.

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

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1613

Mr. SIMMONS. Mr. Speaker, I ask unanimous consent to remove my name from H.R. 1613.

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

There was no objection.

APPOINTMENT OF THE HONORABLE TOM DAVIS TO ACT AS SPEAKER PRO TEMPORE TO SIGN ENROLLED BILLS AND JOINT RESOLUTIONS THROUGH JULY 10, 2001

The SPEAKER pro tempore laid before the House the following communication from the Speaker:
I hereby appoint the Honorable Tom Davis to act as Speaker pro tempore to sign enrolled bills and joint resolutions through July 10, 2001.

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

The SPEAKER pro tempore. Without objection, the appointment is agreed to.

There was no objection.

REPORT ON EMERGENCY REGARDING PROLIFERATION OF WEAPONS OF MASS DESTRUCTION—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 107–93)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on International Relations and ordered to be printed:

To the Congress of the United States:

Enclosed is a report to the Congress on Executive Order 12938, as required by section 204 of the International Emergency Economic Powers Act (50 U.S.C. 1703(c)) and section 401(c) of the National Emergencies Act (50 U.S.C. 1641(c)).

GEORGE W. BUSH.


PRESIDENT’S COMPREHENSIVE NATIONAL ENERGY POLICY—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Energy and Commerce, the Committee on Science, the Committee on Resources, the Committee on Ways and Means, the Committee on Transportation and Infrastructure, and the Committee on Education and the Workforce:

To the Congress of the United States:

One of the first actions I took when I became President in January was to create the National Energy Policy Development Group to examine America’s energy needs and to develop a policy to put our Nation’s energy future on sound footing.

I am hereby transmitting to the Congress proposals contained in the National Energy Policy report that now require legislative action. In conjunction with executive actions that my Administration is already undertaking, these legislative initiatives will help address the underlying causes of the energy challenges that Americans face now and in the years to come. Energy has enormous implications for our economy, our environment, and our national security. We cannot let another year go by without addressing these issues together in a comprehensive and balanced package.

These important legislative initiatives, combined with regulatory and administrative actions, comprise a comprehensive and forward-looking energy policy that utilizes 21st century technologies to allow us to promote conservation and diversify our energy supply. These actions will increase the quality of life of Americans by providing reliable energy and protecting the environment.

Our policy will modernize and increase conservation by ensuring that energy is used as efficiently as possible. In addition, the National Energy Policy will modernize and expand our energy infrastructure, creating a new high-tech energy delivery network that increases the reliability of our energy supply. Further, it will diversify our energy supply by encouraging renewable and alternative sources of energy as well as the latest technologies to increase environmentally friendly exploration and production of domestic energy resources.

Importantly, our energy policy improves and accelerates environmental protection. By utilizing the latest in pollution control technologies to cut harmful emissions we can integrate our desire for a cleaner environment and a sufficient supply of energy for the future. We will also strengthen America’s energy security. We will do so by reducing our dependence on foreign sources of oil, and by protecting low-income Americans from soaring energy prices and supply shortages through programs like the Low Income Housing Energy Assistance Program.

My Administration stands ready to work with the Congress to enact comprehensive energy legislation this year. President Bush.


ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will now entertain 1 minute requests.

CONSERVATION IS CRITICAL PIECE OF PUZZLE

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

Mr. REHBERG. Mr. Speaker, while we all know we cannot conserve our way out of the energy crunch, conservation is a critical piece of the puzzle if we are going to solve this problem. In times like these, each and every American must do their part. This means turning out the lights when leaving a room, walking more often instead of driving, and investing in new technologies and alternative renewable energy sources.

While some in this Chamber merely talk about conservation, President Bush is actually doing something about it.

Today, President Bush announced $77 million in Federal conservation grants which will help accelerate the development of fuel cells in new technology for tomorrow’s cars and buildings. These grants will play a critical role in lowering emissions and improving energy efficiency.

Mr. Speaker, instead of throwing rocks and using America’s energy problems for political gain, President Bush is providing leadership and solutions.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker’s announced policy of January 3, 2001, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. DeFazio) is recognized for 5 minutes.

(Mr. DeFazio addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. McHugh) is recognized for 5 minutes.

(Mr. McHugh 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 District of Columbia (Ms. Norton) is recognized for 5 minutes.

(Ms. Norton 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 California (Mr. Herger) is recognized for 5 minutes.

(Mr. Herger addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. Pallone) is recognized for 5 minutes.

(Mr. Pallone addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

HIGH COST OF PRESCRIPTION DRUGS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota (Mr. Gutknecht) is recognized for 4 minutes.

(Mr. Gutknecht addressed the House. Today I rise to talk about an issue that is of great concern to all Americans, but is of particular concern to the 53
million Americans that have no health insurance and to the 14 million American seniors that do not have prescription drug coverage under their Medicare benefit. What I am talking about is the high cost of prescription drugs. I want to show a chart for the benefit of the Members that begins to illustrate just how serious this problem is.

The first chart I want to show my colleagues begins to talk about the differentials or the difference between what we pay in the United States and what we pay in Europe for some of the most commonly prescribed drugs.

We have heard a lot over the last several years about how much difference there is between Canada and the United States and how much difference there is between Mexico and the United States. But many Americans do not realize there are enormous differences between what we pay for exactly the same drugs made in the same plants here in the United States compared to what we pay for the rest of our drug.

For example, the first drug on this list is a drug called Allegra, 120 milligrams. It is triple in the United States what they pay in Europe for the same drug. Some people will say, well, they have price controls in Europe. In some countries in Europe, that is true. But in Germany and Switzerland, it is not true.

Take a look at the drug Coumadin, which is a drug that my father takes. In the United States, it is quadruple the $2.22, which they charge for the average price in Europe.

Glucophage, which is a very commonly prescribed drug for people who have diabetes. In the United States, it sells for $30.12 on average for a 1-month supply. In Europe, it is only $4.11. That is seven times more than Americans are required to pay.

Mr. Speaker, my colleagues need to understand that, once a person is diagnosed, it is likely that they will stay on that drug for the rest of their lives. So we are talking about an enormous difference over the life-span of a patient who needs that.

Take a look at a drug Zithromax down here at the bottom. It is a new wonder drug in terms of being an antibiotic. It is a marvelous drug. But I wonder whether Americans should really have to pay triple what consumers in Europe have to pay.

As my colleagues can see, it is $466 for a month’s supply here in the United States on average. In Europe, it is only $176.19.

The next chart I want to show is really one of the most troubling charts of all. Last year the average senior got in their cost of living adjustment in the United States a 3.5 percent increase in their Social Security. At the same time, prescription drugs went up 19 percent. So for my colleagues, this is unsustainable.

Now, I intend to offer an amendment to the ag appropriations bill that will at least clarify that law-abiding citizens have a right, if they have a legal prescription, to buy drugs in Europe. And we are trying to work out the language right now. That is all I want to do.

Some say that the FDA lacks the resources to inspect mail orders. The truth is the FDA is focusing its inspections in the wrong places. Instead of stopping illegal drugs reported by illicit traffickers, the FDA concentrates on approved drugs being brought in by law-abiding citizens.

For example, the FDA detained 18 times more packages from Canada than they have from Mexico. This is outrageous. They are spending all of their resources chasing law-abiding citizens.

One of the biggest arguments of the people who oppose my amendment is that they say, well, we are going to ultimately have a Medicare benefit, a prescription drug benefit, that will eliminate the need to open the markets so that we get competition in prescription drugs. We will simply shifting the burden from those people who currently do not have insurance to the taxpayers will not solve this problem. The problem is there is no real competition.

But the biggest concern that a lot of people raise is what will this do in terms of public safety. Let me say this. More people have been killed in the United States from unsafe tires being brought into the United States from other countries than by bringing illegal drugs into the United States by law-abiding citizens. As a matter of fact, there is no known scientific study that demonstrates that there is a threat of injury to patients importing medications, legal medications, with a prescription, from an industrialized country.

What is more, millions of Americans have no prescription drug coverage. Stopping importation of FDA-approved legally prescribed drugs, that is where the threat of injury to patients importing medication to patients importing a prescription from industrial countries. What’s more, millions of Americans have NO prescription drug coverage. Stopping importation of FDA-approved drug threatens their safety. A drug you can’t afford is neither safe nor effective.

REVISIONS TO ALLOCATION FOR HOUSE COMMITTEE ON APPROPRIATIONS

The SPEAKER pro tempore (Mr. LAHOOD), Under a previous order of the House, the gentleman from Iowa (Mr. NUSSELE), is recognized for 5 minutes.

Mr. NUSSELE. Mr. Speaker, pursuant to Sec. 314 of the Congressional Budget Act and Sec. 221(c) of H. Con. Res. 83, the concurrent resolution on the budget for fiscal year 2002, I hereby submit for printing in the CONGRESSIONAL RECORD revisions to the allocations for the House Committee on Appropriations.

As reported to the House, H.R. 2330, the bill making appropriations for Agriculture and Related Agencies for fiscal year 2002, includes an emergency-designated appropriation providing $150,000,000 in new budget authority and $143,000,000 in new outlays. Under the provisions of both the Budget Act and the budget resolution, I must adjust the 302(a) allocations and budgetary aggregates upon the reporting of a bill containing emergency appropriations.

Accordingly, I increase the 302(a) allocation to the House Appropriations Committee contained in House Report 107–100 by $150,000,000 in new budget authority and $143,000,000 in new outlays. This changes the 302(a) allocation for fiscal year 2002 to $605,498,000 for my authority and $681,033,000 for outlays. The increase in the allocation also requires an increase in the budgetary aggregates to $1,636,638,000,000 for American taxpayers. Moreover, Medicare coverage won’t help the millions of Americans without health insurance.

Some say importation is merely an indirect way of enacting price controls. The truth is—Importing prescription drugs to the United States will lower prices here and, in turn, make more Americans afford drug research and development costs. The best way to break down price controls is to open up pharmacies’—Stephen W. Schondelmeyer, Pharm.D., Professor and Director, PRIME Institute, Head, Dept. of Pharmaceutical Care & Health Systems, College of Pharmacy, University of Minnesota.

Some say the FDA lacks the resources to inspect mail orders. The truth is—The FDA is focusing its inspection resources in the wrong places. Instead of stopping illegal drugs imported by illicit traffickers, the FDA concentrates on approved drugs imported by law-abiding citizens. So far this year, the FDA detained 18 times more packages coming from Canada than from Mexico. Last year, the FDA detained 90 times more packages from Canada than Mexico. Worse, last year Congress appropriated $21 million for border enforcement, but the Secretary of Health and Human Services refused to use this money.

Some say importation jeopardizes consumer safety. The truth is—No known scientific study demonstrates a threat of injury to patients importing a prescription from industrial countries. What’s more, millions of Americans have NO prescription drug coverage. Stopping importation of FDA-approved drug threatens their safety. A drug you can’t afford is neither safe nor effective.
So what can women do? Women need and deserve access to a prevention method that is within their personal control. Women are the only group of people at risk who are expected to protect themselves without any tools to do so. We must strengthen women's immediate ability to protect themselves, including providing new women-controlled technologies; and one such technology does exist, called microbicides.

The Microbicides Development Act, which I am introducing, will encourage technological development that is poised to change the landscape of HIV/AIDS prevention by contributing to the development of tools that can be deployed by women to protect themselves without any tools to prevent the spread of HIV and other sexually transmitted diseases. Researchers have identified almost 60 microbicides, topical creams and gels that could be used to prevent the spread of HIV and other sexually transmitted diseases, such as to bring the microbicides to market. But, except in the private sector in microbicides research has been lacking.

According to the Alliance for Microbicide Development, 38 biotech companies, 26 not-for-profit groups, and several government agencies are investigating microbicides, and phase III clinical trials have begun on four of the most promising compounds. The studies will evaluate the compounds' efficacy and acceptability and will include consumer feedback of the compounds' development. However, it will be at least 2 years before any compound trials are completed.

Currently, the bulk of funds for microbicide research comes from NIH, nearly $25 million per year, and the Global Microbicide Project, which was established with a $55 million grant from the Bill and Melinda Gates Foundation. However, more money is needed to bring the microbicides to market. Health advocates have asked NIH to increase the current budget for research to $75 million per year.

Mr. Speaker, today the United States has the highest incidence of STDs in the industrialized world. Annually, it is estimated that 15.4 million Americans acquired a new sexually transmitted disease. STDs cause serious, costly, even deadly conditions for women and include infertility, pregnancy complications, cervical cancer, infant mortality, and higher risk of contracting HIV.

This legislation has the potential to save billions of dollars in health care costs. Direct cost to the U.S. economy of sexually transmitted diseases and HIV infection is approximately $34 billion. When the indirect costs, such as lost productivity, are included, that figure will rise to an estimated $20 billion. With sufficient investment, a microbicide could be available around the world within 5 years. Think of the difference that would make.

I urge my colleagues to lend their support to this legislation. Mr. GANSKE, Mr. Speaker, will the gentlewoman yield?

Mrs. MORELLA. I yield to the gentleman from Iowa.

Mr. GANSKE. Mr. Speaker, I just want to commend the gentlewoman from Bethesda, Maryland, for her long-time concern on issues related to women's health.

I think this is a vitally important bill. It is something that this Congress should pass. It will affect millions and millions of women in a positive way. Sexually transmitted disease is a tremendous problem in this country. My hat is off to the gentlewoman, and I am happy to be a cosponsor of her bill. Mrs. MORELLA. Mr. Speaker, I was just going to thank the gentleman from Iowa (Mr. GANSKE) for being a cosponsor and for his work in making sure that Americans have appropriate access to health care.

EDUCATION IN AMERICA

The SPEAKER pro tempore. Under the Speaker's announced policy of January 3, 2001, the gentleman from New York (Mr. OWENS) is recognized for 60 minutes as the designee of the minority leader.

Mr. OWENS. Mr. Speaker, we are about to enter our July recess for the 4th of July holiday, and it must be noted that this Congress has completed two major legislative developments to date. One of those, of course, has been fully completed: the tax bill. That is fully completed, signed into law, and checks will begin to be issued.

Those checks will be going to the people at the very bottom of the rung as a result of legislation which was first proposed by the Progressive Caucus that every American should get some benefit from. That did not exactly happen, but every taxpayer is getting a small benefit as a result of the action taken early in the session by the Progressive Caucus. The idea got out there and kept moving until finally it was incorporated in another form in the tax bill. So people at the bottom are going to get some small amount of money from the tax bill. That is real. It is completed.

The other piece of legislation that has almost been completed is the education bill, the leave-no-child-behind legislation of the President. The new President, of course, made this a high priority; and we have moved in both Houses, with both parties cooperating extensively, to pass the leave-no-child-behind legislation separately in the House and in the Senate. But there has been no conference, and the bill is now on hold.

I think it should be noted that there are fears that the bill will be held deliberately until we have a chance to negotiate the major question of financing for the education bill. Education is on the legislative back burner right now; but in the hearts of the people who are polled out there, legislation is still a noble one concerning education.

Education has to remain on the front burner. The fact it is being held here is a good development in that the critical question in the legislation that passed the House versus the legislation that passed the Senate is the amount of money that is appropriated to carry out the features of the bill. The amounts of money are critical.
We do state in the legislation that passed the House that there will be an increase in an authorization for an increase in title I funds of double the amount that exist now in 5 years. In 5 years, in other words, we will have twice as much funding for title I as we have today. It will move from the present amount to about $17.2 billion in 5 years under the authorization. Authorization is there. That does not guarantee that the appropriation, of course, will keep pace.

The Senate bill has even more money earmarked for increases, but they do not have a commitment from the White House that the appropriation is going to follow the authorization. The big question is will the authorizations be honored. We had a great deal of effort to get bipartisan agreements.

I reluctantly voted for the education legislation because of the fact it did two things: one, it got rid of the consideration of vouchers for private schools. I think it is crucial that we think to clear the board and have vouchers off the discussion table was good for Federal legislative policy. However, the critical question of will we have more resources was also addressed. And the fact that the Senate has promise to double title I funds, which are the funds that go most directly to the areas of greatest need, impressed me to the point where I voted for the bill, even though there were some other features, which I will discuss later, which I do not consider to be desirable.

The critical point is, are there more resources? The need to have resources to maintain what I call opportunity-to-learn standards is a critical point that I have been trying to make for all these years. Opportunity to learn is the most important factor if we really want to improve education and have more youngsters who are attending our public schools benefit from the process. What that means to do, however, is force a process of accountability, insist that schools measure progress by the tests that are taken by the students and the scores on the tests, and that that is the way we should measure accountability. A school system is held accountable for improved test scores.

On the other hand, the opportunity-to-learn standards are ignored completely. Opportunity to learn means that before the test is given we must guarantee that the student will have an adequate place to learn; classrooms that are not overcrowded, libraries that have books that are up to date, laboratories that have science equipment. The opportunity to learn means that we have the right equipment, the right facilities. It means that we have certified teachers in the classroom. It means that all the resources that are needed are there before we start the testing.

But the process that we have pushed here is a process which tries to ignore the opportunity to learn as a major factor.

So we need to hold the education legislation because that vital component is missing. Let us hold it until we can negotiate an increase in the resources, turn this into an issue of money we can use to purchase resources, and those resources will provide the opportunity to learn. It may be that it will be end-game negotiations all of the way to the end of the session. Education legislation has benefited greatly over the last few years through the end-game negotiation process, right down to the very last hours of the session. When the White House and the Congress came together and they had their priorities on the table, education has fared very well.

Mr. Speaker, I hope that by holding the legislation this time until we get to that end-game negotiation, we will get the kind of funding necessary to make the legislation that we have passed passable. If we do not get some additional funding for the Leave No Child Behind funding, then it is a fraud. It has no substance if it is not going to provide additional resources.

There is a need to refresh ourselves and come back to an understanding of the fact that we have passed these two pieces of legislation in the House of Representatives and the Senate. There is no reason to rest on our laurels. We have a need of that same vigorous and that same concern that passed having great gaps in it, and those great gaps are not going to be closed in the end-game negotiation unless the people that we represent, our constituents, understand where we are and why there is a great need for more Federal involvement in the improvement of education.

I want to use as an example a series of articles that have appeared in the Daily News in New York City to talk about the New York school system, and I want to use New York City as a negative model. It is not the way it should be, but it is the way that it is in most of our large cities. I would not bore my colleagues with a discussion of what is going on in New York City unless I did not think that it was applicable all over the country in other big cities, and it is also applicable in rural areas.

Yesterday we voted on a bill to establish a commission to plan for the anniversary, 50th anniversary, of the Brown v. Board of Education. That anniversary relates to the question of segregation in public schools and whether or not it was legal. The Supreme Court struck down the fact of segregation and clearly made it illegal. Our concerns with segregation have begun to fade as far as segregation by race is concerned. The phenomenon we face now is a more subtle phenomenon. We have segregation in another way; not by race, but that is why I want to bring to your attention what this Daily News series has pointed out, and how the implications reach across the Nation.

But in the end the Daily News pinpoints the fact that the school system is in great trouble. In terms of service to the majority of the children attending the schools, we are failing at a faster and faster rate, and it is likely that school systems in Los Angeles, Philadelphia, a number of big cities, are failing in the same way, at the same rate, for the same reason, and that is why I want to bring to your attention what this Daily News series has pointed out.
Reading from their own editorial page, “This week in a Daily News special report entitled Save Our Schools, you have been reading about the meltdown of the New York City educational system. As documented in chilling detail in these 20 articles, the crisis has reached critical mass.”

Now, Daily News is not a radical newspaper. They very seldom use extreme words like “meltdown.” When they do, you have to consider that they have been shocked, and this is truly a serious situation.

“This laboratory of failure, this culture of catastrophe, puts 1.1 million school children at risk. It must end. That is why the Daily News has launched a campaign, no, a crusade, to rescue what was once a world-class system that created opportunities for millions.

I think it is important to point out that the New York City school system was once considered a world-class system. It gave a lie to the notion that any big system, any bureaucratic system is automatically a wasteful system and a nonproductive system.

The New York City school system produced the young people who went on to city colleges and who created a record of achievement and higher education in science and you name it; every scholarly endeavor that you can mention were the products of the New York City school system and of New York City publicly financed colleges. At one point City University had the highest percentage of Ph.D.s of any college in the Nation.

This was a system that was once a world-class system, and I submit it was a world-class system at a time when the people who were in charge of the system also had children who were attending the schools in the system; when the power, the power to make the system work was in the hands of the people whose children were attending the system. We have lost the kind of concerns and the kind of scrutiny and the kind of application of resources because of the fact that the people who are in charge and the people whose children are in the schools are not the same.

Continuing with the statement in the Daily News, “How abysmal is the situation? Sixty percent of the students in public elementary and middle schools cannot read at grade level. A third are functionally illiterate, and 70 percent lack the basic skills. Nearly 50 percent finish high school in 4 years. In the original class of 2000, 19.5 percent dropped out before graduation, a 12 percent leap from the class of 1999.” This percentage who dropped out before graduation represents a 12 percent change from the class of 1999.

A mere 35 percent of the kids take the Scholastic Assesment Test required for college. A mere 35 percent take the SAT, versus 20 percent of the rest of the children in New York State who take that same test. Only a broken system produces such a rock bottom number. It is appalling.

Just 44 percent of teachers hired last year for city schools had credentials, down from 59 percent in 1999. Meanwhile, 16 percent of all teachers are uncertified, the most in a decade.

Ten percent of parents did not bother to pick up their kids’ report cards. Fifteen percent do not know what grade their child is in, and the PTA at one school has only two members.

Oh, yes, they say in passing, “The buildings are falling down. Eighty-five percent of schools need major repairs.” I am going to repeat that paragraph because herein lies the story of denial of opportunities to learn.

How can the children of the New York City school system score well on the series of tests that are being proposed? The Leave No Child Behind legislation pushed by the White House and now passed by both Houses has a testing regimen which starts in the third grade. From the third to the eighth grade, children will be tested. If you test children in school under these conditions, I can tell you now without looking at the tests, most of them will fail.

Here are the conditions that the school, the children in the schools of New York will be facing as they take the tests. I am repeating this paragraph because herein is the story of the denial of opportunity to learn by the children in the schools of New York.

□ 1900

“Consider more numbers: Just 44 percent of teachers hired last year for city schools had State credentials, down from 59 percent in 1999. If you talk about a meltdown, you are in a terrible situation at 44 percent hired last year, or only 44 percent have State credentials, are certified. The fact that that is increasing at a rapid rate lets you know that you are in a much worse situation than just the fact that only 44 percent hired were certified. That is down from 59 percent the previous year. If you look at the year before that, I am sure that we had many more who were certified. We are rapidly losing all the qualified teachers needed in schools where the best teaching is needed.

“Meanwhile, 16 percent of all teachers are uncertified, the most in a decade. As for parents, 10 percent didn’t bother to pick up their kids’ report cards. And 85 percent of schools need major repairs.”

What they do not tell you is that of this 85 percent, quite a number of these schools are 100 years old and should have been replaced a long time ago.

There are honeycomb success stories among the failures. They give examples of public schools that are doing a great job.

Continuing to read from the Daily News editorial statement of June 22:

“Unfortunately, such efforts are but stop-gap measures. To truly transform education, activist moms and dads must team up with better trained teachers and with principals who don’t double as building managers. Schools must no longer be fettered by the United Federation of Teachers’ crippling work rules and its lifetime protection program for inept instructors. Finally, the Board of Education must be abolished so that accountability— and mayoral control—can reclaim the system.

“Those 1.1 million kids deserve a genuine chance to become beacons for the future. There is still a chance they will have only if New Yorkers unite to save our schools.”

I disagree with the remedies. The New York Daily News set of articles clearly states the problem and is to be applauded for that. It leaps to conclusions that have no basis in fact or experience as to remedies. To abolish the board of education is to throw away any opportunity for this generation of New York children to get an education. It would take more than a generation to rebuild anything that is half as good as what you have already. The board of education obviously has serious problems at present, but most of these problems are problems which are directly related to a lack of resources, the denial of the resources.

We have just gone through a situation where a clear statement was made by a judge after months of considering a case that was brought against the State of New York in terms of its allocation of resources to the City of New York. That case sums up the need for opportunity to learn in a way which is far simpler than I could state it elsewise. But it is important to understand that nothing would be more beneficial to the well being and progress of the Nation than the provision of the opportunity to learn that I am talking about.

Opportunity to learn for all would mean that we understand that brainpower is the greatest need of the Nation and the world. Education for all, including the least among us, is a vital investment in the fabric of the Nation. Economic power, technology power, the power of cultural influence and even military power is directly dependent on our reserve of brainpower. About 2 years ago, we launched the last super high-tech aircraft carrier that we launched and the Navy admitted at that time that it was about 300 crew members short because they did not have the necessary trained personnel. There was a lack of brainpower. There were technicians who had the aptitude to be trained to run the high-tech equipment on the aircraft carrier.

I am saying again that New York City schools are examples of what happens when all these things go. They are frozen in time in terms of providing a basic education. They do not even do as well as they were doing 50 years ago. But here is the challenge that faces us in terms of going into the future, and the challenge is much greater. Accountability— and the education system needs to be equipped to do a far better job. Brainpower is the key to where this Nation
is going. Unless we have a system that can educate all of the young people and guarantee that there are pools of trained personnel to draw from, then our entire society is in serious trouble. We do not just have a shortage of scientists, we have a shortage of trained computer personnel, information technology personnel, we have shortages right across the board.

Half of the graduate students in our big universities are foreigners. More than half of the graduate students studying science at the highest levels are foreigners. Whether you focus on chemistry or physics or engineering, or all of the technical and scientific pursuits, more than half are foreigners, which means you have a problem in terms of theoretical and scientific know-how. When you come down to the next level of technicians, there is a great shortage. If you look at any area, whether you are talking about auto mechanics or metal workers or even carpenters, there is a tremendous shortage of people who can do the ordinary jobs in our society because those jobs have become more and more complex. They need more and more skills. I visited a sheet metal training facility in Queens more than a year ago, and I was surprised at the use of computers. They make extensive use of computers in the training of sheet metal workers. Of just as many sheet metal workers use computers a great deal. There is almost no area where the skills required, the knowledge required is not far greater now than it was 25, 50 years ago.

That is the other problem. The first problem is to have a basically sound school system that is functioning at minimum level. The bigger problem is to have a school system which is able to cope with the challenges of the 21st century. New York fails on the first rung and cannot continue to exist as a school system unless it moves rapidly to the second rung, because that is where the soul of the city lies, in the productivity of the workforce. To solve our brainpower crisis in the information technology industry, for example, corporations are using foreigners more and more. But we cannot use foreigners to run our aircraft carriers. We cannot use foreigners to run the armed services. We cannot use foreigners to vote intelligently for our elected leadership. The survival of our constitutional civilization is directly dependent on the pools of brainpower we develop and maintain inside the Nation.

Our complex society is doomed without adequate checks and balances. This goes far beyond the executive, judicial, and legislative units of government. The larger the nonprofit organizations, the private corporations, these are also vital parts of the system of checks and balances. Without constantly increasing brainpower reserves and replacements, these institutions will diminish and lose their potency in the collective decision-making process.

In other words, I pointed out the crisis in science. It is not only in the area of science but in the area of writers, in the area of social workers. Wherever you examine the need for trained people, there is a shortage; and the shortage is increasing. The police are having difficulty recruiting qualified candidates. The schools are having difficulty recruiting qualified candidates. A more complex world demands people who are slightly better trained, and as a result we do not find them in the pools of manpower and brainpower that we have now. We presently have a growing shortage of teachers and educated supervisors and administrators. That is the most critical shortage. This will greatly hamper any meaningful education reform. But similar shortages, as I said before, are appearing among numerous other categories of professionals.

Right now there is a great negotiation taking place in New York City in respect to teachers' salaries. It is seen as a great problem, and I think it is really far beyond a collective-bargaining problem. The salaries of New York City teachers is a major public policy issue. The kinship of the school system is the leadership, the quality of the teachers and the principals, the administration and the personnel. If we do not get higher salaries for the people who are running that system, considering the fact that we are competing with salaries in all the surrounding suburbs and cities and towns, we are off the best personnel from New York City, then the rapidity, the speed with which we are losing the best teachers and administrators, will greatly increase and it will be totally impossible to change the system. When you talk about meltdown, nothing will speed the meltdown of the system faster than the failure of the present negotiations to greatly increase the salaries of the teachers and the education personnel in New York City in order to allow it to keep pace with the personnel salaries in the surrounding areas.

We have pinpointed that one of the most important opportunity-to-learn standards, opportunity-to-learn factors, is the provision of qualified and trained teachers, that is number one. Without the leadership, without qualified trained teachers, without principals and administrators, the system does not go anywhere. No study and experience it is an understanding what maximum opportunity to learn means. To provide an adequate and basic elementary and secondary education, we already know what works. There is no need for a great deal of discussion and controversy. There is a need for more resources. We need the money to pay the teachers decent salaries, we need to raise the standards, raise the morale, stop the brain drain and improve in all the other opportunity-to-learn areas, like the physical facilities, the equipment, the books, and cetera.

Before we begin to search for the most suitable pedagogical approaches, we must first put in place this set of opportunity-to-learn standards. The physical environment of the class, the building, the library, the cafeteria, laboratories, all of these must be safe and conducive to learning. The first negative product of overcrowded classrooms and hallways is usually an exacerbated discipline problem. Constantly we hear complaints about discipline problems. There are no silver bullet solutions for discipline problems; but one thing is certain, if you have overcrowded classrooms and overcrowded schools, the hallways, the cafeteria, the auditorium, then certainly you are going to have greater discipline problems. And, of course, you cannot honestly lower the pupil-teacher ratio unless you have more classrooms.

Right now we have a situation in New York City where we cannot honestly make use of the funds that were appropriated by the efforts of the last administration. We did get some movement in terms of higher salaries. But the pupil-teacher ratio in each class. We got a movement in the right direction, many teachers were employed; but the honest truth is that in New York City, instead of them having a lower pupil-teacher ratio in order to put another teacher in a crowded classroom there because there were no classrooms.

If you do not build additional classrooms, though you cannot have a lower pupil-teacher ratio in each classroom. They added a teacher to a crowded classroom which is not what the legislation was all about in the first place. We have done some creative maneuvers to get the money and use the money; but actually the benefit sought, a classroom where you had fewer pupils per teacher in order to be able to maintain greater order and give more attention to the students at a younger age, that did not happen and it is not happening in many cases.

This is a self-evident requirement, that you have trained teachers and you have trained supporting personnel. We refuse to take our children to untrained, uncertified dentists or pediatricians, so why not pay and seek the best teachers? Why should any child be subjected to the fumbling, makeshift efforts of an untrained teacher? We do not normally expect successful outcomes when unqualified staff are in the primary, secondary, or in the big-city school systems that the substitute teacher, the unqualified teacher who could not pass the test, who is not regularly on the rolls, who is not paid fully and who does not get full benefits, that substitute teacher becomes the teacher that children see the most often in the worst neighborhoods. In other words, in the poorest neighborhoods where other teachers do not want to teach, it is the substitute teacher, the unqualified teacher, that is usually brought in to fill the classrooms.

In one of my sections of my district, District 23, at one point they had more
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than half of the teachers who were not certified, who were substitutes, teaching in the schools. This was an area where the reading scores were very low and they needed the very best teachers. What I am attempting to explain is summarizing the fact that the State of New York had been short-changing the City of New York in terms of education funds. The court case went on for almost a year, testimony was heard, and the judge finally made a decision.

I will read just a few excerpts from that decision. Quoting from this is Judge Leland DeGrasse, New York State Supreme Court, this court has held that a sound basic education, mandated by the education article, that is the education article of the constitution, consists of the foundational skills that students need to become productive citizens capable of civic engagement and sustaining competitive employment.

In order to ensure that public schools offer a sound basic education, the State must take steps to ensure at least the following resources which, as described in the body of this opinion, are, for the most part, currently not given to New York City school students:

Number one, sufficient numbers of qualified teachers, principals and other personnel; two, appropriate class sizes; three, adequate and accessible school buildings with sufficient space to ensure appropriate class size and implementation of a sound curriculum; four, sufficient and up-to-date books, supplies, libraries, educational technology and laboratories; five, suitable curricula including an expanded platform of prerequisite skills with emphasis on skill building; six, adequate resources for students with extraordinary needs; and seven, a safe, orderly environment.

Now, these items laid out by Judge Leland DeGrasse, in the opinion of the New York State Supreme Court against the State of New York, accusing the State of not supplying these items, there is an exact parallel to the opportunity-to-learn standard, which consists of the foundational skills that students need to become productive citizens capable of civic engagement and sustaining competitive employment.

I might add that the judge gave the State of New York until the first of June, I think, to come forward with some kind of plan to respond to his decision. That has not happened.

I might also add that the Governor of New York appealed the decision of the court, and the Governor in essence stated that it is his plan to argue for the Governor all along, and that is that in New York City the children are too poor to learn. The poverty is the reason they cannot learn.

There is a condemnation out of which there is no solution; that is to say, children cannot learn because they are too poor, and, therefore, we should not put resources in to try to teach children who are too poor to learn dooms the children forever. It is like condemning slaves for being illiterate, nonfunctional when they came out of slavery after having a series of laws in every confederate State which made it a crime to teach a slave to read. It is a crime to teach you to read. At the same time, of course, there was a big contract to hire slaves, they were considered inferior, not quite human, and, therefore, why did they have to worry about teaching them to read? Evidently they were human enough, smart enough to learn how to read, so why was it then made.

In every confederate State there was a law that said it is a crime to teach a slave to read.

Now we have a situation where a Governor of one of the most advanced States of the Union, the great Empire State of New York, is arguing that the problem of education in New York City is that the children are too poor to learn, and, therefore, do not expect the State to solve the problem by providing more resources because they are too poor to learn; more resources will not help the situation. It is a State where we spend $25,000 per year for an inmate to be kept in prison. In New York City we spend only $7,000 per year to educate each student. You can see the direction of the reasoning of the Governor. If you cannot educate them, and most of them end up in prison, they are going to cost far more later on, but I suppose there are some profits to be made in the prisons that we do not know about.

Anyway, I think of no more confused and hopeless reasoning than for a Governor of a State to say we cannot solve the problem because the children are too poor to learn.

In the course of reforming the school finance system, a threshold task that must be performed by the State to the extent possible, the actual costs of providing a sound basic education in districts around the State has to be described, but certainly the State is going to have to ensure that every school district has resources necessary to provide opportunity for a sound, basic education. Taking into account variations in local costs and all the other things, the State should be in a position to provide what is necessary.

The New York Daily News article does not pinpoint the Governor's position, the fact that the Governor is now spending State funds to appeal the decision of the court, which called upon the Governor to provide more funding for New York City. The New York Daily News article does not finger that as one of the great reasons why we have the problem.

We have a meltdown in New York City schools. A meltdown is taking place right now, and the meltdown is primarily due not to the fact that children are too poor to learn. If that was the case, then New York City would not have produced some of the greatest scholars in our Nation.

The City College, the city universities, would not have turned out so many Ph.Ds. They are spread all over the world. Poor youngsters who came out of the ghettos of New York in the past have learned and performed well. The poverty is not the problem. The problem is that the people in charge of the system have allowed the system to deteriorate and not provide the opportunities to learn that should be provided.

One great controversy raging right now is around the opportunity-to-learn standard as reflected in school construction. School construction and the provision of adequate facilities is a major part of the problem. It is highly visible, and when you provide for adequate school facilities, you make a statement about the importance that you attach to education. If you refuse to provide for adequate facilities, you are also making a statement, and the continuing refusal to provide adequate schools is a statement that the people who are in power have made over the last 10 years. The Daily News recognizes the problem, but they do not pinpoint the fact that the mayor of the city of New York has been a major problem.

The decision-making process at city hall has been a major problem in the provision of adequate school facilities. We have a problem now where it is another Catch-22. They are saying that the high cost of construction in the year 2001 is so great that we cannot go ahead to begin to remedy the problem of overcrowded schools. We have to wait. We have run into a situation where the money projected to build schools would not go as far as anticipated because the cost has gone up. Some people are proposing that we call a halt and not build any more schools, not repair any more schools because the costs are too great.

Eight years ago there was a major confrontation between the present mayor and the chancellor of schools at that time because he proposed a $7 billion capital funding program. He proposed $7 billion, and the mayor said that was unreal, and there was such a clash until they drove that chancellor out of town.

A few years later a second chancellor proposed an $11 billion capital expenditure program, and there was a clash with the mayor, who said that was
unreal, and the clash became so heated that until that chancellor was forced to resign.

Now we are at a point where we are finding that because of all of these delays and all of the roadblocks that have been placed in the way of the decisionmakers at the board of education in terms of going forward with a meaningful capital expenditure program and building the schools at a time when it probably would have cost less, we now have a logjam, and the prices are going up.

The cost of construction has gone up. Well, is the cost of construction really up all over the Nation? Are we in a recession? Are we going toward a recession? Has the economy not slowed down? If they want to solve the problem of school construction in New York and keep the costs from rising, can we not appeal for some Davis-Bacon unionized contractors from all over the country to come in? We have no problem. They are willing to come up here by Davis-Bacon. They can come into New York City and take the contracts and go ahead and build schools there.

There are a dozen ways to solve the problem, yet there seems to be a will among the people of New York who do want to improve the education, at the current chancellor, and to play the kind of game that city hall has played all along; in other words, poor decision-making, incompetent decision-making, decision-making based on whose motives are questionable. After all, this is a mayor who has said that the school system, the board of education, should be blown up. The best way to get better education in New York City is to destroy the board of education. If you want to take that attitude, then it would be a contradiction for you to provide money for the board of education to build schools.

The mayor has been consistent. The question is why have the leaders of New York allowed him to be so consistent? Why have the members of the city council not challenged the mayor? We at one point had $3 billion; just 3 years ago we had $3 billion in surplus. New York City had a $3 billion surplus. Not a single penny of the surplus funds were used to repair schools or build schools or to do anything else for education, for that matter.

So we have a situation again which has clearly been delineated by the Daily News. If you live in New York City and you are interested in education, then I urge you to read the Daily News articles. If you do not live in New York City and you want to see what big cities all over America are facing, you might want to read the same series of articles. It is a remarkable series of articles that pinpoint all of the things that have gone wrong and can go wrong and what the consequences are.

Sixty percent of elementary and secondary middle school students cannot read at grade level. That is quite an indictment. Seventy percent are not proficient in math. Thirteen percent of this year’s high school seniors, that is about 4,100 students, failed the math Regents test. More than 13,000 students from the class of 2000 dropped out between the 9th and the 12th grades. That is 19.5 percent of the class. Between 1996 and 1999, 30 percent of New York City students failed the Math Proficiency Tests, a standardized exam for admission to most colleges. Seventy-three percent passed statewide and scored 40 to 50 points higher than the New York City students.

Sixty percent of elementary schools and 67 percent of high schools are overcrowded. Sixty percent of elementary schools and 67 percent of high schools are overcrowded, and the board of education’s master plan for the year 2003 concedes that 85 percent of the schools need major repairs. Deterioration is occurring at a rate faster than we can save the systems, the board documents reveal.

I think that that physical deterioration is the most visible manifestation of what is happening in general. When you talk about meltdown, look at the physical deterioration. I quote: Deterioration in the actual school buildings is occurring at a rate faster than we can save systems, the board documents reveal.

In recent years about half of public school students have completed high school in 4 years; 9 percent have graduated later, by the age of 21; and the rest have been lost completely. Is this the kind of example we dare go in terms of education in America?

I am using the New York City school system because it is an example of where our big cities are. Now, there was a lot of praise for Chicago, and Chicago was being used as some kind of magic model for the improvement of big-city school systems. Now, I understand the tests have shown that Chicago is again in serious trouble, that there has been a lot of hype and a lot of public relations, but underneath the improvements have been minimal, and the improvements have been minimal because, again, the opportunity-to-learn standards have not been addressed sufficiently.

They have not provided the kinds of quality facilities, trained teachers, adequate supplies and equipment, laboratories for science, library books and libraries. It is so simple, the opportunity-to-learn standards, but it is the area where nobody wants to engage in a discussion.

Yes, we have two new pieces of legislation, one in the Senate, one in the House, which are professing to be the last word on education reform. A lot of people are already applauding the legislation because it is finalized, and before the President signs it. It is not the final word, I hope. If that is the final word, we are in serious trouble.  

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The final word has to be dictated by the insistence of the American people out there, who have made education the number one priority for the last 5 or 6 years. When you ask the question, what should Federal dollars be used for, where is the most Federal assistance needed, education continues to score right up there with other concerns like crime and Medicare and Medicaid. Usually education is ahead of them all.

So the public is way ahead of the leadership. We must run to catch up with the leadership. What is happening now ought now gives us an opportunity to do that. As long as the bill is being held, as long as we do not go to conference, as long as we do not have a final signature by the President, then there is room for negotiation, as long as we are dealing with the appropriation process and it is understood that the glaring inadequacy of the present education legislation is in the area of resources, there is not enough money being guaranteed.

Oh, yes, the money is authorized. There is a reasonable amount authorized. If you are going to double the title I funding from the present amount to $17.2 billion in 5 years, that is a great increase. That is an increase worth voting for. But at the same time they are prioritizing here, we can do that, the appropriation and budget process says there is no money.

I started by saying we have had two great legislative developments up to now in this session of Congress. One was the passage of the tax legislation, and the other was the passage of education legislation by both Houses, although the education legislation is not complete.

They do not relate to each other. The passage of the tax legislation has put us in a situation where, despite the fact we have authorized more money for education, and the other body, the Senate bill authorizes even more than the House bill, we cannot actually get the money and pay it because unless there is a change in the appropriation process.

Somehow between now and the end of this session, more money has to be found in that budget; some new device has to be developed to increase the revenue; some changes have to be made, decreases in expenditures and other areas that are less important. Somehow we have to continue to press forward and make the case that brain power is the number one concern of this Nation at this time. Brain power and the pools of people produced to qualify to run a more and more complex society are at the heart of where we are going. Nothing else is going to move forward unless we have the appropriate brain power. Therefore, brain power should be number one.

If budget cuts have to be made somehow else, we should make those budget cuts, or if we have to find some new source of revenue dedicated to education, then that has to be the case. We must save our schools, not only in New York City, from a growing meltdown; but we must understand that the same
process, the meltdown process, is occurring elsewhere, and only Federal funds can be utilized to stop it.

HMO REFORM

The SPEAKER pro tempore (Mr. LAHOOD). Under the Speaker's announced policy of January 3, 2001, the gentleman from Iowa (Mr. GANSEK) is recognized for 60 minutes as the designee of the majority leader.

Mr. GANSEK. Mr. Speaker, I especially want to thank you for the time that you are spending in the Chair tonight, as you have many evenings with your spare time. The Members of this House of Representatives who come to the floor to give Special Orders are especially appreciative as, over the years, other Members have volunteered their time to sit in the Chair so that we could do our Special Orders.

This is the beginning of our July 4th recess week. I try to be somewhat briefer than the hour time that I am allotted for this.

Well, we have had, Mr. Speaker, a great debate going on in the Senate this week on the Patients' Bill of Rights. We have been watching this with great interest, because for the past 5 years I have been working on this issue, and I have been coming to the floor frequently, just about every week, in order to give a Special Order talk on the status of legislation to help protect patients from abuses by HMOs. I am looking forward to the day when we pass a strong Patients’ Bill of Rights piece of legislation on this floor to go along with what I think will be a strong Patients' Bill of Rights coming out of the Senate, that we marry those two bills together, that we add some important access provisions, such as an expansion of medical savings accounts, tax deductibility for the self-employed, and we move that down to the President's desk.

I strongly encourage the President to sign that, because there have been some significant compromises over the past few years on this legislation that I believe meet the President's principles, and yet retain principles that he enunciated during the Presidential campaign, such as allowing for important State laws on patient protection to continue to function, laws like those in Texas, which appear to be working pretty well.

Mr. Speaker, why are we continuing to talk about this? Well, we have had gridlock here in Washington for several years on this; and it has been a shame, because every day the HMOs make millions and millions of decisions that can significantly affect the well being of the patients they are supposed to be serving.

Remember a few years ago, there was a movie, “As Good as It Gets.” It had Helen Hunt, who had a child with asthma, Jack Nicholson, in the movie; and her little boy was being denied needed treatment for his asthma, which prompted Ms. Hunt to run a string of expletives together about that HMO. And I saw something I never saw happen before in a movie theater or seen since: I saw people stand up and clap in agreement with Ms. Hunt on that.

Then, in the last few years ago a large number of jokes and cartoons about HMOs. You do not see it so much any more because, you know what? Everybody knows that this is a problem. In order for something to be humorous, there needs to be some element of surprise. But it is no longer surprising that people have problems. You talk to your friends, family members, colleagues, and practically everyone can come up with a story about how an HMO has inappropriately denied treatment to a patient.

Remember the problem that we had a few years ago when one of the HMOs said, well, you know what? We do not think you need to stay in the hospital if you deliver a baby. Our plan guidelines say that.

So you had this type of cartoon. The maternity hospital, drive-through window: “Now only 6-minute stays for new moms.” The person at the window saying, “Congratulations. Would you like fries with that,” as the mom holds a crying baby, and she looks more than a little frazzled.

Well, it was not so funny when you started to see headlines on major newspapers around the country, like this one from the New York Post which said “What his parents didn’t know about HMOs may have killed this baby.” Or this headline from the New York Post that says “HMO’s cruel rules leave her dying for the doc she needs.”

Some of these cartoons were pretty hard hitting, and I would say the humor was black humor at a minimum. Here was a cartoon about HMOs that appeared a couple of years ago: “Cudidy-care HMO. How can I help you?”

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Then she repeats what the person is saying, “He is gasping, withing, eyes rolled back in his head? That doesn’t sound all that serious to me.”

Over on there it says, “Clutching his throat, turning purple? Um-hum.”

Then she says, “Well, do you have an inhaler?”

Then she says, “He is dead?”

And then she says, “Well, then certainly he doesn’t need emergency treatment, does he?"

And finally the HMO reviewer says, “Good, people are always trying to rip us off.”

Well, that was not too funny to this young lady. She fell off a 40-foot cliff about 60 miles west of Washington, D.C. She broke her pelvis, her arm, and had a concussion; nearly was dead. Fortunately, her boyfriend had a cellular phone. He phoned in the helicopter. They loaded her up, got her to the hospital, she was admitted through the emergency room, in the ICU on intravenous narcotics, and she got better.

But then do you know what the HMO did? They would not pay her bill. They said that she had not phoned ahead for prior authorization.

Does that strike you as a little funny? How was she supposed to know she was going to fall off a cliff and break her leg and have a concussion? Was she supposed to be able to read the ten newspapers?

Oh, and this was an issue. This was one of the first issues we talked about on HMOs. Back in 1995 I had a bill called the Patient Right to Know Act, because it became known that HMOs were requiring doctors to phone them in order to get permission to tell the patient about all of their medical treatments that might be possible. So you would have a situation, for instance, where a woman comes in to see a doctor; she has a lump in her breast. Before the doctor could offer three options, he says, “Oh, excuse me,” goes out in the hallway, gets on the phone and says, “HMO, can I tell this lady all about her treatment options?”

Here we have a doctor saying, “Your best option is radiation: $359, fully covered.” And the patient is saying, “This is one of those HMO gag rules, right?”

That HMO gag rule was not so funny to this woman. Her HMO tried to gag the doctors treating her; she needed treatment for breast cancer. She did not get it, and she died. And, do you know what? Under the current Federal law, if you receive your insurance from your employer and the HMO makes a decision like that, under Federal law, current Federal law, they are liable for nothing except the cost of care denied. And if the patient is dead, then they are not responsible for anything. Now this little girl and boy and the woman’s husband, they do not have their mom, because of what that HMO did.

Here is another cartoon. The doctor is taking care of a patient on the operating table. The doctor says “scalpel.”

The HMO bean counter says “pocket knife.” The doctor says “suture.” The HMO bean counter says “band-aid.” The doctor says, “Let’s get him to intensive care.” The HMO bean counter says, “Call a cab.”

Let me tell you about a real case that was sort of a call-a-cab response. Down in Texas, after they passed the patient protection bill down in Texas, there was a fellow named Mr. Palosika. He was suicidal. He was in the hospital. His doctor thought he needed to stay in the hospital because, if he left, he might commit suicide. But the HMO said, no, we do not think he needs to stay in the hospital, and we are not going to pay for it. If he wants to stay, fine. The family can pay for it themselves.

But, when, an HMO says that to most families, they do not have the money to pay for it up front themselves, so they just took him home.

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But, when, an HMO says that to most families, they do not have the money to pay for it up front themselves, so they just took him home.
That night, Mr. Falosika drank half a gallon of antifreeze and committed suicide.

Now, under Federal law, that HMO was supposed to, if they disagreed with the treating doctor's advice, they were supposed to expedite an independent review panel, but they did not do that, they just ignored the law. And that is why it is very important when we are dealing with patient protection legislation that we have a strong enforcement mechanism; not to create new lawsuits, but to prevent those lawsuits by making sure that the HMOs know that they will be responsible at the end of the day so they do not make decisions or so that they do not follow the rules, or, I should say, in order to ensure that they do follow the rules.

Here is another one of those cartoons. This is the HMO claims department. The claims reviewer is saying, "No, we don't authorize that specialist; no, that operation; no, we don't pay for that medication," and then apparently somebody says something to the operator, and she says, "No, we don't consider this assisted suicide." Mr. Speaker, I hope I do not have to talk about this case much longer. I hope we really do pass a strong Patients' Bill of Rights soon, the Ganske-Dingell bill, on this floor. This is a little boy that I know. He is now about 8 years old, but when he was 6 months old, he had a fever of about 104, and he was sick one night, and his mom phoned the HMO, a 1-800 number, probably thousands of miles away, and said, my baby is sick, we need to go to the emergency room. Mom leaped out of the car screaming, save my baby, save my baby. She called for the emergency room. Mom said, where is it? This voice over the phone said, I don't know, find a map. Made a medical decision, medical judgment, that reviewer did, that he was healthy enough to withstand a very long drive through Atlanta and bypass three hospitals with emergency rooms.

So Mom and Dad wrap him up. It is the middle of the night. They start their trek, they pass those emergency rooms where they could have stopped if they had authorization, but they were not health care professionals, they did not know how sick little James was, but he then suffered a cardiac arrest. Fortunately, they were able to keep him going until they pulled into the emergency room. Mom leaped out of the car screaming, save my baby, save my baby. A nurse ran out. She started an IV, they started mouth-to-mouth resuscitation, they gave him medicines, they saved his life, but they did not save all of this little boy. Because of that, he ended up with gangrene in both hands and both feet, and, consequently, both hands and both feet had to be amputated.

Under current Federal law, an employer health plan that makes that kind of medical judgment that results in that kind of injury to this patient is liable for nothing except the cost of his amputations.

I will tell my colleagues something. Once in a while I read an article, an editorial in a newspaper, and I hear opponents to our legislation saying, oh, those are just anecdotes. Those are just anecdotes. That girl that fell off the cliff, that was just an anecdote. The young mother who died because she did not get the care from the HMO, that is just an anecdote. A little boy who loses both hands and both feet, that is just an anecdote.

Mr. Speaker, do you know what I say to those people? I say, you know what? If this little anecdote had a finger, and if you pricked it, it would bleed. I say, this anecdote has to pull his leg protheses with his arm stumps every day. This anecdote needs help putting on his artificial feet. The anecdote will never be able to touch the face of the woman that he loves with his hand. He will never be able to play basketball. Now, he is a pretty well-adjusted kid, considering everything. He is a great kid. I want those people who write those open pieces to meet this little anecdote and look him in the eye and tell him that we do not need a Patients' Bill of Rights.

I will tell my colleagues this: There are not just a few anecdotes around the country. I get phone calls and letters from people all over the country. Just recently in Des Moines, Iowa, a woman came up to me and she said, I tell you what, I am fed up with our HMO. I have breast cancer. I have been battling this for a while. The treatments have made me worn out. But my doctor told me that I needed a test to see if the cancer had come back, and the HMO would not authorize it. Other than an x-ray, I want those people who write those open pieces to meet this little anecdote and look him in the eye and tell him that we do not need a Patients' Bill of Rights.

Mr. Speaker, there is a real need to pass this. People pay a lot of money and their employers contribute a lot of money for their health care. They work a lot of hours to earn that health care. When they finally get sick, it ought to mean something. They ought to be treated with justice and human compassion and not by green eyeshades looking at the bottom line and coming up with some arbitrary definition of medical necessity.

Mr. Speaker, under this Federal law I am talking about that passed 25 years ago, an employer health plan can define medical necessity as anything they want to. Some health plans have defined medical necessity as the cheapest, least expensive care, quote-unquote. Well, before coming to Congress, I was an orthopedic surgeon, I took care of children with cleft lips and palates. More than 50 percent of the surgeons in this country that do that kind of work in the last several years have had cases denied for kids with cleft lips and palates by the HMO saying, oh, that is not medically necessary. And under Federal law, they can define it any way they want.

That is why they had a big debate on this yesterday in the Senate, and they have managed to preserve language that says, if there is a dispute, an independent panel will make that decision and not be bound by the plan's arbitrary and unfair guidelines, so that if there is a denial of care, you get an honest-to-God chance that you will get them treatment you need. I commend the Senators who voted to preserve that, very important issue of letting an independent panel determine medical necessity and not be bound by a plan's guidelines. That does not mean that our bill says employers cannot set up their own benefits package. We are very clear on that. We do not change that for ERISA at all. If an employer wants to purchase a plan where the plan says explicitly in the contract language, we do not provide heart-lung transplants, that is fine. It is not what I would recommend, but they can do that, and we do not change that. If a patient came along and needed that, then they would have to come up with that financing themselves because it has been made explicitly clear. But if it has not been made clear that that is an explicit exclusion, and if the patient does need that and believe that they should get that under that type of agreement, then they should, they should.

We say in our bill, the Ganske-Dingell bill, the Bipartisan Patient Protection Act of 2001, we say that businesses are protected from liability. We have a standard in our bill that says, businesses will not be liable unless they enter into direct participation in the HMO's decision that would result in injury. That is a standard that many of my Republican colleagues agreed with 2 years ago, and we adopted it.

I had a good friend who is a businessman from Des Moines, Iowa, phone me today, and he wanted to know whether he would be liable under our bill, and I said, do you provide your health insurance for your employees? He said, oh, no. Oh, no. That is a matter of personal privacy for our employees. We do not want to know what is happening to their personal lives, and, quite frankly, they do not want us to know
what is going on, and we do not want to know, if only for the reason that
maybe we would have an employee at
some time that is not performing up to
par, and we might have to let that em-
ployee go, and we do not want that em-
ployee coming in and saying, well, you
are not doing your job, and then find
out that I have diabetes or that I
had to see a psychiatrist.
Under our bill, the Ganske-Dingell
bill, employers are protected from li-
ability, unless, unless they directly
participate. Furthermore, there has
been additional protective language
that is not directly
the patient
of the day, but that if there is a dispute
issue, and we think that that is a posi-
tional, unless they directly
can increase
and the patient has no right of appeal.
who says yes, that
absurd, going to an independent panel
where the decision would be binding on
the health plan.
In that circumstance, in the Ganske-
Dingell bill, you know what? We give
total punitive damages relief to the
health plan. We say, if this dispute
goes to an independent panel, and a
health plan follows the decision, then
they cannot be held liable at all for pu-
nitive damages. That has been one of
the major concerns, large punitive
damage awards by the business com-
pany.
Some people attack our bill by say-
ing, oh, it is going to increase the costs
for health insurance premiums. We
hear that a lot in the debate that has
been going on in the Senate. My an-
twer to that is that the Congressional
Budget Office has looked at our bill,
the McCaın-Edwards bill is the com-
panion bill that is being debated in the
Senate, they have looked at our bill and
they say that the total cost would be
4 percent increase in premiums over
5 years, so less than 1 percent per year.
The alternative, Frist-Breaux bill, the
GOP bill in the Senate, would increase
premiums by about 3 percent over the
same period of time. But the provision
on the liability would result in a total
increase in premiums of only .8 percent
over 5 years. That is less than two-
tenths of a percent. The analysis of
that would show in practical terms
that the cost of our bill would be about
the cost of a Big Mac meal per month
per employee.
Mr. Speaker, the surveys around the
country show that people think that
that would be well worth it to know
that they would be treated fairly.
Now, just this week there has been
a big roll-out of an opposition bill to the
Ganske-Dingell bill. It is called the
Fletcher bill, the Fletcher-Thomas bill.

It is called the Fletcher bill, the
Fletcher-Thomas bill. As a doctor, I
know that you do not do a complete
physical exam without examining the
body under the clothing. So there were
a lot of good words said by the oppo-
nents to our bill about the Fletcher
bill, but I have looked at the body of
that Fletcher bill.
I will tell you something, it is not justly, except to the HMOs.
When the Fletcher bill is stripped of its
spin, the bones, and the sinews look
like the old HMO protection bills that
the opponents to real patient protec-
tion have tried to confuse the public
with for several years.
For example, in the Fletcher bill,
there are significant constraints on the
independence of the medical reviewer.
The standards of review would actually
codify negligent health plan practices.
It would make them unreviewable.
The Fletcher bill’s designated deci-
sionmaker language could be gamed by
the HMO. They are working on des-
ignated decisionmaker language on the
Senate side right now. Senator Swoow
is working on a way to write that language that is fine, it
adds language that is protective for
employers, but at the same time pre-
vents that language from being used to
deny patients the care they need.
Mr. Speaker, Frist, released to see
progress being made on that on the
Senate side. The Fletcher bill, despite
the plan’s sponsor’s contentions, re-
verses State law. It effectively federal-
izes State law by saying that the only
allowance is if an HMO does not com-
ply with the review panel, which under
the Fletcher bill, the HMO is able to stock in its own favor.
Those are just a few of the diseases on the
Fletcher bill.
I advise my fellow Republican House
Members to become aware of being in-
fected with the Fletcher bill. The real
cure is the Ganske-Dingell bill.
Here is some statements from my
great colleague, the gentleman from
Georgia (Mr. N ORWOOD), who has
worked with me and the gentleman
from Michigan (Mr. DINGELL) hand in
hand on this for years.
Here is what the gentleman from
Georgia (Mr. N ORWOOD), a very conserv-
ative Republican, says about the
Fletcher bill. He says a patient could
suffer injury or death from improperly
denied care and still be blocked from a
just court remedy with the Fletcher
bill.
Here is what the gentleman from
Georgia (Mr. N ORWOOD) says about the
Fletcher bill. The design of this latest
imposter bill is identical to previous
attempts to derail patients’ rights, cre-
te a technical right to sue an HMO
without conditions that will disqualify the
majority of cases to quote unquote.
The gentleman from Georgia goes on
to say the HMO chooses the external
appeals panel, which then determines
whether the patient can go to court
and the patient has no right of appeal.
This alone is an insurmountable hur-
dle. It is just the tip of the iceberg.
This bill, speaking about the Fletcher
bill, imposes the responsibility of al-
loving a choice of the doctor on the
employer instead of the HMO, and then
it disqualifies the majority of employ-
ees from having the right to begin
with. It contains nothing on adding
prescription drug reform.
The list goes on and on so far, in fact,
that patients denied punitive awards would be
no bill than with the Fletcher bill.
quote, unquote.
Mr. Speaker, my friend, the gen-
tleman from Georgia, goes on in his
press release and says the Fletcher bill
further proposes that all suits over im-
plicitly denied care be reserved to
Federal court, with the exception of
cases in which HMOs violate Federal
law by refusing to comply with legally
binding decisions of medical review
panels.
If the injury or death of a patient oc-
curred prior to the ruling or through
the delay imposed by the Fletcher
bill, even their current limited right to sue under State law
would be in effect would be the law in
33 States. The law that
33 States currently cap punitive and
noneconomic damages. The law that
would be accordingly preempt, preempt
patient laws in Texas, Georgia, Ari-
izona, California, Louisiana, Maine,
Missouri, New Mexico, Oklahoma, Or-
egon, Washington, and West Virginia.
Let me repeat that. My friend, the gen-
tleman from Georgia, says the Fletcher
bill would preempt patient protection
laws in Texas, Georgia, Arizona, Cali-
ifornia, Louisiana, Maine, Missouri,
New Mexico, Oklahoma, Oregon, Wash-
ington, and West Virginia.
Let us talk a little bit about the
comparison of the Fletcher bill to the
Ganske-Dingell-Norwood bill. Fletcher
claims the plans face unlimited puni-
tive damages in State court and $5 mill-
on punitive damages in Federal court,
regardless of compliance with review
process under the Ganske-Dingell bill.
Here is the fact. Under my bill, State
local punitive damages awards are pro-
hibited entirely if the plan follows the
external appeals process. In addition,
33 States currently cap punitive and
noneconomic damages. The law that
would be in effect would be the law in
those States.
Punitive damages are banned en-
tirely in Federal court cases while $5
million in civil penalties are available
in Federal court if the plan is proven
clear and convincing evidence to
have acted in bad faith with flagrant
disregard for the rights of the patients.
That is what is in the Ganske-Dingell-
Norwood bill.
Mr. Speaker, the opponents to our
bill, the gentleman from Kentucky
(Mr. FLETCHER) here, claims that our
bill allows lawsuits, not only under
ERISA, but also COBRA or HIPPA
while the original Norwood-Dingell bill
we debated a few years ago allowed
ERISA cases only.
Here is the fact. The Ganske bill removes contractual disputes to Federal court. Why do we do that?

Number one, the Supreme Court has already said that is what should be done. We do it to preserve the ability of the President to sign the {Income Security Acts} uniform contract benefits. Our inclusion does not produce any additional causes of action under Ganske-Dingell. It does protect the ability of plans and employers to offer uniform health care Nationwide.

Let me repeat that. Our bill is not a bill that would prevent an employer who works in many States from devising his own uniform benefits health plan. That is the fact. Fletcher claims that the Ganske-Dingell-Norwood bill would allow patients to sue in both Federal and State courts for the same injury; that is not correct. Our bill, the Ganske-Dingell bill, assigns contractual disputes to Federal court, medical disputes to State court. Patients must specify the grounds of the dispute when they file. Under standard court procedure, suits cannot be filed in both courts over the same grounds.

Here is the gentleman from Georgia (Mr. NORWOOD) said. The Fletcher bill appears designed for one cause a medical decision. We call that low external review and erroneously allows cases regarding medical decisions to be heard in State courts. The Fletcher bill does not give American to choose their own doctor. The Fletcher bill does not give Americans the right to choose the doctor and puts the requirement that employees get an option to choose their own doctor on the employer.

Number two, the Ganske-Dingell bill ensures fair review process. The Fletcher bill allows health plans to choose the reviewer at external review.

Number three, the Fletcher bill forces the patient to get approval from an external reviewer before they can seek damages for injury in court. The Ganske-Dingell bill says that a reviewer’s decision must be considered as evidence, but does not create an absolute bar from damages.

Number four, the Fletcher bill will preempt 12 State laws that have been passed that allow HMOs to be held liable in State courts. The Ganske-Dingell bill protects those State laws, and that is exactly one of the principles that the floor said was essential on HMO reform during the campaign.

Number five, the Ganske-Dingell bill allows cases regarding medical decisions to be heard in State courts. The Fletcher bill allows patients to go to State court when a plan does not follow external review and erroneously causes a medical decision. We call that breaking the law.

Further, the Fletcher bill allows the patient to forum shop, the Fletcher bill allows the patient to forum shop between Federal and State court, not the Ganske-Dingell bill.

These are some of the important differences that we are talking about between the Ganske-Dingell bill and the Fletcher bill.

That is why over 500 health groups, consumer groups, professional groups have endorsed the Ganske-Dingell bill and very few have said much about the Fletcher bill, other than that in some cases, in some parts of the language, maybe it is okay. But if you look at the overall bill, the real patient protection bill is the Ganske-Dingell bill.

Mr. Speaker, I believe, we will see this in large part passed with the McCain-Edwards-Kennedy bill, which is the companion bill to our bill. I think in large part, it will pass in the Senate. I think with a pretty big boost as we move into debate here on the floor.

I am appreciative of the work that Senators like Mike DeWine and Olympia Snowe, Lincoln Chafee, and others, who have put into this bipartisan bill as the Senate debate has moved forward. Those changes, as far as I have seen so far, look very acceptable to the gentleman from Georgia (Mr. NORWOOD) and myself and the gentleman from Michigan (Mr. DINGELL).

In the House we have been nice if they had added the expansion of medical savings accounts and the 100 percent deductibility for the self-insured. That is in our House bill, but under the rules in the Constitution, those types of provisions have to originate in the House, so they did not debate those or pass those; but I believe they have wide bipartisan support.

Mr. Speaker, I think it showed that the Democrats were willing to move to compromise. It is quite clear. It is no secret, a lot of Democratic Members are not real keen on medical savings accounts, but under the Ganske-Dingell bill we expand those medical savings accounts. That is part of the compromised process. That is how you get things done here in Washington.

I will tell you what, a purely partisan vote in this House will not pass. The Fletcher bill is a partisan bill. There is one Democrat that supports it, maybe two, but we have nine Republicans who have been stalwarts for patient protection, who have withheld the bows of the $150 million campaign by the HMOs in this country trying to beat them down.

Mr. Speaker, I believe we will see this in large part passed. I will make an appeal to my colleagues. The American to choose their own doctor in this country.

I ask my colleagues over the July 4th recess to examine their consciences, to talk to some of the patients and the health care advocates and the health care professionals that have to deal with HMOs that make those types of arbitrary decisions that result in problems for patients.

Talk to them over the July 4th recess. Listen to them. They represent an awful lot of people in my colleagues’ districts. I believe that if my colleagues do, they will come to the conclusion that it is time to get this off the congressional calendar. It is time to join the Senate, to pass a bipartisan and bicameral bill.

Do not let it get hung up in committee. In a conference committee, send it to the President’s desk. I would love nothing better than for the President to look at the changes that we have done in the Senate debate and come to the conclusion that this bill, and as I truly think it does, meets his principles and that he will sign it. That would be a very bright day for millions and millions of Americans.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. DEFAZIO, for 5 minutes, today.
Ms. NORTON, for 5 minutes, today.
Mr. FALLON, for 5 minutes, today.
Mr. KATZ, for 5 minutes, today.
Mr. NUSSELE, for 5 minutes, today.
Mrs. MORELLA, for 5 minutes, today.

ADJOURNMENT TO TUESDAY, JULY 10, 2001

Mr. GANSKE. Mr. Speaker, pursuant to House Concurrent Resolution 176, I move that the House do now adjourn.
of the 107th Congress, the House stands adjourned until 10 a.m. on Tuesday, July 10, 2001.

Thereupon (at 8 o’clock and 19 minutes p.m.), pursuant to House Concurrent Resolution 176, the House adjourned until Tuesday, July 10, 2001, at 2 p.m.

EXECUTIVE COMMUNICATIONS.

ETC.

Under clause 8 of rule XII, executive communications in the Speaker’s table and referred as follows:

2719. A communication from the President of the United States, transmitting requests for Fiscal Year 2002 budget amendments for the Department of Defense; (H. Doc. No. 107-92); to the Committee on Appropriations and ordered to be printed.


2723. A letter from the Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, transmitting the Office’s final rule—Investment Securities; Bank Activities and Operations; Leasing [Docket No. 01-13] (RIN: 1557-AB94) received June 27, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

2724. A letter from the Deputy Assistant Secretary for Policy, Planning and Innovation, Department of Education, transmitting Final Regulations—Federal Work Study Programs; Federal Supplemental Educational Opportunity Grant Program, and Special Leveraging Educational Assistance Partnership Program, pursuant to 20 U.S.C. 1232(h); to the Committee on Education and the Workforce.

2725. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency’s final rule—OMB Approvals Under the Paperwork Reduction Act; Technical Amendment [OPPTS-0013; FRL-6771-7] received June 27, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2726. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency’s final rule—Approval of section 112(l) Authority for Hazardous Air Pollutants; Chemical and Safety Prevention Provisions; Risk Management Plans; New Jersey Department of Environmental Protection [FRL-6996-7] received June 27, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2727. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency’s final rule—Approval and Promulgation of Air Quality Implementation Plans; New Hampshire; New Source Review Revision [NOIB-03-715a; A-1; FRL-6885-6] received June 27, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2728. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency’s final rule—Approval and Promulgation of Air Quality Implementation Plans; New Hampshire; New Source Review Revision [NOIB-03-715a; A-1; FRL-6885-6] received June 27, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2729. A letter from the Assistant Director for Executive and Political Personnel, Department of Defense, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

2730. A letter from the Assistant Director for Executive and Political Personnel, Department of Defense, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.


2732. A letter from the Acting Director, Office of Personnel Management, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

2733. A letter from the Acting Director, Office of Personnel Management, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

2734. A letter from the Director, Corporate Policy and Research Department, Pension Benefit Guaranty Corporation, transmitting the Corporation’s final rule—Disclosure and Amendment of Records Pertaining to Individuals Under the Privacy Act—received June 27, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

2735. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration’s final rule—Fisheries Management Plan for the Tropical Zone Off Alaska; Yellowfin Sole by Vessels Using Trawl Gear in Bering Sea and Aleutian Islands Management Area [Docket No. 02112013-1013-01; L.08081A] received June 27, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2736. A letter from the Assistant Attorney General, Department of Justice, transmitting the 2000 Annual Report of the Office of the Police Corps and Law Enforcement Education to the Committee on the Judiciary.

2737. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting the Department’s final rule—VISA’s: Documentation of Nonimmigrants Under the Immigration and Nationality Act; Application for Nonimmigrant Visa; XIX Olympic Winter Games and VIII Paralympic Winter Games in Salt Lake City, Utah, 2002—received June 27, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

2738. A letter from the Attorney for the National Council on Radiation Protection and Measurements, LeBoeuf, Lamb, Greene and MacRae, L.L.P., transmitting the 2000 annual report of independent auditors who have audited the records of the National Council on Radiation Protection and Measurements, pursuant to 36 U.S.C. 4514; to the Committee on the Judiciary.

2739. A letter from the Chief, Regulations Division, Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury, transmitting the Department’s final rule—Diamond Mountain District Viticultural Area (99B-222P) [T.D. ATF-456; Re: Notice No. (RIN: 1512-AC74) received June 27, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

2740. A letter from the Chief, Regulations Branch, Customs Service, Department of the Treasury, transmitting the Department’s final rule—Time Limitation for Requesting Rulings Under the Harmonized Tariff Schedule (T.D. 01-46; RIN: 1515-AC94) received June 26, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

2741. A letter from the Chief, Regulations Division, Bureau of Alcohol, Tobacco, and Firearms, Department of the Treasury, transmitting the Department’s final rule—Reconciliation of Regulations on Tobacco Products and Cigarette Papers and Tubes [T.D. ATF-457] (RIN: 1512-AC1) received June 28, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. SENSENBRENNER: Committee on the Judiciary. H.R. 1407. A bill to amend title 35, United States Code, to permit air carriers to meet and discuss their schedules in order to reduce flight delays, and for other purposes; with amendments (Rept. 107-77 Pt. 2); referred to the Committee of the Whole House on the State of the Union.

Mr. HYDE: Committee on International Relations. H.R. 2331. A bill to reauthorize the Tropical Forest Conservation Act of 1996 through fiscal year 2004; with amendments (Rept. 107-119); referred to the Committee of the Whole House on the State of the Union.

Mr. BAGDASTRIAN-KIRKORIAN, Mr. RAVITCH of California, Mr. THOMPSON of California, and Mr. ISAAC: H.R. 2344. A bill to amend the Internal Revenue Code of 1986 with respect to the treatment of crops destroyed by casualty; to the Committee on Ways and Means.

PUBLIC BILLS AND RESOLUTIONS

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

By Mr. CALVERT (for himself, Mr. HERRING, Mrs. BONO, Mr. FOLTY, Mr. RADNICH of California, Mr. THOMPSON of California, Mr. BAIRD, Mrs. THURMAN, and Mr. ISAAC): H.R. 2344. A bill to amend the Internal Revenue Code of 1986 with respect to the treatment of crops destroyed by casualty; to the Committee on Ways and Means.
By Mr. TOM DAVIS of Virginia:
H. R. 2355. A bill to amend subchapter III of chapter 83 of title 5, United States Code, to make service performed as an employee of a nonappropriated fund instrumentality after 1965 and before 1987 creditable for retirement purposes; to the Committee on Government Reform.

By Mr. SHAYS (for himself and Mr. MURPHY):
H. R. 2356. A bill to amend the Federal Election Campaign Act of 1971 to provide bipartisan campaign reform; to the Committee on House Administration, and in addition to the Committees on Energy and Commerce, and the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. JONES of North Carolina (for himself and Mr. HOSTETTLER):
H. R. 2357. A bill to amend the Internal Revenue Code of 1986 to permit churches and other organizations to engage in political campaigns; to the Committee on Ways and Means.

By Mr. BARTLETT of Maryland (for himself, Mr. UDALL of Colorado, Mr. BOEHLEIT, Ms. JACKSON-LEE of Texas, Mr. SMITH of Texas, Mr. SMITH of Ohio, Mr. MOORE of South Carolina, Mr. ELIERS, Mr. DELAHUNT, and Mr. WAMP):
H. R. 2358. A bill to authorize appropriations for environmental research and development, scientific and energy research, development, and demonstration, and commercial application of energy technology bioenergy programs, projects, and activities of the Department of Energy, and for other purposes; to the Committee on Science.

By Mr. SMITH of New Jersey (for himself and Mr. EVANS):
H. R. 2359. A bill to amend title 38, United States Code, to authorize the payment of National Service Life Insurance and United States Government Life Insurance proceeds to an alternate beneficiary when the first beneficiary cannot be identified, to improve and extend the Native American veteran housing loan pilot program, and to eliminate the requirement to provide the Secretary of Veterans Affairs a copy of a notice of appeal to the Court of Veterans Claims; to the Committee on Veterans’ Affairs.

By Mr. NEY (for himself, Mr. WYNN, Mr. SWEENEY, Mr. MICA, Mr. RYNN, Mr. SCHUMACHER, Mr. PETRISCHON of Pennsylvania, Mr. HOBSON, Mr. DUNN, Mr. CUNNINGHAM, Mr. TAYLOR of North Carolina, Mr. TRAFICANT, Ms. PAYCE of Ohio, Mr. BLUNT, Mr. ELIERS, Mr. BALLENGER, and Mr. NORWOOD):
H. R. 2360. A bill to amend the Federal Election Campaign Act of 1971 to restrict the use of non-Federal funds by national political parties, to revise the limitations on the amount of contributions which may be made under such Act, to promote the availability of information on communications made with respect to campaigns for Federal elections, and for other purposes; to the Committee on House Administration.

By Mr. SMITH of New Jersey (for himself, Mr. EVANS, Mr. SIMPSON, Mr. TAYLOR, and Mr. SPENCE):
H. R. 2361. A bill to increase, effective as of December 1, 2001, the rates of disability compensation for veterans with service-connected disabilities, the rates of dependency and indemnity compensation for survivors of certain service-connected disabled veterans, and for other purposes; to the Committee on Veteran’s Affairs.

By Mr. BORSKI (for himself, Mr. BRADY of Pennsylvania, Mr. COYNE, Mr. DOYLE, Mr. ENGLISH, Mr. FATTAH, Mr. GEKAS, Mr. GREENWOOD, Ms. HART, Mr. HORFREL, Mr. HOLDEN, Mr. KANJORSKI, Mr. MASCARA, Mr. MURTHA of Massachusetts, Mr. PLATTS, Mr. SHERWOOD, Mr. SHUSTER, Mr. WELDON of Pennsylvania, and Mr. FITTS):
H. R. 2362. A bill to establish the Benjamin Franklin Tercentenary Commission; to the Committee on Government Reform.

By Mr. GRINNELL (for himself, Mr. KAPUTR, Mr. STARK, Mr. BONIOR, Mr. WAXMAN, Mr. LANTOS, Mr. BALDACCI, Mrs. JONES of Ohio, Mr. JOHNSON of Connecticut, Mr. ENGLISH, Ms. HINCHRY, Mr. TOWNS, Ms. HART, Mr. SHOWS, Ms. MCCARTHY of Missouri, Mr. FROST, Mr. ANDREWS, Mr. DEFAOZIO, Mr. ROUKEKA, Mr. HARRISON, and Mr. REP.:
H. R. 2363. A bill to provide for the establishment of regional centers to assist State and local governments, health maintenance organizations, nonprofit organizations, and other organizations in the development of peer-support activities and other nonprofessional services to cope with and overcome persistent mental illnesses; to the Committee on Energy and Commerce.

By Mr. KAPUTR (for herself, Mr. GREENWOOD, Mr. STARK, Mr. BONIOR, Mr. WAXMAN, Mr. LANTOS, Mr. BALDACCI, Mrs. JONES of Ohio, Mrs. TAUSCHER, Ms. JOHNSON of Connecticut, Mr. HINCHRY, Mr. TOWNS, Ms. HART, Mr. SHOWS, Ms. MCCARTHY of Missouri, Mr. FROST, Mr. ANDREWS, Mr. DEFAOZIO, Mr. ROUKEKA, Mr. HARRISON, and Mr. REP.:
H. R. 2364. A bill to amend title XIX of the Social Security Act to provide States with the option of providing comprehensive mental health treatment under the Medicaid Program; to the Committee on Energy and Commerce.

By Mr. COSTELLO (for himself, Mr. AKIN, Mr. WHITFIELD, Mr. MOLLION, Mr. BOUCHER, Mr. SHIMKUS, Mrs. CAPITO, Mr. PHILPS, and Mr. LIPINSKI):
H. R. 2365. A bill to authorize Department of Energy programs to develop and implement an accelerated research and development program for coal technologies for use in coal-based electricity generating facilities, so as to allow coal to help meet the growing need of the United States for the generation of clean, reliable, and affordable electricity; to the Committee on Science.

By Mr. BIGGERT:
H. R. 2366. A bill to amend the Family and Medical Leave Act of 1993 to clarify the Act, and for other purposes; to the Committee on Education and the Workforce, and in addition to the Committees on House Administration, and Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SESSIONS (for himself and Mr. WELDON of Florida):
H. R. 2367. A bill to amend the Employee Retirement Income Security Act of 1974, the Public Health Service Act, and the Internal Revenue Code of 1986 to provide for accountability of health plans; to the Committee on Education and the Workforce, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SMITH of New Jersey (for himself, Mr. TOM DAVIS of Virginia, Ms. SANCHEZ, Mr. ROKHACHER, Ms. LOPEREN, Mr. ROYCE, Mr. WOLF, and Mr. GILMAN):
H. R. 2368. A bill to promote freedom and democracy in Viet Nam; to the Committee on International Relations, and in addition to the Committees on Financial Services, and Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ISSA (for himself, Mr. BARTLETT of Maryland, Mr. LEWIS of California, Mr. MCGOVERN, Mr. EHLERS, Mr. WALSCHER of New Jersey, Mr. BAIRO, Mrs. MORELLA, Mr. COX, Mr. HUNTER, and Mr. CUNNINGHAM):
H. R. 2369. A bill to amend title 23, United States Code, relating to the use of high occupancy vehicle lanes by hybrid vehicles; to the Committee on Transportation and Infrastructure.

By Mr. WELLER (for himself and Mr. NEAL of Massachusetts):
H. R. 2370. A bill to modify the Internal Revenue Code of 1986 to modify the exception from the treatment of welfare benefit funds for 10-or-more employer plans; to the Committee on Ways and Means.

By Mr. BALDACCI (for himself and Mr. ALLEN):
H. R. 2371. A bill to authorize the transfer and conveyance of real property at the Naval Security Group Activity, Winter Harbor, Maine, and for other purposes; to the Committee on Armed Services.

By Mr. BOSWELL:
H. R. 2372. A bill to direct the Secretary of the Army to convey the remaining water supply storage area in Rathbun Lake, Iowa, to the Rathbun Regional Water Association; to the Committee on Transportation and Infrastructure.

By Mr. BRADY of Texas (for himself, Mr. DOUGERT, Mr. SCARBOROUGH, Mr. TURNER, Mr. SESSIONS, Mr. SUNUNU, Mr. BASS, Mr. BARTON of Texas, Mr. JASON of Texas, Mr. VOGT of California, Mr. HENRY, Mr. THOMPSON of California, Mr. GEORGE MILLER of California, Mr. ENGLISH, Mr. HENEFER, Mr. McFARLAND, Mr. GREENWOOD, Mr. RUEBACH, Mr. DOOST, Mr. ROYCE, Mr. ISAKSON, Mr. COOKSEY, Mr. SCHAPPF, Mr. GOODLAT, Mr. FLAKE, and Mr. TOOMEY):
H. R. 2373. A bill to provide for the periodic review of the efficiency and public need for Federal agencies, to establish a Commission for the purpose of reviewing the efficiency and public need of such agencies, and to provide for the abolition of agencies for which a public need does not exist; to the Committee on Government Reform.

By Mr. CAMF:
H. R. 2374. A bill to amend the Internal Revenue Code of 1986 to treat certain motor vehicle dealer transitional assistance as an involuntary conversion, and for other purposes; to the Committee on Ways and Means.

By Mr. KIND (for himself, Mr. GILCHREST, Mr. BOEHLEIT, Mr. DINGELL, Ms. J OHNSON of Connecticut, Mr. LOVE, Mr. GILLERY of Florida, Mr. GEORGIE MILLER of California, Mr. PETRI, Mr. THOMPSON of California, Mr. BONIOR, Mr. QUINN, Mr. HOTY, Mr. WARE, Mr. WINKELER, Mr. BASS, Mr. WASHINGTON, Mr. OBERSTAR, Mr. BASS, Mr. BAIRO, Mr. KOLHE, Ms. WOOLSEY, Mrs. TAUSCHER, Mr. KING, Mr. UDALL of Colorado, Mr. MCBRIDE, Mr. HINCHRY, Mrs. ROUKEMA, Mr. MCNULTY, Mr. BORSKI, Mr.
McHugh, Mr. Etheridge, Mrs. Morella, Mr. Farr of California, Mr. Pallone, Mr. Stupak, Mr. Delahunt, Mr. Olver, Mr. Greenwood, Mr. Kil IKUCCU, Mr. Blumenauer, Mr. Allen, Mr. Kucinich, Mr. Kennedy of Rhode Island, Mr. Langevin, Ms. Baldwin, Mr. Barrett, Mr. Melia, Ms. Napolitano, Ms. McCollum, Mr. Smith of Washington, Mr. Inslee, Mr. Lewis of Georgia, Mr. Holt, Mr. Wu, and Ms. Pelosi of California.

H.R. 2375. A bill to promote the conservation and preservation of working farms, ranches, and forested areas; to the Committee on Agriculture.

By Mrs. Capps (for herself, Ms. Hooley of Oregon, Mr. DeFazio, Mr. Thompson of California, Mr. Farr of California, and Mr. Wu):

H.R. 2376. A bill to expedite relief provided under the Magnuson-Stevens Fishery Conservation and Management Act for the commercial fishery failure in the Pacific Coast Groundfish Fishery, to improve fishery management and enforcement in that fishery, and for other purposes; to the Committee on Resources, and in addition to the Committees on Ways and Means, and Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. Castle (for himself, Ms. McCarthy of New York, Mr. King, Mr. Moore, Mrs. Tauscher, Mr. Shays, Mr. Abercrombie, Mr. Andrews, Mr. Barrett, Mr. Berman, Mr. Blumenauer, Mr. Borski, Mrs. Capps, Mr. Capuano, Ms. Carson of Indiana, Mr. Coyne, Mr. Crowley, Mrs. yaşamilla, Mr. Davis of Georgia, Mr. Fields of Illinois, Mr. Dooley of California, Mr. Engel, Mr. Ferguson, Mr. Evans, Mr. Farr of California, Mr. Filner, Mr. Frank, Mr. Gutierrez, Mr. Harman, Mr. Hoeffel, Ms. Hooley of Oregon, Mr. Smith of New Jersey, Mr. Horn, Mr. Israel, Mr. Jackson of Illinois, Ms. Jackson-Lee of Texas, Mrs. Johnson of Connecticut, Ms. Schakowsky, Mr. Langevin, Mr. Lantos, Mr. Larson of Colorado, Mr. L脂nke, Mr. Lowey, Mrs. Maloney of New York, Mr. Markley, Mr. McCollum, Mr. Meek, Ms. Millender-McDonald, Mr. Miller of California, Mrs. Mink of Hawaii, Mr. Moran of Virginia, Mr. Nadler, Mr. Neal of Massachusetts, Ms. Norton, Mr. Pas toor, Mr. Payne, Ms. Rice, Ms. Sanchez, Mr. Schiff, Mr. Sherman, Ms. Solis, Mr. Tierney, Mr. Towns, Mrs. Jones of Ohio, Ms. Velazquez, Mr. Winkler, Ms. Woolsey, and Mr. Wynn):

H.R. 2377. A bill to require criminal background checks on all firearms transactions occurring at events that provide a venue for the sale, offer for sale, transfer, or exchange of firearms, and to provide additional resources for gun crime enforcement; to the Committee on the Judiciary.

By Mr. Clement (for himself, Mr. Frost, Ms. Norton, Mr. Hart, Mr. Frank, Mr. Bonior, Mr. McNulty, Mr. Gillmor, Mr. Baldacci, Mr. Honda, Mr. Rangel, Mr. LaTourette, Mr. Lantos, and Mr. Baer):

H.R. 2378. A bill to amend title II of the Social Security Act to increase the maximum amount of the lump-sum death benefit and to allow for payment of such a benefit in the absence of an eligible surviving spouse or child, to the legal representative of the estate of the deceased individual; to the Committee on Ways and Means.

By Mr. Cummings (for himself and Mr. Davis of Illinois):

H.R. 2379. A bill to amend title 5, United States Code, to ensure that the health benefits program for Federal employees covers screening for glaucoma; to the Committee on Government Reform.

By Mr. Rush (for himself, Mr. Towns, Mr. Waxman, Mrs. Christensen, Mr. Hyde, Mr. Manzullo, Mr. Costello, Mr. Davis of Illinois, Mr. Phelps, Mr. Schakowsky, Mr. Pallone, Ms. Kaptur, Mr. Borris, Mr. Engel, Mr. Brown, Ms. Capps, Mr.铎derick Johnson of Texas, Ms. Millender-McDonald, Mr. Bishop, Mr. Wynn, Mr. Udall of Colorado, Mr. B场地ler, Mrs. Sanders, Ms. Clayton, Mr. Evans, Mr. Nadler, Mr. Holden, Mr. Burr of North Carolina, Ms. Eshoo, Mr. Barrett, Mr. Kildee, Mr. Davis of Michigan, Mr. Green wood, Mr. Stupak, Mrs. Maloney of New York, Ms. Watson, Ms.洛芬, Ms. Dunn, Ms. DeLauro, Mr. Velazquez, Mr. Hofeller, Mr. LaTourette, and Mrs. Kelly):

H.R. 2380. A bill to provide for research on, and services for individuals with postpartum depression and psychosis; to the Committee on Energy and Commerce.

By Mr. Deal of Georgia:

H.R. 2381. A bill to amend the Internal Revenue Code of 1986 to allow distributions from an IRA for higher education expenses are exempt from the 10 percent early distribution tax even after annuitalization of an account; to the Committee on Ways and Means.

By Mr. Doyle:

H.R. 2382. A bill to extend the deadline for commencement of construction of a hydroelectric project in Pennsylvania; to the Committee on Energy and Commerce.

By Ms. Pelosi, Mr. Matsui, Mr. Tom Davis of Virginia, Mr. Deemer, and Mr. Weller:

H.R. 2383. A bill to amend the Internal Revenue Code of 1986 to provide transitional relief for growth and modify the exclusion relating to qualified small business stock and to provide that the exclusion relating to incentive stock options will no longer be a mandatory expenditure; to the Committee on Ways and Means.

By Mr. Green of Texas:

H.R. 2384. A bill to amend the National Flood Insurance Act of 1968 to provide a 50 percent discount in flood insurance rates for the first 5 years that certain low-cost properties are included in flood zones; to the Committee on Financial Services.

By Mr. Hansen:

H.R. 2385. A bill to convey certain property to the city of St. George, Utah, in order to provide for the protection and preservation of certain rare paleontological resources on that property, and for other purposes; to the Committee on Resources.

By Mr. Hansen (for himself, Mr. Otter, Mr. Young of Alaska, Mr. Cushing, Mr. Hayes, Mr. Simpson, Mr. Radanovich, Mr. Cannon, Mr. Gibson, Mr. Peterson of Pennsylvania, Mr. Rehberg, and Mr. Duncan):

H.R. 2386. A bill to establish terms and conditions for use of certain Federal lands by outfitters and to provide public opportunities for the recreational use and enjoyment of such lands; to the Committee on Resources, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. Harman (for herself, Mr. Lewis of California, Mr. Sherman, Mr. Gary G. Miller of California, Mr. Gephardt, Ms. Eshoo, Mr. Rohrabacher, Ms. Pelosi, Mr. Dreier, Ms. Waters, Mr. Cunningham, Ms. Solis, Mr. Graves, Mr. Filner, Mr. Thompson of California, Mrs. Capps, Mr. Condit, and Ms. LoPurino):

H.R. 2387. A bill to amend title 49, United States Code, to allow for payment of such a benefit, in the event for and from Ronald Reagan Washington National Airport for certain communities in cases of airline bankruptcy; to the Committee on Transportation and Infrastructure.

By Mr. Hefley:

H.R. 2388. A bill to provide for the compensation of persons of the Klamath Basin who were economically harmed as a result of the implementation of the Endangered Species Act of 1973; to the Committee on the Judiciary.

By Mr. Hostetler (for himself, Mr. Lange, Mr. Schaffer, Mr. Tiahrt, Mr. DeMint, Mr. LaTourette of Maryland, and Mr. Akin):

H.R. 2389. A bill to prohibit the District of Columbia from using any funds to issue, implement, or enforce, rules that may be applied to restrict the transportation or possession of a firearm on a public Federal road; to the Committee on Resources.

By Mr. Inslee (for himself, Mr. Shays, Mr. Udall of Colorado, Mr. Wamp, Mr. Baird, Mr. Allen, Mr. Oliver, Mr. Smith of Washington, and Mr. Holt):

H.R. 2390. A bill to amend the Internal Revenue Code of 1986 to provide for the transportation and possession of a firearm on a public Federal road; to the Committee on Resources.

By Mr. Jones (for himself and Mr. Crowly):

H.R. 2391. A bill to prohibit any Federal agency from issuing or enforcing certain rules that may be applied to restrict the transportation or possession of a firearm on a public Federal road; to the Committee on Resources.

By Mr. Bush of Washington:

H.R. 2392. A bill to provide grants for FHA-insured hospitals; to the Committee on Financial Services, and in addition to the Committee on Resources.

H.R. 2393. A bill to amend the Federal Power Production Act of 1950 to establish the National Defense Preparedness Domestic Industrial Base Board, and for other purposes; to the Committee on Financial Services.

By Mr. LaFalce:

H.R. 2394. A bill to prohibit the use of national heritage areas; to the Committee on Resources.

By Ms. Pelosi (for herself, Mr. Brown of Ohio, Mr. LaTourette, and Mrs. Jones of Ohio):

H.R. 2395. A bill to amend the Defense Production Act of 1950 to establish the National Defense Preparedness Domestic Industrial Base Board, and for other purposes; to the Committee on Financial Services.

By Mr. Rangel:

H.R. 2396. A bill to amend the Communication Act of 1934 to require candidates for election for Federal office who refer to other candidates in their televised or radio advertisements to include personal statements or images in the advertisements as a condition
for receiving the lowest unit charge available for advertisements broadcast immediately before the election; to the Committee on Energy and Commerce.

By Ms. PELOSI of California (for herself, Mr. DAVIS of Virginia, Mr. WYNN, Mrs. MORELLA, Mr. HOYER, and Mr. MORAN of Virginia):

H.R. 2997. A bill to require the Office of Personnel Management to conduct a study to determine the approximate number of Federal employees and annuitants who are eligible for receipt of the health benefit program under chapter 89 of title 5, United States Code, but who are covered neither by such program nor by any other health insurance, for other purposes; to the Committee on Government Reform.

By Ms. MCCARTHY of Missouri (for herself and Mr. DREIER):

H.R. 2998. A bill to establish a grant program to provide assistance to States for modernizing and enhancing voting procedures and administration, and for other purposes; to the Committee on House Administration.

By Ms. MCCARTHY of Missouri (for herself and Mr. DREIER):

H.R. 2999. A bill to require the General Services Administration to identify all potential electrical capacity at Federal facilities available for the installation of backup generators, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. MCHUGH:

H.R. 3000. A bill to provide job creation and assistance, and for other purposes; to the Committee on Education and the Workforce.

H.R. 3001. A bill to bridge the digital divide in rural areas; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, and the Judiciary, Agriculture, and Financial Services, for a period to be subsequently determined by the Speaker, each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. MCHUGH:

H.R. 3002. A bill to provide for grants to assist value-added agricultural businesses, and to amend the Internal Revenue Code of 1986 to provide a tax credit for farmers’ investments in value-added agriculture; to the Committee on Ways and Means, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. MILLER-MCDONALD (for herself and Mr. MANZULLO):

H.R. 3003. A bill to direct the head of each executive agency to conduct a study on the improvement of employment readiness in the respective agency; to the Committee on Government Reform.

By Mr. MCGOVERN of Massachusetts (for himself and Mr. MILLER):

H.R. 3004. A bill to amend the Public Health Service Act with respect to facilitating the development of microbicides for preventing transmission of HIV and other sexually transmitted diseases; to the Committee on the Judiciary.

By Mr. NEAL of Massachusetts:

H.R. 3005. A bill to amend the Internal Revenue Code of 1986 to allow a credit against gain recognition through swap funds; to the Committee on Ways and Means.

By Mr. OBASTAR:

H.R. 3006. A bill to amend the Public Buildings Act of 1959 to direct the Administrator of General Services to provide for the procurement of photovoltaic solar electric systems for use in public buildings, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. OSBORNE:

H.R. 3007. A bill to amend the Endangered Species Act of 1973 to vest in the Secretary of the Interior authority under that Act with respect to species of fish that spawn in fresh or estuarine waters and migrate to ocean waters, and species of fish that spawn in ocean waters and migrate to fresh waters; to the Committee on Resources.

By Mr. PALLONE (for himself, Mr. BARLETT of Maryland, Mr. GRAHAM, Mr. HART, and Mr. TIAHRT):

H.R. 3008. A bill to amend the Internal Revenue Code of 1986 to allow the Hope Scholarship Credit to be used for elementary and secondary expenses; to the Committee on Ways and Means.

By Mr. PAUL (for himself, Mr. BARLETT of Maryland, and Mr. TIAHRT):

H.R. 3009. A bill to amend the Internal Revenue Code of 1986 to allow a credit against income for the purchase of fishing safety equipment; to the Committee on Energy and Commerce.

By Mr. SHIMKUS (for himself and Mr. MARKAY):

H.R. 3010. A bill to facilitate the creation of a new global top-level Internet domain that will be a haven for material that will promote positive experiences of children and families using the Internet, to provide a safe environment for children, and to help prevent children from being exposed to harmful material on the Internet, and for other purposes; to the Committee on Energy and Commerce.

By Mr. SHIMKUS (for himself, Mr. RUSH, and Mr. LARSEN):


By Mr. SIMMONS (for himself, Mrs. CHRISTENSEN, Mr. ABERCROMBIE, Mr. GRUCCI, Mr. ALLEN, Mr. BAIRD, Mr. JONES of North Carolina, Mr. FAER of California, Mr. O’NEIL of Wisconsin, and Mr. FRANK):

H.R. 3012. A bill to amend the Internal Revenue Code of 1986 to provide a business credit against income for the purchase of fishing safety equipment; to the Committee on Ways and Means.

By Mr. SOUDER (for himself, Mr. ENGLISH, Ms. McKINNEY, Mrs. JONES of Ohio, Mrs. MINK of Hawaii, Mr. UNDERWOOD, Mr. ABERCROMBIE, and Mr. BALLINGER):

H.R. 3013. A bill to require the Secretary of the Interior to conduct a theme study on the peopling of America, and for other purposes; to the Committee on Resources.

By Mr. STRAUN (for himself, Mr. TOWNS, Mr. BASS, Mr. DEAL of Georgia, and Mr. WALDEN of Oregon):

H.R. 3014. A bill to expand the authority under Article I, section 8, clause 3 of the Constitution of the United States to clearly establish jurisdiction over the commercial transactions of digital goods and services conducted through the Internet, and to foster stability and certainty over the treatment of such transactions; to the Committee on Energy and Commerce, and in addition to the Committee on the Judiciary,
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for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. UNDERWOOD, Mr. GREENWOOD, and Ms. SOLIS:

H. Res. 181. A concurrent resolution expressing the sense of Congress regarding the establishment of a National Health Center for and conservation of the world's whale populations to prevent trade in whale meat; to the Committee on International Relations.

By Mrs. EMERSON (for herself, Mrs. CLAYTON, Mr. SHOWS, Mr. MURETHA, Mr. FALROMAVAIA, Ms. JACKSON-LEE of Texas, Mr. MCDERMOTT, Mr. GREEN of Wisconsin, Mr. GRAVES, Mr. HOLDEN, Mr. SKILTON, Mr. TOWNS, Mr. BLUMENTHAL, Mr. PASTOR, Mr. ENGLISH, Mr. PETTherson of Minnesota, Mrs. CHRISTENSEN, Mr. McGOVERN, Mr. BERHUTER, Mr. STRICKLAND, Mr. BILDE, Mr. SCHISCO, Mr. GIROD, Mr. UDALL of New Mexico, Mr. LUCAS of Oklahoma, Mr. BALDACCI, Mr. EVANS, and Mr. BLUMENTHAL: H. Con. Res. 181. Concurrent resolution expressing the sense of the Congress regarding the need to protect post offices; to the Committee on Government Reform.

By Mr. RANGEL:

H. Res. 186. A resolution expressing the sense of the House of Representatives that the United States Postal Service should issue a postage stamp commemorating Juan Nepomuceno Seguin; to the Committee on Government Reform.

PRIVATE BILLS AND RESOLUTIONS

Under clause 3 of rule XII, private bills and resolutions of the following titles were introduced and severally referred, as follows:

By Mr. BEREUER:

H. Res. 2452. A bill for the relief of Richard W. Schaffert; to the Committee on the Judiciary.

By Mr. BONIOR:

H. Res. 2493. A bill for the relief of Their Highnesses Captain and Queen of Abshir Musse; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

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

H. R. 510: Mr. RANGEL, Mr. PASCAREL, and Mr. 솔. H. R. 439: Mr. QUINN.

H. R. 280: Mrs. MYRICK.

H. R. 123: Mr. LAHOOD, Mr. SOUDER, and Mr. KERNS.

H. R. 600: Mrs. NORTHUP, Mr. TOM DAVIS of Florida, Mr. WELDON of Florida, Mrs. JONES of Ohio.

H. R. 274: Mrs. JONES of Ohio.

H. R. 695: Mr. WATKINS.

H. R. 526: Mr. PHILIPS.

H. R. 572: Mr. GILMAN.

H. R. 600: Mrs. NORTHUP, Mr. TOM DAVIS of Virginia, Mr. MATTHEW, and Mr. HOLT.

H. R. 612: Ms. BERKLEY, Mr. MEeks of New York, and Mr. LANGON.
H.R. 619: Mr. BONIOR.
H.R. 664: Mr. HORN.
H.R. 668: Mr. LUTHER.
H.R. 687: Mr. WATERS.
H.R. 78: Mr. BONIOR, Mr. DAVIS of Illinois, and Mr. LANTOS.
H.R. 717: Mr. Brown of South Carolina and Ms. BOWWELL.
H.R. 751: Mr. STUPAK.
H.R. 770: Mr. FORD.
H.R. 778: Mr. ANDREWS.
H.R. 781: Mr. Lewis of Georgia, Mr. WU, Mr. McINTYRE, and Mr. DOOLEY of California.
H.R. 805: Mr. BRADY of Texas.
H.R. 850: Mr. Kennedy of Rhode Island.
H.R. 868: Mrs. MORELLA, Mr. HAYWORTH, Mr. NORDYKE, Mr. INSLEE, Mr. LAMPSON, and Mr. WYNN.
H.R. 876: Mr. LAMPSON, Mr. GUTKNECHT, and Mr. WAXMAN.
H.R. 906: Mr. LaHood.
H.R. 921: Mrs. NORTHUP, Mr. WELLER, Mr. CONVYRS, and Ms. SANCHEZ.
H.R. 938: Mr. Brown of Ohio.
H.R. 961: Mr. OLIVER, Mr. Moran of Virginia, Mr. Shaw, Mr. TIBERI, Mr. Goodlatte, Mr. Clement, Mr. Kennedy of Minnesota, Mr. PAYNE, Mr. INSLEE, and Mr. UPTON.
H.R. 967: Mr. Rodriguez and Mr. BLAJOLEVICH.
H.R. 968: Mr. STUPAK, Ms. WOOLSEY, and Mr. BLUMENAUER.
H.R. 996: Mr. TERRY.
H.R. 975: Mr. ISRAEL.
H.R. 981: Ms. WOOLSLEY.
H.R. 1007: Mr. McNULTY, Mr. Goodlatte, Mr. Goodlatte, Mr. Bush, Mr. JENSEN, Mr. MURTHA, and Mr. MENEDEN.
H.R. 1134: Mr. BACA.
H.R. 1143: Mrs. CAPITO, Mr. Hall of Ohio, Mr. Cummings, Mr. Ross, Mr. Conduit, Mr. Wu, Ms. Velázquez, Mr. Weiner, Mr. RAUL, Mr. Osie, Mr. Meriam, Mr. Carson of Oklahoma, Mr. Blagojevich, and Mr. WELLER.
H.R. 1145: Mr. TAYLOR of Mississippi.
H.R. 1146: Mr. BONIOR and Mr. Goodlatte.
H.R. 1156: Mr. DICKS, Mr. PLATTS, and Mr. MURTHA.
H.R. 1157: Mr. Nadler, Ms. WOOLSEY, Mr. Rangel, Mr. Thornberry, Mr. Lautenberg, Mrs. NORTHUP, Mr. Leach, Mr. Burton of Indiana, Mr. Lucas of Oklahoma, Mr. DeMint, Mr. Ballenger, Mrs. Emerson, Mr. Cantor, Mr. Pfchen, Mr. Kerrns, and Mr. BRYANT.
H.R. 1158: Mr. GRAHAM and Mr. ARMY.
H.R. 1159: Mr. Pink.
H.R. 1160: Mr. ISRAEL.
H.R. 1163: Mr. Moore, Mr. NUSLE, Mr. Goodlatte, and Mr. RAHAL.
H.R. 1166: Mr. BONIOR.
H.R. 1167: Mr. DeFazio, Mr. Lampson, Mr. Pastor, Mr. Boucher, Mrs. Meek of Florida, Mr. Hunter, and Ms. DeGette.
H.R. 1170: Mr. DeLALOURE.
H.R. 1172: Mr. Price of North Carolina, Mr. SPEINCE, Mr. SOUDER, Mr. GILMAN, and Mr. BERRUSSER.
H.R. 1177: Mr. Hinchey.
H.R. 1179: Mr. NUSLE.
H.R. 1185: Mr. NORTON.
H.R. 1194: Mr. Lautenberg and Ms. McCollum.
H.R. 1198: Mr. WyNN, Mr. Lampson, Mr. Pastor, Mr. Boucher, Mrs. Meek of Florida, Mr. Hunter, Mr. Stupak, Mr. LANTOS, Mr. Clement, and Ms. DeGETTE.
H.R. 1199: Mr. Bouchard.
H.R. 1220: Mr. EHLERS, Mr. RILEY, Mr. Neal of Arizona, Mr. DAVIS of Mississippi, Mr. REID, and Ms. RIVERS.
H.R. 1221: Mr. Rogers of Michigan, Ms. SOLIS, Ms. MCKINNEY, and Mr. BLUMENAUER.
the extent that an official budget request, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, is transmitted by the President to the Congress.

In title VI, in the item relating to “FOOD AND DRUG ADMINISTRATION—SALARIES AND EXPENSES”, insert at the end the following:

In addition, for the Food and Drug Administration to improve food safety and reduce the incidence of foodborne illnesses, $163,000,000: Provided, That such amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985: Provided further, That such amount shall be available only to the extent that an official budget request, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, is transmitted by the President to the Congress.

H.R. 2330
OFFERED BY: MR. SMITH OF MICHIGAN
AMENDMENT NO. 29: Add before the short title at the end the following new section:

SEC. ____. None of the funds appropriated or otherwise made available in this Act may be used to pay the salaries of personnel of the Department of Agriculture who permit the payment limitation specified in section 1001(2) of the Food Security Act of 1985 (7 U.S.C. 1308(2)) to be exceeded pursuant to any provision of law, except, in the case of a husband and wife, the total amount of the payments specified in section 1001(3) of that Act that they may receive during the 2001 crop year may not exceed $150,000.
The Senate met at 9:15 a.m. and was called to order by the Honorable HERB KOHL, a Senator from the State of Wisconsin.

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Thank You, dear Father, for infusing Your nature in the Senators. You have called to lead our beloved Nation. You have reproduced in them Your concern and caring for the health and healing of all of our people. Thank You for Your compassion expressed in the legislation for patient protection in America.

The Senators may differ on aspects of the implementation of this concern but are one in seeking unity on what is best for citizens across our land. Be with the Senators today as all aspects of this crucial legislation are focused and voted upon. Thank You for the managers on both sides of the aisle who have worked so long and tirelessly to review all possibilities for the best potential for all Americans.

Now as the Senators seek to complete debate and take conclusive votes, may they sense the unity of a common concern for a crucial cause of caring for our people. Place Your hand upon their shoulders and remind them that You are the magnetic center who draws them to unity for the welfare of our Nation. You are the healing power of the world who uses the medical professions to heal. Help the Senators to complete legislation that will assure the best care for the most people.

You, dear God, are our Lord and Saviour. Amen.

PLEDGE OF ALLEGIANCE

The Honorable HARRY REID, a Senator from the State of Nevada, 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.

SCHEDULE

Mr. REID. Mr. President, we will resume consideration of the Patients' Bill of Rights. We are going to have a vote at approximately 10 to 10. We have a unanimous-consent agreement in effect that will take us throughout the early afternoon, with votes scheduled throughout that period of time. We expect votes all evening. The leader would very much like to finish this bill today. Certainly the end is in sight. If not, we will work through the night—into the night, not through the night—we will come back tomorrow, and hopefully we don't have to come back Saturday.

What the leader has said is that we are going to complete this legislation. We are going to complete the legislation, plus the supplemental appropriations bill before we go home.

He said he would work Saturday, Sunday, Monday, and Tuesday and Wednesday, the 4th—that that off—and come back after that to complete our work. We are cooperating and doing our very best to meet the requests of Senators BYRD and STEVENS. Their last unanimous consent request has been cleared on this side as far as the filing of amendments. We applaud the four managers who have been working on this bill. We look forward to continuing to work today.

AMENDMENT NO. 826

The ACTING PRESIDENT pro tempore. The previous order, there will now be 30 minutes for debate to be equally divided between the Senator.

The Senate
from Maine, Ms. COLLINS, and the Senator from Louisiana, Mr. BREAUX, prior to a vote on or in relation to the Collins amendment No. 826.

Who yields time? The Senator from Maine.

Ms. COLLINS. Mr. President, I ask unanimous consent that the Senator from Virginia, Mr. ALLEN, be added as a cosponsor of the Collins-Nelson amendment.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Ms. COLLINS. I yield 6 minutes to the Senator from Kansas, Mr. ROBERTS.

The ACTING PRESIDENT pro tempore. The Senator from Kansas is recognized.

Mr. ROBERTS. Mr. President, here is the issue: The ability of States to determine what is best for themselves. That is the issue. Sure, the issue is the Patients’ Bill of Rights. But if Kansas or Nebraska or Maine or Massachusetts or Louisiana or Connecticut—as I look at Members in the Chamber—have an effective patient protection system that is working, why impose new Federal regulations that will force them to overhaul the system they have in place?

The Collins-Nelson-Roberts, and others, amendment would simply give the State of Kansas and other States the flexibility to provide patient protection required under this bill in a way that best fits each State. For example, last year in Kansas we implemented a new law that assists patients who get into a dispute with their insurance company over the refusal to pay for medical procedures. It is a long process, but the independent reviewer will make a decision and reply within 30 business days after an appeal procedure.

According to Kathleen Sebelius, our very good Kansas State Department of Insurance Commissioner, there were 22 cases that were closed last year; 12 decided in favor of the HMO and 10 overturned the decision made by the HMO. Now that more Kansans are aware of what is happening in their State, they are doing a good job and I urge Congress to include in any patient protection provisions that would preserve State law and enforcement procedures, such as internal and external review processes. Failure to maintain State authority in the implementation of regulations that are inconsistent with the needs of consumers in a State and that are not enforced effectively.

I think she nailed it right on the head. I am an original cosponsor of the Collins-Nelson amendment because it would allow States to do what they are already doing well. If these standards are not met, only then would the Federal Government come in and impose its standards, and the State would then have to require its standard in order to be made eligible for the Patient Quality Enhancement Grant Program. Other amendments will have a stick; this is a carrot. I prefer a carrot; other Senators may prefer a stick.

Let me just say, in summing up, can any other Member of this body honestly tell me what is in this bill is better than what the State of Kansas already has in terms of patient protection? Do you know better than our Commissioner, Kathleen Sebelius, or Governor Graves, and the Kansas State Legislature? The answer is no.

My colleagues, support this amendment and give States a chance to apply the standards they have currently in place. The external, and internal appeals process is working. Don’t make us reinvent the Federal wheel.

I thank the Chair and my colleagues. The ACTING PRESIDENT pro tempore. Who yields time?

Mr. BREAUX. I yield myself 5 minutes.
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right now under the Breaux amendment because it clearly would, in my opinion, substantially comply with what we are talking about here.

We have a definition of what “substantially comply” means by saying a State law would have to either comply with or be substantially similar to the patient protection requirements and would have a similar effect. That is not an unbreachable standard at all. It does not have to be exactly. It just has to have the same or similar features.

I would like to design those rights on States that will be tailored to the needs of that particular State, and the only requirement is that it have the same or similar features. That is not too strong a guideline to the States or a requirement on behalf of the States.

I think it can work. Most of the States, if not every single State, that have adopted a Patients’ Bill of Rights will find their plans in their respective States will stay intact and will still be the States Patients’ Bill of Rights under this legislation.

If a State decides for some reason they do not care, they are not going to do anything, there should be the ability for us to make sure all Americans are getting the rights we are talking about today; that they are enforceable; there is an opportunity to go to court to enforce them; and that there is an appeals process when they are being abused.

This is what the Breaux-Jeffords amendment will allow. That is why it is a realistic compromise compared to the amendment of my good friends, Senator NELSON and Senator COLLINS, with whom I have worked on many occasions and will continue to do so in areas such as health. They are trying to do the right thing. Their amendment will allow some States to do nothing. Potentially thousands of Americans will not have any coverage whatsoever if that is the decision of the State.

We are writing legislation for all Americans, and I suggest the Breaux-Jeffords bill is a proper compromise that can bring this about.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator’s time has expired.

The Senator from Maine is recognized.

Ms. COLLINS. Mr. President, how much time is remaining on our side?

The ACTING PRESIDENT pro tempore. Nine minutes.

Ms. COLLINS. I yield 5 minutes to the Senator from Nebraska.

The ACTING PRESIDENT pro tempore. The Senator from Nebraska is recognized for 5 minutes.

Mr. NELSON of Nebraska. I thank Senator COLLINS for her strong support for this amendment, and I commend my colleague, Senator BREAUX from Louisiana, for his strong support and consistent efforts to find a compromise.

Certainly, the effort is an improvement over what we had been. One area I want to point out I disagree with my friend from Louisiana is his suggestion that maybe the States will not do anything. If you take a look at the charts that Senator COLLINS and I have up, when you look at all the charts, I suggest there is someone who made a thing and they will continue to do something if the Federal Government does not come in and take away both the incentive and the opportunity by putting in what is termed affectionately “a floor.”

The problem is these minimums very often become the ceiling or they become, if you will, the top of whatever is being done because the States will not have the same opportunity, nor will they have the same willingness with the Federal deregulation, of the federalization of the regulation of State insurance as it applies to these health plans.

Generally preemption occurs when the States have not acted. I cannot imagine we are now preempting what the States have done on the basis of them having done such a good job that we were able to pick and choose from the best of those States to create this bill and now we say to them: It’s a job well done; thank you very much, and, by the way, we will impose these on you and we will make sure your laws will have to be either substantially equivalent or consistent with, according to Frist-Breaux, or, with the compromise, substantially compliant.

I can understand our desire to take over the role of the States in this area if the States have not done anything, but I cannot understand the desire to do it when the States have done such a good job that we have picked and chosen from the best of those efforts to comprise our bill.

It does not make sense to preempt under these circumstances. That is why many of us would like to see the States have the opportunity to opt out so we will have continuing experimentation under the Jefferson principle that the States are the laboratories of democracy. I am not against all pre- emptions, but I do have a question about this preemption, whether it makes sense under the circumstances with the progress that the States have made.

The charts will show the States have been active. They have worked very hard and diligently and are continuing to do so. Delaware last week enacted additional patient protection legislation. What we need to do is make sure we continue to permit the States to experiment.

I am also worried that with the application of these standards to the States, we will not have further development of patient protections. I hate to think we are at a point where the status quo will be sufficient for today as well as for tomorrow. I worry this effort in having a floor will result in it becoming a ceiling.

If you look at the charts, you will see to one degree or another, whether it is emergency room or whether it is the external appeals or the internal appeals, that nearly every State is doing it. Many States have decided not to do everything under every set of circumstances. I do not think they ought to be forced where they have made a conscious decision that that is not going to work within their State. We ought not to have, in my judgment, a one-size-fits-all approach. We have not found, if you will, the Holy Grail as it relates to what patient protection means.

If we allow the States to continue to experiment, we will find that they will be innovative and they will come up with new methods of providing even better patient protections. After all, this is coming from the grassroots; this is coming from the bottom up.

I think we are making a mistake trying to drive it from the top down which will stifle and create the opportunity for stagnation rather than experimentation. I hope that will not be the case, but do not see it really any other way.

The National Association of Insurance Commissioners, the president of the National Association of Insurance Commissioners, the National Council of State Legislators all agree with this approach.

The ACTING PRESIDENT pro tempore. The Senator’s time has expired.

Mr. BREAUXT. I yield 5 minutes to Senator JEFFORDS.

The ACTING PRESIDENT pro tempore. The Senator from Vermont is recognized for 5 minutes.

Mr. JEFFORDS. Mr. President, I commend the Senator from Maine for keeping this issue alive. It is critically important that we defer as much as we can to the States because they are already set up for it. Why not let them do it?

On the other hand, this is a Federal Patients’ Bill of Rights. That means equal rights to everyone in this country, so there is a requirement for uniformity across the country. Yet we do recognize it is important for the States to do it themselves. Many, if not most of them, are already doing it.

This is an important difference. HIPAA was a mess, but this has nothing to do with that. This is quite different from HIPAA.

We all support the Patients’ Bill of Rights. The question is who ought to
enforce it. We say, yes, let the States that want to do it do it. On the other hand, we need to make sure it is done fairly and uniformly across this country. We do give the authority to the Secretary to review it, and we also say he should lean over backwards to make sure that it is done fairly and uniformly across this country. It is not a HIPAA-type situation; we ought to differentiate that.

It is important that we also recognize that the compromise requires States to have protections that are "substantially compliant with" Federal protection and defines this standard as having the "same or similar provisions and the same or similar effect.''

The Secretary must approve the States' certification of compliance in a manner that is in deference to existing State laws. If he does not act on the State application within 90 days, it is automatically approved. States that have their certification disapproved may challenge that disapproval in court.

The amendment developed by Senator Breaux and myself requires States with additional flexibility to implement strong patient protections while guaranteeing a basic level of protections for all Americans in all health plans. Requiring the States to be in substantial compliance with the Federal law—not exact compliance but substantial compliance—provides States with the flexibility they need to implement strong patient protections while ensuring that all patients receive the Federal floor of protections. Under this amendment, States can keep their own laws as long as their basic intent is similar to the Federal standard and will have a similar effect.

The Secretary is required to be deferential to the States—give them every break you can but make sure that the bill of rights will be enforced. Give them every possible opportunity to do it themselves rather than having to go to court. This requirement does not infringe upon the Secretary's authority to determine whether current State laws will provide the basic level of protection promised to all Americans in the health plans under the Patients' Bill of Rights.

So HIPAA is just a totally different situation. It is a mess; we agree with that; but it is totally different. Do not get confused on the HIPAA example.

Mr. President, I yield the floor.

The Acting President pro tempore.

Mr. VOINOVICH. Mr. President, I thank my friends from Maine and Nebraska for offering this important amendment. I believe the Collins-Nelson amendment will allow the Senate to move forward and pass a strong Federal patient protection bill without suffocating the patient protections States have adopted over the last seven years.

I wholeheartedly agree that the Senate should take action to protect those Americans not covered under State plans. While the States were in front doing it for those insured individuals through state regulation, the federal government has dragged its feet.

However, a federal patient's bill of rights should not preempt the patient protections that have already been passed by the States. There are more than 117 million Americans who are covered under fully insured plans, governmental plans and individuals policies, which are all regulated under state law.

My colleagues supporting the McCain-Kennedy legislation believe that the federal mandates in the bill should apply not only to ERISA plans, but also to the 7 million Americans in state regulated health plans. Apparently, they do not think that the States, which have already acted and are already protecting millions of Americans, are competent enough to do the job. Instead, they think that the federal government will do a much better job.

My colleagues on the other side of this debate want the public to believe that all Americans need protection under a federal patient protections bill or else the quality of their health care will be jeopardized. The fact of the matter is that the majority of Americans are already covered under very good, very comprehensive state health care laws.

As a former Governor of Ohio, I was on the front lines in the fight to give working men and women in Ohio real health care choices. As governor, I signed into legislative measures and pushed through several administrative improvements to protect families who relied on state-regulated plans for their health care coverage.

The majority of states, including Ohio, have moved aggressively—certainly more quickly than the federal government—to reduce health care inflation, expand access for the working poor, enhance consumer protections and bring greater accountability to the system.

If the states had waited for the federal government to step up to the plate to provide patient protections, 117 million Americans would not have the patient protections they currently enjoy.

The simple truth is that the states have been out in front of the federal government in providing sound protections for its citizens. The following facts prove this point:

42 states have already enacted a comprehensive Patient's Bill of Rights;

50 states have mandated strong patient information provisions;

50 states already have an internal appeals process and 41 states have included an external appeals process;

48 states already enforce consumer protections regarding gap clauses on doctor-patient communications;

48 states already enforce consumer protections regarding prompt payment; and

44 states already enforce consumer protections for access to emergency care services.

The states are already getting the job done for the majority of insured Americans. But if we do not pass this amendment, we will be turning over to the Health Care Financing Administration HCFA the enforcement of state sponsored protection plans that are not substantially equivalent with the federal bill.

The fact is, HCFA already has its hands full. Administering and regulating Medicare and Medicaid has already overburdened this federal agency. Think about it. HCFA already has its purview over 70 million Americans through these federal programs. Now, my colleagues want to place the health care of an additional 170 million Americans on HCFA's shoulders.

The simple fact is that HCFA cannot handle the burden.

Those individuals on the front lines of protecting the 117 million Americans with state regulated insurance know what will happen if the federal government is given the responsibility to enforce these Regulations health insurance plans.

In fact, the National Conference of State Legislatures has described the McCain-Kennedy bill as, "...a federal legislation that will largely preempt important state laws and replace them with federal laws that . . . the federal government is ill-prepared to monitor and enforce."

Additionally, the National Association of Insurance Commissioners has made clear its concerns about the McCain-Kennedy bill: if the federal government unilaterally imposes a one-size-fits-all standard on the states, it "could be devastating to state insurance markets."

The amendment that Senators Collins and Nelson have offered will give true deference to state laws and the traditional authority that states have had to regulate insurance.

I would point out that all state patient protection laws, Senators Collins and Nelson recognize that the vast majority of states have enacted comprehensive patient protections laws, as Ohio has done.

The amendment also encourages states, through Patient Quality Enhancement Grants, to review their current patient protection and, if the state legislature and governor so desire, take action to mirror federal patient protection.

I want to relay to my colleagues that I truly believe that this will be the most important federalism vote that the Senate takes this year.
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In conclusion, it has been the traditional role of States to regulate the needs of our States. However, both the McCain-Kennedy bill as written and the Breaux amendment seek to pre-empt what the States have accomplished in protecting patients. The underlying bill as written would strip away the 10th amendment which says: the powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

The bottom line is that the States have been involved in protecting patients a lot longer than the Federal Government, and they are doing a good job with the protections they have put in place. They debated them in their State legislatures. Their insurance departments are doing a good job of enforcing those laws. The Breaux amendment and the underlying bill get the States out of their role. We will have a dual role of enforcement—State insurance commissioners and HCFA. And I can tell you, anyone who knows anything about HCFA in terms of the responsibilities they have, knows they have a hard-enough time doing their job now. We should not get them involved in a system that is already working on the State level.

I beg my colleagues not to go along with federalizing this issue. Let's take care of the Federal people who have been exempted over the years because they have a job we were supposed to do, and let the States continue to do the job they have been doing.

I thank the Chair.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. BREAUX. I yield 2½ minutes to my good friend, the Senator from Connecticut.

The ACTING PRESIDENT pro tempore. The Senator from Connecticut is recognized.

Mr. DODD. Mr. President, I thank my colleague from Louisiana, I commend him and the Senator from Vermont for their compromise proposal we will be voting on shortly. I reluctantly oppose the proposal of the Senator from Louisiana that is right.

If you are for the Collins amendment, in many ways you are going against this bill. I understand that. I appreciate the fact that people do not want to pass a Patients' Bill of Rights and just leave it up to each State to decide. But if you believe, as a majority of us do, that there is a majority of the American public, that there ought to be a Patients' Bill of Rights, a basic floor that provides these basic standards, then you must vote to adopt the Breaux-Jeffords compromise amendment and retain the integrity of this bill.

The ACTING PRESIDENT pro tempore. The Senator's time has expired. Who yields time?

Mr. KENNEDY. I imagine the Senator would like to close the debate, would she not?

I believe I have 2½ minutes.

Mr. President, the issue is very simple and very basic and very fundamental. It is whether all Americans are going to be covered as included in this legislation. We do not believe it should depend upon where you live. We believe it should depend necessarily on where you work. If a child needs a specialist to treat a chronic illness, he or she ought to be entitled to see the specialist and receive the treatment. If a woman needs to be enrolled in a clinical trial that could be lifesaving, she ought to be entitled to participate. If a breadwinner who is crippled with arthritis needs a specialty kind of drug from a formula, he or she ought to be able to obtain it.

Now, our bill guarantees these kinds of protections, but with the Collins amendment, it is in red ink. President Bush believes that all Americans should be covered. Every Republican bill that was introduced and considered in the House of Representatives said all Americans are covered. She covers about 40 percent of them; 60 percent of Americans are left out. We believe if you are interested in assuring that all Americans be covered, you ought to support the Breaux-Jeffords amendment. That will be doing the right thing.

The ACTING PRESIDENT pro tempore. The Senator from Maine is recognized.

Ms. COLLINS. Mr. President, one of the myths in this debate is that unless the Federal Government preempts State insurance laws, somehow millions of Americans will be unprotected in their disputes with HMOs. That is simply untrue. Ironically, my friend from Connecticut makes the point on emergency room care. Forty-four States have enacted legislation guaranteeing access to the nearest emergency room. But they have crafted their laws in different ways depending on the needs of those States. Why would the Federal Government second-guess those laws, substitute its judgment for the judgment of State legislators and Governors' offices all over this country? It does not make sense. The proposal of the Senator from Louisiana would be both burdensome to States and ineffective for consumers.

Does anyone really believe that a consumer with a problem with his or her insurance policy is better off calling the HCFA office in Baltimore than dealing with their own State bureau of insurance?

The States have more than 50 years of experience in regulating insurance. They have acted without any prod or mandate from Washington to enact good, strong patient protection laws. Let's honor their work. Let's build upon the good works of the States rather than preempting, second-guessing, and superseding their laws.

The ACTING PRESIDENT pro tempore. Who yields time?

Ms. COLLINS. Is there any time remaining?

The ACTING PRESIDENT pro tempore. The Senator from Maine has 24 seconds.

Ms. COLLINS, I yield back the remainder of my time if the other side is ready to yield back.

I ask for the yeas and nays on the amendment.

The ACTING PRESIDENT pro tempore. All time is yielded back. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. REID. Mr. President, I move to table the Collins amendment and ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second? There is a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from Delaware (Mr. BIDEN) is necessarily absent.
Mr. NICKLES. I announce that the Senator from New Mexico (Mr. DOMENICI) and the Senator from Alabama (Mr. SHELBY) are necessarily absent.

The PRESIDING OFFICER (Mr. REED). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 53, nays 44, as follows:

[Rollcall Vote No. 202 Leg.]

Yeas—53

Akaka      Dodd      Levin
Baucus     Dorgan     Lieberman
Bayh       Durbin     Lincoln
Bingaman   Edwards    McCain
Boxer       Feingold   Mikulski
Breaux      Feinstein   Miller
Byrd       Fitzgerald  Murray
Cantwell    Graham     Nelson (FL)
Carnahan   Harkin     Reed
Carper      Hollings   Reid
Chafee     Inouye      Steinberg
Clinton     Jeffords    Rockefeller
Conrad      Johnson     Sarbanes
Corry       Kennedy     Schumer
Curtzin     Kerry       Stabenow
Daschle     Kohl        Torricelli
Dayton      Landrieu    Vitter
DeWine      Leahy      Wyden

Nays—44

Allard      Gramm     Nickles
Allen       Grassley   Roberts
Bennett     Gregg      Santorum
Bond        Hagel      Sessions
Brownback   Hatch      Smith (NH)
Bunning     Hoeven     Smith (OR)
Burns       Hutchinson  Snowe
Campbell    Hutchison  Specter
Cochran     Inhofe      Stevens
Collins     Kyl        Stevens
Craig       Lott       Thomas
Crapo       Lungar     Thompson
Ensign      McConnell  Thurmond
Eminet      Markowski  Voinovich
Frist       Nelson (NE)  Warner

Not Voting—3

Biden      Domenici     Shelby

The motion was agreed to.

Mr. KENNEDY. I move to reconsider the vote.

Mr. INOUYE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 830

The PRESIDING OFFICER. Under the previous order, there will now be 2 minutes for debate equally divided prior to a vote on or in relation to the Breaux amendment No. 830. Who yields time?

Mr. BREAX. Mr. President, I do not mind using the time allocated for remarks, but in light of the previous vote, after the remarks we could just vitiate the rollcall vote and have a voice vote on this amendment? I ask unanimous consent that that be in order.

The PRESIDING OFFICER. The yeas and nays have not been ordered on the Breaux amendment No. 830.

Mr. BREAX. That would be my suggestion. We have the time allocated for comments on it, and then have a voice vote on it afterward.

Mr. KENNEDY. Mr. President, I think we will have the Senator from Minnesota speaking for 2 minutes, and then I think we will have a voice vote the Breaux-Jeffords amendment.

The PRESIDING OFFICER. Who yields time?

Mr. BREAX. I yield 2 minutes to the Senator from Minnesota.

Mr. WELLSSTONE. I thank my colleague for his graciousness.

Mr. President, I understand the need to compromise, and I think we are moving forward in a very positive way. I do want to point out for the record that what we are saying is that a State need only be "substantially compliant" with Federal protections as opposed to "substantially equivalent to." My big worry is that if you look at this amendment, we are also saying we need to give deference to the State's interpretation of its own law and its compliance with Federal protections.

I say two things to colleagues. No. 1, I think, in the best of all worlds, consumers would also have a right to appeal if they believe the State is in error.

To be fair, we want to give deference to what States are doing, as long as we have strong consumer protections for everyone regardless of where they live. I also believe if we are going to do that, we have to make sure not only that the States are given their proper due but also are consumers.

This amendment weakens the bill somewhat. I have said that to Senator BREAX. Frankly, more than anything, it would be helpful to have an ombudsman office or something such as that. In every State, where people would know where to make a phone call, know what their rights are. There are ways we can strengthen this.

I do not believe this amendment takes us in a strong consumer direction. It is a good compromise in terms of where we are. I wanted to speak out and express my concerns.

The PRESIDING OFFICER. All time on the amendment has expired.

The question is on agreeing to amendment No. 830.

Mr. KYL. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second. The clerk will call the roll.

The assistant legislative clerk called the roll.

The result was announced—yeas 64, nays 36, as follows:

[Rollcall Vote No. 203 Leg.]

Yeas—64

Akaka      Dodd      Levin
Baucus     Dorgan     Lieberman
Bayh       Durbin     Lincoln
Bingaman   Edwards    McCain
Boxer       Feingold   Mikulski
Breaux      Feinstein   Miller
Byrd       Fitzgerald  Murray
Cantwell    Graham     Nelson (FL)
Carnahan   Harkin     Reed
Carper      Hollings   Reid
Chafee     Inouye      Steinberg
Clinton     Jeffords    Rockefeller
Conrad      Johnson     Sarbanes
Cochran     Kohl        Specter
Collins     Kyl        Stevens
Craig       Lott       Thomas
Crapo       Lungar     Thompson
Ensign      McConnell  Thurmond
Eminet      Markowski  Voinovich
Frist       Nelson (NE)  Warner

Nays—36

Allard      Durbin     McConnell
Allen       Enzi       Murkowski
Bennett     Grassley   Roberts
Brownback   Gregg      Sessions
Bunning     Harris      Shelby
Burns       Hatch       Smith (NH)
Campbell    Helms       Thompson
Craig       Inhofe      Thurmond
Craul       Kyl        Voynovich
Domenici    Levin      Wyden

The amendment (No. 830) was agreed to.

Mr. REID. I move to reconsider the vote.

Mr. DORGAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senator from New Hampshire, or his designee, is recognized to offer an amendment relative to liability on which there will be 1 hour of debate.

Mr. REID. Mr. President, 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. BOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 831

Mr. BOND. Mr. President, I send an amendment to the desk on behalf of myself, Mr. ROBERTS, and Mr. HELMS, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Missouri [Mr. BOND], for himself, Mr. ROBERTS, and Mr. HELMS, proposes an amendment numbered 831.

Mr. BOND. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To ensure that patients receive a minimum share of any settlement or award in a cause of action under this Act.)

On page 154, between lines 2 and 3, insert the following:

(1) MINIMUM SHARE OF SETTLEMENT OR AWARD.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), a participant or beneficiary (or the estate of such participant or beneficiary) shall receive not less than 85 percent of any award made as a result of a cause of action brought by the participant or beneficiary (or estate) under this subsection, after subtracting the amount of any attorneys’ fees from the total amount of such award.

(B) EXCEPTION.—This paragraph shall not apply where the amount awarded as a result of a cause of action brought by a participant or beneficiary (or estate) under this subsection is less than $100,000.

(C) DEFINITIONS.—In this paragraph:

(i) ATTORNEYS’ FEES.—The term ‘‘attorneys’’ fees means any compensation for the
Mr. BOND. Mr. President, several days ago in debate in this Chamber, I talked about how the employees of small businesses might lose their health care coverage if the provisions of McCain-Kennedy went into effect unmended. The junior Senator from North Carolina indicated that I was interested only in protecting the businesses. Unfortunately, he misconstrued my arguments because we are concerned about patients. We hope the employees of small businesses will continue to get the benefit of health insurance coverage by their employers.

I spoke about employees, however, because if this bill is not significantly amended, there are not going to be patients covered by this bill; they are going to be thrown out of health care coverage. We are concerned about patients.

It is not only small businesses that should be worried about this bill, but employees of small businesses should also be worried about this bill.

This amendment I offer today provides additional protection to patients. It provides protection to patients from trial lawyers, so we will find out whether my colleagues are more interested in taking of patients or in ensuring that the rights to sue by trial lawyers are unabated.

There are a lot of words in the McCain-Kennedy bill, but there are also some heavy-duty new lawsuits that are authorized.

The Federal claim of action really begins on page 140. It starts off: In General.—In any case in which (A) a person is a fiduciary of a group health plan, a health insurance issuer offering health insurance coverage in connection with a group health plan, or an agent of the plan, issuer, or plan sponsor in connection with a cause of action brought under this subsection, including any monetary consideration provided for in any—

(ii) Attorney’s Fees.—The term ‘attorney’s fees’ means any compensation for the direct or indirect representation or other legal work performed in connection with a cause of action under this subsection.

(I) any monetary consideration provided to a participant or beneficiary (or the estate of such participant or beneficiary) by a fiduciary of a group health plan, a health insurance issuer offering health insurance coverage in connection with a group health plan, or an agent of the plan, issuer, or plan sponsor in connection with a cause of action brought under this subsection, including any monetary consideration provided for in any—

(ii) Fine award decision; 

(b) Court order; 

(c) Settlement agreement; 

(d) Arbitration procedure; or 

(e) Alternative dispute resolution procedure (including mediation); plus 

(II) any reimbursement for any expenses incurred in connection with direct or indirect representation or other legal work performed in connection with a cause of action under this subsection.

On page 169, between lines 12 and 13, insert the following:

(iii) Minimum Share of Settlement of Award.—

(A) In General.—Except as provided in subparagraph (B), a participant or beneficiary for the estate of such participant (or beneficiary) shall receive not less than 85 percent of any award made as a result of a cause of action brought by the participant or beneficiary under this subsection, after subtracting the amount of any attorneys’ fees from the total amount of such award.

(B) Exception.—This paragraph shall not apply where the amount awarded as a result of a cause of action brought by a participant or beneficiary (or estate) less than the lesser of—

(1) $100,000; and 

(2) Two percent of the amount awarded.

(C) Definitions.—In this paragraph:

(i) Fine award decision means the sum of—

(aa) Final court decision; 

(bb) Court order; 

(cc) Settlement agreement; 

(dd) Arbitration procedure; or 

(ee) Alternative dispute resolution procedure (including mediation); less 

(II) any reimbursement for any expenses incurred in connection with direct or indirect representation or other legal work performed in connection with a cause of action under this subsection.

Mr. BOND. Mr. President, several days ago in debate in this Chamber, I
are not limited by the requirement that the patient gets 85 percent. We have set $100,000, which is above the median judgment normally entered in malpractice cases, as the limit.

I am not sure any State has taken the other approach this amendment establishes with a patient minimum, but 14 States have established caps on attorney fees. The strictest cap is in New York where lawyers are limited to 10 percent of awards over $1.25 million. That is, if a lawyer expects to receive $1 million for a patient minimum, California has the most well-known cap on attorney fees. In California, lawyers are limited to 15 percent of any award in excess of $600,000. When you add Florida and Indiana, which also have a 15-percent cap for the highest level awards, 4 of the 14 States that established caps on awards of attorney fees essentially require that plaintiffs get at least 85 percent of an award.

Have these caps served as a barrier for plaintiffs? Have they denied access to the courts? From the data we have, we conclude they definitely have not. The State with the toughest cap, New York, produces almost twice as many malpractice awards per capita as the national average. The national average practice per year per million residents, the U.S. average, is 49.2; California is 47.2; New York is 99.5, more than twice the normal national level. From the other States with tough caps, Florida has a larger number of malpractice awards per capita and California’s rate is about the average. Indiana, with a 15-percent cap, falls below the national average.

It is hard to argue that the caps threaten access to the courts through attorneys. The California law has existed for at least a decade. By not changing the law, the State legislature seems to have come to the same conclusion. Why do we take 85 percent? When you take out expenses and exempt lower level awards, plaintiffs should get the overwhelming amount of an award. For a patient who has been harmed, it is perfectly reasonable to ask that that patient get 85 percent. For States with similar requirements, there does not seem to be a barrier to finding attorneys and bringing a lawsuit if you believe you have been harmed. To my knowledge, none of these States has repealed a law demonstrating that at least the State legislatures think they are working. By choosing 85 percent as the absolute minimum amount to which a patient is entitled, this amendment simply reconciles Federal law with laws that seem to be working in four of the largest States in this country.

We know of the horror stories. We have heard too many horror stories. I point out an August 16, 2000, article in the Los Angeles times about Rodney King, who was brutally beaten by Los Angeles police. He is taking a beating from his lawyers, he says. They made more money on his case than he has.

By his reckoning, they cheated him out of more than $1 million. In a nutshell, the man whose 1991 videotaped beating made him an international symbol of police abuse said he thought he had a deal with his lawyer to pay them only 25 percent of the award but they wound up taking home $2.3 million while he got only $1.9 million.

Another lawyer in California won a class action suit for police brutality and civil rights and took a $41,000 verdict in the case, a $19,500 contingency fee, and a legal fee awarded by the trial court; the client received $810.

I have other examples. But one of my favorites is the Lawyers Weekly report that a growing number of lawyers are putting arbitration clauses in the fine print, shielding them from being sued by another trial lawyer if the clients say they botched a case. The lawyers themselves who are making the money off the large judgments prefer their disputes to arbitration because arbitration is faster, cheaper, decisions are made by other lawyers rather than juries, and there is no public record. So they have recognized that there are certain instances in which it does not make sense to allow access to the courts for people with a claim.

If a patient is harmed and wins an award through a lawsuit, it is perfectly reasonable to expect the patient will receive at least 85 percent of the award. The non-arbitration laws protect patients from HMOs and insurance companies. I simply propose we add a few pages to the bill to protect patients from trial lawyers.

I see the Senator from North Dakota is on the floor. I ask after the other side finishes speaking that my colleague from Iowa be recognized for 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from North Dakota is recognized.

Mr. DORGAN. Mr. President, this amendment is one more in a series of amendments designed to try to derail the Patients’ Bill of Rights, or the Patient Protection Act.

There is no evidence of unfairness in the attorney fee portion of the bill that we brought to the floor of the Senate. No one has alleged that; no one has discussed that with us. This is the first time we have worked on amendments offered and we have been working on this legislation for five years. It is interesting that the amendments are always designed to try to take the ground out from under patients, to diminish the opportunity for the patients to address the enormous problems they face in confronting a managed care organization that does not want to give the care promised the patients.

This amendment ultimately prevents injured patients from finding the adequate legal protection they need in order to confront a managed care organization. Congress has passed over 300 laws allowing attorney fees, and the laws are described for every Senator to see in a Congressional Research Service report No. 94–870–8. I commend any one to that CRS report which describes these laws.

I have not found any Federal law on attorney’s fees that is as restrictive as is proposed in this amendment. I repeat, there isn’t any Federal law on attorney’s fees that is as restrictive as that proposed this morning on the Patient Protection Act.

Mr. DORGAN. Mr. President, when we have this issue of managed care organizations not providing the care required for patients and we have the opportunity in this legislation to hold the managed care organization accountable, why is it that those who don’t like this Patient Protection Act try to carve the ground out from under patients once again with a restrictive proposal that almost certainly would diminish the opportunity of a patient to acquire access to an attorney to make that HMO accountable?

I find it also interesting that the concern behind this Bond amendment is apparently excessive attorney fees. There are striking excesses with respect to managed care organizations. Let me mention just a couple.

What about excessive salaries, excessive stock options? I don’t hear anyone coming to the floor of the Senate complaining about $50 million in compensation that the CEO of a managed care organization receives. I don’t hear anybody saying that is an excessive salary for an individual to receive. How is it these CEO’s get to be rewarded in amounts as large as $50 million? By pinching on access to care that ought to be delivered to patients.

The opponents of our patients protection bill are not here on the floor saying that $50 million paid to the president of a managed care organization is excessive. We just have to come out here to say we are worried about an excessive fee received by an attorney who is representing a patient trying to hold an HMO accountable.

Mr. REID. Will the Senator yield for a question?

Mr. DORGAN. I will be happy to yield, of course.

Mr. REID. Is the Senator aware that William McGuire of UnitedHealth Group earned $54.1 million last year?

Mr. DORGAN. I am aware of that.

Mr. REID. Is the Senator aware that there were unexercised stock options worth an additional $88 million by various people with UnitedHealth? But McGuire held the most stock options, worth $358 million? Is the Senator aware of that?

Mr. DORGAN. I am aware of published reports that say that, yes.

Mr. REID. Did the Senator say he has not heard any debate on the Senate floor this past 10 days about this excessive, exorbitant amount of dollars to the people who run these companies and not helping the patients? I have not heard that; has the Senator?

Mr. DORGAN. The Senator from Nevada is correct. We have not heard one
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Mr. GRASSLEY. Madam President, I support the Bond amendment and want to speak specifically to that point. It also deals with the point I have made before, but I think it is a very good bill. But during the process of considering giving patients a bill of rights against insurance companies, I think we always have to keep our eye focused upon the fact that we want to give treatment for patients and not to give lawyers' pot of gold.

I have always believed that medical malpractice liability laws should provide adequate compensation for those who are truly injured while reducing frivolous lawsuits.

I firmly believe that it is a principle of this case that includes patients against insurance companies, that people who are harmed ought to be made economically whole. But there has to be a balance between frivolous lawsuits and making sure that people can be made whole if harmed.

I think the Kennedy-McCain bill fails to strike that very carefully needed balance and instead creates a lottery for trial lawyers, which not only inflates the cost of health insurance for all of us but also leads to more and more hard working Americans losing health coverage.

We shouldn’t do anything in this bill that will cause people to lose their health insurance. We already have 42 million uninsured Americans. The best opportunity for affordable health insurance as well as coverage is in employer-related health insurance programs.

Don’t forget that we have over 50 million insured Americans under the self-insured plans that employers offer. The case is that most of these self-insured plans come from small business more so than large corporations. We should not be putting these employers and their employees in a situation where that employer, because of the threat of suit under this bill and losing a generation and a lifetime of savings in that family business, will not want to take a chance of losing his investment which has been built up through a family working together and investing everything back into the business because of a threatened lawsuit. If that is a threat, then you can understand why the employer might just eliminate their self-insurance and in the process throw the employees into a situation of having no health insurance, resulting in more and more hard working Americans losing health coverage.

Here is how I believe this will inflate costs, and thus cause employers and
employees to not have health insurance coverage. Except for the $5 million cap that is in this bill on punitive damages in Federal courts, the Kennedy-McCain bill sets absolutely no limits on what damages trial lawyers can collect.

When it comes to patients and those harmed because of lawsuits, it ought to be an axiom of all of our public policy that the people harmed, not lawyers, should get most of the money from a lawsuit.

Of course, the Bond amendment then makes this more true than under the existing practice. You have to consider that trial lawyers generally collect 40 percent of their clients' recoveries. In fact, in many cases, you can have the lawyer's fees plus other court costs work out to where the person harmed is getting less than 50 percent of what the jury might award.

Trial lawyers generally collect 40 percent of their clients' recoveries. Incentives for bringing cases regardless of merit are then extremely high. It is a perverse incentive to go to court and to go to trial.

But the real jewel in the trial lawyer's crown is this bill's provision that allows the same suits for the same claims brought by the same trial lawyers, whether they proceed in State or Federal courts.

Even though this debate is supposed to be about patients, the Kennedy-McCain liability scheme isn't about patients at all. It is about trial lawyers.

In fact, as you can see, I call this the "trial lawyers lottery ticket." I want to show where five out of six opportunities for monetary awards are virtually jackpots for lawyers.

Take a closer look. I would like to just scratch the trial lawyer's lottery ticket and see what the lawyer gets. Let's start with medical costs.

Peel off the lottery ticket top, both for State court and Federal courts, you will see "bingo"—no limit on what trial lawyers can collect in both State and Federal court. That is a jackpot that ought to make any lawyer happy.

But why quit when you are ahead? Let's take a look at what is in store on pain and suffering. Peel that lottery ticket, and you can see what you get on pain and suffering. It is another jackpot—unlimited damages in State and Federal courts.

The sky is the limit. That is where the trial lawyers are really winning big.

Now, for the trial lawyer's favorite damages, punitive damages, they stand to reap tens of millions of dollars.

Let's see what this ticket offers the trial lawyers. So we pull off the punitive damages. You can see: unlimited damages in State court, and up to a $5 million cap in damages as far as the Federal courts are concerned.

This is another big win. Talk about good luck: unlimited punitive damages in State courts, and in the Federal courts almost unlimited—a $5 million cap. If you ask me, that is hardly any limit at all.

Mrs. BOXER. Will the Senator yield for a question?

Mr. GRASSLEY. No, I will not. I only have 10 minutes. And we lost some other time on this situation of waiting for the leader.

Mrs. BOXER. On my time, I would ask a question on my time.

Mr. GRASSLEY. Finally, if I could, let's not forget about class action lawsuits where multimillion-dollar damages are the name of the game. So here again, we have class action lawsuits in State courts. You can have class action lawsuits in Federal court.

So bingo again. Kennedy-McCain has no limits on class action lawsuits. It even creates new grounds for bringing class action cases.

As you can see, everybody wins—every lawyer, that is—with the trial lawyers' lottery ticket.

What we get back to then is that we are more concerned about treatment for trial lawyers than for patients. It seems ironic that the very individuals this bill claims to protect are the ones who lose. Despite what its sponsors say, the bill before us exposes employers to the constant threat of litigation, even for simple administrative tasks and clerical errors.

What is the ultimate result? What everybody says they do not want to ever happen. People lose coverage. When this sort of perverse incentive is put out there to small business, particularly those that are self-insured—because they do not want to put in jeopardy their lifetime of work but want to create jobs, so they can be part of the community, so they can have good workers and pay their workers well—and, most importantly, workers want good fringe benefits; and the No. 1 fringe benefit they want is health insurance—it puts it in jeopardy employer-based coverage. Then the ranks of the uninsured go up tremendously.

I yield myself 1 more minute.

Mrs. BOXER. Reserving the right to object, I would ask for 1 minute as well upon the conclusion of the Senator's remarks.

Mr. GRASSLEY. I object to that. There is plenty of time on that side for the Senator to take her time. I am talking time off our side.

Madam President, how much time do I have left?

The PRESIDING OFFICER. There are 3½ minutes left for the sponsor.

Mr. GRASSLEY. I would like to take 1 minute of that 3½ minutes.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. So the ranks of the uninsured are going to go up. There are 42 million uninsured now. Do we want to increase that? No, nobody wants to increase that, but that is going to be the end result when these self-insured plans are dropped. Then, of course, the employers become the biggest losers in this lottery.

So I urge my colleagues to reject this lottery and to support the Bond amendment, which creates much needed patient minimums and ensures that patients, not lawyers, get fair compensation for their losses.

I reserve the remainder of the time and yield the floor.

The PRESIDING OFFICER. Who yields time?

The majority leader.

Mr. DASCHLE. Madam President, I will use my leader time and not take any time off the agreed-upon time allocated for the amendment.

Madam President, I would just say on the amendment, there is nothing in there that would limit the lawyers' fees for the insurance. Those are unlimited. While they limit the legal fees for lawyers defending patients, there is nothing to limit the legal fees for lawyers defending HMOs and insurance companies. I find that quite ironic.

SUPPLEMENTAL APPROPRIATIONS

Madam President, I want to propose a unanimous consent request. I will not do that at this time because I have been talking with the distinguished Republican leader. But I want to sound a reframing signal. What I indicated I would, to lock in the debate for the supplemental.

There are a number of amendments that have been suggested. I know the unanimous consent agreement has been cleared on our side now for I think 3 days. We have been unable to get consent from our Republican colleagues for the last 3 days.

Now I am told they may object to even going to the supplemental, at least initially. If that happens, of course, I will be forced to file a motion to proceed. But I think it is important.

There was a story in the Washington Times dated June 26, and I think for the RECORD it would be helpful if I just read it because I think it does capture the urgency with which we address the supplemental. So I will take just a moment to read it:

The U.S. military would be forced to curtail medical training, repair and equipment maintenance if Senate Majority Leader Trent Lott holds up a pending emergency budget until late July, according to Pentagon projections.

The Pentagon provided a list of hardships at the request of Senate Minority Leader Tom Daschle. He used the list yesterday to criticize Mr. Daschle for threatening to delay action on a $6.5 billion supplemental budget bill until the Senate completes work on a contentious patients' bill of rights.

The delay would push the start of the fiscal 2001 defense legislation until late July or beyond.

We've got to pass this bill completed by . . . mid-July, we're going to have canceling of base-property maintenance, and holding some of our deployed units where they are and not going to be able to sustain them for the year," said Mr. Lott. "So we're really pushing the envelope when it comes to the needs of our military personnel in health as well as in training hours.

Picking his first confrontation with Democrats since they took control of the Senate, Mr. Lott also accused Mr. Daschle of sacri
gificing the nation's biggest needs in order to push through the health care bill. . . .
Nearly all the budget bill's funding goes for replenishing military training accounts depleted by peacekeeping missions in the Balkans and elsewhere. Without emergency funding, military readiness will be forced to:

Curtail all nonessential operations such as pilot training, steaming hours, fleet exercises, and air combat training maneuvers.

The Air Force and Navy would ground some pilots and aircraft.

Perhaps hold deployed units overseas until the new fiscal year begins October 1.

Cancelling training for units getting ready to deploy for peacekeeping duties.

Stop or slow down maintenance of equipment at large regional depots.

This will lead to the loss of jobs for many Americans,” Mr. Lott’s office said.

Madam President, I ask unanimous consent that the entire article be printed in the RECORD.

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

[From the Washington Times, June 26, 2001]

DASCHLE DELAYS; MILITARY WAITS

PENTAGON NEEDS EMERGENCY FUNDS

(By Rowan Scarborough and Dave Boyer)

The Pentagon could be forced to curtail or cancel training exercises, facility repairs and equipment maintenance if Senate Majority Leader Tom Daschle holds up a pending emergency budget until late July, according to Pentagon projections.

The Pentagon provided a list of hardships at the request of Senate Minority Leader Trent Lott. He used the list yesterday to criticize Mr. Daschle for threatening to delay action on a $3.5 billion supplemental budget bill until the Senate completes work on a contentious patients’ bill of rights, the spending bill and the reorganization before the Senate adjourns for the Fourth of July recess.

“We think all of these things can be done this week before we leave,” she said.

Sen. Robert C. Byrd, West Virginia Demo
crat and chairman of the Appropriations Committee, agrees, in the interest of urgency, to push approval of the fiscal 2001 defense legislation until late July or by

“...mid-July, we’re going to have canceling of base-property maintenance, and holding some of our deployed units where they are overscheduled at the end of the fiscal year,” Mr. Lott said.

Neglecting energy and defense has “very dangerous implications for the security and prosperity of the American people,” the Mississippi Republican said.

Nearly all the budget bill’s funding goes for replenishing military training accounts depleted by peacekeeping missions in the Balkans and elsewhere. Without emergency funding soon, the military would be forced to:

Curtail all nonessential operations such as pilot training, steaming hours, fleet exercises and air combat training maneuvers.

The Air Force and Navy would ground some pilots and aircraft.

Perhaps hold deployed units overseas until the new fiscal year begins Oct. 1.

Cancel training for units getting ready to deploy for peacekeeping duties.

Stop or slow down maintenance of equipment at large regional depots.

This will lead to the loss of jobs for many Americans,” Mr. Lott’s office said.

The Joint Chiefs of Staff originally wanted about $9 billion in emergency funding in Jan-

uary. But incoming Defense Secretary Donal

H. Rumsfeld nixed the request. The White House scrubbed the numbers and pre

sented the $6.5 billion proposal. The House already had handed out $3.5 billion. Mr.

Lott added, “We’re all talking to the Senate Appropriations Committee.”

Mr. Lott said he suggested the Senate OK the emergency defense bill by unanimous consent, as did Mr. Daschle, South Dakota Democrat, at the request of Senate Appropriations Committee.

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the Patients Protection Act for some long while. We have gone through most of the major amendments. We started debating this issue 5 years ago. It has now been on the floor for some while. We have done most of the major amendments. We could conceivably get to the Patient’s Bill of Rights later today. If we could move on to other business. I am a member of the Appropriations Committee. When we passed the supplemental bill, it was passed almost with no amendments in the House of Representatives; that bill is very important—we did it with very little debate in the full Appropriations Committee. The organizing resolution can be completed. I understand, with perhaps one vote.

It is the case, isn’t it, that all of this could be done perhaps this evening if we had cooperation? Is that not the case?

Mr. DASCHLE. The Senator is correct. As I understand it, this bill was not subject to amendment in the House. It passed overwhelmingly in a very short period of time. I don’t know why we would have to elongate or unnecessarily prolong the debate on this side.

Whatever length of time may be required to consider this bill, we will do that. All I am saying is that we have to do it before we leave.

I seek both the ranking member of the Appropriations Committee and the distinguished Republican leader on the floor.

I ask unanimous consent that the majority leader, following consultation with the Republican leader, may proceed to the consideration of Calendar No. 76, S. 1077, the supplemental appropriations bill and that the bill be considered under the following limitations: That only first-degree amendments in order other than a managers’ amendment be the following list which is at the desk—I won’t read the list at this point—that any listed first-degree amendment be subject to relevant second-degree amendments, that any time limitation for debate on a first-degree amendment be specified in this agreement; then any second-degree amendment to that amendment be accorded the same time limit; that upon disposition of the above amendments, the bill be advanced to third reading; the Senate then proceed to the consideration of Calendar No. 77, H.R. 2216; that all after the enacting clause be stricken and the text of S. 1077, as amended, be inserted in lieu thereof; that the bill be advanced to third reading, and the Senate then vote on passage of the bill with no intervening action or debate.

Finally, I ask unanimous consent that S. 1077 be returned to the calendar.

The PRESIDING OFFICER. Is there objection?

Mr. LOTT. Reserving the right to object, Madam President.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. LOTT. First of all, I think it is important that we dispose of this issue as quickly as possible so that we can get back to the debate on the amendments that are pending. There are still a number of very important amendments that Senators wish to offer with regard to the Patients’ Bill of Rights. I know the Senator from Nevada has prefiled a number of amendments. We should know that. These are substantive and important amendments.

When it was suggested by the Senator from North Dakota that most of the amendments have already been offered and considered, I don’t believe that is accurate. Of course, I guess how important they are is in the eye of the beholder or the offerer of the amendment. I think it is important that we address this issue and get back to having debate and hopefully votes this afternoon and into the night, however long it takes to deal with important issues that still need to be addressed.

We still believe very strongly that this bill has not been corrected in terms of its major problems in the likelihood of loss of coverage and increased premiums, and when, how, and where lawsuits are going to be filed instead of making sure patents get the health care they need. We can resolve this relatively quickly and then go back to that.

With regard to the organizational resolution, we continue to exchange ideas. I think it is possible that it could be handled with one vote, or it may take three, but we are hoping we can get that worked out. I know there are a couple of letters that are being reviewed now on both sides that might make it unnecessary to have three recorded votes. I think we are going to have two letters dealing with the question of public disclosure of the blue slips which can be used by Senators to block a judicial nomination. There is a strong belief on both sides that such scrutiny is important and not just handled secretly, as has sometimes been the case but not always the case, in the past.

Also, we are looking to see if we can get some agreement in writing that we would continue to do what the precedents are with regard to Supreme Court nominees. I believe going back all the way to 1881, the whole Senate has voted on Supreme Court nominees even when the committee has voted on a tie or negatively. But we are working with the people who have the list, some of them are not just relevant, some of them are amendments about which Senators are going to care greatly. And it looks to me as if you are talking about an extended period of time at this point to complete action on this legislation.

If we could get an agreement to go to it now—I see Senator MCCAIN; I know he has an amendment he feels very strongly about—if we could do that now, maybe we could get some time agreements and move to completion.

I see the distinguished Senator from Alaska, the senior member of the Appropriations Committee on the Republican side, who wants to speak. I am going to yield under my reservation, Madam President.

Mr. STEVENS. Madam President, I am here to urge that the Senate take the bill up now. I think if we took it up now, working with the people who have those amendments, we ought to be able to finish it today. I think if we finish today, the House will stay, and we could complete this before the recess. If we wait until Monday after the House has already gone home, it will be very difficult to get them back, even from the point of view of getting travel arrangements for the House to come back on Monday or Tuesday.

I cannot speak for the chairman, but I can say that we both have sought for the last weeks to try to have this bill become law in time to meet the needs of the armed services. Very clearly, they have been demonstrated now. There is no question that if we do not get this bill passed, there is going to be an impact on the armed services. I will be looking to the Members to work with all Members to see what we can work out, to constrict the time and finish it tonight, if we can take it up now.
That might put pressure on the other bill, too.

I urge that the organization resolution get resolved. I personally say to both leaders, my Kenai Peninsula is on fire. That is where I want to go fishing next week, too. So there is a disaster and I plead call of the pink salmon to respond to.

I pledge myself to work even harder than Senator Reid does to find some way to constrict this time so we can vote on it to the House and bring it back so we can all vote on the bill before we go home. I plead with the leaders to let us have the reins for a few hours and see what we can do. I think we can finish this bill tonight.

Mr. LOTT. Madam President, under my reservation, I will propose as an alternative unanimous consent agreement the same proposal the majority leader has made, except that in the first paragraph under consultation with the Republican leader, I would add "with the Republican leader, but I cannot..."

Unfortunately, our Republican colleagues have been unable to do that. My offer still stands. Give me a definitive list that will allow us to finish our work on the Patients' Bill of Rights. We will proceed immediately to the supplemental, finish it, and then return to the Patients' Bill of Rights with the understanding that we will complete work on that as well.

Unfortunately, our Republican colleagues have been unable to do that. My offer still stands. Give me a definitive list that we can complete before we leave, and I will go immediately to the supplemental. I have offered it privately to Senator Lott. I have offered it to the Republican leader. That offer still stands. Until we get that assurance, I will object.

Mr. LOTT. Under my reservation, I have one inquiry. I thought we had a list of amendments still pending out there.

Mr. DASCHLE. I have not seen it.

Mr. LOTT. We will work on that.

The PRESIDING OFFICER. Is there objection?

Mr. DASCHLE. Madam President, reserving the right to object, I have offered this to our Republican colleagues now for several days. I have said, give me a definitive list that will allow us to finish our work on the Patients' Bill of Rights. We will proceed immediately to the supplemental, finish it, and then return to the Patients' Bill of Rights with the understanding that we will complete work on that as well.

Unfortunately, our Republican colleagues have been unable to do that. My offer still stands. Give me a definitive list that can complete before we leave, and I will go immediately to the supplemental. I have offered it privately to Senator Lott. I have offered it to the Republican leader. That offer still stands. Until we get that assurance, I will object.

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Mr. LOTT. We will work on that.

The PRESIDING OFFICER. Is there objection to the original request?

Mr. DASCHLE. Madam President, are the two leaders here, if I may chime in, first of all, Senator Daschle has read the importance of this supplemental. If it is as important as has been read into the Record, it would seem to me the House should hang around a little while longer.

I say to the Republican leader and our majority leader, I haven't seen a list of amendments. Everybody knows we have just a few important amendments to finish the Patients' Bill of Rights. If we are given a list of amendments that is large in number, I don't think that is in keeping with what I think should be the general agreement to finish the legislation. If we are given a list of 10, 20, 30, 50 amendments, I suggest to the majority leader, that is not part of the deal. We have a few amendments left to go.

Mr. LOTT. If Senator Daschle will yield to respond briefly, I thought you had been given a list. I am going to make sure you have it and then we can evaluate that and work on it.

Mr. DASCHLE. Madam President, I offer a unanimous consent request that the Senate complete its work on the Patient Protection Act by 6 o'clock tonight, and we have final passage by 6 o'clock tonight. If we can agree to that right now, I will move to the supplemental at 12 o'clock this afternoon.

Mr. LOTT. Madam President, I object to that. Obviously, I have to consult with the managers of the legislation on our side about the amendment list, which is very long, and I have it now, and they will stay if it is possible in terms of completing it. I don't think it is possible at all to set an arbitrary time, in view of the very serious amendments that are pending on the Patients' Bill of Rights. So I object to that request.

The PRESIDING OFFICER. The original request of the majority leader is still pending. Is there objection?

Mr. STEVENS. Reserving the right to object, Madam President, I am constrained to say with due respect to the leader and the majority leader and majority whip, I find it very difficult to deal with the concept putting ahead of this supplemental the completion of two very controversial items. We know the House has been and having spent 8 years here on the floor as leader, I can tell you I have never seen the time when any Senate could dominate the House. We have a bipartisan agreement to go home. They have told me they will stay if we get this bill done and over there today.

I do believe that the interest of national defense should come ahead of concepts that we are dealing with here in terms of whether it is the Patients' Bill of Rights or the Budget. We know people will be told they cannot train in July and August unless we get this bill done this week. It is not something on which we have been dilatory. We have been trying for a long time.

I have great respect for the leader and the assistant leader, and I cannot stay silent and have a concept that because the leader has stated these things must be accomplished, they must be done before the supplemental is brought up. That is unacceptable to this Senator. I think it is unacceptable to the Senate. I hope it is.

I say with great humility now that the needs of our people in the armed forces must come ahead of concepts of scheduling or prerogatives here on the floor. These needs are very real. We have twice held hearings now where the chiefs have told us what is going to happen in October. They cannot train in July and August unless this is done. This is something that not only has been requested by the Pentagon but by the Commander in Chief as well; I would hope if the President makes additional calls, he will call the House and say: Don't leave until we get this done. You have heard the Pentagon. Don't leave until this is done. This is something that not only has been requested by the Pentagon but by the Commander in Chief as well; I would hope if the President makes additional calls, he will call the House and say: Don't leave until we get this done. You have heard the Pentagon. Don't leave until this is done. This is something that not only has been requested by the Pentagon but by the Commander in Chief as well; I would hope if the President makes additional calls, he will call the House and say: Don't leave until this is done. This is something that not only has been requested by the Pentagon but by the Commander in Chief as well; I would hope if the President makes additional calls, he will call the House and say: Don't leave until this is done.
shot. I am not talking about a vacation. I am willing to stay here as long as any other Senator. I am talking about the realities of the House. Leader, I am not going to forget that. That was a cheap shot, and for the time being, I yield to the request.

The PRESIDING OFFICER. Objection is heard.

AMENDMENT NO. 811

The PRESIDING OFFICER. Who yields time on the amendment? The Senator from Missouri.

Mr. REID. Madam President, I reserve the remainder of my time. I believe there is more time on the other side. I want to give the other side their remaining 19 minutes, but I believe we only have 2 minutes. I reserve those 2 minutes for the end of the debate, and I do have a couple of minutes after they have had an opportunity to present their case.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. DORGAN. Mr. President, with the consent of Senator KENNEDY, I yield myself such time as I may consume, recognizing the Senator from North Dakota wishes to be recognized. I will not take long.

Many years before I came to Congress, I practiced law. I was a lawyer. I was a trial lawyer. I am very proud of that fact.

With that brief background, I received a call last night from a lifetime friend, who has been talking with him, a while, but we went to high school together. We played ball together. We were inseparable friends. He did not have my phone number. He had moved. He called my office and said it was urgent.

He called because his son was in trouble. Why? Because they had hired a cheap lawyer. His son was in trouble, and they hired a cheap lawyer. The young man is now in jail.

My friend from Missouri is a lawyer, a fine lawyer, I am sure. I refer to the pending amendment as the “cheap lawyers amendment.” You cannot find decent lawyers to take a case for 15 percent. Almost 50 percent of the cases in our Federal court system take 4 years to litigate, with files stacked as high as my desk. People work to prepare those papers representing people who are injured, hurt, and need an attorney. That is why we have contingent fees. It is hard to get a lawyer to do something for a good contingent fee case because they have to consume so much time and effort.

Of course, there are some people who are paid too much, I am sure, because they put in the time and it is a contingent fee. I sold my home in Virginia within the past year. The woman who sold my home was a good realtor. I tried to find the best I could. I signed a contract with her. She made a ton of money for my home. She worked about a week, I believe, but she only took a lot of time off during that week. My home sold in a week. She made a lot of money for the few hours she spent on my home, but that is the way America works.

If we have people who need help, we need to have the full panoply of lawyers available so they can get a good lawyer.

My friend from Iowa had a chart and peeled off medical bills. These people are going to get their medical bills. Well, isn’t that too bad. If someone does something wrong, should they not pay your medical bills? Do you need to have a lottery to get your medical bills paid? I hope not.

We have heard mentioned several times, if we are concerned about attorney’s fees, how much are these attorneys for these big HMOs making to prevent people from getting medical care? Let’s take a look at that.

We talk about these cases in the abstract, but the fact is that attorneys, whom everyone wants to hate, are necessary; they help. I am proud of the fact that I was a lawyer. I have four sons. Everyone is a lawyer, and I am proud of the fact that they followed in the footsteps of their father. My daughter is a schoolteacher. She married a lawyer. I am very happy for that.

Do we have to be shameless, concerning some of these cases lawyers having getting a paid contingent fee? That is how people are injured and hurt are allowed to take those cases.

Fifteen percent will discourage representation by good lawyers. My friends on the other side of the aisle talk about the sanctity of contracts. Why do we want to step in and tell States what lawyers can be paid based on a contract they get?

This amendment is only to protect HMOs, as all the other amendments from the other side, to try to derail this legislation. This amendment is a frivolous amendment. It has nothing to do with the merits of this legislation.

Mr. DORGAN. Mr. President, will the Senator from Nevada yield to me?

Mr. REID. I will be happy to yield to my friend from North Dakota.

Mr. DORGAN. The Senator from Nevada and I had a brief discussion previously about this issue. He is correct that this amendment attempts to limit the ability of patients to hold HMOs accountable.

The discussion by those on the other side who have offered this amendment talks about lawyers in a pejorative way on behalf of patients. Does the Senator talk about the realities of the House. Leadack, I am not going to forget that. That was a cheap shot, and for the time being, I yield to the request.

Mr. REID. Madam President, I ask for 3 minutes.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Madam President, I rise in opposition to the amendment that has been offered. We have seen the efforts of the HMOs to undermine this legislation in different ways over the last few years. We were unable to bring this matter up for consideration by the Senate and get full consideration of the bill when we wanted to. This happened.
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even during the last term when a majority of the Members would have supported a good, tough, effective Patients’ Bill of Rights. We have seen over the past days constant efforts to undermine this legislation.

We now have the opportunity to try to appeal to the Members about the excessive-ness of decisions made in the courts to reimburse individuals in terms of wrongdoing by other industries.

The point was made by our colleagues, we have spent 3 days talking about the sanctity of the contract between the HMO and the patient. We have had amendment after amendment saying, look, this is enormously important. We do not want to permit any changes in that contract. We want to stick with that contract. We want to hold to that contract. Now with the Senator’s amendment we are saying basically that we are going to ride disabed, after a wife or husband has been disabled. How many are going to be able to convince a jury they are right, that there has been wrongdoing. How many are going to be able to do that and follow this through the State courts? How many will be able to do it after they have been hurt, after their child has been killed? How many? Very few.

The fact is, they are not going to be able to be compensated unless they are able to convince a jury they are right, that there has been wrongdoing.

Does that bother people in the Senate? Evidently it does. There are only a very few Americans who can afford the high-priced lawyers to go into court and pursue this. This amendment undermines it for the rest of the people. It undermines it for working families, undermines it for middle-income families. That is the record. That is what has been done.

It doesn’t surprise me. We have seen the powerful special interests overturn ergonomic regulations which were there to protect working families. Then we have the undermining of funding for the enforcement of our air. There has been undermining of funding for protecting OSHA, effectively cutting back on the protection of workers. We are undermining regulations to protect workers, undermining the enforcement mechanism to protect consumers, and now they want to take this right away from individuals who will be harmed because of HMOs.

It is a common pattern. It is all targeted by the major financial special interests versus the consumer. That is what this is about. They don’t like to hear about it. They keep offering amendments that are couched in other language about all the people that will be unemployed. However, it is the power of the HMOs against the little guy.

This amendment says the little guy will not be able to defend their interests in court. That is what this is about.

Make no mistake. They can’t deal with us in giving protections to the consumers. They are going to take them away by denying them the rights to enforce them. That is what this is about.

Expect that after we have this percentage, it will go a little higher, and then try to go even higher. Every time it does, it is an insult to middle-income and working families and individuals who will be harmed. Make no mistake, it is another assault on the fundamental protections that protect what this amendment is about. I hope it will be defeated.

The PRESIDING OFFICER. Who yields time?

Mr. BOND. How much time remains?

The PRESIDING OFFICER. The Senator from Missouri has 3 minutes.

Mr. BOND. I want to respond. Does the other side desire more time?

Mr. KENNEDY. I don’t think so. It depends on what the Senator says. We don’t intend to do this. Mr. BOND. How much time remains on the other side?

The PRESIDING OFFICER. Five and a half minutes.

Mr. BOND. I yield myself the remaining time. I think some of the things that have been said deserve to be answered.

Our efforts are not to undermine a bill but to deal with very bad provisions in the bill which skipped the committee, did not go through committee markup. We are marking up a bill now which we should have marked up in committee. It has come to the floor and we are a committee of the whole.

There are things that are in there that are very bad for patients, employees, particularly of small business. Why are we inserting the Federal Government into restricting attorney’s fees? The States in this Nation have limited attorney’s fees because they recognize the abuses of the trial lawyers. Under this bill, we are inserting the Federal Government into areas that the States have already acted on, and they have acted on them and provided limits on the amount that trial attorneys can take so the injured party can recover.

We have heard about the powers of special interests. Let me state who the special interests are that have a big stake in this, the four top trial lawyer firms: Motley; and Angelos Law Offices, have given over $8 million, more money than all the HMOs together have given in politics.

If you want to talk about special interests, there are special interests on the other side, as well.

We believe the measures we brought forth are good for employees, for people. We do not want to be able to appeal the decision of an HMO, but they want to have health coverage.

Somebody suggests there have not been problems with fee structures. They are not in this bill. We know from the state experiences that there can be a tremendous amount of wasted money.

I urge my colleagues to support this measure.

I yield to my distinguished colleague from Tennessee.

Mr. FRIST. Madam President, I rise in support of the Bond amendment. This is a Patients’ Bill of Rights and we should focus on the patient. We are talking about a patient who has been harmed or injured, gone through an appeal process and process through the court. If there is a multimillion-dollar suit, it should be to help the patient, not to fund the pockets of the trial lawyers.

This is a Patients’ Bill of Rights, not a trial lawyer’s bill of goods.

Mr. KENNEDY. Madam President, every time you pay the HMO lawyers, that comes out of patient protections. So the point is raised was, if you put a limitation on the trial lawyers because they are going to get the benefits, why not put a limitation on the attorneys for the HMOs so it doesn’t come out of patient protections?

But they won’t do it. They won’t do it.

I yield the remainder of our time.

Mr. REID. What is the matter before the Senate now?

The PRESIDING OFFICER. Amendment No. 831.

Mr. REID. All time is yielded back.

The PRESIDING OFFICER. Time has been yielded back.

Mr. REID. I move to table the amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second. The question is on agreeing to the motion.

The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 62, nays 38, as follows:

[Rollcall Vote No. 204 Leg.]

YEAS—62

Mr. REID. 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.

Mr. REID. 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. WARNER. Madam President, I ask unanimous consent for the quorum call be rescinded.

Mr. REID. Objection.

The PRESIDING OFFICER. Objection is heard.

The clerk will continue the call of the roll.

The assistant legislative clerk continued the call of the roll.

Mr. WARNER. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection it is so ordered.

AMENDMENT NO. 833

Mr. WARNER. Madam President, in consultation with the managers of the bill, it has been indicated to me this will be an appropriate time for this amendment to be raised. I send it to the desk and ask that it be given immediate consideration. However, we have to set aside, as I understand it, the standing order with regard to the Snowe amendment. I first ask unanimous consent that it be set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER] proposes an amendment numbered 833.

Mr. WARNER. Madam 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 limit the amount of attorneys' fees in a cause of action brought under this Act')

On page 154, between lines 2 and 3, insert the following:

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(II) LIMITATION ON ATTORNEYS' FEES.

(9) LIMITATION ON ATTORNEYS' FEES.—(A) IN GENERAL.—Subject to subparagraph (C), with respect to a participant or beneficiary (or the estate of such participant or beneficiary) who brings a cause of action under this subsection and prevails in that action, the amount of attorneys' fees that a court may award to such participant, beneficiary, or estate under subsection (g)(1) (not including the reimbursement of actual out-of-pocket expenses of an attorney as approved by the court in such action) may not exceed the sum of the amounts described in subparagraph (B).

(B) AMOUNTS DESCRIBED.—For purposes of subparagraph (A), the amounts described in this subparagraph are as follows:

(i) With respect to a recovery in a cause of action described in subparagraph (A) that does not exceed $100,000, the amount of attorneys' fees awarded may not exceed an amount equal to 1/2 of the amount of the recovery.

(ii) With respect to a recovery in such a cause of action that exceeds $100,000 but does not exceed $500,000, the amount of the attorneys' fees awarded may not exceed an amount equal to 25 percent of such excess recovery above $100,000.

(iii) With respect to a recovery in such a cause of action that exceeds $500,000, the amount of the attorneys' fees awarded may not exceed an amount equal to 30 percent of such excess recovery above $500,000.

(C) EQUITABLE DISCRETION.—A court in its discretion may adjust the amount of an award of attorneys' fees required under subparagraph (A) as equity and the interests of justice may require.

On page 150, between lines 21 and 22, insert the following:

(B) EQUITABLE DISCRETION.—A court in its discretion may adjust the amount of attorneys' fees allowed under subparagraph (A) as equity and the interests of justice may require.''

Mr. WARNER. Madam President, I will do something unusual. I am actually going to read the amendment myself such that colleagues and those observing floor operations from their offices can have a clear understanding of exactly what is in the amendment.

Further, I do not desire to consume a great deal of time in the debate because we have just had a very thorough debate on the generic subject of attorney's fees. Therefore, the Senate has pretty well framed in their minds the parameters with regard to not accepting an amendment that has the effect of, in my judgment, preserving a reasonable amount of attorney's fees and at the same time allowing such awards as those attorneys obtain for their clients to be given; again, with the thought that it is a Patients' Bill of Rights and they have a right to get a reasonable amount of such recovery as is obtained from them.

I shall read from the amendment—it is very short—and say a few words, and then rest my case:

On page 154, insert the following: Limitation on award of attorneys' fees.

(A) IN GENERAL.—Subject to subparagraph (C), with respect to a participant or beneficiary (or the estate of such participant or beneficiary) who brings a cause of action under this subsection and prevails in that action, the amount of attorneys' fees that a court may award to such participant, beneficiary, or estate under subsection (g)(1) (not including the reimbursement of actual out-of-pocket expenses of an attorney as approved by the court in such action) may not exceed the sum of the amounts described in subparagraph (B).

(B) AMOUNTS DESCRIBED.—For purposes of subparagraph (A), the amounts described in this subparagraph are as follows:

(i) With respect to a recovery in a cause of action described in subparagraph (A) that does not exceed $100,000, the amount of attorneys' fees awarded may not exceed an amount equal to 1/2 of the amount of the recovery.

(ii) With respect to a recovery in such a cause of action that exceeds $100,000 but does not exceed $500,000, the amount of the attorneys' fees awarded may not exceed an amount equal to 25 percent of such excess recovery above $100,000.

(iii) With respect to a recovery in such a cause of action that exceeds $500,000, the amount of the attorneys' fees awarded may not exceed an amount equal to 30 percent of such excess recovery above $500,000.

(C) EQUITABLE DISCRETION.—A court in its discretion may adjust the amount of an award of attorneys' fees required under subparagraph (A) as equity and the interests of justice may require.

In years previous to coming to the Senate and other various jobs, I was actually a member of the bar and practiced law. I was assistant U.S. attorney in a modest trial practice myself. That has sort of been a standard for many years in the bar, the one-third.

Further:

(9) Limitation on Attorneys' Fees.—(A) IN GENERAL.—Notwithstanding any other provision of law, or any arrangement, agreement, or contract regarding attorneys' fees, subject to subparagraph (B), a court shall limit the amount of attorneys' fees that may be incurred for the representation of a participant or beneficiary (or the estate of such participant or beneficiary) who brings a cause of action under paragraph (1) to the amount of attorneys' fees that may be awarded under section 502(n)(11).

(B) EQUITABLE DISCRETION.—A court in its discretion may adjust the amount of attorneys' fees allowed under subparagraph (A) as equity and the interests of justice may require.

In other words, a judge may look at this fee schedule and decide, this particular counsel has done a great deal of work and, therefore, I believe I should raise his fee within the parameters of the section itself.

Further:
of such participant or beneficiary who brings a cause of action under paragraph (1) to the amount of the attorneys' fees that may be awarded under section 502(n)(1).

(b) Equitable discretion.—A court in its discretion may adjust the amount of attorneys' fees allowed under subparagraph (A) as equity and interests of justice may require.

This amendment simply sets, in my judgment, an unreasonable category of fees. I have tried, as best I can, not to tread, by virtue of States rights, on the right of the State to administrate its own bar and the like. I felt that discretion should be given to the trial judges, Federal and State, such as they can adjust that schedule of fees as they see fit.

The Senate, again, has, in a very thorough discussion under the Bond amendment, covered these issues and has rejected, in its own frame of wherein we can legislate on this matter by amendment or not legislate.

At this point, I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Madam President, I thank the Senator from Virginia for his efforts. I think there is an agreement that there needs to be a cap on attorney's fees. It is my strong sense and belief that if we had a cap of 33 1/3 percent that applied to Federal and State courts, that would be acceptable by the majority of this body.

What I worry about is us just going back and forth with escalating amendments. There are very few benefits of old age. One of them is to remember what happened in the past. When we were doing the tobacco bill, we had amendment after amendment, a series of amendments, on caps on lawyer's fees. It got a little ludicrous. We finally had a majority vote for $1,000 an hour. It was clearly not an effort at legislating, but it was an effort at some kind of political advantage. I know that is not the intention of the Senator from Virginia.

I hope that once this is debated and, if it is not accepted, that perhaps we could move to an amendment after Senator Snowe's amendment that would be around 33 1/3 percent, State, Federal court, end of it. That is going to make everybody unhappy, but I think it would be something that we could all support and then get this issue off the table and get to the very important issues such as resolution of exhaustion of appeals that Senators Thurmond and Snowe are working on, liability issues. Senator Frist has some important amendments, again, on liability issues, which we are narrowing down.

Hopefully, we can move forward. I thank the Senator from Virginia for his input.

Mr. WARNER. Madam President, if I might reply to my friend and colleague, there was no intention of the Senator from Virginia to repeat what is an historically important case on tobacco. I studied that case very carefully. There were, I think, three votes. My recollection is it was $4,000 per hour, at which time the Senate finally accepted. I would not participate in such a process. I just struck the one-third for the lower amounts of the recovery and basically scaled it to 25 and the other percentage as the rate of recovery increase, I would be happy to work with.

It goes to the question of just how much will be eventually given to the recipients who need these funds.

Mr. REID. Will the Senator yield for a question?

Mr. WARNER. Yes, of course.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. The Senator from Arizona and the Senator from Virginia are on the right track.

This amendment, with all due respect to my dear friend from Virginia, is really—we have another 15-percent limitation in here above a certain amount. I think that the most expeditious thing to do would be to set this aside, for the time being, and get some of the lawyers and nonlawyers to sit down and see if they can work out something acceptable to the managers. I am sure if it were acceptable to the managers, we could accept this.

I ask my friend from Virginia, who believes he has talked enough on this, that we withdraw this amendment, for the time being, in anticipation of working something out that is clear and more concise.

Mr. McCAIN. That is exemplified by the leadership the Senator shows time and time again on this floor. I don't view this as a partisan issue. This is an honest effort by the Members of the Senate to recognize that individuals should be given their rewards and the attorneys should be given fair compensation. Therefore, Madam President, unless other Senators wish to speak at this time, I will —

Mr. McCAIN. If the Senator will yield, I say to my colleague from Virginia, if the outcome of this amendment is not to the Senator's satisfaction, then I hope we can enter into negotiations that on a reasonable level—again, I just plucked 33 1/3 percent because it is in there in one category, across the board, simple, two lines, and perhaps we can move on.

I know the Senator from Virginia, as well as the rest of us, doesn't want to be hung up on a series of votes that are iterations over the same issue. It seems that the Senate does not come to some reasonable agreement, which the other side of the aisle would strongly resist applying to State court, and this side would resist it on Federal court. It is something to have a substantial majority vote for. I hope the Senator agrees to enter into those negotiations.

Mr. WARNER. Madam President, I ask for the yeas and nays before I take the action.

The PRESIDING OFFICER. Is there a question?

The PRESIDING OFFICER. The assistant legislative clerk proceeded to call the roll.

Mr. REID. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, the amendment is set aside. The Senator from Nevada.

Mr. REID. Madam President, 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. REID. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Madam President, it is my understanding, under the order that is in effect, we will go to the Snowe amendment with the purpose of offering the amendment under a 4-hour time agreement.

The PRESIDING OFFICER. The Senator from Maine.

AMENDMENT NO. 834

(Purpose: To modify provisions relating to causes of action against employers)

Ms. SNOWE, Madam 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 Maine [Ms. Snowe], for herself, Mrs. LINCOLN, Mr. DEWINE, Mr. NELSON, Mr. SPERRY, and Mr. McCAIN, proposes an amendment numbered 834.

Ms. SNOWE. Madam President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without obstruction, it is so ordered.

(The text of the amendment is located in today's RECORD under Amendments Submitted.)

Ms. SNOWE, Madam President, I rise today to offer an amendment along with my colleagues Senator DeWINE, Senator Lincoln, and Senator Nelson, who worked so hard, so diligently in crafting this compromise. Senator Frist and Senator Specter are co-authors of this amendment as well.

The amendment we are offering today is designed to bridge the gap that exists between the supporters of the McCain-Edwards-Kennedy approach to employer liability in the Breaux-Frist-Jeffords bill.

I commend Senators McCain, Edwards, and Kennedy for their willingness as well as their patience to work with us on resolving the many issues that are associated with employer liability.

Everyone involved has had the same goal essentially, and that is to protect...
employers from liability when they are not participating in making decisions concerning the health care of employee beneficiaries.

The discussion has really focused on how best to achieve that goal. This is an incredibly complex liability issue that has far-reaching consequences, and everyone who has been part of this discussion and this effort to reach this consensus recognizes that fact and has worked hard to arrive at a solution that we can live with and, more importantly, employers can live with and not denying care that patients rightly deserve.

This is an issue that is significant on a number of different levels. First of all, to what extent will employers that voluntarily offer health insurance be exposed to liability. To what extent will employers be involved in the decision-making process in terms of the provision, withdrawal, and care for their employee beneficiaries, and perhaps more important, will patients have legal recourse should they have a grievance concerning the care they receive through their health care plan.

The key in designing and crafting this amendment to the McCain-Kennedy-Edwards legislation is how best we protect patients for their medical care without creating an expansive bureaucracy adding to the cost of providing that health care and generally creating an incentive to drive away employers from providing health care insurance to their employees which, as I said earlier, they do so on a voluntary basis. We should be commending employers for providing these benefits, not penalizing them.

We should also take great care to write a provision under which employers remain insured through their employer-sponsoring health care companies that they have no control and over matters in which they have not participated and having the resulting decisions open that can leave employers exposed to liability over matters in which they have no control and over matters in which they have not participated and having the resulting decisions open that can leave employers exposed to liability.

As one businessman in my State wrote to me recently:

We're not an HMO or an insurance company. We are an employer. We cannot afford the time, expense, and aggravation of litigation. And, please, make no mistake, that is what this is done.

So we approach the issue of reconciling the differences between the two approaches by addressing the question: What language will deliver us to that mutual goal? We assess what was really the best qualities of the McCain-Kennedy-Edwards-Kennedy legislation, as well as the Breaux-Frist-Jeffords issues.

Ultimately, the solution we came to was a melding of the two approaches. The result was to provide employers with varying levels of liability protection depending on their involvement in the decision-making process but regardless, patients will have the legal recourse they deserve, no matter what.

There are many other issues that need to be resolved in this legislation. I realize this represents one facet, the liability question, that has been raised by others with respect to this legislation, and this is not intended to address all of those questions, but clearly it does address a most important issue when it comes to how employers are litigating and liability.

Let me take a moment to explain the differences between the McCain-Kennedy-Edwards legislation and the Breaux-Frist-Jeffords approach and the approach we have offered to S. 1052 and how our amendment affects the underlying legislation and addresses the concerns that have been raised about the net legal impact on employers.

Essentially, there are several categories we are attempting to address today when it comes to employer-sponsored health care insurance.

First, there are employers that contract with an insurance company that, in essence, turns the employer into an administrator of the plans and the benefits.

Second, there are employers that fund a plan but leave the actual administration of the plan to an outside entity, generally an insurance company.

Third, there are those who both self-insure and self-administer, in essence creating their own insurance company within their existing business.

The McCain-Kennedy-Edwards-Kennedy legislation as written allows a suit against an employer or any entity that participates in a decision that harms or results in the death of a patient. Direct participation is defined as the actual making of a medical decision or the actual exercise of control in making such a decision or in the conduct constituting the failure.

The bill then goes on to offer specific circumstances that do not constitute direct participation, including any participation by the employer or other plan sponsor in the selection of the group health plan or health insurance coverage involved or the third party administrator or other agent, or any engagement by the employer or other plan sponsor in any cost-benefit analysis undertaken with the selection of or continued maintenance of the plan or coverage involved.

While the bill language does not provide an exhaustive list of exceptions, it does go into evidence in their defense that they did not directly participate in decisions affecting the beneficiaries of the health care plan.

That suggests while employer protection would be provided under the legislation, an employer would still have to go to court to make its defense. As with any such legal language, direct participation obviously can be open to legal interpretation, and that precisely is the circumstance which we are seeking to avoid and prevent.

Under the Breaux-Frist-Jeffords legislation that was introduced, the language provides for a designated decision-maker, or DDM, which in most cases would be the insurance company if an employer contracted with to be the party that is liable for medical decisions and, therefore, the party could be subject to liability. In other words, the employer would designate the DDM as the responsible party to shield itself from liability. If an employer chose not to designate a DDM, they would have no protection from that liability.

An argument that has been made against the Breaux-Frist-Jeffords language is if the DDM is somehow designated within a company that self-insures, for example, they could under the employment law attempt to escape liability by claiming that ultimate decision came from the employer; that they, as a DDM, did not make a final decision on a particular beneficiary's case. In an effort to improve the Breaux-Frist-language, we designate what that contract is signed with the employer, the DDM cannot mount any such defense, that somehow they defer the liability, defer the suggestions that the employer somehow participated in making the decision.

In an effort to improve the employer liability provisions, we encompassed key provisions of both models in the legislation while addressing their inherent weaknesses so we can attain our shared goals.

First, our amendment allows employers that turn their health care coverage over to outside insurance companies that their insurance company will automatically be their designated decision-maker unless they specifically choose not to have a DDM. This is built directly on the Breaux-Frist-Jeffords model in which the decision-making authority shifts to the DDM, which will in most cases be the insurance company. Under this approach, an employer would not have to take the extra steps to secure a designated decision-maker and would not be required to file pleadings or to make defenses against any actions they may have taken. In other words, they would not have to do anything different than
what they are doing today with a contract with an insurance company.

When they sign up with an insurance carrier that will provide benefits to their employees and administer the benefits, they are then signing up with, essentially, a designated decisionmaker, and they are signing up as well for a safe harbor from liability in both medical as well as contractual
decisions.

Where we depart from the existing Breau-Frist language is we clarify since the DDM, which is also the insurance company, has assumed full re-
sponsibility at the time the employer and the insurance company signed a contract, the designated decisionmaker would be prevented from turning around and assigning the employer for some failure that resulted in a lawsuit from a beneficiary. In other words, the dedicated decisionmaker can't transfer liability to another entity if something the employer does or failed to do.

The legislation we have introduced today to modify the McCain-Edwards-Kennedy legislation delineates specifically who the designated decisionmaker is responsible for a contractual ar-
rangeament as well as exclusive authority for any medically reviewable
decisions.

Poor employers that choose not to have a dedicated decisionmaker, for whatever reason, and for those employ-
ers that prefer to continue to be self-
insured but contract out the administra-
tion of their health care plan, we leave
the option to a dedicated decisionmaker as a result, again, we simply cannot afford if we are going to ensure that people have the kind of health insurance plans in America in which they will continue to be insured, and that employers are the ones providing predominantly the
health insurance in America today.

To describe our amendment in an-
other way, we essentially are saying as an employer that is not self-insured, you can hand over all your decision-
making to a dedicated decisionmaker which will, in all likelihood, be your insurance company when you sign your contract with your insurance company. There is
nothing more you need to do to protect your business from liability for the
decisions that are made.

For the self-insured and for those who do not self-insure as an employer, you would still have the protections af-
forded under the underlying legislation when you don't participate in those decisions. In other words, em-
ployers who contract out their health
insurance have a clear choice under our amendment, although once again I
stress that under this amendment pa-
tients will still have the legal recourse
regarding questions over appropriate medical care and medical decisions
related to the beneficiary's plan, no mat-
ter which option the employer chooses.

The bottom line is we seek to protect
employers from liability in all cases where they are not making the medical deci-
sions that harm patients or result in death while still protecting parents
rights, which after all is the goal of
this legislation.

Finally, let me assure my colleagues, under this amendment, dedicated decisionmakers would have to demonstrate they are financially capable of ful-
lfilling their responsibilities as the
party liable in causes of action. They
should not or should not be protected from liability by organizations without
the ability to actually pay the event of
lawsuits.

The criteria the Secretary of Health
and Human Services will require relat-
ing to how the obligations of such an entity for liability should also in-
clude an insurance policy or other ar-
rangements secured and maintained by
the dedicated decisionmaker to effec-
tively insure the DDM against losses arising from professional liability for functions performed for the
employer as a designated decisionmaker.
A DDM would have to show evidence of
minimum capital and surplus levels
that are maintained by an entity to
cover any losses as a result of liability arising from its service as a designated
decisionmaker. It would have to show
they themselves have coverage adequate to cover potential losses re-
sulting from liability claims or evi-
dences of minimum and surplus levels to cover any losses.

Once again, I think we have designed an amendment that represents a work-
able approach, that addresses some of the more serious and significant con-
cerns that had arisen in the various pieces of legislation that had been in-
troduced here in the Senate and with the underlying legislation we are seek-
ing to amend today.

We try to meld the best of both ap-
proaches, to balance the concerns of
businesses that do seek to voluntarily provide this most important, critical benefit to their employees. That is an
incentive we want to maintain and re-
force in every possible way. But we
also want to address those circumstances in which the em-

ployee has received inappropriate care
that has resulted in significant
Injury, or even death, and that they
should have the opportunity to seek
legal redress for that inappropriate
care or denial of care. That is the kind
of consideration we want to ensure in
this legislation, without creating the
unintended consequences or the dis-
icentive for employers to say we just
cannot afford to provide this health insurance for our employees
anymore because we are going to be
subject to litigation, to endless losses, and we do not want to put ourselves in
the position of that kind of exposure.

I think this approach has been exam-
ined on both sides of the political aisle. More important, I think it has been
embraced by this bipartisan group in the
Senate, my colleague Senator
DeWINE, who has worked so hard, Sen-
ator LINCOLN whom I see on the floor,
and Senator Nelson, who have worked
very diligently on behalf of this amend-
ment to assure that we address
all facets, all potential implications and ramifications associated with this
approach, to hopefully address it in a
way that will ultimately yield the best
effect for both the employer as well as
the employees.

I yield the floor. I will be glad to
yield time to my colleague.

The PRESIDING OFFICER. The Sen-
ator from Ohio.

Mr. DeWINE. Madam President, let me
thank my colleagues, Senator
SNOWE and Senator LINCOLN, whom I
see on the floor, and Senator Nelson,
who have worked long and hard on this
amendment.

The issue in front of us today is how
do we help shield businessmen and
businesswomen from liability at the
same time providing access to the
courts for people to sue HMOs. Every-
one in this room can agree that the
things we worry about as we deal with this legis-
lation is that we will do something
that would cause businesses in this
country to decide not to insure employees. That would be a very bad unintended consequence, so we have to be very careful as we write this legislation.

The amendment in front of us today is really a compromise. It is a compromise based on the Frist-McCain bills. It is a compromise on the issue of employer liability, how we best protect the employers while at the same time ensuring people their right in court. I think we do try to blend these bills, I think we have the best of both worlds. The situation and the language are clarified and made simpler.

We started this debate with some basic principles on which everyone agreed. In both bills we agreed we wanted to try to protect businesses but at the same time we wanted to allow suits in limited circumstances against HMOs. The President agreed to that principle, and the two underlying bills do as well. This amendment, I believe, achieves that. This amendment explicitly takes out 94 percent of businesses and provides them great protection. When you compare our amendment versus the underlying bill, it helps and improves the situation for the other 6 percent. We will talk about that in a moment.

My colleague from Maine has talked about this concept of the designated decisionmaker. What do we mean by that? What we mean is let’s just make it simple and let’s make it plain: let’s have the employer say who is going to make those decisions and therefore who will be sued. In essence, what we are saying is once that decision is made, that employer is no longer going to be subject to suits; the designated decisionmaker will be.

How will this work in the real world? Let’s say we have a small hardware store in Greene County, OH. Let’s say they employ 12 people, and let’s say what they do is they provide their health insurance and they do that by going out in the market, finding the best deal they can, and buying this group coverage for their 12 employees. Under this amendment, once they contracted with that insurance carrier, they would have automatically made that designated decisionmaker decision. They would have designated that automatically, that group as being the designated decisionmaker. They would have to do nothing. They cannot make a mistake. It takes no affirmative action on their part. That is going to improve the language we have in front of us.

The other way of doing it, the way the underlying bill did it, was to talk about direct participation. Frankly, I think the language in the bill was pretty good. But I think it needs to be improved. By having the designated decisionmaker, it is a lot more clear. What will happen as a practical matter is this. Anybody can sue anybody. We cannot prevent suits, but we certainly can discourage them, and we certainly can provide when suits are filed against a business, the business has the ability to get out of that lawsuit very quickly. So by using the concept of the designated decisionmaker, as a practical matter, if a suit were brought against a businessperson, if a lawyer were foolish enough to file that suit, the business would have to go into court and file a copy of that designated decisionmaker decision and would be dismissed from the case. As a practical matter, this language significantly improves the underlying bill and will make it plain.

Our amendment does build on the two bills in front of us, the two bills we have been talking about and have been considering, the Frist-Breaux bill and the underlying bill we have in front of us today, the McCain-Kennedy bill.

I believe our amendment would protect business owners from needless lawsuits as suits as well as protect patients who rely on employer-sponsored health care plans for their medical needs. I believe that this amendment brings together the best of all worlds by providing certainty, much-needed certainty to employers, employees, and, yes, to health care providers. That is something we desperately need in any patient protection bill.

Based on the designated decisionmaker concept in the Frist-Breaux-Jeffords bill, our amendment would automatically, as I have indicated, remove liability from small business owners and shift the burden on others or to other designated entities. In addition, our amendment stipulates this designated decisionmaker must follow strict actuarial guidelines and be capable of assuming financial responsibility for the liability coverage. This means the designated decisionmaker could not be a hollow shell, unable to come up with the money, the assets, to defend against potential lawsuits and financial damages and be able to satisfy those losses. Our language ensures that the designated decisionmaker cannot be a straw man, cannot be a sham that has no ability to pay a patient in the event a lawsuit is filed and that damages are in fact awarded.

In creating the designated decisionmaker process, we make it easier for employers that provide health insurance coverage to be protected.

We think that is a major step forward for businesses, and especially for patients.

I say that because the fear of being sued often becomes so great that employers simply stop offering health care coverage. We don’t want that to happen under this bill. We simply can’t let that happen. The reality is in this country that there are more than 42 million Americans, including 10 million children, who have no health care coverage. The last thing we want to do is add to this number.

Our amendment greatly diminishes the likelihood that employers will stop offering health care coverage. Again, we believe it is the best of both worlds as it allows patients the ability to sue the designated decision maker if they are denied medical benefits to which they are entitled by their health plans. But at the same time it protects employers from unnecessary and costly lawsuits.

Under our amendment, employers would have the comfort of certainty and the comfort of knowing that the designated decisionmaker is ultimately responsible for health care decisions and, therefore, that individual or that entity bears the liability for a lawsuit.

In another effort to keep employees insured, our amendment also adds language to the underlying McCain-Kennedy bill to limit the liability of businesses to self-insure and self-administer their health care plans. The fact is that these employers are assuming additional risk by financing and by administering health care coverage to employees. To that extent, I believe we must take their unique circumstances into consideration. This amendment does that.

Ultimately, our objective is to encourage employers to offer and to continue to offer their employees health care coverage. We don’t want to discourage them out of fear that they will be sued.

The reality is that these self-insured and self-administered plans are doing some very good things for their employees. We want them to continue to do these good things. Our amendment will help keep their employees, their families, and their children insured. That is what the Patients’ Bill of Rights should be all about.

Further, our amendment improves the original Frist language by making very clear exactly who is liable. The amendment leaves no room for ambiguity because it would not allow the designated decisionmaker to be broken into sub-decisionmakers. One, and only one, entity would be the sole bearer of liability. We think that is an improvement.

Finally, our language would strike vague and ambiguous language in the underlying McCain-Kennedy bill that is of great concern to employers. This language is a catch-all section of the bill that could open employers to a flood of lawsuits simply because of the imprecise nature of the language.

Let me read the exact language currently in the Kennedy-McCain bill in regard to the cause of action relating to provisions of health benefits. There is the (ii) section. This is what is in the underlying bill:

- Or otherwise fails to exercise ordinary care in the performance of the duty under the terms and conditions of the plan with respect to the participant or beneficiary.

We believe this language is simply too vague. We eliminate it in regard to businesses and their potential liability.

This language that I just quoted creates an explicit cause of action. This means employers could be the subject of lawsuits that none of us currently
Mr. GREGG. Madam President, I appreciate the Senator’s effort. I haven’t had a chance to digest all of it. I understand the intent and the thrust as described by the Senator from Ohio, which I think is appropriate and good.

As I look at the first section, I am wondering. It appears to me that under the definition section it draws union plans in, and they are being given a special category. In this section, more than a self-employed plan is given. I am wondering why union plans are suddenly being raised to a special status under the amendment.

Mr. DEWINE. I would be more than happy to answer the question.

In the ongoing bargaining that we have been negotiating for the last few days, we could not figure out any way to really help the roughly 6 percent of businesses that self-insure and self-administer.

My colleague Senator LINCOLN has brought to our attention and businesses have brought to our attention the fact that this amendment as originally written really did not help those 6 percent. Why? Why originally didn’t it help? The basic problem is they do make medical decisions. They are really effectively operating as their own HMO.

We thought about how to protect them and give them some help while at the same time preserving their employees’ rights to sue just as everybody else has. We came up with a compromise. My colleague Senator LINCOLN may want to explain it a little bit. But basically it says for those self-insured, self-administered plans, we carve out a special exemption for them because of the special status. We say they are excluded and exempted from lawsuits brought in the Federal court on the nonmedical decisions based on the contract decisions. That is a break they are getting.

We think it can be justified by what they do because we want to encourage them to continue to do what they do.

Why is it that you have mentioned included? They are included because they operate basically the same way the self-insured, self-administered businesses do. They basically take the risk. They basically make the medical decisions. I appreciate the question, but I would disagree with my colleague the way he has categorized it. This is no special break for unions. This is treating people who operate the same way the same way.

I want to say what it does. It helps businesses do the right thing. It encourages people to continue to insure their employees. But there are many things it does not do.

I would be more than happy to yield to my colleague.

Mr. GREGG. If the concept here is to treat everybody in the basket the same, then you have not necessarily done it, because union plans do use third-party administrators and therefor can designate, and a single-employer plan would therefore be more identifiable with the union plan. Yet, under your proposal, the single-employer plan basically is still liable. And that is 56 million people, by the way. Fifty-six million people fall into that category.

So you have exempted out the WalMarts of the world, maybe, that allow people to go out and get their health care, and then they come back and get their approval. And that exemption makes sense, but that exemption is not consistent with what unions do. So don’t come here and represent to this Senate that it is because it is not. You have raised the unions to a brand new level of independent liability protection. So please do not make that representation.

Mr. DEWINE. I will reclaim my time. I thank my colleague for his comments.

The intention of the language is to treat people equally. If a union does in fact make the medical decisions and if they are operating in the same way that the WalMarts of the world are, they ought to be treated the same way. If they are not operating the same way, then they should not be treated the same.

Ms. SNOWE. Will the Senator yield? Mr. DEWINE. Yes.

The PRESIDING OFFICER. The Senator from Maine.

Ms. SNOWE. The Senator from Ohio is exactly correct. We are treating all employers the same. In this particular category, it is those employers who do not have a designated decisionmaker. That is the intent of this particular provision: To treat them equally so they are not subjected to liability when it comes to contractual matters, whereas other employers are not who contract with insurance companies and have a designated decisionmaker. That is what the intent of this legislation is. It is to treat them all equally and to draw that bright line.

We could say, let’s not address the self-insured and self-administered programs. I do not think that is fair either because, obviously, they have a different kind of program, and we want to encourage that. We commend them for the kind of benefits they are providing their employees. They happen to be large employers, and they want to design their own internal program. But we don’t want to subject them to litigation to which other employers are not subjected. That is why we have a designated decisionmaker model—which I am a great believer in, and I believe most people in this body, if they step

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Mr. Frist. We have to be very careful about the definition we use for the carve-out, because it is not consistent with the intent of the four or five of us who were working on this issue. That was the specific intent, and that was the instruction that was given to staff.

Mr. DeWine. I yield to my colleague from New Hampshire.

Mr. Gregg. Will the Senator yield?

Mr. DeWine. I will yield to the Senator from New Hampshire.

Mr. Gregg. I think the language, as presently drafted, is in your definition section of the amendment where you find "(ii) (II)." It says:

That essentially encompasses all union plans. Very few union plans do not use a third-party administrator, very few. So I think you want to tighten up that definition to make it clear that you are applying it to the self-insured, self-funded, self-administered plans, and then you would be picking up the same people that you are picking up under the Wal-Mart exception.

Mr. DeWine. Reclaiming my time, that was our intent. If that is not reflected in the language, we will change the language.

I yield to my colleague from Maine.

Ms. Snowe. The Senator from Ohio is making exactly the correct point. This particular provision was intended for these insurers, self-insured and self-administered plans, that obviously do not have a designated decisionmaker. I should further emphasize, all employers are treated equally when it comes to the idea that they participate in medical decisions on behalf of their employees. They are all treated the same. This particular area of the legislation is with respect to contractual decisions. We are attempting to craft out for self-administered, self-insured plans, and that includes union health plans that conform to that particular organization, that they would not be subjected to litigation that other employers would not be subjected to because they had designated decisionmakers.

We know self-insured, self-administered plans do not have designated decisionmakers. So we did not want to expose them to that kind of litigation in that particular section that delineates the causes of action. We were trying to treat all of the employers equally.

Mr. DeWine. Madam President, I reclaim my time.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. DeWine. Madam President, we have stated our intent. I think we ought to get about our business and come up with the language. Let us try to find some possible language that we could use. It is always dangerous to try to draft language on the fly on the Senate floor.

I will at least throw this out for possible discussion. We could add "to the extent the Taft-Hartley Plan Act as self-insured, self-administered plans," something to that effect of basically qualifying so that you would get down to whatever the number is—do not know that the intent was to cover those self-insured, self-administered. We certainly could do that. There is no reason that cannot be done.

Mr. Gregg. Is the Senator suggesting that additional definition? Is the Senator suggesting that definition, that expansion of the definition, that expanded language be placed on the definition section?

Mr. DeWine. We could do it that way. If the Senator has a suggestion of how better to do it, it would be more than happy to take the suggestion.

Mr. Gregg. That may well resolve the problem.

Mr. Breaux. Will the Senator yield for question?

Mr. DeWine. I yield to my colleague from Louisiana.

Mr. Breaux. I ask the Senator from Ohio, I think the discussion has been very helpful. Two points are important to have on the record. A self-insured and self-administered plan by this amendment would not relieve themselves of being subject to litigation for
Mr. DeWINE. I appreciate my colleague's offer, but I think they are poorly taken. We will get about the business of dealing with that. The point is very well taken.

I yield the floor.

The PRESIDING OFFICER. Who yields time? The Senator from Tennessee.

Mr. FRIST. Madam President, I yield myself approximately 15 minutes on the opposition time for the time being.

The PRESIDING OFFICER. The Senator from Maine has 7 minutes remaining in her time on the proponent's side.

Mr. FRIST. Madam President, I ask unanimous consent that for the first hour, it be equally divided so we can continue the debate for those in opposition.

Mr. REID. Madam President, I am sorry. What was that request?

Mr. FRIST. For the first hour of the debate, which we are about, I guess, 20 or 30 minutes into, the opposition has not had the opportunity to speak. I was saying for the first hour, in which about 25 minutes has been used, if we can have 30 minutes on either side.

The PRESIDING OFFICER. The debate has now consumed 33 minutes on the proponent's side controlled by the Senator from Maine.

Mr. REID. The Senator from Tennessee has an hour. He can use it any way he wants.

Mr. FRIST. Madam President, I understand I have an hour on my side. I will use time off our side at this juncture. I yield myself such time as necessary.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. FRIST. Madam President, first of all, let me put perspective on this because we have had the amendment introduced, and there are basically three points I want to make.

No. 1, I applaud the Senator from Ohio and the Senator from Maine because they have, for the first time in this debate, brought up the issue of suing employers—this issue of who is responsible, who gets sued, if there is harm or injury or cause of action. As one can tell from their earlier discussion, there has been a lot of debate in struggling to find that address. Who in you sue and when you sue them and what entity. There is not very much certainty out there. Do you sue the plan? Do you sue the employer? Do you sue the agent of the plan? Do you sue the physician or the hospital when there has been harm or injury?

In the McCain-Edwards-Kennedy bill, there are exclusions for the physician and the hospital. However, the argument and the debate over the last 4 or 5 days has made it clear that you can sue everybody, everybody equally participate. And what has now been brought to the floor in a very positive way, I believe, is this concept of giving certainty to all that through a model that is called the designated-decision-maker.

Really all that means is since somebody is going to be sued—and the way it is designed now, you don't know who it is; that doesn't give anybody certainty. The easiest thing to do is for the plan. That employer to take away. It might be me that is sued. It might be the entity that is administering my plan. It might be an agent of that plan. That is so confusing and puts so much risk out there, and you never know whether you are at risk or not, or somebody else, or who the lawyers will be going after. The designated-decision-maker says: We are going to all get in a room and say there is one entity responsible. If there is a lawsuit, you are going to go sue the designated-decision-maker. It has to bear the risk, and also whatever value there is for that risk will have to be either purchased or sold. That gives certainty to the overall liability issue.

The second point—I will come back to this—that is very positive in the underlying amendment is this broad cause of action which is being struck from the underlying bill. That is where the underlying bill, when you go to the Federal level in the underlying bill, there is an internal and external decision called "duty under the plan." Unfortunately, if you leave that cause of action in there, it sweeps in all sorts of things, whether it is the HIPAA regulations or the COBRA regulations, and all of a sudden for those sorts of indications, you don't have just compensation, but you are exposed to these unlimited lawsuits out there. So it is very positive, in the amendment that has been put on the floor by the Senators from Maine and Ohio, to take that cause of action out of the underlying bill.

The third point is that the Senator from Ohio made the point that this is not the answer to liability. Liability involves exhaustion of appeals. And we have an amendment pending on the floor addressing whether there should be caps; and that entire debate, once you get to courts, whether it is non-economic damages or punitive damages, involves whether you take Federal court or State court and then this whole idea of who do you sue. Can the employer be sued? And that last point is what the designated decisionmaker selectively looks at, that sliver of the pie of liability.

So far in the debate, over the last 4 or 5 days, we have not addressed Federal versus State jurisdiction, whether or not there are caps, full and complete exhaustion, or should there be class action suits. The Senator from Ohio made that point. It is critically important to address. If you read the press on this, this decision-maker model will take care of the liability. But it does not answer the questions on the part of myself and many others.

The history of the designated-decision-maker model is interesting as well. It is in the Frist-Breaux-Jeffords bill. The amendment on the floor is very similar to what is in the Frist-Breaux-Jeffords bill in that you give certainty; you have to name an entity to be the designated-decision-maker. That is who you sue. The Frist-Breaux-Jeffords bill based that on what already passed the Senate about a year and a half ago. A designated-decision-maker model would likely be what would be the Frist-Breaux-Jeffords amendment. That amendment came from the conference last year, where you had Democrats and Republicans sitting around a table addressing how to come up with a system that best addresses this problem of having employers being sued out here when you really want to go after HMOs. How do you delink employers versus HMOs?

Basically, you make one entity responsible. It could be the employer, if you could certain things happening: It has to bear the risk, and also whatever value there is for that risk will have to be either purchased or sold. That gives certainty to the overall liability issue.

The way that process works is there is an internal and external appeals process. Under the Frist-Breaux-Jeffords bill, you can't opt out of that and directly to the court. It is much in the McCain-Edwards-Kennedy bill. We are trying to fix that through another bill.
Third is that we need to understand throughout this debate, as we hope-
fully can refine this amendment and pass it if we can resolve some of the
specific issues in the language. We need to be crystal clear again that address-
ing the designated-decision-maker aspect of employers is critical. If we ad-
dresses the employer aspect of liability but does not address the many other
factors of liability, which I think we have a responsibility to address on this
floor, since this bill never went through on the Frist-Breaux-Jeffords, when we
are marking up and writing this bill for the first time on the floor. We need to
talk about Federal versus State courts, class action suits, whether or not there
should be caps on noneconomic dam-
ages or should there be punitive dam-
ages. All of those other issues have not
yet been addressed. Now I am quite
pleased we are addressing the des-
nignated-decision-maker aspect of em-
ployers.

Several quick examples. There need
to be clear and effective limits. I be-
lieve, on class action lawsuits. There
need to be firm requirements that we
fully exhaust internal and external re-
vIEWs before any lawsuits. There are a
lot of broad exceptions. We talked
about some of them as the Thomp-
sen amendment was on the floor; we have addressed it. We have to
have complete exhaustion as we go through.

Second, if an independent external
medical reviewer, who is a doctor,
which is in the Frist-Breaux-Jeffords
plan, as well as in the McCain-
Edwards-Kennedy, if you go to the
plan’s denial, then the plan should not
be subject to liability. We need to dis-
cuss that on the floor. In the under-
lying McCain-Edwards-Kennedy bill, a
patient can sue, even though that
independent medical reviewer, a physi-
cian with age-appropriate expertise,
had decided that the plan made the
right decision in internal and external
appeals and the physician says every-
thing was right going through. I be-
lieve that the Edwards bill is flawed
because you can sue for care, injuno-
tive relief, but not for extraordinary
rewards. That has to be addressed.

Also, the underlying McCain-
Edwards-Kennedy bill would allow
the independent reviewer to “modify”—I believe that is the word used—the
plan’s denial. And this is just as a phy-
sician. What it means is that in a paper
review you never see the patient. You
read records and hope they are com-
plete, and the reviewer in good faith
has the opportunity to maybe do thousands of
these, maybe hundreds, maybe 10.
I don’t know. I was with a doctor a few
minutes ago who has done hundreds of
these reviews.

The point is that you never see the
patient. You never get the subtleties of
clinical diagnosis, which all of us know
is science, but there is also art to it.
You are asking somebody to look at
this paper and review it and say, yes, it
was right or, no, it was wrong.

With the information written on that
paper, you are allowed to come in and
modify the treatment of that patient. I
can say as a physician the fact that
based on that paper review, a reviewer
could require that the plan cover treat-
ment that neither the treating physi-
cian nor the plan ever contemplated or
would have the ability to sue the plan if
they were not willing to be sued. So
very positive, I think. It was addressed
directly in the amendment, and I com-
mend them for that.
Frankly, I do not think this is a huge deal. The reality is that the vast majority of businesses will go under designated decisionmaker, and, in fact, we provide in the bill that it is automatic. That will just happen unless they make a conscious decision to say: We do not want to do the designated decisionmaker; we want to go under the direct participation language.

We are in an unknown area, and I do not think anyone knows how this is going to play out entirely in the real world and what decisions they are going to make. Some people come up with some scenarios under which they would not want to designate someone as a designated decisionmaker. The vast majority are. We wanted to provide this as a fallback position, more options.

I do not think it is going to make it more ambiguous or less definite because we provide automatically it is going to happen unless they make an action and say: No, we do not want designated decisionmaker; we want to go with our model because for some reason it works that way. We can look at the language and think about it.

In explanation to our colleague from Tennessee, that is what our thinking was. We do not know where the world is going with this new language, and we wanted to give as many options to businesses as we could. That is why we did it.

Mr. FRIST. Mr. President, I claim my time.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. FRIST. I guess this decision of certainty—I usually like choice coming through, and it appeals to me. I am a 50-person convenience store operator and have three or four convenience stores in the area, and I have people barely scraping by, working minimum wage, but I recognize giving people some insurance goes a long way. Some people say it does not matter; you still have it. If you have insurance, you end up getting better care in the United States of America, it gets you in the door. We talk about the 43 million uninsured, and we all care. It bothers me in a direct way.

I am that operator and I know I am going to have to find a designated-decisionmaker. That is going to cost money because it is liability; it is increased liability. I do not know, but if I have you going to say I am barely scraping by and it is just easier for me not to play at all. Dealing with designated-decisionmaker, you have that choice. If that is the case, I fall back to the direct participation language, but for some reason it has all of the other problems. The pressure of the system is going to be such because direct participation does not cost you much, but if you get sued for $120 million or in 1993 for $89 million or in the year 2000 for $80 million. That is real; just one case.

If I am sitting in my convenience stores and I say designated, this is the new model created by the U.S. Congress; I am not going to participate in it; it is too expensive. Thereby I go back to direct participation, and we are where we are now.

It is easier to walk away and not give even $10 employees just out of fear, out of risk. That is why with the direct participation model, as long as everybody plays and everybody is certain it has prospective certainty for the employer and employee, people are not going to drop their insurance.

I will be happy to yield the floor.

Mr. DEWINE. To respond, as envisioned by the Senator's original bill—and the Senator from Tennessee is the one who came up with the language of the designated decisionmaker and I applaud him for it because no one has come up with one better. This is the model. This language is pretty much the Frist bill. But in the Senator's example, the designated decisionmaker is automatically going to have this company that has three or three convenience stores; they have who knows how many employees; they buy insurance. Their designated decisionmaker is automatically going to be the group handling the insurance. They will not have to make a conscious decision at all. It will just happen. That is the glory of the way it is written and of the Senator's original language, that it is automatic; it is going to happen. They are not going to have to look for a designated decisionmaker.

Under the language of the Senator from Tennessee, it is going to take care of itself. That is the strength of it.

Mr. FRIST. May I use 1 minute and then I will yield on that issue. I want to respond to that.

Mr. KENNEDY. May I ask a question? We have two other cosponsors of the amendment. They have yet to have a word.

Mr. FRIST. How much time has been used by this side?

The PRESIDING OFFICER. The Senator from Tennessee has consumed about 22 minutes.

Mr. FRIST. How much has the other side used since we have been on the amendment?

The PRESIDING OFFICER. The other side has used 53 minutes.

Mr. FRIST. They have used 53 minutes, and we have used 22 minutes.

Mr. KENNEDY. How much have we used?

The PRESIDING OFFICER. The Senator from Massachusetts has used none.

Mr. FRIST. I was speaking in opposition to the amendment.

Mr. KENNEDY. I think the presenters ought to be entitled to whatever time they have remaining. I am a strong believer in that. I would like to invite our cosponsors to have a word.

The PRESIDING OFFICER. The Senator from Tennessee still has the floor.

Mr. FRIST. Thank you, Mr. President. A matter of clarification. In speaking in opposition to the amendment, yielded by Senator Gregg, we have used how much time?
care and make decisions about claims, they are not involved in litigation.

Specifically, this amendment narrows it down to not being brought into Federal causes of action. It does not affect employers or plan sponsors from being sued unless they participate in making decisions about medical claims, which may come through State courts.

While it may be difficult to follow the roadmap, there is one thing that needs to be clarified and that is, it does not treat any one group in any special way. The plan sponsors and all employers who self-insure and self-administer, the same way. If they choose to get a third party administrator, which becomes a designated decision-maker, they will be absolved from liability from litigation unless they somehow participated in the claim-making process, which they would not do if they had a designated decision-maker. This is intended to make sure we balance the interests of the right of the individuals, the right of the patient, employers deciding to offer health benefits, the employer, and the patient. If you self-insure and look at what is being done, there is not any special language and you look at what is being done, there is not any special treatment for one group over another.

The category is the same. If you self-insure and self-administer you will be open to some exposure. However, we will make certain that exposure is limited when it comes to Federal actions. That is what this is about.

I yield to my colleague from Arkansas and say before departing, thank you to my colleagues and cosponsors from Maine and Ohio. I believe this is the right way to proceed to improve legislation, to oversee medical care decisions, to remove most large and small business owners from the threat of liability that option of choosing a designated decision-maker. We make it possible for employers to contract with a third party to administer health benefits and protect themselves from unnecessary and crippling lawsuits. This amendment makes it crystal clear that employers will not have to open themselves up to new liability as a result of providing health insurance to their employees.

When we began discussing the Patients' Bill of Rights years ago, we wanted to ensure that patients would be able to choose their own physicians and their medical professionals—not accountants, not bureaucrats, not insurance company executives, but the medical professionals—would make the medical decisions. We never, absolutely never, intended to open employers up to liability. And we certainly don't want to do anything in this bill that would discourage these employers from providing health insurance to their employees.

We are delighted to work out the clarifying language that Members believe is needed to assure everyone is treated fairly.

The amendment I offer today refutes the charge that the Patients' Bill of Rights is a trial lawyers employment act. Today we make it clear that we have absolutely no intention of subjecting employers to new liability or frivolous lawsuits. We want to encourage our employers in this country to provide health care coverage for their workers.

In 1993 when we began the discussion of health care, we made it our objective to make sure more individuals covered under health insurance provided by their employers. We were able to do that. Unfortunately, we have more uninsured in this country today, and we do not want to exacerbate that problem. We want to make it possible for these employers the comfort that they need, to feel confident in keeping that employee insurance available.

This amendment is our pledge of good faith to American employers and business owners that we will protect their needs as well as the needs of their employees.

I applaud the work of my colleagues. I have enjoyed working with them. I appreciate everyone's patience and endurance in this process. We hope to be very inclusive, to bring others in to make sure this language is exactly right: It is giving the protection and the comfort level to the employers of this Nation that are doing an excellent job in providing health care to their employees.

I also ask unanimous consent that Senator Baucus be added as a cosponsor to this amendment, and I yield.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Massachusetts.

Mr. KENNEDY. I yield the Senator from Michigan 5 minutes.

Ms. STABENOW. Mr. President, I rise first of all to ask unanimous consent to add my name as a cosponsor to this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Massachusetts.

Mr. KENNEDY. I yield the Senator from Michigan 5 minutes.

Ms. STABENOW. Mr. President, I rise first of all to ask unanimous consent to add my name as a cosponsor to this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. STABENOW. Mr. President, I thank my colleagues on both sides of the aisle for their hard work and the innovative language that is put together in this amendment. For those of us who are sponsors of the Patients' Bill of Rights, we have said since the beginning this was in no way intended to allow lawsuits to be brought against these employers. This will make sure those who make medical decisions were held accountable for those medical decisions.
As we said so many times on the floor, it is really about closing a loophole in the law as well. We have indicated over and over again, when you have only two groups of people in this country who are not held accountable for their behavior and their decisions, one being foreign diplomats, to the other being HMOs, it doesn’t make any sense. We know this was a loophole that was created by the outgrowth of HMOs and development of new ways of managing health care, and basically the Patients’ Bill of Rights is not to create a liability for the employer. We have employers, many in Michigan—hundreds of thousands of them—who are responsible employers, providing insurance for their employees. We want to encourage and support and salute them for doing that and make sure nothing gets in the way of that continuing.

I again thank my colleagues from both sides of the aisle who have put into a tremendous amount of work on this amendment. There has been a wonderful job done clarifying this. I hope we have now been able to put to rest what was unfortunately a common misconception, something said over and over again to employers of this country, that somehow this opens them up to lawsuits. It never was the intent. This amendment clarifies that and reiterates it.

I hope this will allow us to move forward to pass this very strong Patient Protection Act that says to each and every family: When you have insurance you can have the confidence, whether it is in the emergency room or the doctor’s office or the hospital, that you will have the care available that your family needs.

I will yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Mr. President, I yield myself 3 minutes.

Both the Snowe amendment and the Frist amendment attempt to protect lawyers using the designated decisionmaker language. However, the fact that they use similar names can’t mask the dramatic differences between these two amendments. Senator Snowe’s amendment helps employers without hurting patients.

There are two important differences between the designated decisionmaker language in the Snowe amendment and the Frist amendment. Senator Snowe’s amendment ensures that the person an employer designates as responsible and will be liable for all damages caused by any wrongful benefit determinations the patient gets under our bill. This is exactly what employers want and deserve, a clear way under the law to protect them.

The Snowe amendment allows employers to name an HMO or health insurer or plan administrator as their designated decisionmaker and not have to worry anymore about being sued. That is what President Bush wants, and that is what we want. If employers give up all control over medical decisions in individual cases such as this, Senator Snowe’s language helps guarantee employers will not be sued, period.

Senator Frist’s designated decisionmaker language is much weaker. Under his proposal, the only entity that can be sued is the designated decisionmaker. While the designated decisionmaker is supposed to have exclusive liability for any erroneous determinations, a court or jury remains free to find in fact another person or company influenced the decision that caused the harm. People who are not designated decisionmakers may in fact influence the decision. In theory, only employers can name designated decisionmakers; HMOs cannot. After all, the entire point of having HMOs is to avoid all possibility of being sued, not to protect HMOs.

Of course, the effect of allowing HMOs to have a designated decisionmaker is to enable them to escape liability for part or all of their actions. Under the Frist-Breaux amendment, if a judge or jury finds someone in an HMO harmed a patient and that person working for the HMO was not a designated decisionmaker, the HMO escapes liability.

I think the amendment is sound. I think it has been a matter of discussion and debate. I think those of us who were involved in the development of the initial legislation sought to achieve what this amendment does enormously fairly. It also treats the various Taft-Hartley aspects equally with the other parts, so we have equality for one and equality for the other.

Another important feature of Senator Snowe’s amendment is that it protects employers and Taft-Hartley plans which self-insure and self-administer claims. The Frist alternative contained in S.889 fails to address this issue. The Taft-Hartley plans have a long history of providing quality health care for their members. In their unique structure, employee advocates comprise half of the members of the board. The record shows that this has been an excellent protection even for beneficiaries who have extraordinary health care needs. In structuring this legislation, we wanted to be certain that we didn’t impose any inappropriate burdens on these plans.

I commend the Senators. They spent a great deal of time on this amendment. One would think it would be easy in the drafting of it, but I know they have been challenged with it. I commend them for really advancing this whole issue in a very positive, constructive way, a way which really reflects what this President has enunciated and a way which we had hoped to include in our legislation. There was a significant question about it. Legitimate issues were raised. I think this is the importance in helping move this process. I commend all those on both sides who were very much involved in its development.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Mr. President, I yield 5 minutes.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. EDWARDS. Mr. President, this amendment is a wonderful example of what can be done when we work together to solve problems. The beneficiaries of the work that has been done by Senators Snowe, Nelson, DeWine, and I are members of the Senate but the people of this country, the families who need quality health care, and the employers that need to be protected from unnecessary lawsuits and unnecessary litigation.

First, I thank Senator Snowe for her leadership. She has taken the lead on this issue from the beginning. Her work has been absolutely crucial.

My friend, Mr. DeWine, the Senator from Ohio, has also lent tremendous leadership and expertise to the work on this effort.

I also thank my colleague seated near me, Senator Nelson from Nebraska, who not only brings great expertise to this issue both as Governor and as insurance commissioner of the State of Nebraska, but he has been dogged in his determination to ensure that the small employers, particularly, and employers generally, of America are protected in this legislation.

This effort could not have been achieved without his leadership and without his dogged involvement in this issue. He has been involved in so many of the issues with respect to this legislation and I have worked together. He and I and Senator McCain have worked together. He has been involved in this patients’ rights protection act from the very beginning. We thank him for all of his work and important contributions.

Also, the Senator from Arkansas, who has expressed a concern about employers from the very first moment,
and I have talked about this issue. She cares deeply about patients and deeply about doctors making medical decisions, having a very well-trained physician in her own family, that being her husband. She has firsthand experience with this. But in addition to that, she has shown great concern for small employers and, as has Senator NELSON, has made it very clear to Senator MCCAIN and myself and Senator KENNEDY that the only way she could support any plan if we did not have what was necessary to protect employers. She has been absolutely crucial in achieving that goal.

Without the work of Senators LINCOLN, NELSON, SNOWE, and DEWINE, the employers of this country would be in a different place than they are today. I think they will be after this amendment is voted on.

They have achieved two very important objectives:

No. 1, they have insured that there are real and meaningful protections for employers through the designated decisionmaker model which we have already talked about, which essentially means that small employers that we have talked about are 100-percent protected. They cannot have liability under the language of this amendment, which is crucial. It is a goal and a principle that we have all shared from the beginning but, again, couldn't have been done without their work. They have also managed to do it in a creative and innovative way that, while protecting employers, does not leave the patients and the families high and dry, which is exactly what needed to be done.

Honestly, it is a very difficult task, but they have worked doggedly on this issue. All of them managed to reach a bipartisan agreement.

The most important thing from the perspective of the overall legislation is that this is another in a series of obstacles about which we have now been able to reach some consensus.

The second sort of one by one by one, starting with the issue of scope, which Senator BREAFX, Senator JEFFORDS, I, and others worked on, reaching a crucial compromise going to the issue of independence of medical panels to make sure that those panels are, in fact, independent.

We have reached a resolution of that issue. On the issue of medical necessity, the Presiding Officer from Delaware, along with my friend, the Senator from Indiana, were crucial in being able to reach a resolution that shows proper respect for the sanctity of the contract and the specific language of the contract but some flexibility, whereby small employers and smaller employers could put in the independent review panel with respect to patients, keeping in mind the interest of patients on the one hand, which I know you care about deeply, and the importance of the contract in keeping costs under control.

Without your work and Senator BAYH’s work, that would not have been achieved.

The Senator from Tennessee and I, as we speak, are attempting to finalize an agreement on the exhaustion of appeal. Both of us believe, as do most Members of this body, that it is a sensible thing to have a patient go through the internal and external appeal before any case goes to court. We have now figured out that language; working together on it. We know it is important.

The Senator from Tennessee, Mr. THOMPSON, and I are resolving this issue of the exhaustion of appeal. All of us believe that process is crucial to getting patients the care they need.

If this bill works the way Senator MCCAIN and Senator KENNEDY and I believe it should, the ultimate goal will be achieved if there were never a lawsuit filed because what would have happened is the appeals process would have worked and the patients would have received the care they needed. That is what this is about.

We want to use this appeals process. The Senator from Tennessee and I are finalizing an agreement on exhaustion of administrative remedies. I also want to thank our colleagues on this specific amendment because that is a crucial obstacle. Scope, independence of the panel, protecting employers, medical necessity, and exhaustion of appeals are crucial issues in this legislation about which we have been able to reach consensus.

As I said earlier, the important result is not what is happening within this Chamber but that the families of this country will have more control over their health care, and we will actually have a more realistic possibility of getting the legislation they so desperately need passed.

I thank all of my colleagues for all of their hard work. Without them, this could not have been achieved.

I yield the floor to the PRESIDING OFFICER, the Senator from New Hampshire.

Mr. GREGG. Mr. President, let me begin by saying that this amendment is moving in the right direction. I believe, with some of the changes which we have discussed with the Senator from Ohio and the Senator from Maine, that we can make real progress on improving it. Unfortunately, the amendment came late. It is complicated. The issues involved are considerable. But before it gets into the specifics of the amendment and how it may or may not play out in a positive way relative to producing a quality bill, let me make the point that this amendment addresses an important but not a broad part of the issue.

This amendment doesn’t, for example, address some very real and significant issues in the area of liability. It doesn’t address the issues of the 56 million people who are in self-insured plans.

It does not, therefore, solve the overall liability question, which if you were to rate the five issues that I think the Senator from North Carolina has appropriately highlighted, although I am not sure he mentioned liability—he probably wasn’t thinking in those terms, but he certainly hit the floor if you put liability on the table—liability is probably the key issue for a lot of people in this Chamber.

Therefore, we have shopping, class action, damages, punitive versus compensatory damages, are major issues that we still have to address. I think we recognize that there is still a fair amount of distance to go in the liability part of this bill.

But this amendment takes up the designated decisionmaker language. It takes a portion of the Frist-Jeffords-Breaux bill in this area and tries to basically graft that on to what is the McCain-Kennedy bill—a good and appropriate attempt, although I must admit that with just a quick reading of it I think there is going to be some real confusion on the part of employers between what they can do as a designated decisionmaker versus direct participation. I had hoped that the language would have a firewall in there. But as a practical matter, at least the movement is in the right direction to give some insulation for designated decisionmakers, people who use designated decisionmakers.

As to the issue of union liability, there has been a lot of talk around here about making businesses liable. And they are liable. Small businesses and large businesses are all liable—and making HMOs liable. If you are a union employee and have a union plan, and your union tells you you can’t get some sort of treatment that you need and should get, unfortunately, the way the bill was originally drafted, you would not have been able to sue that union plan, any more than if you had been employed by a company, and the company had sponsored your plan, and you would be able to sue them or, under this bill, the HMO. But ironically the unions ended up, under the original draft, of being completely taken out of the picture.

The Senator from Ohio and the Senator from Maine made clear that was not their intent. I understand they are going to adjust some language so union plans, which are in the same basic position as those plans which are self-funded and self-administered, will be the ones which are taken out of the liability picture. That is why it should be. We look forward to that modification.

Another issue that this bill raised, which has not been really talked about at all, is the fact that it basically has Federal usurpation of what has been a very traditional State responsibility of determining the viability of the insurance agency, whether the insurance agency has adequate financial strength to cover the projected losses which may occur. This has been something on which States have spent a huge amount of time. It is a real specialty. It is an art form to look at these insurance companies and determine whether
or not they have the depth and the ability to cover the costs if they get hit with a whole series of claims.

I would hate to see the Federal Government step into this arena where the States have been responsible and suddenly take it over. But under this amendment, as originally drafted, that would be the case; the Federal Government would now basically take all that responsibility away from the States.

We have had the Senator from Maine and the Senator from Ohio and their staffs to try to straighten this out. They recognize the issue.

I think the Frist model in this area is the right model. It essentially says: Where the States have responsibility—where they are the insurer, then they will have the ability—and retain the ability—to evaluate the insurer. But where it is a new Federal cause of action, a new Federal event, then the Federal Government will decide and do the evaluation. That seems to be a reasonable bifurcation of responsibility and will be an improvement if it is accepted.

I understand language is being developed which hopefully will be accepted. That is all very positive, in my opinion.

As I mentioned, this amendment, if we can get these issues worked out—and there are one or two other small ones—becomes a much more positive event for moving the bill in the right direction. The question becomes: What do we have left to do in that we have taken up a lot of amendments? Unfortunately, we have a lot of amendments to go. Most of them are in the liability area. Some of them are in tangential areas. But I do expect we will have amendments, as we move into the evening, which will address such issues as that big company who who want to cash out their employees and what type of protection they get. Senator ENZI happens to have that amendment.

There will be amendments dealing with the costs. I think Senator DeWINE actually has an amendment in that area. There will be amendments dealing with coverage and liability. I have an amendment on punitive damages which essentially says if an employer lives by the terms of the external review, they should not be subject to punitive damages. There are a variety in that area. There will be amendments on forum shopping. I think Senator SPECTER has an amendment in that area that he may bring forward.

So there is a fair number of issues, especially involving the liability questions, which have to be resolved, after we get past the language which the Senator from Maine and the Senator from Ohio have brought forward, which, as I mentioned, I think with some adjustment—which is major to the amendment, but which would be positive; and it appears to be acceptable to the sponsors—hopefully, will move the process in a better direction.

At this time I will yield to the Senator from Wyoming such time as he may need from my time.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. If the Senator from Wyoming will yield for a brief inquiry of the Republican manager, it is my understanding that because of some people being at the White House and a conference that is going to be held by the minority at 3 o'clock, the minority does not wish to vote until 3:45 or 4 o'clock.

Mr. GREGG. I believe there is still approximately an hour and a half left on the amendment. I would hope that once we reach an agreement, and we have the language from Senator SNowe and Senator DeWINE relative to the issue of coverage for union plans and liability—and State versus Federal responsibility for reviewing the adequacy of liability, and there is one other issue—once we have that language, I personally would think we could start yielding for votes.

I think it would be hard to get to a vote before 4 o'clock because of other commitments. It would be my hope we could vote at around 4 o'clock on this amendment.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. Mr. President, this bill is really a strange one for me to be working on at all. Wyoming has one HMO. It is owned by some doctors. So far as I know, there are not any complaints on it. But there are some basic problems here that people in Wyoming are asking about.

Because of Wyoming's makeup, I usually talk about small companies, because under the Federal definition of "500 employees or less," we do not have a single company headquartered in Wyoming that would be considered "big business." But on this amendment I have to talk about big business.

I have been hearing from the accountants of a number of these companies. They are a little bit concerned about what is going to happen to their health care costs. They can see what the costs are going to be on their companies. I have to say that this amendment before us now does not address the problem. I would like to think that it did.

I would like to be able to pass this. I would like to not have to talk about a big company. There are the Caterpillars and Motorolas and the Pitney Bowes and the Hewlett Packards. There are about a dozen of these big companies. We also have a State. Again, none of them is headquartered in Wyoming. I am pretty sure that none of them operates in Wyoming. But I am still concerned about them because there are 6 million people who get their insurance from these companies. I would suspect that almost everybody in this Chamber, with the exception of my friend from Wyoming, has one of these big companies in their State. Six million people are getting their insurance from these companies.

What we are talking about is having a designated decisionmaker. It does sound like baseball season, doesn't it?

Let me tell you how this insurance works. Right now they work it in-house. They are able to keep their administrative expenses down to 5 percent. Now they are faced with the possibility of having liability. These are the companies that are providing the Cadillac insurance in this Nation.

I am not aware of complaints of these companies on their insurance. The insurance these people have is far better because they are self-insured. But they are self-funded, and they are self-administered. Where they make their big savings is in self-administration.

Now we are talking about having a designated decisionmaker. That means they are going to shift the administration to somebody else, which might still be done at 5 percent, but there is this new liability factor that goes with it. The guy that is over here, who is the one who has to do that, and for those who have to charge them for his potential liability in the decisions that he makes incorrectly. He will not do that for 5 percent. He will need a lot more because what he is selling is liability insurance. So it is going to drive up the costs.

I have asked some of these companies what those costs would be. They have said that, quite frankly, what they will have to do is get group plans for their employees that have less benefits, to fit in the same cost level that they have right now, because this little bit of a liability factor drives up the price astronomically. So in this particular position that is before us, we are not taking care of the self-insured and the self-administered.

I do have a proposal that I may offer after this one is finished, one that will provide some mechanism for them to have to do is get group plans for their employees that have less benefits, to fit in the same cost level that they have right now, because this little bit of a liability factor drives up the price astronomically. So in this particular position that is before us, we are not taking care of the self-insured and the self-administered.

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Mr. DeWINE. Will the Senator yield for a moment?

Mr. ENZI. I yield for a moment.

The PRESIDING OFFICER. Mrs. Lincoln, you yield time? The Senator from Wyoming still has the floor.

Mr. ENZI. I yield the floor and reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time? The Senator from Ohio. I was just given a moment?

Mrs. SNOWE. Madam President, we are awaiting modifications to the underlying amendment. Unless there are any other speakers on the floor, I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time?

Mrs. SNOWE. I ask unanimous consent that the time be charged equally.

The PRESIDING OFFICER. The time be charged equally.

Mr. REID. I object. We have to move this thing along.

The PRESIDING OFFICER. Objection is heard.

Mrs. SNOWE. I yield the floor.

The PRESIDING OFFICER. The Chair notes, if no one yields time, time is charged equally to all sides of the debate.

The PRESIDING OFFICER (Mr. DAYTON). The Senator from New York is recognized.

The remarks of Mrs. CLINTON pertaining to the introduction of S. Res. 117 are located in today’s RECORD under “Submission of Concurrent and Senate Resolutions.”

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, 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. 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.

Mr. REID. Mr. President, I ask that the time be charged equally between the parties since we still have time left under the agreement which is before the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, I suggest the absence of a quorum and the time be charged equally.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill clerk proceeded to call the roll.

Mr. GREGG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GREGG. Mr. President, for the edification of our colleagues, the projected order of events is that Senator GRAMM and Senator MCCAIN are going to offer an amendment which I believe is agreed to and will require no vote. We will lay aside the Snowe amendment, and then Senator ENZI is going to offer an amendment. We will debate the Enzi amendment for whatever time he requires. I am not sure it will be that long. Then Senator SPECTER will offer an amendment after laying aside the pending amendments. We will debate the SPECTER amendment for whatever time he requires. I am not sure it will be that long. Then Senator SPECTER will offer an amendment after laying aside the pending amendments. We will debate the SPECTER amendment for whatever time he requires. I am not sure it will be that long.

Mr. REID. Mr. President, I would like to speak to the majority leader, but the Senator from Ohio has indicated that he will be out of town. I would like to speak to the majority leader, but the Senator from Ohio has indicated that he will be out of town.

What the Senator from New Hampshire has suggested is appropriate. We will go to another McCain amendment and the Enzi amendment and then the SPECTER amendment. Mr. GREGG. I think it is a Gramm amendment.

Mr. REID. There is no unanimous consent request at this time, but I think what the Senator from New Hampshire has outlined is appropriate. I will check with the majority leader. If he has any problems, I will report back accordingly.

Mr. GREGG. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill 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.

Mr. REID. I ask that the Senator from Alaska be recognized and the time used not be charged against the time before the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXPLANATION OF ABSENCE

Mr. MURPHY. Mr. President, I ask unanimous consent, to be excused from the voting in the Senate because there is a wedding in the family that requires me to travel to Juneau, AK. I will try to be responsive to the leadership in whatever the calendar turns out to be. I guess I wanted to put the record on notice of my absence and the reason for my absence.

I suggest the absence of a quorum.

Mr. REID. As under the previous order, I ask unanimous consent that the time be equally charged.

The PRESIDING OFFICER. Without objection, it is so ordered.
My hope is that in the course of these discussions everyone will settle on a comprehensive liability fix that includes the designated decisionmaker model presented in the Frist-Breaux-Jeffords bill. As many of my colleagues have said, the people who do the job, I agree it certainly seems to. In fact, I agree that the designated decisionmaker model must be part of an amendment to successfully resolve the problems in the underlying bill.

However, while the designated decisionmaker model does present itself as the most reliable proposal for protecting most employers, there remains a small segment of the market that will continue to go unprotected. Ironically, this handful of employer health plans may represent the best of the best. These are the plans that we all should envy. They are plans better than we have in the Senate. They are referred to as the self-insured, self-administered, self-funded plans. They are participating in everything, and it means they cannot just designate their third party administration or insurance company because they don’t currently contract with such entities for the purpose of processing claims. That is the difference between the self-administered and the fully insured employer plan.

We can reasonably expect the fully insured employer plan to be able to designate the final decision on a claim for benefit because that is generally how they function now, having the insurance company administer the plan, with the employer participation ranging from full plan design to advocating for a sick employee. But that is not the way the self-administered plan operates. So none of the proposals protects them.

My fear is that none of the proposals even preserves that kind of a plan. Let me explain why. These are the plans that self-administer are few and far between, probably a dozen in the entire United States. But they are the big companies, the companies that operate probably in everybody’s State but mine. Usually I am the advocate for small businesses because all of my businesses are small. There is not a single company headquartered in Wyoming that would be considered big business by the Small Business Administration. This issue is common to all the companies that participate all over the United States, and they have brought me the stories of how it will affect their plan, what the costs will be. It does require a fair bit of capital to administer a health plan and also requires that the employer wants to be actively involved in the caliber and range of benefits their employees receive. They receive more protection already than anyone else. And they want to design a wide, often unique range of benefits to suit the specific needs of their employees. Because the employers have the in-house resources to do so, they are actually able to be more cost-effective in what they provide than if they provided a fully insured health plan. They would rather have the health benefits than the administration benefit. It is not that they can just provide the same benefits cheaper and more efficiently; they actually provide a richer benefit package for less.

The benefits some of these employers provide include extensive mental counseling, wellness clinics, routine screenings, they include cancer, osteoporosis, and domestic violence counseling, and the list goes on. These employers often use employee review boards to evaluate disputed claims for benefits, which is also a benefit used by the employee union operated health plans. These are clearly benefits and administrative practices designed to help employees get the highest quality health care available. In fact, these employer plans are often referred to as the Cadillac of plans. As I said before, isn’t it ironic that these are the health plans hardest hit by this bill? That doesn’t make any sense to me. And it clearly doesn’t make any sense to me to leave these employers unprotected as we identify a way to protect employers.

For that reason, the amendment I offer today is a solution that I think is reasonable and will force us to ask ourselves a few tough questions about the purpose of a Patients’ Bill of Rights. The amendment would require a self-insured, self-administered employer to offer their employees one or both of the following options, in addition to the self-administered, self-funded plan, and thereby gain a “shield” around their self-administered plan from the new cause of action. The logic of this amendment is to provide employees with the option of choosing a different health plan, which would also afford them access to a cause of action. The employee chooses if he or she wants that to be a component of their health benefit.

Under the amendment, self-administered, self-insured employers would be required to offer at least one of the following options. The first would be a fully insured product, under which an employee could exercise the cause of action in this bill against the insurance company administering the health plan; or, the employer could choose to offer an “individual health benefit,” in the form of an “individual health benefit,” the amount of their employer’s annual premium contribution under the self-
administered employer plan. This would have to be used to buy health care, which is done in the State regulated individual market. They have the right to sue.

If an employer offers one or both of these employers, then the employer would not be subject to the new cause of action under the Patients’ Bill of Rights. Any new civil monetary penalties would apply to these employers for violations of the act, and the external appeals determination would be binding on the employer, but enrollees would not be able to pursue damage awards against the employer under the new cause of action. As under the Frist-Breaux-Jeffords bill, this provision would not preempt any medical malpractice action currently available in state court.

It would not do that. This is very clear. An employee makes the choice to either keep the caliber of benefits under the self-administered plan, or to choose the fully insured product for the particular price they wish to pay. Those employees that choose the fully insured product will be able to hold their plan accountable under the new cause of action. And, those employees that choose to purchase their own health insurance through the “individual health benefit” are similarly able to hold their plan accountable under state law.

The argument has always been that ERISA is unfair because it “traps” employees in employer sponsored plan, affording that option alone, where damage lawsuits aren’t available. This proposal solves that dilemma without jeopardizing access to top-notch employer sponsored health care for those employees. Have any of you been hearing from the major companies that provide the self-insured, self-administered employer plan? No, you have not. They have not been asking for that right to sue. They like the range of benefits they have. They like the personal way it is handled.

The arguments you will hear against the amendment, I believe, actually make the case for it. It is very simple. It will be argued that employees will never be able to get the rich benefit packages that their employer’s self-administered plan currently provides if they opt into the individual market by taking the “individual benefit,” and, while it may be better than the individual market under the fully insured option it would not compare to the self-administered option.

That is absolutely right. If they spend the same amount of money and add a liability part to it, you do not get as much insurance. I am trying to preserve the insurance, not the right to sue, by giving them the flexibility. Any employer that ever had a bad actor incident in their company would have all of their people go out into the individual market under this plan.

This bill would eliminate the best employer plans out there because we feel compelled to sue them instead of making the decision to eliminate self-administered plans by a lawsuit from Washington. Why don’t we let the employees make the choice for themselves? Every time a window of choice comes open they can opt into this other plan if they think it is a good way to go.

But I will tell you why the businesses cannot do what is being mandated under this bill. If they have to have a designated decision-maker, they are hiring somebody to take the liability risk. They are not just hiring somebody that is going to be paid an additional 5 percent of cost. This will drive their prices up dramatically if we do not give this option, and people who are receiving the best care in the United States at the present time will have to settle for something else.

I believe we have made a concerted effort through the amendment. It is one we talk about a lot last year in the Patients’ Bill of Rights conference committees. We made an attempt to have an amendment that would solve the problems of the entire liability section under the underlying bill, including protecting employers and including protecting small employers.

It is not worry about the small ones; this is worry about the big ones who are providing the best of the best. I do not believe we will be doing a good job unless we include this amendment.

I yield the floor and reserve the remainder of my time.

The Majority Leader. If no one yields time, time will be charged against both sides.

The Senator from North Carolina.

Mr. EDWARDS. Mr. President, I understand what my friend from Wyoming is trying to do. We appreciate his work on this issue. This is a subject matter that was covered previously by the Snowe-Nelson-DeWine-Lincoln amendment on which we reached consensus on the floor a few hours ago. That amendment was specifically designed to strike the proper balance between protecting employers on the one hand and making sure we also protected the rights of employees. So this is an issue that has already been covered, about which there has already been great discussion, work, and compromise across party lines, Democrats and Republicans, and about which we are soon to have a vote. It is an issue about which we already have consensus. We have widespread support for that consensus.

The reason for that widespread support is we have protected employers while at the same time kept alive the rights of employees and patients. We have struck in a very creative way a solution to that problem.

This specific amendment has at least two major problems. No. 1, what it does is take away the rights of employees, patients, and families, to hold anybody accountable if one of these things occurs. The problem with that concept is that it is in violation of the President’s principle, which we have talked about at great length on the floor of the Senate, which is that employees be protected but that somebody be held accountable if the employee, the patient, is injured as a result of a medically reviewable decision. The President specifically said that in his principle. That principle is completely complied with in the Snowe-Nelson amendment because in that amendment we create a situation where we protect the employees right to recover if, in fact, they are injured by a medically reviewable decision, while at the same time providing for employers. So that is the reason that consensus was reached. That is the reason both Democrats and Republicans supported it across party lines, and that consensus is consistent with the President’s principle.

This is an issue about which we have already talked and an issue about which we have reached some agreement.

In addition to that, there are at least two other problems with this specific amendment.

No. 1, it provides the employees with a false option. It says for self-insured, self-administered plans if two things occurs, the employee, the family, and the patient lose their right to hold anybody accountable. One of those options is that they go out, get a voucher, and buy their own health insurance plans.

No. 2, it requires the employee to settle for something else. We are receiving the best care in the United States at the present time and will have to settle for something else.

I yield the floor and reserve the remainder of my time.

The Majority Leader. If no one yields time, time will be charged against both sides.

The Senator from North Carolina.

The Senate has the floor.

Mr. EDWARDS. Mr. President, I understand what my colleagues are trying to do. We appreciate their work on this issue. This is an issue about which we have already reached consensus. We have told the President that this is the B–1 exclusion from income—which says section 106 of the Internal Revenue Code of 1986 is amended by adding at the end the following. Of course, an amendment to the Internal Revenue Code creates a blue slip problem. This issue has to originate in the House, which means, if adopted, that this entire legislation could be sent back to the Senate from the House.

The bottom line is there are no protections that require that under these options the employee or the patient end up with the same quality health care plan. In many regards, it is a false option that is being provided to them.

Another fundamental problem is that there is a provision in the amendment—which is the B-1 exclusion from income—which says section 106 of the Internal Revenue Code of 1986 is amended by adding at the end the following. Of course, an amendment to the Internal Revenue Code creates a blue slip problem. This issue has to originate in the House, which means, if adopted, that this entire legislation could be sent back to the Senate from the House.

We have a number of problems. I understand what my colleague is trying to do. I think his purpose is very well intentioned. But I say to my colleagues, No. 1, this is an issue about which we have already reached consensus in the Snowe-DeWine amendment. We have reached that consensus for an important reason. We have complied with the fundamental principle, with which many of us on both sides of the aisle.
agree, which is we need to protect em-
ployers and provide the maximum pro-
tection for employers but, in that proc-
tess, not leave the patients behind. That is
the reason we have an amendment to be
able to reach consensus.
No, the problem is there being pro-
vided in this particular amendment we
believe are false choices, and they
would not require that the employee or
the patient receive the same quality plan
they would get with the employer.
No, the problem we have is the blue slip
problem, which means the entire Patient Pro-
tection Act could be sent back to the Sen-
ate since it involves an amendment to the
IRS Code.
There are a number of fundamental
problems. I appreciate my colleague’s
work on this issue. I think this does not
move us in the right direction. We have
an amendment that already ad-
dresses this issue. It is an amendment
that provides protection for employers
while at the same time keeping alive the
risk pooling and employer.
I urge my colleagues to vote against
this amendment. I yield the floor.
The PRESIDING OFFICER. Who yields
time? The Senator from Wyoming.
Mr. ENZI. Mr. President, I want to
quickly refresh the memory of the Sen-
ator from North Carolina.
I would not have entered into the time
agreement had I known we wouldn’t
listen. I debated the Snowe-
DeWine arrangement where I clearly
pointed out that it is not considered
thereunder. I think this is a sticking
point that the President would see as
being very difficult.
We are talking about companies such as
Hewlett-Packard, Firestone, Motor-
ola, Caterpillar, Pitney Bowes—big
companies that are providing this. I
have checked on the costs. Their costs
will go up from $40 million to $70 mil-
on. The Snowe-DeWine amendment is
the only defense they have.
I yield the remaining time to the
Senator from Texas.
Mr. GRAMM. Mr. President, first of
all, this problem has not been fixed.
The amendment we will adopt is win-
dow dressing and has no impact on this
problem. What the Senator has pro-
posed is a solution to an assault on the
best health care plans in America. The
biggest companies with self-insured
plans that employees love will be de-
stroyed by this bill.
All the Senator is saying is that if
Wal-Mart employees love their plan,
and they want to keep it and agree to
not require Wal-Mart to be liable to be
sued, and if Wal-Mart gives them the
option of going into a fully-insured
plan with liability so that they do not
have to be in the Wal-Mart self-insured
plan, they can choose to remain in it,
and Wal-Mart will not be forced by li-
ability costs to cancel their plan. This is
an amendment that addresses a very
real shortcoming in this bill. The incred-
ible paradox is that this bill will
do the most damage to the best health
care plans in America—plans that are
self-insured, that are large, and that
provide terrific coverage. Under this
bill, there is no question about the fact
that the employer will be held liable.
That liability fear will end up forcing
them out of these plans.
The Senator has offered us a third
way. The third way is if every em-
ployee is offered an alternative where
there is liability available, then those
who choose to stay in their health plan
and love my Wal-Mart plan and I
don’t want to sue Wal-Mart, would
have a right to do it. That is what the
Senator’s amendment does. All of the
rest of these arguments have nothing
to do with the amendment.
Do you want to destroy the best
health care systems in America? If you
do, you want to vote against the Enzi
amendment. If you do not, vote for the
Enzi amendment which guarantees
that a Wal-Mart employee will have an
option of another health care plan
where everybody is liable. But if they
choose a better plan with fewer law-
suits, aren’t they better off by defini-
tion by choosing?
The Senator from North Carolina
says if you do not get lawsuits, you
ought not to be happy. Maybe not ev-
everybody agrees with the Senator from
North Carolina.
I yield the floor.
The PRESIDING OFFICER. Who
yields time?
Mr. GREGG. Mr. President, what is
the time situation?
The PRESIDING OFFICER. No time
is remaining on Senator Enzi’s side, the
sponsor of the amendment, and 8
minutes 44 seconds remain in opposi-
tion to the amendment.
Mr. GREGG. I understand the Sen-
ator from Texas has an amendment,
which has been agreed to by both sides,
and she needs about 3 minutes to
present it. Is there any objection to
setting aside the Enzi amendment and
allowing the Senator from Texas to go
forward?
The PRESIDING OFFICER. Is there
objection?
Without objection, it is so ordered.
The amendment (No. 839) was agreed
to.
Mrs. HUTCHISON. Thank you, Mr.
President.
The PRESIDING OFFICER. The Sen-
ator from North Carolina.
AMENDMENT NO. 840
Mr. EDWARDS. Mr. President, let me
respond briefly to a couple of the com-
ments that were made about the Enzi
amendment.
First of all, no argument was made
that I heard about the blue-slip prob-
lem, so I presume there is agreement
that if this amendment is included, it
would require the entire Patient Pro-
tection Act to be sent back.
Second, I say to my friend from Wyo-
ming, I actually did listen to his com-
mments in the debate. And not only that,
I sat in hours of meetings with Sen-
ators SNOWE and DEWINE, and others,
working out the language of the
Snowe-DeWine-Nelson amendment.
I think the Senator for factually incorrect
about one thing: that is, that what
Snowe-DeWine-Nelson does is, No. 1,
provide complete, 100-percent protec-
tion for 94 percent of the employers in
the country. Almost every small em-
ployer is totally protected. But we left
out the smallest employers, the em-
ployers are completely protected.
For the self-insured, self-adminis-
tered employers, we have also provided
specific protections in this amendment, which we have been working on for several days now. No. 1, they are completely carved out. Self-insured, self-administered plans are totally carved out of the Federal cause of action in the Bipartisan Patient Protection Amendment. They are not going to be held responsible for contractual, administrative responsibilities, period. They are out.

Second, we have provided that if they choose to do so, they can pick a third party administrator, a decisionmaker and send all liability to that decisionmaker by which they are completely protected.

And finally, we have provided that if they have what many of these large employers have, which is a system where they simply make a decision, yes or no, on paying the claim after the treatment has already been provided—that the patient goes and gets the treatment; then they decide whether they are going to pay for it or not—they are responsible.

So I say to my friend and colleagues, what we have done is provide complete protection for 94 percent of the employers in this country in the Snowe amendment at the same time and not removing the rights and protections of patients.

For the self-insured, self-administered employers, we provided three protections: No. 1, they are completely out on the Federal cause of action, which is contracts, administrative issues.

No. 2, we have specifically said they can use a designated third party decisionmaker and remove all liability by doing that if they so choose.

No. 3, we have said if they operate the plan by saying: we decide after the treatment just simply whether we are going to pay for it or we are not going to pay for it, they are completely protected.

So after lots of work, and many hours, I say to my colleagues, we believe we struck the right balance in both cases—for providing maximum protection for the employers and keeping in place the rights of patients, employers, and families.

So in addition to the blue-slip problem, which in and of itself would be enormous, we believe that we have dealt with this issue. We have dealt with it in an adequate and effective fashion. And we have addressed the concerns of the self-insured, self-administered plans, and the issues raised by small employers around the country who will be completely protected by this amendment.

I yield the floor.

The PRESIDING OFFICER. Who yields time on this amendment?

The Senator from Wyoming.

Mr. ENZI. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a second sufficient?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. It is my understanding that the managers of the bill, including Senator Frist, would ask that this vote be put over until a later time. So I ask unanimous consent that be the case.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Chair advises the Senator from North Carolina he has 4 minutes remaining in opposition to this amendment.

The Senator from Texas.

Mr. GRAMM. Mr. President, under the previous unanimous consent agreement, I believe I had 10 minutes to offer an amendment with Senator McCain, but he is not here. I am waiting for him to come back. So I would just like to suggest that perhaps we could modify the unanimous consent agreement so that when he does come back, whoever is speaking at that point, whenever they are finished, we are going to call on him. They are not going to have to do this amendment. But there is no reason we cannot conduct other business while we are sitting here.

Mr. KENNEDY. Why not talk now?

Mr. GRAMM. I am offering this Senator NICKLES on the Senate side of it to a third-party administrator, we want you to assume the liability but the extent of the liability is not defined. It is unlimited. One good lawsuit and they are going to have to write a great big check. What are they going to do?

They are going to have to charge a lot of money. They are going to have to charge as much money as they think this will cost, and they are going to guess because they don't know.

It is kind of like playing Russian roulette. They might be lucky and not have any suits so whatever they charge will be profit. Conversely, if there is one bad suit and they are found liable, they are assuming this liability and they would go bankrupt. So they are going to be trying to err on the high side.

The net result, for everybody who thinks this is going to exonerate employers and all they have to do is designate somebody else to accept their liability, I tell my colleagues, as an employer, that is not going to happen. An employer may say: You handle this, third party; you assume our liability. And that third party is going to say: Oh, okay, I am going to do it, and I am going to charge you more than enough to make sure that we don't go bankrupt in the process.

Maybe they can buy insurance themselves or maybe they can't. My guess is we are going to find out. Some people have said: CBO says that the liability provision under this bill is .8 percent. I would be willing to bet anybody the premiums that are going to come out as a result of this liability in third party administrators assuming liability is going to be more than 8 percent. My guess is you are going to be looking at premium increases of 4 and 5 percent just to cover the liability

The PRESIDING OFFICER. The yeas and nays were ordered.

The PRESIDING OFFICER. Who yields time on this amendment?

The Senator from Wyoming.

Mr. NICHOLSON. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a second sufficient?

There appears to be a sufficient second.

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Mr. KENNEDY. Why not talk now?

Mr. GRAMM. I am offering this Senator NICKLES speak, if he would like to speak. We need all the advice listening to him. And then, when he is finished, hopefully Senator McCain will be back, and we will do this long-awaited amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Oklahoma is recognized.

Mr. NICKLES. Mr. President, I just appreciate my friend and colleague from Texas. I will be very brief. I understand the Senator from Pennsylvania wants to come and speak on his amendment. I would just like to make a couple general comments.

Just for the information of our colleagues, I believe at—6:30 we will have three votes. So people should be cognizant of the fact we are going to have two or three votes—three votes, I believe—at around 6:30.

One, I wish to compliment the Senator from Wyoming, Mr. Enzi, for his enrollment choice proposal. I think it is an outstanding proposal. Charge my colleagues to be in favor of it.

I would also like to make a couple comments dealing with the designated decision maker. Some people are acting like this is a grand compromise, that this is going to save employers: Employers are going to be exempt now because we are going to give this decision to a third party.

When I ran a company, Nickles Machine Corporation, we had a third party administrator. They handled all the administrative issues. They did a decent job. So I didn't have to do it, our company didn't have to do it. We hired them to pay the benefits, to handle the claims, to negotiate with the hospitals, to negotiate with the doctors—all those kinds of things. This is what third party administrators do.

Now we are talking about saying: They have that responsibility, and now they have liability, too. That's what this amendment does. I think it is what third party administrators do.

Now we are talking about saying: They have that responsibility, and now they have liability, too. That's what this amendment does. I think it is what third party administrators do.
before someone will take this because the liability is not defined. It is unlimited, unlimited noneconomic, unlimited economic.

The contract coverage, well, you may have to cover just about anything. We never did write up medical necessity so if somebody says maybe it should be covered, it should be covered. So you are not even confined to the contract. We don’t have contracts. This third party administrator which is usually charged with enforcing a contract, does not have a defined contract and has unlimited liability. And we tell them they have to pay for everything. They are going to end up charging the employer more than they think it would cost so they don’t go bankrupt.

So we are going to find out how much of this. My point is, I want people to be aware of the fact that just having a designated decision maker with no limitations at all in what he can cover and you are liable if things don’t work out, you are hardly ever going to say no. You will hardly ever say no because if you say no, you might be sued. Therefore, you are going to have more defensive medicine than you have ever had. Whereas before they were charged with the responsibility of enforcing a defined contract—this is covered; this is not covered; being more of an administrator on a contract and a plan—they are now going to be faced with liability. And they can’t afford the ultimate price of being hit with a heavy lawsuit. So when the claim comes forward, if it is even close, they are going to pay it. Pay it no limit. They want to make a risk or a gamble that they can be sued for unlimited damages. So you will have enormous increases through increase of what I would call defensive protections so people don’t have liability costs.

And then you will have people guessing what the liability will be, and that will increase the cost to make sure that they have enough that they don’t go bankrupt.

The net result is that this designated decision maker that some people think is going to exonerate employers will show that this is a very expensive provision, and the cost of this bill, the cost of medicine, the cost of health care and the contract—ultimately—the number of uninsured will rise dramatically as a result of this bill and because of this provision.

I urge my colleagues to vote no on the unlimited amendment that deals with this provision. I want to mention—I hope it gets fixed—I think it is outrageous we could exempt union plans from this provision. I hope it is fixed.

I yield the floor.

AMENDMENT NO. 88

The Presiding Officer. Under a previous order, the Senator from Texas is recognized, with the agreement that his 10 minutes will be equally divided, 5 minutes on either side.

Mr. GRAMM. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The Presiding Officer. The Clerk will report.

The legislative clerk reads as follows:
The Senator from Texas [Mr. GRAMM], for himself and Mr. Mccain, proposes an amendment numbered 88.
The amendment is as follows:
(Purpose: To ensure the sanctity of the health plan contract)

Insert at the appropriate place:

Notwithstanding any provision of this Act, any exclusion of an exact medical procedure, any exact time limit on the duration or frequency of coverage, and any exact dollar limit on the amount of coverage that is specifically enumerated and defined (in the plain language of the plan or coverage claims) under the plan or coverage offered by a group health plan or health insurance issuer offering health insurance coverage and that is disclosed under section 121(b)(1) shall be considered to govern the scope of the benefits that must be provided that the terms and conditions of the plan or coverage relating to such an exclusion or limit are in compliance with the requirements.

The Presiding Officer. The Senator from Texas is recognized for 5 minutes.

Mr. REID. If the Senator from Texas will withhold, and no time will be charged against him, I want to postpone a unanimous request.

Mr. President, I ask unanimous consent that Senator Specter be recognized to offer an amendment regarding Federal courts with an hour for debate equally divided in the usual form; further, that Senator Snowe be permitted to modify her amendment; further, that the Senate vote in relation to the Snowe amendment at 6:50 p.m. this evening, with 10 minutes for debate prior to the vote equally divided in the usual form; second-degree amendments in order prior to the vote; further, following disposition of the Snowe amendment, there be 2 minutes for debate prior to a vote in relation to the Enzi amendment with no second-degree amendments in order prior to the vote; further, following disposition of the Enzi amendment, there be 2 minutes for debate prior to a vote in relation to the Specter amendment with no second-degree amendments in order prior to the vote.

The Presiding Officer. Is there objection?

Mr. GREGG. Reserving the right to object as I understand it, as to the 10 minutes, because the amendment was itself divided into four parts, four holders of the time will be given 2½ minute segments.

Mr. REID. When I read that, I knew we should have a clarification. I appreciate the Senator clarifying that.

Mr. SPECTER. Mr. President, reserving the right to object, I entered the Chamber and I heard my name mentioned. I would ask that the unanimous consent be repeated.

Mr. REID. That the Senate from Pennsylvania would have one hour evenly divided in the usual form.

Mr. SPECTER. Mr. President, I do object to that. I was asked how long I thought it would take, and I said 2 hours. Then I asked if I thought I could do it in an hour, and I said I would do my best. This is a complicated amendment. This is a complicated bill. I am not prepared to enter into a unanimous consent request which limits my presentation to 20 minutes.

Mr. REID. Will the Senator from Pennsylvania agree to have giving 45 minutes for him and 15 for us? We have Members who want to know when they are going to vote.

Mr. SPECTER. That is not satisfactory. I am being importuned over here about what a good deal it is. This amendment, Mr. President, involves a question of whether there will be both Federal jurisdiction and State jurisdiction. It is a matter I have discussed with the managers of the bill again this morning and with Senator Edwards. I believe there is going to be a judgment of medical facts and some questions answered. I simply does not lend itself to that kind of time constraint.

Mr. REID. If I could say to the Senator from Pennsylvania, how about if he has an hour and we have 20 minutes?

Mr. SPECTER. Mr. President, I am prepared to start the debate and to make it as expeditious as possible. But I am prepared to negotiate time to an hour and 20 minutes total. I object.

The Presiding Officer. Objection is heard.

The Senator from Texas is recognized for 5 minutes on his amendment.

Mr. GRAMM. Mr. President, I have sent an amendment to the desk. The amendment has been read.

Let me explain to my colleagues what the amendment does, why it is important, and how our distinguished colleague from Arizona.

Under the bill that is now before us, under the language of the current bill on page 55, the bill says that contracts are binding. But then it makes those contracts binding unless they are subject to a judgment of medical facts and they are subject to medical review.

This creates a situation where every health insurance company in America will realize that these outside medical reviewers, based on medical necessity, could invalidate every health insurance contract in America and, as a result of that, everybody in every option plan whether they pay for it or not. The net result would be an explosion in health care costs. In fact, if this provision is not fixed, it is at least as explosive in potential cost as the liability section which we have talked about 10 times as much.

The amendment I have offered makes the contract binding, and it provides...
language that says the contract is binding as long as the contract does not violate the language of the bill. Let me explain very briefly what that means. If, as we do under the bill, we say that if you provide emergency room coverage, you have to have a prudent layperson standard for that emergency room coverage, so you have to do that if you provide the coverage no matter what this amendment says; or if we say under the bill that if the plan has pediatric care for children, that can be the definition of medical care, then it would have to be the law that would govern.

Within that very limited proviso, this amendment makes the contract binding. I think it is a dramatic improvement in the bill.

I thank our distinguished colleague and my old and dear friend from Arizona for helping me work this provision out. It is something I have worried about. I do think it improves the bill, and I do think it could not be as developed without the reasonableness of our dear colleague from Arizona. I thank him for that.

I yield the floor.

Mr. MCCAiN. Mr. President, I thank the Senator from Texas for causing this amendment to happen. It really is to ensure the sanctity of the health care contract. Concerns were raised that under the pending McCain-Kennedy legislation, independent medical reviewers can order a health plan to provide items and services that are specifically excluded by the plan. That was not the intention of the law. The Senator from Texas pointed out that it could have been interpreted in another way, and clearly this amendment I think tightens that language to the point where it is clarified that the bill doesn't do this and its specific limitations and exclusions on coverage must be honored by the external reviewers.

There are numerous safeguards already in the bill to ensure that external reviewers cannot order a group health plan or health insurer to cover items or services that are specifically excluded or expressly limited in the plain language of the plan document and that do not require medical judgment to understand.

So I think this language is important in its clarification. I understand Senator Edward's concerns. I know this will not bring him to the point where he is willing to vote for the bill, but I do hope it satisfies many of his concerns, and we will continue to work with him to try to satisfy additional concerns. I appreciate his cooperation and that of his staff. I believe my friend from Texas would agree this is probably the 35th draft we have of this maybe 9-line amendment, but each word is important nowadays as we work our way through this bill. I believe the appropriate place is on page 36, line 5.

By the way, I thank Senator KENNEDY and Senator EDWARDS and their staffs for agreeing to this amendment. I share the opinion of the Senator from Texas that it is an important amendment.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. McCaiN. Mr. President, I urge that we accept this amendment. As in other areas, there has been a desire to provide clarification to the language we had in the bill. One of the issues that has been debated is the power and authority of the medical officer in the review process. It was never the intention to include benefits that were not outlined in the contract. It was going to be limited to the contract, but it was also going to give discretion in terms of medical necessity. So this is a clarification of that, and I think it is a useful and valuable clarification. I hope the Senate will accept it.

Mr. GRAMM. Mr. President, I seek only to do good, not to have it recorded through a recorded vote. So I ask unanimous consent that the amendment be accepted.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The amendment (No. 843) was agreed to.

Mr. MCCAIiN. The amendment that I offered today with Senator Gramm helps to clarify the intent of how this bill deals with medically reviewable decisions.

Mr. KENNEDY. The Senate should understand that the language in the McCain-Edwards-Kennedy bill is based on language from a bipartisan compromise between JOHN DINGELL and CHARLIE NORWOOD. Every member of our conference signed off on our approach the last Congress, from DON NICKLES and PHIL GRAMM to JOHN DINGELL and me.

Our approach is based on a very important concept. It assures that the external reviewer cannot be bound by the HMO's definition of medical necessity. This does not mean that the reviewer sign off on anything that is explicitly excluded by the health plan. If the plan covers 30 days in the hospital the reviewer cannot approve 100 days. However, where a coverage decision requires medical judgment to determine whether of not the patient is requesting is the type of treatment or services that is explicitly excluded, we intend to have an external reviewer to be eligible for independent review.

Mr. McCaiN. The amendment we are drafting here—that merely restates what is in the underlying bill—is not intended to change our fundamental approach, just to clarify our intent.

Our overall bill still clearly states that coverage decisions that are subject to interpretation or that are based on applying, medical facts and judgment should be reviewed. This includes those decisions that require the application of plan definitions that require that interpretation.

Mr. KENNEDY. Absolutely—the reviewer should be looking at those cases. The amendment is intended to clarify that we never meant to have the independent reviewer approving a benefit that is explicitly excluded in all cases. However, in the case where there is some dispute about whether it is medically reviewable a benefit, we do want the case reviewed.

Mr. McCaiN. Right, just as in the case we have heard about a child with a cleft palate. The plan says they do not cover cosmetic surgery. The doctor argues that there is specific health risks for not having this surgery. That is something the independent reviewer would look at to determine if it is covered in this case.

Mr. KENNEDY. Under the bill the external review process is first designed to determine whether a denial by the plan or issuer is based on a particular definition, or a specific benefit exclusion or limitation under the plan or contract whose wording is unambiguous and does not turn on specific medical facts in an individual patient's case. An appeal will be dismissed in cases where the entity concludes that unambiguous plan language is the basis of a denial and that no set of medical facts either could or would result in coverage under the terms of the plan.

Mr. REID. Mr. President, we are going to have a vote sometime from 6:45 to 7:15, according to how much time is taken on the Specter amendment. We will have three votes at that time. Members should be ready to come and vote at or about 6:40 or 7:15, something like that.

The PRESIDING OFFICER. Under the previous order, the Senator from Pennsylvania is recognized to offer an amendment.

AMENDMENT NO. 844

Mr. SPECTER. Mr. President, I send an amendment to the Senate. The PRESIDING OFFICER. The clerk will report the amendment.

The senior assistant bill clerk reads as follows:

The amendment on the Floor was offered by the Senator from Pennsylvania [Mr. SPECTER] proposes an amendment numbered 844.

Mr. SPECTER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To require that causes of action under this Act be maintained in Federal Court.)

On page 153, strike line 9 and all that follows through page 154, line 2, and insert the following:

11. STATUTORY DAMAGES.—The remedies set forth in this subsection (n) shall be the exclusive remedies for causes of action brought under this subsection. In such actions, the court shall apply the laws of the State in determining damages. If such damages are not limited under State law in actions brought under this subsection against a group health plan and a health insurance issuer offering group health insurance coverage in connection with such a plan), then State law limiting such damages in actions brought against entities shall apply until such State enact[s] legislation imposing such limits against group
health plans (and issuers). Nothing in this section shall be construed to require a State to enact legislation imposing limits on damages in actions against group health plans and issuers.

On page 160, between lines 2 and 3, insert the following:

"(D) LIMITATION ON CLASS ACTION LITIGATION.—

(1) LIMITATION.—

(A) IN GENERAL.—Any claim or cause of action that is maintained under this section in connection with a group health plan, or health insurance coverage issued in connection with a group health plan, as a class action, or as an action by or on behalf of any group of 2 or more claimants, may be maintained only if the class, the derivative action claimant, or the group of claimants, is able to establish that the district court for the district in which such action is brought and maintained only in the Federal court, but where you have a claim which is brought for the "quality of medical care," or so-called malpractice, those cases will go to the State court.

I expect to my colleagues that to have the two courts handle the matters in that way will result in procedural quagmire because if you have a case such as the following where a child is born to a mother who has a plan under an HMO which seeks to limit the hospital stay to 24 hours, the patient is then discharged and an unfortunate result happens to the child. There will be both claims under the so-called quantity interpretation of the contract and quality on medical malpractice.

That is illustrated in the case of Bauman v. U.S. Healthcare, 1 F. Supp. 2d 420, a case which was heard in the United States District Court for the District of New Jersey in 1998. In that case, and this illustrates the kind of an issue that is referred to, the HMO plan had policies which encouraged the discharge of a mother and a newborn within 24 hours after birth. Mrs. Bauman was discharged after that time elapsed, and the next day the Baumans’ daughter died.

The Baumans contacted the HMO and requested a home visit by a nurse. The HMO refused to send a nurse, and the daughter died of meningitis the same day. The Baumans brought an action against the HMO and the hospital, and they went into State court. The HMO removed the case to Federal court as they had a right to under ERISA.

The district court made a determination that under federal preemption which precluded those cases which sought under ERISA, those cases will go to the Federal court, but where you have a claim which is brought for the "quality of medical care," or so-called malpractice, those cases will go to the State court.

I suggest to my colleagues that to have the two courts handle the matters in that way will result in procedural quagmire because if you have a case such as the following where a child is born to a mother who has a plan under an HMO which seeks to limit the hospital stay to 24 hours, the patient is then discharged and an unfortunate result happens to the child. There will be both claims under the so-called quantity interpretation of the contract and quality on medical malpractice.

The Bauman case illustrates the point about how hard it is to decide whether a claim is a "quantity" claim or a "quality" claim.

Under the McCain-Kennedy bill, the claim that the Baumans would bring if the McCain bill were enacted, would be in the Federal court on the issue of plan coverage because that is a determination of the "quantity" of medical care, but that the other claims would be brought in the State court. I suggest, and that is obviously that is a procedural quagmire.

The point is further illustrated by an opinion of the Court of Appeals for the Third Circuit in a case called Lazorko v. Pennsylvania Hospital, 237 F.3d 242, decided just last year, where the underlying facts show the plaintiff’s wife was hospitalized for attempted suicide. She was released but continued to have
thoughts of suicide. Her doctor refused to readmit her to a hospital, and there-after, regrettably and unfortunately, she killed herself.

In the State court, the plaintiff sued the HMO. The case was removed to the Federal court, because the courts of the State did not have jurisdiction against the HMO were dismissed. The case was then remanded to the State court and then removed again by the HMO to the Federal court.

The Federal court dismissed some of the counts against the HMO but remanded the case to the State court because of the various vicarious liability claims which the plaintiff had against the HMO. On appeal, the circuit court reversed the district court on one liability count and remanded the case to the district court.

That is legalese, obviously, and very hard to present in the course of a floor statement in a Senate debate on this subject, the following facts of a State other than the residence of a plaintiff were expressly preempted by ERISA. It has to start out in the Federal court at least as the contract interpretation and “quantity of care.” That is why it is my view, my legal judgment, that it is necessary to avoid the procedural quagmire to have the Federal courts have jurisdiction over the entire matter.

The question has been raised as to choice of law and venue, the question raised by my distinguished colleague from Tennessee, and I specified in the legislative text it would be the place of the incident which would determine the applicable law. Again, liability varies from State to State and venue has an important place. We want to avoid the potential of judge shopping so that the choice of law and the determination of venue would be where the incident occurred.

There is another important aspect to the litigation in the Federal court because of a feeling of a greater confidence in the Federal judicial system than in some State court judicial system. This is a touchy point, but it is one which the Judiciary Committee examined in some detail last year in considering the question of amending diversity jurisdiction in class action cases. Claims cannot join to sue a defendant. There had been, for illustrative purposes, a case which had been denied class action status by the Court of Appeals for the Third Circuit, and the plaintiffs then went to Louisiana, to a favored county, and instituted the class action case and had the class action certified.

Diversity jurisdiction is easily defeated in a class action matter because if you have many plaintiffs, as you do in a class action and, a single defendant, all you have to do to avoid diversity jurisdiction is to have one of the plaintiffs a resident of the same State as the defendant. In order to have a diversity jurisdiction in the Federal court, all the plaintiffs have to be from a State other than the residence of a defendant.

In the Judiciary Committee report on this subject, the following facts of findings were made:

Some State court judges are less careful than their Federal court counterparts about applying the procedural requirements that govern class actions.

That appears on page 16 of the report of the Judiciary Committee reporting this bill out at a 10–8 vote. On the next page, page 17, appears the following statement:

A second abuse that is common in State courts is that actions is to draw a bright line between what is “quantity” and “quality.” And another case which is illustrative of the problem is Corcoran v. United Health Care Inc., 956 F.2d 1321, heard in the United States Court of Appeals for the Fifth Circuit in 1992, where a patient was pregnant, and her doctor recommended complete bed rest and hospitalization so that he could monitor
the fetus. The patient’s doctor sought precertification from the HMO for a hospital stay. The HMO denied the request and authorized only 10 hours per day of health nurse services at home. Subsequently, the fetus regretfully went into distress and died at a time when the home health nurse was not on duty. The Corcorans, parents of the deceased child, brought suit in the State court which then had it removed to the Federal court, with the HMO arguing that they had not made a medical decision on “quality” but only a determination as to what benefits were covered under the health plan which was preempted by ERISA. The court concluded that the HMO gave medical advice, but in the context of making a determination about the availability of benefits under the plan, and as such the court found the Corcorans’ claim was preempted by ERISA.

So there you have a curious situation of what is viewed as a medical decision but also, because it was held to relate to a determination of benefits under the plan.

The amendment would give jurisdiction to the Federal court on both of the claims so that when any one of these plans gives a mother who is delivering a baby and has a limitation of 24 hours in the hospital and has a claim both as to coverage and as to malpractice, she could bring the case into Federal court, where State law would apply, and if the court ruled against her, that would be an appeal to the State court.

Mr. SPECTER. Madam President, I would press the question as to the interpretation of the insurance contract, which defined the rights of the parties under the contract. Isn’t it plain, under your bill, that this is a matter which goes to the Federal court?

Mr. KENNEDY. The understanding of our position on this issue is that the Supreme Court in Pegram said, when there is a dual issue involved in terms of the medical decision and the contract decision, as the Senator knows, on medical issues decided in the State court, and where there is a mix of those, the preemption decision depends on a medically reviewable decision.

Mr. SPECTER. Madam President, I suggest that is at variance with the Supreme Court holdings in the Pegram case, this would be tried in the State court.

Mr. KENNEDY. The understanding of the case, the facts we have to date with that particular issue, following the Supreme Court holdings in the Pegram case, this would be tried in the State court.

Mr. SPECTER. Madam President, I suggest that at variance with the provisions of the Senator’s bill. I will cite the exact citation here.

At page 140, if I might call it to the attention of the Senator from Massachusetts, section 502 of ERISA, which is brought in the Federal court, and at the bottom, line 24:

(1) regarding whether an item of service is covered under the terms and conditions of the plan or coverage.

So that is a section where you have Federal court jurisdiction, and that would be the issue, as to interpretation of a contract to determine coverage.

I ask the Senator from Massachusetts if that is not an accurate citation of the Senator’s bill?

Mr. KENNEDY. No. No, it is not. The Senator would be reading it out of context.

Cause of action must not involve a medically reviewable decision.

The fair way is to read the complete paragraph and go on to the next page.

Mr. SPECTER. Madam President, if the Senator cares to read the next paragraph, where he makes a claim of being taken out of context, I would be interested in hearing him read any such paragraph.

Mr. KENNEDY. I have referred to that earlier, page 142, line 6. The coverage decision depends on a medically reviewable issue. On the matters dealing with the medically reviewable issue, the Supreme Court has indicated that it would be decided in the State courts. That is essentially what we have included in this language.

Mr. SPECTER. Madam President, I agree with the general delineation that it was a medically reviewable decision. That is called “quality of care,” as I have said before, and is a malpractice issue. But the question which I have directed to the Senator from Massachusetts is a much narrower question.

To repeat, is this not a question on the interpretation of the contracts, specifically where an item of service is covered under the terms and conditions of the plan for coverage? That is my question. The interpretation of “an item of service is covered under the terms and conditions of the plan for coverage”
I believe it is plain from the language on 139 to 141 that it is a Federal matter. But if you move to an interpretation of what is medical malpractice or a breach of duty by a doctor on what is a medically reviewable decision, then that is a matter which goes to the State courts. And this legislation does not continue the preemption of existing law.

If I might have the attention of the Senator from North Carolina, Madam President, this is an issue which my distinguished colleague from North Carolina and I have been discussing for several days. And this morning in my hideaway we discussed the complications, at least as I saw them, on having the provisions of the pending bill which deal with this complex dichotomy of an interpretation of contract coverage, which is set forth at line 24, 25 on page 140 over to lines 1 and 2 on 141, which commences an item of what are covered under the terms and conditions of the plan for coverage which comes under the category of availability for Federal civil remedies. Then if you move over to a medically reviewable decision and medical malpractice, there is the difference.

Is my interpretation correct that the legislation provides for cause of action in different courts, No. 1? It is the coverage of the contract, or what the courts have called "quantity" malpractice and what the courts have called "quality." Mr. EDWARDS. If the Senator would repeat the question, it is difficult for me to hear.

Mr. SPECTER. I would be glad to repeat the question. As the Senator and I were talking this morning, isn't it accurate that the courts have made a distinction in ERISA, section 502, on what is contract coverage or "quantity" with complete preemption under existing law?

Mr. EDWARDS. My understanding is—as the Senator said, we talked about this earlier today—that has traditionally been the case. I think there has been, I think, some erosion on that during the last few years. I think the Senator is correct. There have been a number of court rulings in that respect.

Mr. SPECTER. Madam President, I agree with the Senator from North Carolina. There has been erosion on the preemption of 514 where the courts have really seen the inequities of denying injured parties relief, and instead of being under 502 with "quantity", they have tried to move the contract into "quality" with a broader interpretation where some relief has been granted.

I am a cosponsor of the amendment. As I said earlier, one of the concerns that I candidly expressed a decade ago was the propriety of the reach of the preemption of ERISA. It seemed to me to be unfair to deny injured plaintiffs redress in the courts because of the preemptions which were really designed originally under other kinds of benefit plans and not under health maintenance organization plans. When the HMOs came into being, they took the benefit of the same kind of preemption.

But in this legislation you have the dichotomy where some cases are heard in the Federal courts as they relate to "quantity care" or interpretation of the contract, and other cases or the same case may be heard in the State court as it is medically reviewable malpractice or the "quality of care." My question to the Senator is, isn't that an accurate statement?

Mr. EDWARDS. Again, I am having a little trouble hearing you. If the Senator said that the separation under our legislation between the contract causes of action, which have traditionally been considered ERISA causes of action, go to Federal court and in the case of the medically reviewable decision cases go to State court, that would be accurate.

Mr. SPECTER. The concern I have, having gotten an understanding on the applicability of the statute, which the Senator and I are in agreement with, how it is I characterize it, while the Senator was off the floor, as a procedural quagmire. If you have a case—and I cited a couple of them—where a child is born, and the mother has an HMO which encourages release within 12 hours, and the child, unfortunately, dies—and I cited a specific case—and then you have a series of claims which were brought by the plaintiff and one of the claims involves interpretation of the contract, is that care covered by the contract?

Then if there are other claims for negligence on the part of the doctor or hospital, that would then fall under the amendment of the Senator from North Carolina under State court jurisdiction.

I cited another case where you had a woman who was suicidal, she was released from the hospital, the doctor wanted to put her back in, and the HMO wouldn't let him do that. She committed suicide. A suit was brought and the HMO defended it on the ground that it wasn't covered. That went from the Federal court. They dealt with the exclusive preemption under 502. But the issue of the "quality of care" is a State court action. You have perpetuated that.

It is very difficult, obviously, to move totally away from Federal jurisdiction under ERISA on the interpretation of the contract because there is so much law on the subject. I know my colleague will agree with me on that generalization.

What happens when you have the suicide? The mother of the infant is released from the hospital within 24 hours, and the claims are made. They are essentially the same claims. They are claiming that they are covered under the contract. They are claiming personal injuries, loss of earning potential, or for the woman who has committed suicide, loss of earnings, loss of consortium, the whole range.

Having litigated some of these cases, you more recently than I. But the essential claims are the same: Personal injuries for both the claim for coverage and "quantity of care" as opposed to the claim for "quality of care" or malpractice.

How is it going to be resolved with two separate courts, Federal court having jurisdiction over "quantity," and State court having jurisdiction over "quality?"

Mr. EDWARDS. I think—

SPECTER. The Presiding Officer. The Chair reminds Members to address each other in the third person and to address the questions through the Chair. Mr. SPECTER, Nunc pro tunc.

Mr. EDWARDS. I would answer the Senator's question by saying that under the examples given, if I understood them correctly, most of those examples would involve interpretation of contract language in the context of a medically reviewable decision.

So I believe under our legislation those, in fact, go to State court. I say to my colleague, if there is any medical fact interpretation involved, I believe those cases go to State court. So I think under the examples given, all of the cases would end up in State court.

Having said that, though, in fairness to the Senator, I can imagine circumstances—I don't think the Senator's examples meet it—where there could be a medically reviewable decision which would go to State court and also there could be a claim that the contract was breached separate and apart from that, which I think is the issue the Senator is raising.

Mr. SPECTER. Madam President, I would accept the modification by my colleague from North Carolina. I think the citation I gave has a contract claim. But rather than disagree about that, since the Senator from North Carolina acknowledges there could be some cases, I will take another case whereas the Senator from North Carolina says there could be that kind of distinction.

I ask the Senator, through the Presiding Officer, then in your bill what do you do in that situation where you have the Federal court controlling—in the language of the statute—"whether an item or service is covered under the terms and conditions of the plan or coverage" and other aspects of the same set of facts are covered under medically reviewable factors?

Mr. GREGG. Madam President, will the Senator yield for a question?

Mr. SPECTER. I would be glad to yield as soon as I get this answer.

Mr. GREGG. It is just a technical question. The answer might be better if he has time to think about it.

Mr. SPECTER. Well, it is too late now to retain the continuity without yielding, so I do yield.

Mr. GREGG. I thank the Senator and apologize for breaking the continuity. I
I yield back to my colleague. Mr. SPECTER. Madam President, I agree completely with my colleague from North Carolina that when HMOs engage in the practice of medicine, they ought to be treated like physicians.

But coming back to the distinction in the Edwards bill, which does have a provision on coverage as distinguished from medically reviewable decisions, there are two thoughts which occur to me. You have a whole body of case law—dozens of cases—which have wrestled with factual situations on coverage, whether a plan covered the specific item: The infant in the hospital for 24 hours or the woman who was suicidal, whether the plan covered further hospitalization for her. And then those cases also involve counts on medical malpractice, on “quality.”

So it seems to me it is very hard for my colleague, the Senator from North Carolina, to argue that it is not a commonplace occurrence to have specific cases arise where under his bill they would go to different courts. And then the express language of the Edwards bill has a delineation between medically reviewable decisions on malpractice and a category—“whether an item or service is covered under the terms and conditions of the plan or coverage.”

So I would direct perhaps only two more questions to my colleague from North Carolina—and I say perhaps.

The first question is—and I address this question through the Chair—isn’t it conclusive where the Edwards bill has a delineation between medically reviewable decisions on malpractice and a category—“whether an item or service is covered under the terms and conditions of the plan or coverage.”

As the Senator and I have spoken about on a number of occasions, he has a concern—and I understand it—about the possibility of there being some confusion about which cases go to State court and which go to Federal court. We think we have defined that fairly well in our bill.

I might add, in response to the Senator’s question, that there is a principle involved in this which we have not discussed, which is that physicians, hospitals, and health care providers believe—and I agree with them—if an HMO is going to overrule their decision and engage in the practice of medicine, they ought to be treated the same way they are treated.

As the Senator knows, their cases are normally handled in State courts. So I think conceptually we start with the principle that HMOs should be treated the same as health care providers when they make medical decisions.

No. 2, I say to my colleague that what we are doing is taking a Federal protection curtain that was unintended for HMOs when it was passed—because they didn’t exist before lifting it. The effect of lifting it is it becomes subject to State court law.

So I think it is consistent in that respect. As the Senator and I have talked about before, it is also consistent with the fundamental concept that HMOs, if they are going to engage in the practice of medicine, ought to be treated as other health care providers.
Mr. EDWARDS. I would answer my colleague’s question exactly the way I have before, which is, absent a presumption in our bill that if there is an involvement of a medically reviewable fact, I think the Senator’s concern would be one that I would share. But we have dealt with that issue specifically by saying where the contract interpretation involves a medically reviewable fact, those cases go to State court. Those, in my experience and in my judgment, I believe will be the same cases that the Senator is describing as cases, I think he used the term, of medical malpractice.

Mr. SPECTER. Madam President, as they say in Oklahoma, we have gone about as far as we can go on this colloquy. I would advise the managers of the bill that I will be prepared to conclude my argument by 6:45.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Madam President, I ask unanimous consent that if the other side does not require any additional debate, we begin the votes on the three pending amendments, which would be, in order, the Snowe amendment, the Enzi amendment, and the Specter amendment beginning at 6:45.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Madam President, reserving the right to object, we need Senator SNOWE to have 10 minutes, and she needs to offer a modification.

Mr. GREGG. We also need to have 2 minutes on Senator ENZI’s amendment prior to his vote. So we would have 10 minutes prior to the Snowe amendment and 2 minutes prior to the Enzi amendment. And Senator SNOWE would have the right to modify her amendment.

Mr. REID. I accept that as a unanimous consent agreement in line with what we previously offered except for the time.

Mr. GREGG. I would have to add that it is my understanding Senator ENZI may divide the question on his amendment. That is his right, as I understand it: is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. REID. If the Senator desires to divide his amendment, he may do so.

The PRESIDING OFFICER. Does the Senator wish the 10 minutes dedicated to Senator SNOWE to start at 6:45 or to begin later?

Mr. GREGG. It should begin prior to the vote.

Mr. REID. We are going to vote on the Specter amendment at 6:45.

Mr. GREGG. We are going to vote on the Specter amendment.

Mr. REID. At 6:45.

Mr. GREGG. We are going to vote on Snowe and then Enzi and then Specter.

Mr. REID. We do need Senator SNOWE here.

Mr. GREGG. She will be here. So 10 minutes on the Snowe amendment would begin at 6:45.

Mr. REID. Or when she arrives.

Mr. GREGG. Or when she arrives. And the votes would begin thereafter.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Madam President, these are on or in relation to the amendments as per the previous oral agreement?

Mr. GREGG. Right.

Mr. REID. I thank the Chair. The Senator from Pennsylvania has the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Madam President, I believe the colloquy with the Senator from Mass. and the Senator from North Carolina have made my point. That point is that there is jurisdiction created under the McCain-Edwards-Kennedy bill in two courts. There really is no doubt about that because of the availability of Federal civil remedies, and that covers whether an item of service is covered under the terms and plans and conditions, and later there are medically reviewable decisions in State courts.

Although there can be an inconclusive colloquy, as there is no confession or admission on the floor of the U.S. Senate, I think it is pretty plain that there are cases—and I have cited a whole series of specific cases in my presentation, Bauman, Pryzbowski, Lazorko, and Corcoran—where you had factual situations where you have an interpretation of a plan which would make them Federal issues—such as the mother’s stay covered for more than 24 hours, the suiciidal woman’s coverage extended for hospitalization under that circumstance—then a combination of failure to have a plan coverage and also 2 medical malpractice. And you have both claims brought.

And under the McCain-Kennedy-Edwards bill, it is plain that those two claims would be brought in separate courts beyond any question. It is not a matter of what the distinguished Senator can imagine. You have case after case which have had these interpretations, contract interpretation and “quantity of care,” and that goes to the Federal court. And then you have “quality of care,” and that goes to the State court.

I am not unaware of the realities of votes in this Chamber where a coalition has been formed, and there is a moving target that the distinguished Senator can imagine. You have case after case which have had these interpretations, contract interpretation and “quantity of care,” and that goes to the Federal court. And then you have “quality of care,” and that goes to the State court.

I am not unaware of the realities of votes in this Chamber where a coalition has been formed, and there is a moving target that the distinguished Senator can imagine. You have case after case which have had these interpretations, contract interpretation and “quantity of care,” and that goes to the Federal court. And then you have “quality of care,” and that goes to the State court.

I have a grave concern about the speed of passage of this bill. Now, it is true we have been considering the Patients’ Bill of Rights for a long time—many years. Too long. But this bill has come to the floor without the benefit of committee action, without the benefit of markup and has been sort of a moving target markup of this bill on the floor by the committee of the whole, as we have gone through many amendments. But it simply cannot be denied that there are two sections of this bill involving Federal jurisdiction and one conferring State jurisdiction, and the same factual situation would raise questions under both court systems, and this bill would require litigation in two courts. That is very wasteful and very confusing. To call it a procedural quagmire is not an overstatement. The answer is fundamental, and that is to provide for exclusive Federal court jurisdiction, which I have in this legislation, the McCain-Kennedy bill, and the Enzi amendment. And the Specter amendment beginning at 6:45.

The PRESIDING OFFICER. Is there objection?

Mr. REID. If the Senator desires to offer a modification.

Mr. GREGG. I have long favored creating liability for HMOs that harm someone because of their negligence. Right now, HMOs are protected. They are immune from liability, and that is a protection that almost no other individual or corporate has in this country, and I don’t think it is defensible.

For the last 2 years, I have been voting regularly to make HMOs liable where they have been negligent. But I do think we have a problem in this bill in that we create State court tort liability by repealing the ERISA immunity in one part of the bill. That is on page 157. I believe. But then, at the same time, we create also tort liability, as well as more contract liability, and we are adding tort liability under ERISA in Federal court.

The problem I see is that there are tort causes of action authorized in this
bill both in State court and in Federal court. I have always thought the playing field was tilted in favor of HMOs, and that playing field needs to be leveled. But I am concerned now that if this effect in the underlying bill is not remedied, the playing field will be tilted in the other direction.

The PRESIDING OFFICER. The hour of 6:45 having arrived, under the previous order, the Senator from Maine is to be recognized.

AMENDMENT NO. 834, AS MODIFIED

Ms. SNOWE. Madam President, I ask unanimous consent to modify the amendment that has been offered by Senator DeWine, Senator Lincoln, and Senator Nelson and send a modification to the desk.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered. The amendment is so modified.

The amendment (No. 834), as modified, is as follows:

(Purpose: To make technical corrections concerning the application of Federal causation doctrine to certain plans)

On page 2 of the amendment, between lines 9 and 10, insert the following:

“(II) a multiemployer plan as defined in section 3(37)(A) (including an employee of a contributing employer or of the plan, or a fiduciary of the plan, acting within the scope of employment or fiduciary responsibility) that is self-insured and self-administered.

On page 3 of the amendment, strike line 14 and all that follows through line 21 and insert the following:

“(ii) DEFINITION.—A group health plan described in this clause is—

“(I) a group health plan that is self-insured and self administered by an employer (including a plan, plan sponsor, or health insurance issuer and that is regulated under Federal law or a State financial solvency law)."

Ms. SNOWE. Madam President, it is modified in the following way. First of all, the question was raised about the original intent of the amendment in regard to the self-insured, self-administered plans. Specifically, with regard to contractual dispute, it will only exempt from liability employer and union plans that are self-insured and self-regulated, again applying symmetry to all of the plans regarding self-insured and self-administered, so we do not make any exceptions. So we address that by modifying it to ensure that both employer and union plans are consistent with the legislation.

Secondly, because insurance plans are already regulated at State and Federal level with regard to assets and other issues, we assure that these regulated plans are not subject to a new Federal solvency standard in this amendment to qualify as a designated decisionmaker. As a result, the solvency standard in this amendment will appropriately apply to non-health insurance designated decisionmakers.

Finally, we also make a technical correction in the legislation to ensure that the causes of action are not inadvertently opened to other statutes that are already a matter of law. This change, an important part of our amendment to prevent the filing of lawsuits in a broader, more undefined number of issues.

I urge adoption of the modification as well as the amendment.

Again, I remind my colleagues that this was an effort to address many of the legitimate issues that were raised regarding employer liability. It was a consensus that was drafted along with my colleagues from Ohio, Senator DeWine, Senator Lincoln, and Senator Nelson. I also thank Senator McCain, Senator Kennedy, Senator Edwards, as well as Senator Gregg and Senator Frist, for working together to make this amendment possible. We thought it essential that we develop precise and clear guidelines in terms of how we establish employer liability but at the same time protecting patients’ rights with their ability to seek legal redress when there is inappropriate care or denial of care.

We think we have developed and crafted the amendment in a way that creates the bright line and the firewall so that we do provide the necessary protection to employers, so that we limit and, in fact, in most instances I think prevent any exposure to liability. They can confer that liability and risk to the designated decisionmakers and therefore they will have that kind of liability protection, and patients will have their ability to be able to sue in those instances where they have been denied care or there has been wrongful injury, personal injury, or even death.

I think it strikes the right balance. The amendment represents the optimum approach to providing the kind of basis for removing an employer’s exposure to litigation when they are not directly participating in medical decisions.

We hope this will satisfy the concerns that have been raised by the original legislation. We think we crafted the best approach, borrowing both from the McCain-Edwards-McCain legislation as well as the Breaux-Frist-Jeffords approach.

Again, I urge adoption of this amendment, as modified, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second. The yeas and nays were ordered.

Mr. BAUCUS. Mr. President, I am proud to cosponsor amendment No. 834 with Senator Snows and my other colleagues. It addresses an issue important to all of us here—protecting employers from undue liability. This amendment clarifies any confusion about who is responsible for medical decision-making.

Under this amendment, employers who generally do not make medical decisions anyway—will be able to name a designated decision maker. If they contract with an insurance company, that company in automatically given the status of designated decision maker. The amendment doesn’t have to take any further action.

Once designated, this entity will have the authority to make medical decisions. And with this authority, the designated decision maker—not the employer—will bear liability for those decisions if they result in harm to the patient.

I believe this amendment serves as an important compromise. It ensures employers to feel more comfortable offering their employees health benefits. And that’s certainly something we want to encourage. But it also protects patients, and ensures that they receive all the protections provided under the Patients’ Bill of Rights.

Mr. GREGG. Madam President, I understand the Parliamentarian has ruled that I have 5 minutes.

The PRESIDING OFFICER. There is 5 minutes in opposition.

Mr. GREGG. Madam President, unless somebody else is seeking that time, I will speak. I congratulate the Senator from Maine and the Senator from Ohio for adjusting this amendment. The changes they made in this amendment are very positive. The amendment moves in the right direction.

However, it must be made clear this amendment targets one narrow aspect of the concerns of this bill, and, in fact, there are still some issues in that aspect. Specifically, employers are going to have a very difficult problem figuring out whether they are a direct participant or whether they fall under the designated decisionmaker safe harbor.

There are issues within this narrow issue that are very significant.

The greater issues on the question of liability still remain very viable. It is of serious concern to those of us who look at this as extremely expensive legislation in the sense it will drive up health care costs and result in a lot of people losing their health insurance. Employers will drop the health insurance because of the liability aspects being thrown at employers in this bill and the costs employers simply are not going to bear. They will drop health insurance or reduce the quality of health insurance.

The estimates of CBO are in the range of 3.1 million, and OMB estimates are in the range of 1 million to 4 million people will lose health care. I think it will be literally tens of millions of people who will see the quality of their health care insurance degraded as their employers start to adjust.

As to this specific amendment, which is the narrow amendment, not an expansive amendment, the movement by the Senators from Maine and Ohio is to be congratulated. I thank them for it.
I yield back my time, and I yield the floor.

The PRESIDING OFFICER. Time is yielded back. The question is on agreeing to amendment No. 834, as modified. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

The result was announced—yeas 96, nays 4, as follows:

[Rollcall Vote No. 205 Leg.]

YEAS—96

Akaka  Domenici  Lott
Allen  Dorgan  Lugar
Baucus  Edwards  McConnell
Bayh  Ensign  Mikulski
Bennett  Enzi  Miller
Biden  Feingold  Murkowski
Bingaman  Feinstein  Murray
Bond  Fitzgerald  Nelson (FL)
Boxer  Frist  Nelson (NE)
Breaux  Graham  Reed
Brownback  Gramm  Reid
Bunning  Gregg  Roberts
Burns  Hazel  Rockefeller
Byrd  Harkin  Santorum
Campbell  Harkin  Sarbanes
Cantwell  Helms  Schumaker
Carnahan  Hutchinson  Sessions
Carper  Hutchinson  Shelby
Chafee  Inhofe  Smith (NH)
Cleland  Inouye  Smith (OR)
Clinton  Johnson  Stern
Cooper  Johnson  Specter
Collins  Kennedy  Stabenow
Conrad  Kerry  Stevens
Corzine  Klobuchar  Thomas
Craig  Kyl  Thurmond
Crapo  Landrieu  Torricelli
Daschle  Leahy  Voinovich
Dayton  Levin  Warner
DeWine  Lieberman  Wellstone
Dodd  Lincoln  Wyden

NAYS—4

Grassley  Nickles  Thompson
Hollings

The amendment (No. 834), as modified, was agreed to.

Mr. ENZI. Madam President, I move to reconsider the vote.

Mr. REID. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER (Ms. STABENOW). There are now 2 minutes equally divided on the Enzi amendment.

The Senator from Wyoming is recognized.

AMENDMENT NO. 850

Mr. ENZI. Madam President, under the amendment we just agreed to, we made some progress on handling liability. But there is a group of businesses that were left out. You will never hear me in this Chamber talk about big businesses. I always talk about the small ones. None of these is headquartered in Wyoming. But I am compelled to put in an amendment that will take care of a major problem which will take care of health care at the level they know it for 80 million people in the U.S. who work for the big, self-insured, self-administered companies, such as Hewlett-Packard, Caterpillar, Wal-Mart, and Pitney Bowes. None of those is in my State.

This provides an option to allow one of two ways of providing insurance to their people so individuals can get the right to sue if they want that right or they can stay with the plan which they presently get all the benefits from without any difficulty. This provides that option for them.

This is providing an option so that the company can avoid liability by providing a liability option for their people.

I ask for your support on this amendment to clear up what the people in your State need.

I also believe it is my right to divide the amendment on page 3, line 18.

The PRESIDING OFFICER. The amendment is so divided.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Madam President, let me just mention what this amendment is all about.

If an employer gives options to any employee, it can offer a program that is very inferior or it can provide a voucher that is inferior. You can’t buy a good health insurance policy. If it offers those two options to any employee, and that employee denies it, then the employee who stays with that company is virtually excluded from bringing any action against the employer, no matter how involved the employer is in making medical decisions that can cause adverse reaction to that employee—either death or injury.

That is a lousy choice. This is an option many companies will take. It will be at the expense of the employees. They can get two inferior options. If they reject it and stay with the company, they are excluded from the benefits and the protections of this bill. It is going to open up a great exclusion for millions of hard-working Americans and their families. It should be rejected.

Mr. ENZI. Madam President, I present the yeas and nays.

The PRESIDING OFFICER. The yeas and nays have already been ordered.

The question occurs on division I.

The Senator from Nevada.

Mr. REID. Madam President, I move to table the whole amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. The yeas and nays have been ordered.

Mr. GREGG. Madam President, parliament inquiry: As I understand it, the question was divided. Is this a motion to table on the first part?

Mr. REID. Yes. That is true.

The PRESIDING OFFICER. That is correct.

Mr. GREGG. I thank the Chair.

The PRESIDING OFFICER. The question is on the motion to table division I.

The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

The result was announced—yeas 55, nays 45, as follows:

[Rollcall Vote No. 206 Leg.]

YEAS—55

Carnahan  Carper  Chafee  Clinton  Conrad  Daschle  Dayton  Durbin  Edwards  Feingold  Fitzgerald

NAYS—45

Allard  Allen  Bennett  Burns  Brownback  Burns  Campbell  Cochran  Collins  Craig  Craig  DeWine  Domenici  Ensign

The motion was agreed to.

Mr. KENNEDY. Madam President, I move to reconsider the vote.

Mr. REID. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 840 DIVISION II WITHDRAWN

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. Madam President, I ask unanimous consent to withdraw division II of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The majority leader.

Mr. DASCHLE. Madam President, I announce to our colleagues that this will be the last vote of the evening. We will begin voting tomorrow morning at 9 o'clock on a series of votes on amendments that will be offered this evening. There is one more vote, but after that there will be no more notes.

AMENDMENT NO. 844

The PRESIDING OFFICER. There are 2 minutes now evenly divided on the Specter amendment.

Who yields time? Who seeks time?

The Senator from Pennsylvania.

Mr. SPECTER. Madam President, this amendment provides for exclusive jurisdiction in the Federal courts. Under the bill, there would be jurisdiction in the Federal courts for interpretation of the contract’s coverage or what is referred to as “quantity of medical care”, and jurisdiction in the State courts for what is called medical malpractice or “quality of care.” That means that for a plaintiff to bring a claim, they would have to go into two courts, enormously more expensive, and it would involve removal to the Federal courts and bouncing back and forth.

This amendment gives due deference to the States by using any State caps which are in effect and provides for State law on the computation of damages. With the life tenure of Federal
The amendment (No. 844) was rejected.

Mr. KENNEDY. I move to reconsider the vote.

Mr. SANTORUM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

(Mr. DURBIN assumed the chair.)

Mr. KENNEDY. Mr. President, in just a few moments, I believe there will be a request from the floor leader to outline a series of amendments to consider and outline the order in which to take them up this evening, with disposition of those on the morrow.

It is not the intention, as we have gone through amendments, to second degree them. We are not prepared to say that until we have an opportunity to see those amendments. We are trying to work through the amendments at the present moment. If we can get started on the discussion, and then in a few moments time when we have a chance to see each of the amendments, we can come back with the leadership proposal for an agreement on the order this evening.

Mr. GREGG. Mr. President, we are ready to enter into an agreement relative to time and reserve the issue of second-degree amendments until the Democratic leader has had the opportunity to review the amendments. If we can get some locked in, that will be very helpful.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, the amendment is so modified.

The amendment (No. 833), as modified, is as follows:

AMENDMENT NO. 833, AS MODIFIED

Mr. WARNER. Mr. President, I send to the desk a modification to that amendment.

The PRESIDING OFFICER. The amendment is so modified.

The amendment (No. 833), as modified, is as follows:

On page 154, between lines 2 and 3, insert the following:

(A) Nothing in paragraph (1) shall be construed to require the court to enter into an agreement relative to the time and order of the amendments to consider and outline the order of amendments to this bill. The court shall enter into an agreement relative to the time and order of the amendments to consider and outline the order of amendments to this bill. The court shall enter into an agreement relative to the time and order of the amendments to consider and outline the order of amendments to this bill.

On page 170, between lines 22 and 23, insert the following:

(A) The court may use the reasonableness factors set forth in section 502(n)(11) of the Fairness in Class Actions Act of 2001, as amended. The court may use the reasonableness factors set forth in section 502(n)(11) of the Fairness in Class Actions Act of 2001, as amended.

(C) EQUITABLE DISCRETION.—A court in its discretion may make findings of fact that are in the interests of justice to determine the amount of the attorney’s fee.

(D) NO PREEMPTION OF STRICTER STATE LAW.—Subparagraph (A) shall not apply with respect to a cause of action under paragraph (1) that is brought in a State that has a more restrictive law with respect to the amount of an attorney’s contingency fee that may be charged for the representation of a participant or beneficiary (or the estate of such participant or beneficiary) who brings such a cause of action under this section.
AMENDMENT NO. 842

(Purpose: To limit class actions to a single plan)

Mr. DEWINE. Mr. President, I have an amendment at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Ohio [Mr. DeWine] proposes an amendment numbered 842.

Mr. DEWINE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 171, between lines 14 and 15, insert the following:

SEC. 303. LIMITATION ON CERTAIN CLASS ACTION LITIGATION.

(a) ERISA.—Section 502 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132), as amended by section 302, is further amended by adding at the end the following:

''(2) LIMITATION ON CLASS ACTION LITIGATION.—

''(1) In general.—Any claim or cause of action that is maintained under this section in connection with a group health plan, or health insurance coverage issued in connection with a group health plan, as a class action, derivative action, or as an action on behalf of any group of claimants, may be maintained only if the class, the derivative claimant, or the group of claimants is limited to the participants or beneficiaries of a group health plan established by only 1 plan sponsor. No action maintained by such class, such derivative claimant, or such group of claimants may be joined in the same proceeding with any action maintained by another class, derivative action, or as an action on behalf of a group health plan, as a class action, derivative action, or as an action on behalf of any group of more than 2 or more claimants, may be maintained only if the class, the derivative claimant, or the group of claimants is limited to the participants or beneficiaries of a group health plan established by only 1 plan sponsor. Any such action shall be brought only if the action seeks relief concerning the manner in which any person has marketed, provided information concerning, established, administered, or otherwise operated a group health plan, or health insurance coverage issued in connection with a group health plan. Any such action shall be brought only if the action seeks relief concerning the manner in which any person has marketed, provided information concerning, established, administered, or otherwise operated a group health plan, or health insurance coverage issued in connection with a group health plan. Any such action shall be brought only if the action seeks''.

''(B) Subparagraph (A) shall apply to private civil actions that are filed on or after January 1, 2002."

Mr. DEWINE. Mr. President, I allowed the clerk to read because I wanted my colleagues to hear the essence of the amendment. It is a very simple amendment.

My amendment in a very rational way limits class action suits that could be filed as a result of this bill. The goal of the patient protection legislation under consideration, both the McCain-Kennedy bill and the Frist-Breaux-Jeffords bill, is, of course, to protect patients. We cannot be unmindful of the cost. Obviously, we have to be concerned about the cost, and we have to worry if any parts of this bill do in fact drive up the cost. But ultimately this will impact how many employers do in fact offer health insurance. It is something with which we have to be concerned.

I believe my amendment offers a very simple way to cut all these increased costs. The problem is that the underlying bill will increase the cost of health care because the bill currently contains no language to limit the scope of class action lawsuits. This very possibility could lead to increases in the filing of onerous, burdensome, costly class action suits.

My amendment ensures that class action lawsuits are used in a very responsible way. I think my colleagues would agree that class actions can be very effective and can be used as a valuable tool to achieve justice.

As we also know, unfortunately, these suits sometimes are subject to abuse. That is why I believe we need to limit the target of these class actions. That is what my amendment does.

The reality is that within every company there exists unique relationships between the company, the employees, and the health care plans. Because of that, it is impossible to compare different companies that happen to offer similar health care plans. The fact is that every company negotiates every plan contract differently. There may be similarities. Every situation is obviously different.

Now, at the same time, employees within the same company, with the same health care plan, who suffer the same way as a result of being denied entitled benefits, should have the right to band together to form a class and to file suit. That is why our amendment would recognize class actions within one company against one plan.

Our language essentially says this: One employer, one health care plan, one class action suit. It is that simple. Here is how our amendment works if adopted. Suppose Ford Motor Company offers its employees the hypothetical Aetna Health Care Plan A. General Motors has this plan. Assume, also, that Chrysler has the same plan. Now, if an employee at Ford have reason to band together to form a class action suit against Aetna because they all believe they suffered harm because of the same denial in entitled benefits, they can go
ahead under our amendment and do that. Similarly, if employees at GM or Chrysler also believe they have suffered as a result of denial of the same benefits, GM and Chrysler employees can file their own class actions against Aetna. But employees at Ford, GM, and Chrysler cannot join together in one suit against the health care provider.

This means class actions would be limited to employees within one company against one health care plan. Ultimately, we need this because abuse of class action lawsuits is not a road to assuring access to quality health care. If we want the bill before the Senate not to add unnecessary litigation and costs, I encourage my colleagues to adopt this amendment.

I reserve the remainder of my time. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. MCCAIN. I repeat the request for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. REID. If the Senator from Ohio wishes the yeas and nays, we would be happy to give those to him with the agreement that we will vote tomorrow.

Mr. DeWINE. I renew my request for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Are Senators prepared to yield back time on the amendment?

Mr. DeWINE. I believe we have an understanding to reserve several minutes tomorrow morning for summation.

Mr. EDWARDS. Mr. President, there are a couple of issues—and I have just seen this amendment—a couple of issues I would like to address.

One, the entire Patients' Bill of Rights is about treating everybody the same. This, of course, carves out a special treatment for HMOs on the issue of accountability.

Second, this amendment makes a special exception under RICO for HMOs and under rules of procedure.

Third, it has been some time since I looked at the rules, I confess, but I seem to recall under class action law, rule 23 of the Federal Rules of Civil Procedure, there is a numerosity requirement, that you have to have a sufficient number of employees involved to satisfy the class action requirement, and I am not sure under the language the Senator has drafted that would be possible because I believe, if I understand the Senator’s amendment correctly, he has limited it to one employer for purposes of class actions.

Mr. DeWINE. Obviously, the amendment does not change what the rules say about the number of people required for a class action. The Senator is correct; it does limit it to one company.

Mr. EDWARDS. I thank the Senator for his answer.

There is at least a serious question about that and we would need to go back and look. Under the Class Action Rules of Civil Procedure, it is my recollection that a numerosity requirement means a class action has to be of sufficient size to be able to be certified as a class action, and I am not certain, if you limit the actions to one employer, that you don’t effectively eliminate the possibility of a class action. It is on because that requirement cannot be met.

I confess to the Senator, that is from memory, and I will have to go back and look to be certain.

I have concerns about the fundamental question that the principle of this legislation is that we treat HMOs, for accountability purposes, as everyone else. And the notion of doing something specifically to protect them from class actions and to limit class actions under the RICO statute because that requirement cannot be met.

I tell the Senator, that is from memory, and I will have to go back and look to be certain.

I yield the floor.

The PRESIDING OFFICER. Do the Senators yield back time?

Mr. DeWINE. I inquire, how much time remains?

The PRESIDING OFFICER. The Senator has 2 minutes remaining.

Mr. DeWINE. I will respond to my colleague’s comments. He is closer to the courtroom in time than I am, and it has been many years since I have practiced law.

What this comes down to is that we are creating new opportunities for lawsuits, obviously, in this bill. What we are about is a balancing test, a balancing question. It is a matter of public policy. We have to decide. As we create new causes of action, new opportunities to file lawsuits, I think it is legitimate to look around and say: How expansive do we want to allow class actions to be under this new cause of action?

It seems to me language we have included, which is basically—basically, I say—what was in the Frist bill originally, is a rational way to do it. It doesn’t ban class actions but basically says we are going to limit them. I think it is a balancing test and Members are going to have to make their own decision whether they think it is worth providing people with the opportunity to have nationwide class actions. Candidly, with the tremendous cost this is probably going to incur, that ultimately is going to be paid and ultimately going to drive up health care costs. I think Members have to make that decision.

I yield the remainder of my time.

The PRESIDING OFFICER. The Senator from Ohio yields the remainder of his time. The Senator from North Carolina has 10 minutes and 48 seconds.

Mr. EDWARDS. If I may respond briefly to the comments of my colleague, the one issue he did not address, at least in his last answer—he may have discussed it earlier—is the issue of civil RICO. I believe I am correct in saying there are some State medical societies that have pending actions against them, civil RICO actions against HMOs, where they believe, ostensibly, if that statute have been met and there have been improper and illegal activities by the HMOs. Particularly as we go forward, if any State medical society believes those problems continue to exist, they may request that they themselves do the civil RICO statute, a law that exists in part for that purpose.

Again, the trouble would be we are carving out special treatment for HMOs. Having said that, I do not disagree with the fundamental principle that is part of this process; it is public policymaking. We hope to balance the interests on both sides. I think that notion makes sense. My concern is we are carving out the HMOs from this particular statute when we are not carving anyone else out from this particular statute.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. DeWINE. Just to respond to my colleague—and I do appreciate his comments about RICO—again it is a balancing question each Member is going to have to decide.

Just to clarify things, I want to make it clear, the way this is drafted, we do not affect any pending issues, so those suits would not in any way be affected.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. EDWARDS. Mr. President, I yield my time?

Mr. DeWINE. I wonder if I may inquire whether or not there was a unanimous consent as far as a vote tomorrow morning at any time?

The PRESIDING OFFICER. There was no consent.

The Senator from Nevada.

Mr. REID. Senator Grassley, who has indicated we are going to come in at 9 o’clock in the morning and start voting. The first vote will be 15 minutes, and if there are other votes stacked, which I am confident there will be, there will be 10-minute votes on whatever is debated tonight. There is 10 minutes for the subsequent votes. There would be 4 minutes between each vote to debate.

Mr. DeWINE. Would that include the first vote?

Mr. REID. Yes.

Mr. DeWINE. So we would have in the morning then 4 minutes evenly divided prior to the first vote?

Mr. REID. That is right.

Mr. DeWINE. I yield the floor and thank my colleague from Nevada.

Mr. EDWARDS. We yield the remainder of our time.

The PRESIDING OFFICER. All time has been yielded back. Under the unanimous consent agreement, the Senator from Iowa, Mr. Grassley, is recognized.
Mr. GRASSLEY. Mr. President, I yield myself such time as I might consume.

The PRESIDING OFFICER. Is the Senator sending an amendment to the desk?

AMENDMENT NO. 86

Mr. GRASSLEY. I send an amendment to the desk and ask for its immediate consideration.

The legislative clerk read as follows:

The Senator from Iowa [Mr. GRASSLEY] proposes an amendment numbered 86.

Mr. GRASSLEY. 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 strike provisions relating to customs user fees and Medicare payment delay)

On page 179, strike lines 1 through 14.

Mr. GRASSLEY. Mr. President, I think three times during the debate on this bill I have been trying to make the point that bringing this bill to the floor usurped the consideration of the Senate Finance Committee of two provisions in the bill and another provision that ought to be in the bill that is not in the bill. My amendment today deals with striking sections 502 and 503. It is another way of my saying, as I tried to in an amendment 2 days ago on this legislation, to the Finance Committee, that people writing this legislation ought to keep their hands off subject matter that comes within the jurisdiction of the Senate Finance Committee. If people are writing a piece of legislation that comes out of Health, Education, Labor, they ought to find sources of revenue out of programs within their own jurisdiction to fund bills that they think up, rather than robbing another committee. That is bad policy. That is bad law.

I am opposed to both provisions on jurisdictional grounds because they are within the control of the Finance Committee, not the Health, Education, Labor, and Pensions Committee. But I also want to make it very clear it is not just jurisdictional, I also have concerns about what it does to policy, dealing with customs on the one hand and Medicare on the other hand. I want to review each of these in turn.

Section 502 of the bill extends the customs user fees from the year 2003 to 2011. This generates $7 billion over 8 years of the total revenue that it takes to fund this piece of legislation.

When Congress authorized these customs user fees, the avowed purpose was to underwrite the costs of customs commercial operations. But today in this bill, the fees are not being used for customs. They are being used to offset the cost of the Patients’ Bill of Rights to the tune of $7 billion. I think this is unacceptable and violates the comity that one committee ought to have towards the other.

It also is unacceptable because when you have constituents who pay customs user fees for the purpose of having an efficient and effective operation of the Customs Service, so you can enter this country in an expeditious way, for those fees not to be used for what they were intended—for expedited entry to the country, to police illegal entry to the country, to police illegal drugs coming into the country, generally to make the customs agency’s personnel more efficient and better able to do their job so the United States can protect its borders the way it should— if these fees are extended, and I want to emphasize the word “if,” they should be extended in a thoughtful way, not as some budget trick to make the costs of this bill fit within the confines of the Federal budget.

I am not the only one who thinks so. I have received numerous letters from companies, from associations that are very concerned about this—Liz Claiborne Inc., the National Association of Foreign Trade Zones, the Joint Industry Group, the National Retail Federation, the American Electronics Association, and also a memo from the U.S. Customs Service. They are all raising concerns because these are folks who pay, this is a fee that is meant to pay for bringing things into the country. They believe since the Customs Service is so outdated, so slow moving, not working in an expeditious way, this revenue ought to be used for the improvements to this operation that were anticipated when these fees were put in place. I ask unanimous consent these letters and memos be printed in the RECORD.

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

Liz Claiborne Inc.,

Hon. CHARLES E. GRASSLEY,
U.S. Senate, Senate Office Building,
Washington, DC.

DEAR SENATOR GRASSLEY. We write in opposition to a provision in the Patients’ Bill of Rights which would extend the merchandise processing fee, or “mpf,” for eight additional years. This is a trade-related measure, a user fee levied against importers like ourselves, that has no place in this legislation. We ask you to support efforts to delete the provision entirely.

Firstly by way of background, the merchandise processing fee is an ad valorem fee levied against each import transaction, or “entry.” When it was passed 15 years ago, it was done so with the avowed purpose of underwriting the costs of commercial operations at the U.S. Customs Service. In fact, however, it has never been used for that purpose. Instead, money collected has been diverted to the general fund and act as a revenue source to balance the costs of other governmental programs. As of FY2001, the trade community has paid nearly $7.2 billion for merchandise processing, an amount far exceeding Customs’ commercial operations budget.

In truth, the fee is really a tax on US imports and foreign suppliers. It is a tax that has been collected illegally under GATT and World Trade Organization (WTO) rules. And at the same time, the fee is being fraudulently called a “user fee.” Now, under the terms of Section 1052, all pretense has been dropped and it is being offered as an offset to the costs of the Patients’ Bill of Rights.

The fee is indeed due for renewal by 2003 and it is the trade communities’ intention to seek its termination. While, before, the nation was experiencing a serious deficit, the reasons for its passage have since disappeared. Now, it is simply a tax on American citizens who buy imported products, whose price is inflated by the mpf. It is unconscionable to continue to tax Americans in this manner and we intend to seek repeal in the appropriate committee jurisdiction.

In the meantime, however, we ask that you assist us in removing the mpf funding from the Patient’s Bill of Rights. Its extension is an example of how the merchandise processing fee has no place in this debate. The fee will not be viewed on the merits in these proceedings, but is instead being used—cynically—as a “pay-for” a totally unrelated program.

Sincerely,
FRANK KELLY,
Vice President, International Trade Compliance and Government Affairs.

NATIONAL ASSOCIATION OF FOREIGN TRADE ZONES,

Hon. CHARLES GRASSLEY,
Hurt Senate Office Building,
Washington, DC.

DEAR SENATOR GRASSLEY. The National Association of Foreign-Trade Zones (NAFTZ) has learned that S. 672, Sec. 602 the “Bipartisan Patient Protection Act” contains language for the extension of the Merchandise Processing Fee (MPF) through 2011. Congress established the fee to offset the cost of the commercial operations of the U.S. Customs Service. Not only does the proposed legislation continue the practice of allocating the MPF to the general fund of the U.S. Treasury with no relationship to the purpose of the fee, it completely eliminates the relationship of the fee to the Customs Service. We have serious reservations as to whether this is permissible through the General Agreement on Tariffs and Trade, and the World Trade Organization.

The MPF is not opposed to the imposition of a fee for services rendered. We do believe, however, that any such fee must correlate to a discernible cost associated with the service provided. Congress is concerned that at a time when Congress is struggling to find the necessary funding to cover the cost of the modernization of the Service, that funds already designated by Congress for that purpose are being diverted.

Since the purpose of the MPF, as established by Congress, is to fund the commercial operations of the U.S. Customs Service, we are strongly opposed to any extension of the MPF without designating the revenue to that intended purpose and we respectfully request that you drop the merchandise processing fee extension from S. 672.

Thank you for your attention and consideration of our views. If you have any questions, please feel free to contact me.

Sincerely,
RANDY P. CAMPBELL,
Executive Director.

Joint Industry Group,
June 20, 2001, Washington, DC.

Hon. JOHN MCCAIN,
U.S. Senate, Russell Senate Office Building,
Washington, DC.

DEAR SENATOR MCCAIN. The Joint Industry Group (JIG) expresses our opposition to a provision in the Bipartisan Patient Protection Act (S. 1052) that would automatically extend the U.S. Customs user fee from 2003 to 2011 (Sec. 502). This would remove any near-term opportunity to debate whether the fee should be continued or
whether an extension could be earmarked specifically for modernizing U.S. Customs operations.

JIG is a coalition of more than 180 companies, industry associations, professionals and businesses actively involved in international trade. We both examine and reflect the concerns of the business community relative to current and proposed international trade-related policies, actions, legislation, and regulations. We undertake to improve policies and procedures through dialogue with government agencies and the Congress. The Joint Industry Group represents over $350 billion in trade.

JIG members account for millions of dollars paid yearly in merchandise processing fees (MPF). Every year, Customs collects over $1 billion from companies importing goods into the United States. Additionally, companies are burdened by administrative costs associated with the fee, since Customs imposes complex reporting and accounting requirements on companies in the course of collecting fee payments. All this is occurring at a time when tariffs on products are declining and approaching zero.

If the Customs Service is to continue collecting this user fee it MUST directly fund improvements to Customs processing, specifically the Automated Commercial Environment (ACE) and other U.S. Customs initiatives that are greatly needed to improve the trade process. Improving Customs' ability to handle trade will become more critical as the amount of commerce entering the United States is expected to continue its double-digit rate of growth. While Section 502 of S. 1052 does not earmark user fees for health care purposes, it does use the fees as a de facto justification for the revenue neutrality of the bill. JIG is greatly concerned that this approach will prevent user fees from being applied to required operational improvements in the U.S. Customs Service for which they are intended.

Use of the fee to offset the revenue impact of S. 1052 could also increase potential for a WTO dispute. In the late 1980's, a GATT panel found that the user fee was GATT-illegal because it was being collected in amounts exceeding the cost of Customs processing. While the U.S. addressed that problem by placing certain caps on the fee, it was clear from the panel's findings that the linkage of the fee to the cost of Customs commercial operations is of seminal importance to the question of GATT legality. If our trading partners believe customs user fees are being used to achieve health care related goals, another GATT challenge could well surface in the WTO.

For the reasons cited above, JIG would usefully extend the customs user fee for health care purposes. We believe that linkage of the fee to the cost of Customs' operations is against the rules of the World Trade Organization.

For the reasons stated, AEA urges you to remove the customs user fee from S. 1052. This Patient Protection Act is an inappropriate forum for extending the custom user fee. If you have any questions about our views on this issue or wish to discuss the matter further, please contact me at 202-622-4223.

Sincerely,

TIM BENNETT,
AEA Senior Vice President International.

U.S. Senator From New York

(From the Executive Office of the President,
Office of Management and Budget, June 21, 2001)

STATEMENT OF ADMINISTRATION POLICY

This statement has been coordinated by OMB with the concerned agencies.

S. 1052—Bipartisan Patient Protection Act

The President's principles emphasized the importance of providing patients who have

NATIONAL RETAIL FEDERATION,
Liberty Place,

Hon. Chuck Grassley, Ranking Member, U.S. Senate Committee on Finance, Dirksen Bldg., Washington, DC.

DEAR SHERWOOD GRASSLEY:

The National Retail Federation (NRF) was surprised to learn that section 502 of the Bipartisan Pa-

June 28, 2001
CONGRESSIONAL RECORD—SENATE
S7059

AIA,

Hon. Chuck Grassley,
Hart Senate Office Building,
Washington, D.C.

DEAR SHERWOOD GRASSLEY:

As a leading trade association, the National Retail Federation (NRF) supports passage of a patients’ bill of rights this year and has been working with members of both parties to ensure that the Administration forge a compromise. Congress has been divided on this issue for far too long at the expense of patients and the U.S. economy especially at a time when the Administration urges Congress to pass a strong patients’ bill of rights this year that provides meaningful protections for patients, not a windfall for trial lawyers or a threat to Americans’ ability to obtain and afford quality health care. On February 7, 2001, the President transmitted to Congress his principles for a bipartisan patients’ bill of rights to urge Congress to move quickly on this important issue.

The President’s principles called for passage of a patients’ bill of rights that ensures all Americans enjoy strong patient protections, including: access to emergency room and specialty care; direct access to obstetricians, gynecologists, and pediatricians; access to needed prescription drugs and approved clinical trials; access to health plan information; a prohibition of “gag clauses” protecting doctors; consumer choice provisions; and continuity of care protections. The President also recognizes, however, that many States have strong patient protection laws already, some of which have been in force for over a decade. To the extent possible, a Federal patients’ bill of rights should give deference to these effective State laws.

The President’s principles emphasized the importance of providing patients who have


in custom user fees. In addition, there are additional administrative costs associated with the fee, since customs authorities impose complex reporting and accounting requirements on importers in the course of collecting the user fee payments. An unexpected, eight-year extension of the user fee, with its associated administrative costs, would impose an unwelcome and unnecessary additional cost burden on our industry.

While section 502 of S. 1052 does not earmark the user fee for health care purposes, it does use the fee as de facto justification for the revenue neutrality of the bill. We believe this provision introduces the potential that the customs user fee could be used to fund health care-related goals, another GATT challenge could well surface in the WTO.

For the reasons stated, AEA urges you to remove the customs user fee from S. 1052. This Patient Protection Act is an inappropriate forum for extending the custom user fee. If you have any questions about our views on this issue or wish to discuss the matter further, please contact me at 202-622-4223.

Sincerely,

TIM BENNETT, AEA Senior Vice President International.
been denied medical care with the right to a fair, prompt, and independent medical review, which will ensure that disputes are resolved quickly and inexpensively and that patients receive the quality care they deserve.

The President stated that only after this independent review decision is rendered should we resort to the costlier, time-consuming remedy of litigation in Federal courts to ensure that health plans are held liable for their actions.

The President’s principles also reminded Congress of the necessity of avoiding unnecessary and frivolous lawsuits, which will only add to costs and leave millions of individuals without insurance coverage. S. 1052 will significantly increase health insurance premiums and the number of uninsured. According to the Congressional Budget Office, health insurance premiums under S. 1052 as originally drafted would increase by over 4 percent. If the effects of litigation risk on the practice of medicine and of the re-duced ability of health plans to negotiate lower rates were included, CBO’s estimated cost impact could be much higher, by 4–5 percent. The President also noted that employers and unions are already facing in 2001. Further, leading economists have predicted that employers and unions would have to appropriate at least $5 million cap on punitive damages.

Moreover, S. 1052 would subject employers and unions to frequent litigation in State and Federal court under a vague “direct participation” standard. It would require employers and unions to defend themselves in court in virtually every case against allegations that they “directly participated” in a deliberate course of action whose determinations are inherently fact-specific, any such allegation will force a costly and time-consuming court process and result in varying State interpretations of “direct participation,” forcing employers to adhere to different standards in every State.

S. 1052 fails to provide a fair and comprehensive remedy to all patients. The President believes the new Federal law should establish a comprehensive set of rights and remedies for patients. S. 1052 instead encourages costly litigation by providing no effective limitations on frivolous class action suits and allows trial lawyers to go on fish-ing expeditions to seek remedies under other Federal statutes.

S. 1052 subjects physicians and all health care professionals to greater liability risk. S. 1052 woefully under provides for physicians and all health care professionals in State courts well beyond traditional medical malpractice by permitting new, undefined causes of action in State courts over denials of medical benefits. This expanded litigation against physicians and all health professionals will create an opportunity for expanded State medical malpractice caps that may not apply to these new causes of action.

Extraneous User Fee Provision. The Administration objects to inclusion in S. 1052 to an extraneous revenue-raising provision (section 562), which extends for multiple years Customs charges on transportation, passengers, and merchandise arriving in the country.

PAY-AS-YOU-GO SCORING

S. 1052 would also have a scoring impact. therefore, it is subject to the pay-as-you-go requirement of the Omnibus Budget Reconciliation Act of 1990. OMB’s preliminary scoring estimate of the bill is under development.


Memorandum for James F. Sloan, Acting Under Secretary (Enforcement).

From: Acting Commissioner

Subject: Pay-As-You-Go Offset for the Patient Bill of Rights

Congress will soon consider passage of the Patient Bill of Rights. The Customs Service offers no opinion of the legislation. However, we would like to make clear potential impact on future Customs appropriations. Section 502 of the bill would extend our collection of COBRA fees from 2003 to 2011, but would not actually extend the time to implement this new legislation. Although we support extending the collection of COBRA fees, any scoring of the COBRA extension is extraneous. Any way, the ability to fund or offset Customs activities would likely cause a critical funding shortfall for the Customs Service.

Any scoring that would limit in any way the ability to fund or offset Customs activities would likely cause—cynically—as a “pay-as-you-go” requirement—would eliminate any legislative gains we have on the Customs Service and their problems tomorrow.

Are you concerned about drugs at our borders? Are you concerned about illegal transshipment of textiles, import restrictions on steel and lumber, and backup of trucks at our borders? If you vote for extending fees, there will be no committee consideration if Customs is using the fees for these or other Congressional priorities.

I would like to tell you that extending these fees will definitely have an impact on what we are able to do or not to do about modernization of the Customs agency and its operations around the borders of our country, even in the interior of the country where we have Customs operations.

I would like to read what the acting Customs Commissioner had to say about this. He wrote on June 20, this year:

Any scoring which would limit in any way the ability to fund or offset Customs activities would likely cause—cynically—as a “pay-as-you-go” requirement—would eliminate any legislative gains we have on the Customs Service.
Experience a critical funding shortfall when you want to get in and out of Chicago with some Customs operations and people are complaining because it takes so long to get it done because of a shortage of personnel and not having the type of equipment that we need to be there to help with efficient operation. Then you know that maybe you made the wrong decision when you took $7 billion out of Customs to do this. Also, I have a statement, which was submitted to the Record, from the President himself, dated June 2001, clearly opposing section 502 of the bill. I would like to raise one other issue, and that is it is not at all clear that using Customs user fees to offset revenue is consistent with the World Trade Organization rules.

Think about that. We are making a decision to take $7 billion out of Customs user fees under the jurisdiction of the Senate Finance Committee, and we may be doing this in a way that does not meet our obligation under the World Trade Organization. Under that organization, Customs fees are to be used as payments for Customs services, not as a source of general revenue to the Federal Government.

In a sense, as we would say to our constituents back home, you pay a gas tax, and we use the gas tax for transportation, to build highways. When people pay Customs fees, they pay those Customs fees for facilitating entry of product into the country and the policing of that entry of product into the country. A fee levied for a certain purpose ought to be used for that purpose or it might violate the WTO because it should not be a source of general revenue any more than taking money from the gas tax and putting it into the general fund of the United States.

Here is what the Customs Service writes on this issue:

The merchandise processing fee is a fee that is paid by importers for the processing of merchandise by the Customs Service. Directly or indirectly, the fee is to cover something other than Customs’ operations and could pose GATT interpretation issues.

While it is not clear that a WTO case would arise or that a challenge would be successful, it seems to me that this is a warning bell that should certainly be heard.

No Senator should vote against this motion to strike unless they are prepared to face the possibility of a WTO challenge and take responsibility accordingly.

We should strike this provision from the bill. Before blindly supporting section 502, we should have time to consider its broader implications.

I urge my colleagues to support this amendment to strike.

Turning to the other provision of their bill that my amendment strikes, section 503, that would delay payments to Medicare part B spending from fiscal year 2002 to fiscal year 2003 is simply a budget gimmick.

I am troubled by this provision because it comes within the jurisdiction of the Senate Finance Committee and also because we are trying to work to make Medicare a better program, not doing things to harm it.

First, I point to my colleagues that again the Finance Committee has jurisdiction, not the Committee on Health, Education, Labor and Pensions. It is the Finance Committee that authorizes and oversees the Medicare Program and the Federal agency that runs it, now known as the Center for Medicare Services.

It is the Finance Committee and not the Health, Education, Labor, and Pensions Committee that is in the best position to know how changes in the Medicare Program, such as this one-day payment delay in section 503 of this bill that will affect our senior citizens, will affect our health care providers and will affect the integrity of the Medicare trust fund.

With all due respect, when it comes to Medicare and Medicaid and other federal entitlement programs, it seems terribly ridiculous to ignore the committee that has the expertise in these programs, meaning the Senate Finance Committee.

The second reason that I am proposing to strike the Medicare payment delay in section 503 of the bill is that the delay itself, which may not seem serious to some, could actually have consequences for Medicare contractors and providers.

Delaying payments by one day and moving them into the next fiscal year just to finance this bill is fuzzy math, to say the least. But it unfairly subjects the already fragile Medicare Program and its health care contractors to accounting disruptions and to administrative uncertainties.

Medicare providers already have it hard enough just dealing with the Medicare Program as it stands today. They are overwhelmed by paperwork, confused by conflicting regulations, and frequently left hearing that “the check is in the mail.”

Can you imagine the Federal Government saying “the check is in the mail” when it comes to timely payments of their reimbursements?

Subjecting those providers to any additional delay, even if just for a short period of time, is simply unfair. We should not allow Medicare contractors and providers to do business with Medicare.

Think about it. No one wants to do business with late payers, and health care providers are no exception.

Think about it for a minute. No one wants to do business with late payers, and health care providers are no exception.

We should not be giving Medicare an additional opportunity to delay for one minute—let alone a longer period of time—their obligations to promptly pay providers.

For the last 3 months, Senator Baucus and I have been working hard to develop a Medicare reform proposal that strengthens and improves the program by adding prescription drug coverage and making the entire benefit package more modern.

Part of this bipartisan effort also includes an initiative to make Medicare more responsive and accountable to both seniors and providers. We want to take this message that they will be treated fairly and professionally by Medicare.

Unfortunately, the delay provision in section 503 does exactly the opposite. It seems entirely wrong to go through with our bipartisan effort to make Medicare a better business partner for today’s providers.

For these reasons, I cannot support the inclusion of section 503 in this bill. Neither 502 nor 503 belong in this bill. They are both outside the jurisdiction of the Finance Committee to work out if this isn’t a satisfactory way of dealing with this issue. It is basically a bookkeeping issue. There is a judgment that is made by CBO that the value of a wage package is “X,” and if you are going to guarantee additional kinds of benefits in terms of health care, then the wages are going to go down, which is going to mean less money in terms of Social Security.

This is actually a balance from the Budget Committee, but I believe it is a fallacy. We need to make sure that the bookkeeping will be balanced.

Tomorrow, we will hear from the chairman of the Budget Committee who will describe this and, at the appropriate time, make the point of order.

I point out, though, it is my understanding that this has no impact or effect on the Customs Service. They will still receive the money. If they want to spend the money on the Customs Service, they will still be able to do that. But it basically ensures that this is going to conform to the budget consideration. That is the reason that this was put in there. There will be sufficient time for the Finance Committee to make any other kinds of adjustments and changes.

To make it very clear, the resources that are collected in this are not going to pay for the bill. It is basically a bookkeeping issue to what will be anticipated to be the shortfall in terms of the payments under the CBO estimate of the wage package because of the enhanced value, which I think ought to
be encouraging for workers of their health benefits. So we will hear more from the Budget Committee tomorrow. At that time, the chairman of the Budget Committee will make a further comment, speaking for the Budget Committee. They are in support of our position.

Mr. GREGG. Is the Senator yielding back his time?

Mr. KENNEDY. I am glad to yield back the time.

The PRESIDING OFFICER. The Senator from Massachusetts yields back the remaining time on the Grassley amendment.

Mr. GRASSLEY. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. GREGG. I ask unanimous consent that this amendment and all amendments that have the yeas and nays ordered tonight be stacked for a vote tomorrow morning, with the appropriate time of 2 minutes to each side, or whatever is agreed to, before each amendment is voted on.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. GREGG. Mr. President, at this time I would like to outline the remainder of the evening, if acceptable to the parties, relative to our side, which would be that Senator SANTORUM would go next with his amendment. He would have 10 minutes; the Senator from California, Mrs. BOXER, would have 10 minutes. Then we would go to Senator NICKLES. He would have 10 minutes; and 10 minutes to whoever is in opposition. Senator BROWNBACK would come next. He would have an hour divided, as is traditional. And Senator ENSIGN would then follow with two amendments, the physician pro bono amendment and the genetic discrimination testing amendment.

I believe the Democratic membership has all these amendments. I would hope we could also agree there would be no second degrees.

Mr. KENNEDY. The Ensign amendment we have just received. I have no objection to the earlier request. I am sure we will agree with this, but we would like for that, as far as it being locked in in terms of no second-degree amendments, just to have an opportunity to——

Mr. GREGG. I would reserve my request on the second degrees relative to the Ensign amendments but ask unanimous consent that the unanimous consent agreement include that there be no second degrees on DeWine, Grassley, Nickles, Santorum, or Brownback.

The PRESIDING OFFICER. Is there objection?

The Chair hears none, and it is so ordered.

The Senator from Pennsylvania is recognized.

AMENDMENT NO. 814

Mr. SANTORUM. Mr. President, I have amendment No. 814 at the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Pennsylvania [Mr. SANTORUM], for himself, Mr. SMITH of New Hampshire, and Mr. DEWINE, proposes an amendment numbered 814.

Mr. SANTORUM. I ask unanimous consent reading of the amendment be dispensed.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To protect infants who are born alive)

On page 179, after line 14, add the following:

SEC. 8. DEFINITION OF BORN-ALIVE INFANT.

(a) In general.—Chapter 1 of title 1, United States Code, is amended by adding at the end the following new item:

‘‘8. ‘Person’, ‘human being’, ‘child’, and ‘individual’ as including born-alive infant—

‘‘(a) In determining the meaning of any Act of Congress, or of any ruling, regulation, or interpretation of the various administrative bureaus and agencies of the United States, the words ‘person’, ‘human being’, ‘child’, and ‘individual’, shall include every infant member of the species homo sapiens who is born alive at any stage of development.''

‘‘(b) As used in this section, the term ‘born alive’, with respect to a member of the species homo sapiens, means the complete expulsion or extraction from his or her mother of that member, at any stage of development, who after such expulsion or extraction breathes or has a beating heart, pulsation of the umbilical cord, or definite movement of voluntary muscles, regardless of whether the umbilical cord has been cut, and regardless of whether the expulsion or extraction occurs as a result of natural or induced labor, caesarean section, or induced abortion.

‘‘(c) Nothing in this section shall be construed to affirm, deny, expand, or contract any legal status or legal right applicable to any member of the species homo sapiens at any point prior to being born alive as defined in this section.’’.

(b) Clerical Amendment.—The table of sections at the beginning of chapter 1 of title 1, United States Code, is amended by adding at the end the following new item:

‘‘8. ‘Person’, ‘human being’, ‘child’, and ‘individual’ as including born-alive infant.’’

The PRESIDING OFFICER. Under the unanimous consent agreement, the Senator from Pennsylvania is recognized for 10 minutes.

Mr. SANTORUM. Mr. President, this is an amendment that I think really goes to the heart of this bill: Patient protection. This bill is purported to deal with trying to take care of patients. What this amendment does is make sure that every living human being is protected by this act as well as all other acts.

This is a very simple amendment that says—I am quoting from the amendment—

‘‘1. In determining the meaning of any Act of Congress, or of any ruling, regulation, or interpretation of the various administrative bureaus and agencies of the United States, the words ‘person’, ‘human being’, ‘child’, and ‘individual’, shall include every infant member of the species homo sapiens who is born alive at any stage of development.

That is a rather simple amendment. Obviously, I think unanimously that an amendment that should be broadly accepted.

The reason I offer this amendment is really twofold. No. 1 is the concern about how certain little children—little infants—are treated, particularly those who are born in abortion, an abortion that was not successful in the sense that the child was not killed before the child was delivered outside of the mother’s womb.

So what we want to do is make sure those children in particular, as well as others, are treated with the same dignity and are covered by the same laws as all other people in America.

There are, unfortunately, many disturbing examples of how these little children are not treated the same and not given the proper care and, frankly, the proper respect that is required under the laws that we have passed in this Congress.

I am going to use a couple of examples that were given by nurses in congressional testimonies.

Last year, we had testimony from Alisson Baker, who is a registered nurse, who witnessed three induced abortion survivor incidents. For one of them, she says:

I happened to walk into a “soiled utility room” and saw, lying on the metal counter, a fetus, naked, exposed and breathing, moving its arms and legs. The fetus was visibly alive, and was gasping for breath. I left to find the nurse who was caring for the patient and this fetus. When I asked her about the fetus, she said that she was so busy with the mother that she didn’t have time to wrap and place the [baby] in the warmer, and she asked if I would do that for her. Later I found out that the fetus was 22 weeks old, and had undergone a therapeutic abortion because it had been diagnosed with Down’s Syndrome. I did wrap the fetus and place him in a warmer and for 2½ hours he maintained a heartbeat, and then finally expired.

The second incident involved a 20-week-old fetus with spina bifida who lived for an hour and 40 minutes until she died.

She continued:

The third case occurred when a nurse with whom I was working was taking care of a mother waiting to deliver her 16 week Down’s Syndrome fetus. Again, I walked into the soiled utility room and the fetus was fully exposed, lying on the floor. I went to find the nurse who was caring for this mother and fetus, and she asked if I could help her by measuring and weighing the fetus for the charting and death certificate. When I went back into the soiled utility room, the fetus was moving its arms and legs. I then listened for a heartbeat, and noted that the fetus had a heartbeat. I wrapped the fetus and in 45 minutes the fetus finally expired.

We have other stories, disturbing stories of cases where children were born alive and basically discarded as trash in soiled utility closets or laying on tables fully exposed at a very tender age.

This is a story from Jill Stanek, another registered nurse:
One night, a nursing co-worker was taking an aborted Down’s Syndrome baby who was born alive to our那么 Utility Room because his parents did not want to hold him, and all the time, the baby was crying. I couldn’t bear the thought of this suffering child lying alone in a Soiled Utility Room, so I cradled and rocked him for the 45 minutes that he lived. He was 21 to 22 weeks old, weighed about ½ pound, and was about 10 inches long. He was too weak to move and very much expending any energy he had to breathe.

This is the current problem, and this is the reason we are introducing this legislation. Frankly, I have concerns that this may be even more of a problem in the future based on court decisions. The court decision I refer to is the recent decision by the U.S. Supreme Court in the Nebraska partial-birth case. In that case, in a concurring opinion, two Justices said two things: One, Justice Stevens with Justice Ginsburg concurring, and the other, Justice Ginsburg with Justice Stevens concurring. I am going to quote two things that should send a chill down the spines of people here when it comes to what the future could have in store for us if we do not pass legislation such as this.

This is what Justice Stevens said in this decision:

The holding [of Roe]—that the word “liberty” in the 14th Amendment includes a woman’s right to make this difficult and extremely personal decision—makes it impossible for me to understand how a State has any legitimate interest in requiring a doctor to follow any procedure other than the one he or she reasonably believes will best protect the woman in her exercise of this constitutional liberty.

For the notion that either of these two equally gruesome [abortion] procedures performed at this late stage of gestation is more akin to infanticide than the other, or that the State furthers any legitimate interest by banning one or not the other, is simply irrational.

What that says very clearly is, according to these two Justices, that any procedure a doctor decides is in the best “health interest of the mother” can be used without question. So if the doctor believes the best way to safely perform this abortion is to deliver a live baby and then subsequently kill it because it is the safest way for the mother’s health to have that done, under this rationale, under this reasoning, that would be legitimate. I think we have to make it very clear to any judge, and certainly to any law that this is going to be used to justify killing a live baby, that this is no longer a health threat to the mother, and that we have a legitimate interest in protecting this child from being killed at that point or, shall we say, treat that child within the context of the law as we would treat any other child or any other person in America.

With that, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time in opposition?

The Senator from California.

Mrs. BOXER. Mr. President, my colleague, in his discussion of this amendment, attacked the landmark case of Roe v. Wade. He simply said, in the 1970s—and women have had the right since then—that in the early stages of a pregnancy, the government should play no role in the very personal, private, moral decision that a woman and her family must make. Roe would make without the interference of government. But his amendment certainly does not attack Roe in any way.

His amendment makes it very clear that nothing in this amendment gives any rights that are not yet afforded to a fetus. Therefore, I, as being a pro-choice Senator on this side, representing my colleagues here, have no problem whatsoever with this amendment. I feel good that we can, in fact, vote for this together. It is very rare that we can.

Simply put, this amendment says it all in its purpose: “To protect infants who are born alive. Of course, my colleague goes on to say that simple statement, which is very important, is in fact, he said, the heart of this bill. I think the heart of this bill is even more than that. The heart of this bill is, yes, protecting infants; it is also protecting mothers; protecting teenagers, protecting people as they get older, until they are very old and very frail and are fighting for their life. So this bill really should protect us all at every stage of our life, from the earliest days until the final days. I hope that my colleagues will join with us in supporting this Patients’ Bill of Rights because it does, in fact, protect all of us. And it will, in fact, give all of us at any stage, at any age, the quality health care that we need.

I can tell my friend, and I think I have mentioned it to him before and on the floor before, that I gave birth to two premature babies, one quite premature. And I can say right here and now that I will never, ever forget the experience of those doctors. This was a long time ago, I say to my friend; this was way back. Now my kids are taking care of me. And the doctor came in and said, my first answer was, before they could even take a cloth to clean him, ran him into the incubator where he had to stay for 1 month. Had I not had that kind of dedication from a pediatrician, that kind of concern, a hospital that knew at that time, if I didn’t have the money to pay the $1,000 a day that it costs—now it is way more than that—I don’t know if today I would have a beautiful healthy son who is married and the pride of our lives.

My daughter was also born premature, a similar circumstance, same thing—dedicated people, dedicated hospital, quality care.

I join in voting for this amendment, we are an elderly person who is all of us at every stage of our life deserve that kind of quality care. In other words, if my friend were to expand it and say every human being deserves quality health care, deserves, when they are in the hospital, to be protected, I would join with him as well. That is what I think the larger bill does do.

He believes it is necessary to single out infants. Fine, that is fine.

I say to my friend, in the chair that we will be voting for this amendment, I hope unanimously. If we have to have a recorded vote, that is fine. And we will state that we feel very strongly that every person deserves quality health care, deserves, when they are in the hospital, to be protected. I would join with him as well. That is what I think the larger bill does do.

If 100 people vote for this amendment, which I think will be the case, then 100 people should vote for the Patients’ Bill of Rights. Jugend will afford the families of those vulnerable infants and all of us the protections that we need against HMOs that sometimes put dollar signs ahead of our vital signs. That is wrong to do. Some of these babies are born into families who don’t have a lot of money, who don’t have a lot of power, who are going against HMOs where the CEO makes hundreds of millions of dollars. But they say: Gee, we are not going to give them the little baby’s needs. I had a case I talked about on the floor where a child was denied a medicine. She was 3 years old and had cancer. It was $54 for the medicine and the HMO denied that medicine. That child died, and we did not succeed in getting the money so we were not able to help that family. I heard my colleagues on the other side—some of them against this bill—
say: We can’t legislate by anecdote. Well, I have to tell you, when you hear one story, and then another and another, from people you never heard of, and you hold hearings and the people come out and tell the stories, then we know there is a need to pass this Patients’ Bill of Rights. So I would vote for this to protect the infants, and then I will vote to protect everyone in this country because everyone deserves protection from HMOs who put their bottom line ahead of people’s health.

The PRESIDING OFFICER (Mrs. FEINSTEIN). The Senator from Massachusetts is recognized.

Mr. KENNEDY. Madam President, I am going to urge the Senate to accept the amendment tomorrow. I think we have had a good discussion about it. I hope that we will move ahead and accept it. I am prepared, when the Senators yield the time or use the time, to do that.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. Madam President, I thank the Senator from California for her comments and support of this amendment. I ask for the yeas and nays on the amendment numbered 846.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second. The yeas and nays were ordered.

AMENDMENT NO. 846

Mr. NICKLES. 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 Oklahoma (Mr. NICKLES), for himself and Mr. ENSIGN, proposes an amendment numbered 846.

Mr. NICKLES. Madam President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To apply the bill to plans maintained pursuant to collective bargaining agreements beginning on the general effective date)

Beginning on page 173, strike line 19 and all that follows through line 14 on page 174, and insert the following:

(2) TREATMENT OF COLLECTIVE BARGAINING AGREEMENTS.—The amendments made by sections 201(a), 301, 302, and 303 (and title I insofar as it relates to such sections) shall apply to group health plans maintained pursuant to one or more collective bargaining agreements between employee representatives and one or more employers beginning on the general effective date.

Mr. NICKLES. Mr. President, I will be brief. I hope this amendment can be agreed to. In the underlying bill on page 173, it has “effective dates” for implementation of the legislation. The effective date for everybody, all plans in America is by October 1, 2002. So that is when all the plans in America will have to comply with this bill. They will have to have the patient protections in line, the appeals process, the liability sections—all are mandated to be effective by October 1 next year. That is about 14 months from now.

If you continue reading on page 173, you will find out that the plans that are covered by collective bargaining agreements are exempt. They are exempt from the legislation. It says they “shall not apply to plan years beginning before the later of—(A) the date on which the last collective bargaining agreements relating to the plan terminate.” Some of these plans may not terminate for months. Some may not terminate for years. As a matter of fact, looking at a couple of examples, one is the Plumbers and Pipefitters Union, with 2,200 employees, has a 128-month contract. It doesn’t expire until 2010. The International Union of Electric Workers, with 1,800 employees, has a 148-month contract that doesn’t expire until the year 2007. I could go on and on. There are lots of examples.

The point is that there are about 30 million lives that would be exempt from this bill for years. If we are going to make it apply to everybody else in the private sector, I think we should make it apply for collective bargaining plans as well.

There is also something else that is troubling to me. It says it would not apply until it terminates, and then the language says if they adopt these patient protections, that still doesn’t count as a plan termination, a collective bargaining agreement termination. So, in effect, even though a plan adopts it, it hasn’t terminated and, therefore, it is still not covered or enforced by the terms of this bill. I find that troubling. I also am troubled by the fact that when it says “relating to the plan terminates,” a lot of plans or contracts don’t terminate. They are renegotiated. So they never get to terminal. They are actually renegotiated and extended. That is well and good. That means there is peace and harmony and no labor shortages and so on.

My point is that it is very important for us not to be exempting 30 million workers who happen to be in collective bargaining agreements from the protections in these plans. If we are going to give these protections to 170 million workers in the private sector, in that 170 million are included 30 million who happen to be members of a collective bargaining agreement. They should have the patient protections that Congress is in the process of determining which are so vital for everybody else in the private sector. They should not be exempt because they happen to be members of the collective bargaining unit. We are asking every other plan in America to comply by October 1. Why would we not ask members of collective bargaining agreements to also comply?

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Some of these plans may not terminate for months. Some may not terminate for years. As a matter of fact, looking at a couple of examples, one is the Plumbers and Pipefitters Union, with 2,200 employees, has a 128-month contract. It doesn’t expire until 2010. The International Union of Electric Workers, with 1,800 employees, has a 148-month contract that doesn’t expire until the year 2007. I could go on and on. There are lots of examples.

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My point is that it is very important for us not to be exempting 30 million workers who happen to be in collective bargaining agreements from the protections in these plans. If we are going to give these protections to 170 million workers in the private sector, in that 170 million are included 30 million who happen to be members of a collective bargaining agreement. They should have the patient protections that Congress is in the process of determining which are so vital for everybody else in the private sector. They should not be exempt because they happen to be members of the collective bargaining unit. We are asking every other plan in America to comply by October 1. Why would we not ask members of collective bargaining agreements to also comply?

Mr. KENNEDY. Madam President, I direct my colleagues’ attention to the lines 15 and 16 on page 173. They talk about “for plan years.” That is an art of words that applies to insurance companies, and it says, “beginning on or after” plan years. As we know, the insurance starts generally at the first of every year. So with regard to insurance companies, the Senate is completely taking this next time around. The insurance companies because there are existing contracts.

We have heard a great deal in this debate about the sanctity of the HMO contract and how we are going to permit—in terms of the standards for the treatment of patients—they are going to be tied completely to the contract. I don’t know how many hours I listened to that. Now we see that we are respecting the contract in insurance and we expect the same—to respect the contract in terms of collective bargaining. It is simple as that.

This is boilerplate, Madam President. We did this in the HIPAA program, and there was no row about it. People understood. There was a normal transition, and we didn’t have objections at that particular time. So that is what we have done here. There are existing contracts in insurance, and we are not going to alter the plan to implement them. There are existing collective bargaining agreements. We are going to take it at the next time when they are going to be renegotiated because of the respect for the existing contracts.

So what is sauce for the goose should be sauce for the gander, Madam President, particularly when we are listening to so much about the importance of contracts and that we ought not interfere with them, even if it is going to be as a matter of medical necessity, and that we are going to be bound by them because they are so important and sacred. There is a sanctity of the contract.

I listened to that for 5 hours, and now we find out in the final hours of this that, oh no, that is not true regarding collective bargaining. We are going to interfere with ongoing collective bargaining agreement that does not make sense. This is what we have done at other times. It says insurance, generally, at the start of a year—some are longer and they will be respected in that way just as we do regarding collective bargaining agreements. This amendment will not be accepted.

Mr. NICKLES. Madam President, I appreciate my colleague’s statement,
but I totally disagree. Some of us have argued for contract sanctity, but we haven't been totally successful, I might add. Almost all those contracts would begin, if not by October 1, certainly by January 1 of the year 2003. So maybe there are a few more months. But under collective bargaining agreements, if you read the language on page 174, it is not until the contract or the agreement terminates. And then the second part of it says that even if they comply, it shall not count as a term.

You could have collective bargaining agreements exempt under this provision indefinitely for 12 years. They may never terminate the agreement. They may continue rolling it over, so it is never terminated. It might be re-adjusted; it might be renegotiated; but it is never terminated. Are we going to take 30 million Americans and say: You are not covered by these patient protections?

Some of these contracts will last 10 years, 15 years. The average contract I was looking at had a schedule of 5 to 6 years. One I mentioned does not expire until the year 2010. If they renegotiate it between now and next year, the duration of the contract will be exempted. We are telling everybody else in the private sector: Get your act in order, and by the end of next year you have to have these new patient protections, oh, unless you are a member of a collective bargaining agreement.

This is not the only exemption we found. We did not cover Federal employees. Maybe I will have an amendment dealing with Federal employees. All these great patient protections do not apply to Federal employees. They do not apply to Medicare. They do not apply to Indians in our hospitals. They do not apply to veterans.

These are patient protections that are so important for the country, but we do not give them to publicly funded plans; we only do it for private sector plans.

What about unfunded mandates? What about union plans, collective bargaining? We leave them out. We leave out Government plans; we leave out union plans; but it is five we are going to hit the private sector. Unions, this does not apply for the duration of your collective bargaining agreement, and if it does not terminate, you are never covered.

I think that is a serious mistake, so I urge my colleagues to support the amendment.

I thank my friend and colleague from Nevada for his support of the amendment as well.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Madam President, the Senator ought to read page 174 because this language is very clear, precise, and exact. It does not permit what he just said. It permitted, and that is the rollover. It just does not permit it.

The Senator can state it, and he can misrepresent it, which he just has, but it is not the fact. On line 5, it says: "relating to the plan terminates." and that is when it ends. That is when it has to be implemented.

This idea that it can roll over and over, for 10, 15 years, is not what the legislation says. The fact is, with insurance, everybody has to be covered by the underlying bill, but also those who are covered in collective bargaining agreements.

If there is tweaking of the language that needs to happen with this amendment, let's tweak the language. The bottom line is this is not an anti-union agreement. This amendment says we want union workers to have the same rights as other people.

I would think the other side of the aisle, who are generally in favor of union workers, would be on our side on this amendment. If the other side thinks this amendment needs a little tweaking, maybe we can do that, but right now as we read the bill, as we have had some of the experts look at the bill, collective bargaining agreements would supersede and not allow union workers who are covered under those collective bargaining agreements to be covered under this Patients' Bill of Rights.

I urge our colleagues to work with us and to make sure those union workers get the same protections as other people in America are going to receive.

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Madam President, how much time do I have?

The PRESIDING OFFICER. Six minutes.

Mr. KENNEDY. I did not understand, did the Senator say that public employees were not covered? Does he understand that to be the case?

Mr. NICKLES. The Senator is correct. Federal employees are not covered by the underlying McCain-Kennedy bill.

Mr. KENNEDY. I understand he was talking about teachers in Nevada; public employees is the example he gave. I find this enormously interesting because both Senators voted for the Collins amendment that excluded 139 million Americans. They only included 56 million. They were going to have the protections. The others were going to be dependent upon whether the States took it away. The Senate moved ahead and passed the various protections.

One of the groups that was left out of the Collins amendment was public employees, such as firefighters, school teachers, and others. We resisted that. No one has fought harder to make sure we are going to have comprehensive coverage since day 1 of this program. Now we are being flyspecked because somehow there are some who, under certain circumstances, are going to come into these protections on a different calendar.

Madam President, we have tried to include people who are going to have coverage from insurance. We are going...
to respect the contract. When those insurance contracts expire, whether it is in January, whether in July, the protections go into effect. The same is true of the collective bargaining agreement. We have done that in other times. It has worked, and worked effectively. As I say, I believe the consumers, as well as employers—the employers from whom we have heard, and we have had many examples—indicate they cannot wait to get these protections; they aren't the type who will delay getting in; it will be because they want to get in and get in more quickly.

The PRESIDING OFFICER. Leader time has expired.

Mr. NICKLES. I ask unanimous consent for 2 additional minutes.

Mr. KENNEDY. Then I ask for 4, 2 each side.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NICKLES. A couple comments.

The average length of collective bargaining agreements: 66 percent of collective bargaining agreements with over 1,000 employees—that is over 1,200 collective bargaining agreements—the average length is 3 to 5 years; 28 percent are 5 to 6 years; an additional 7 percent are 6 to 8 years.

My point is these things last for years. People renegotiate their health care plans with employers every year. Almost everybody does it every year. So for the health care plan for everybody else in the private sector, you have to comply by next October. 12 months from now, maybe even January of next year; you will have to comply. But if you are in a collective bargaining plan, you wait until the plan terminates.

We asked the Department of Labor, does the plan terminate if renegotiated this year? Every year. The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NICKLES. I thank my friend. Senator BROWNBACK. I am the third senator squeezed in front of him, and he has shown great patience. I will be brief. My colleague from Massachusetts said President Clinton gave these protections to Federal employees because he couldn't wait for the Republican Congress to pass them.

The facts are. Federal employees do not have patient protections that are nearly as expensive, as aggressive, as intrusive as we are getting ready to impose on the rest of the private sector. The cultural impact of treating humans as “prospective people” who have not been conceived.

The patient protection that President Clinton passed is not nearly this big. Federal employees cannot sue their employer. When they have an appeal process, they do not go to an independent party; they go to OPM, Office of Personnel Management; they go to their employer. We do not do that in this bill. Maybe we will debate that tomorrow to address that so we can save that for tomorrow’s debate.

The patient protection that President Clinton passed is not nearly this big. Federal employees cannot sue their employer. When they have an appeal process, they do not go to an independent party; they go to OPM, Office of Personnel Management; they go to their employer. We do not do that in this bill. Maybe we will debate that tomorrow.

Finally, he said in collective bargaining plans, they have to be covered when the plan terminates. My point is the plan can be renegotiated. You are talking years. Sixty-six percent of collective bargaining plans are 3 to 5 years.

Then it says if they go ahead and implement it, it is not counted as a plan termination; therefore, it is not effective. Let’s give union members the same protections we give all other private sector employees. I thank my colleagues and my colleague from Massachusetts and particularly my colleague from Kansas for his patience in allowing us to go forward.

Mr. KENNEDY. I am prepared to yield back the time.

The PRESIDING OFFICER. All time is yielded back.

Mr. NICKLES. Madam President, I ask for the yeas and nays. The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second. The yeas and nays were ordered. The PRESIDING OFFICER. The Senator from Kansas.

AMENDMENT NO. 847

Mr. BROWNBACK. I send an amendment to the desk for immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kansas (Mr. BROWNBACK) proposes an amendment numbered 847.

Mr. BROWNBACK. I ask unanimous consent reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To prohibit human germline gene modification)

At the end of the bill, add the following:

TITLE—HUMAN-GERMLINE GENE MODIFICATION

SEC. 01. SHORT TITLE. This title may be cited as the “Human Germline Gene Modification Prohibition Act of 2001”.

SEC. 02. FINDINGS. Congress makes the following findings:

(1) Human Germline gene modification is not needed to save lives, or alleviate suffering, of existing people. Its target population is “prospective people” who have not been conceived.

(2) The cultural impact of treating humans as biologically perfectible artifacts would be entirely negative. People who fall short of some technically achievable ideal would be seen as “damaged goods”, while the standards for what is genetically desirable will be those of the society’s economically and politically dominant groups. This will only increase prejudices and discrimination in a society where too many such prejudices already exist.

(3) There is no way to be accountable to those in future generations who are harmed or stigmatized by wrongful or unsuccessful human germline modifications of themselves or their ancestors.

(4) The negative effects of human germline manipulation would not be fully known for generations. If over, meaning that countless people will have been exposed to harm probably often fatal as the result of only a few instances of germline manipulations.

(5) All people have the right to have been conceived, gestated, and born without genetic manipulation.

SEC. 03. PROHIBITION ON HUMAN GERMLINE GENE MODIFICATION.

(a) IN GENERAL.—Title 18, United States Code, is amended by inserting after chapter 15, the following:

“CHAPTER 16—GERMLINE GENE MODIFICATION

“Sec. “301. Definitions


“301. Definitions

“In this chapter:
June 28, 2001

CONGRESSIONAL RECORD — SENATE

S7067

(1) HUMAN GERMLINE GENE MODIFICATION.—The term ‘human germline gene manipulation’ means the intentional modification of DNA in any human cell (including humans, primates, humanized mice, transgenic mice, canine, feline, porcine, bovine, and other species of animals, including humanized or transgenic animals, and any cells and tissues derived from any such cell or cells) by use of recombinant DNA technology, which can be passed on to future individuals, including inserting, deleting or altering DNA from any source, and in any form, such as nucleic, chromosomal, nuclear, mitochondrial, and synthetic DNA. The term does not include any modification of cells that are not a part of and will not be used to create human embryos or provide the change in DNA involved in the normal process of sexual reproduction.

(2) HUMAN HAPLOID CELL.—The term ‘haploid cell’ means a cell that contains only a single copy of each of the human chromosomes, such as eggs, sperm, and their precursors.

(3) SOMATIC CELL.—The term ‘somatic cell’ means a diploid cell (having two sets of chromosomes of almost all body cells) obtained from a living or decreased human body at any stage of development. Somatic cells are diploid cells that are not precursors of either eggs or sperm. A genetic modification of somatic cells is therefore not germline genetic modification.

Rule of Construction: Nothing in this Act shall be construed to affect any provision of chapters for part I of title 18, United States Code, relating to chapter 15 the following:

(1) HUMAN GERMLINE GENE MODIFICATION.... 301.

(2) HUMAN HAPLOID CELL... 301.

(a) IN GENERAL.—It shall be unlawful for any person or entity, public or private, in or affecting interstate commerce—

(1) to perform or attempt to perform human germline gene modification;

(2) to participate in an attempt to perform human germline gene modification; or

(3) to ship or receive the product of human germline gene modification for any purpose.

(b) IMPORTATION.—It shall be unlawful for any person or entity, public or private, to import the product of human germline gene modification for any purpose.

(c) PENALTIES—

(1) GENERAL.—Any person or entity that is convicted of violating any provision of this section shall be fined under this section or imprisoned not more than 10 years, or both.

(2) CIVIL PENALTY.—Any person or entity that is convicted of violating any provision of this section shall be subject to, in the case of a violation that involves the derivation of a pecuniary gain, a civil penalty of not less than $1,000,000 and not more than an amount equal to the amount of the gross gain multiplied by a factor if that amount is greater than $1,000,000.

(6) CLERICAL AMENDMENT.—The table of chapters, subtitles, titles, and parts of this United States Code, is amended by inserting after the item relating to chapter 15 the following:

16 Germline Gene Modification ....... 301.

Mr. BROWNBACK. Madam President, I arise today to offer an amendment to the Patients’ Bill of Rights. This amendment is about human germline gene modification. That is a long way of saying—and I will go into this for a period of time—stopping people from attempting to modify the human species with outside genetic material. It may seem strange. It happens in livestock, genetically modified organisms. Some people are researching and discussing doing this within the human species to create better people. I think it should be stopped, prohibited, removed.

I looked for a better vehicle for this amendment, for another bill that was a closer fit. It is a medical issue on the medical front. If we get an agreement that I get a freestanding bill, I will do it that way. Having not been able to do that, we offer it as an amendment now.

My amendment prohibits human germline gene modification. What is that? Technically, it is the process by which the DNA of an individual is permanently changed in such a way that it permanently affects his or her offspring. Normally this is a DNA modification in either the egg or the sperm within the human species, so when they combine, that genetic modification is carried in that person and in future organisms, in future people. So it starts at this single stage, the egg or the sperm, molded together and multiplied in future generations.

This is not about genetic therapy; it is not about stem cell research; it is not about human cloning. All those are other issues for another day that do need to be considered but not here. My amendment is about genetic therapy or other medical interventions that treat patients suffering from diseases.

My amendment is about eugenics. For the not so familiar, that is the process or means of improvement previously tried by many diabolical methods or schemes, generally looked at as restrictions of mating, of so-called superior people together, and now being attempted, talked about, pressed forward by adding genetic material of humans from outside the species.

This is ugly stuff, and it should be stopped. It is about what we as a society are willing to allow and not to allow. The human germline genetic modification is about our ability to create designer babies, choose eye color, height, or IQ. I offer this amendment, well aware that many of my colleagues understandably may be uncomfortable of these so-called advances being made in the field of biotechnology and that impacts those advances will inevitably have on the human race.

I come from an agricultural background. I used to be a Secretary of Agriculture in Kansas. These are things we commonly do now in plants, and we are having research done extensively in animals. People are talking about bringing some of the same technology to humans. It has to be stopped and should be stopped.

Many of the advances promise great achievement for mankind and a betterment of human conditions. Some of the advancements in biotechnology do not. Human germline gene manipulation is one of those. It is one of those advances presently in theoretical terms that will until recently. More disturbingly, it is the realization of the age-old quest to design better people. Germline gene manipulation is the summit of the eugenics movement. One of the groups we have consulted with prior to preparing this amendment is a group chaired by Claire Nader, the sister of former Presidential candidate Ralph Nader. It is a group she has been associated with, the Council on Foreign Relations. They are unequivocally opposed to human germline gene modification.

The Council states this: We strongly oppose the use of germline gene modifications in humans.

We continue: Today, public discussion in favor of influencing the genetic constitution of future generations has gained new respectability with the increased possibility for intervention. Although it is once again espoused by individuals with a variety of political perspectives, modern eugenic programs are now defended as driven by individual need, choice. But the doctrine of social advancement through biological perfectibility underlying the new eugenics is even more potent than the older version. Its supporting data sourced scientifically individual and the alignment between the state, through its support of the market and the individual exercising so-called free choice, is unprece-

The Council goes on to state further: These considerations make the social and ethical problems raised by germline gene modification very different from those raised by genetic manipulations, that target certain nonreproductive deficiencies in organs of patients, again in somatic cell gene modification.

As the Council states in very clear terms:

The underlying political philosophy of those who support germline gene modification has been sanitized with new terms, but is in reality the same old eugenic message with which the 20th century was deeply and direly afflicted. In numerous conversations that I have had with Dr. Francis Collins, who heads the National Human Genome Research Institute here in Washington, who has had a fantastic report that was out last year on the Human Genome Project, reported out a beautiful array of the complexity of the genome structure in each of our 10 trillion cells and if we printed out that genetic structure and had it in front of us, it would be a stack of paper 100 feet taller than the Washington monument.

We have talked about the beauty of the human genome and also talked about the potential for problems in its manipulation, as that could be carried onto future humans.

Madam President, human germline gene modification should be limited to save lives or alleviate suffering of existing people. Its target population is prospective people who have not been conceived. The cultural impact of treating humans as biologically perfectible artifacts should be entitled to for something. People who fall short of some technically achievable ideal would be seen as damaged goods, while the standards for what is genetically desirable would be those of the society’s economically and politically dominant group. We have heard these themes before. This will only increase prejudices and discrimi-

There is no way to be accountable to those in the future generations who are going to be harmed or stigmatized by the wrongful or unsuccessful human germline gene modification of their ancestors. The negative effects of human germline modification would not be fully realized for generations. If ever, meaning that countless people will have been exposed to harm, probably often fatal, as a result of only a few instances of germline manipulations.

All people have the right to be conceived, gestated, and born without genetic manipulation. Human germline gene manipulation will only serve to turn human beings into commodities with traits that are bought and sold, with attributes that are determined by technicians, and parents who want to exert genetic tyranny over their offspring. This is a step too far. This is grossly unethical for it to happen. I urge the Senate to adopt my amendment to prohibit it once and for all.

Agreed, in Senator Frist’s terms, what this is about. This is about getting and adding outside genetic material into the human species, whether it be plant—tomato—or animal—chicken—from a tree somewhere that a snippet of material would be added in, at the egg or the sperm level. Once added in there, when the union occurred it would be in that human and also then passed on to future generations. That is what we are talking about is putting any sort of gene therapy or any of the other issues. It is not about cloning either, which is the identical replication. This is adding in the outside genetic material.

I think everybody would look at this and say that is not a road we want to go down. Yet some people today are contemplating doing this. I want to add a couple of other points. The European Council on Biomedics has stated its opposition to this human germ line modification. I think the civilized world really needs to step up right now, before people get going and moving forward, saying: We could make people taller. We could make people live longer by this modification. I think the civilized world needs to step up now quickly and act accordingly.

I urge the Senate to adopt my amendment to prohibit this. This is a step too far. This is the height of eugenics. This is the height of eugenics, this is the height of eugenics, and it should not take place. The Europeans are moving that way.

The Europeans are moving that way. We should as well as much of the rest of the civilized world, and say we want no part of this, and we can do that with a clear, I hope unanimous, vote of the Senate, saying this is wrong.

I know people differ on some of these other bioethics issues, such as cloning. That is left for another day. The language in this bill is clear, specific; it is easy to understand. We may have differences on some of the other issues we may get into over a period of time, but this is one, as I have searched around, where there is a broad coalition, left and right, that says yes, this one should be banned. That is why we worked closely with Ms. Nader’s group, worked closely with our friends in the group that was saying: Yes, this is not a place we should be going either. Here is a place we can stop this.

This is the only vehicle I could see where there was some connection bringing this. We could do it on a freestanding bill at some time on the floor, I would be happy to do that, but absent that, I would like to get this considered on this bill. I yield the floor. I don’t know that there is a time agreement on this amendment. Is that correct?

The PRESIDING OFFICER. There is a time agreement. There is 1 hour evenly divided.

Mr. BROWNBACK. Thank you, Madam President.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Madam President, I want to express a great deal of respect for my friend and colleague for his concern with great interest to his presentations on these matters because he has given this a great deal of thought. Even so, I must raise to oppose this amendment. I can understand the good Senator’s frustration that we do not have a real opportunity to have the kind of debate on a freestanding bill that could give the Senate the benefit of a good discussion on this issue. Unfortunately, we are here at 20 minutes of 10. There are just a few of us here at this time, and we will only have a few minutes tomorrow to deal with an issue of enormous importance and consequence.

Millions of American children are born with deadly diseases such as cystic fibrosis and muscular dystrophy. They know this amendment would criminalize several promising research that gives hope to millions of Americans at risk for genetic diseases. They know this amendment would have a chilling effect on the biomedical research that gives hope to millions of Americans at risk for genetic diseases.

The amendment is so broad that it will criminalize several promising areas of biomedical research, even including gene therapy. This is wrong.

This important, complex topic deserves a thoughtful and measured response, and not the indiscriminate prohibition that the Brownback amendment proposes. If American people do not support the sweeping prohibitions that the Brownback amendment would impose.

There are great numbers of genetic diseases, and there are great numbers of inherited diseases. Those that come suddenly and quickly are cystic fibrosis and muscular dystrophy, Tay-Sachs, Cooley’s disease, and many others in the cystic fibrosis area.

It is basically an issue involving a single gene. That is also true in muscular dystrophy.

Just think if we were able to get to the point where a parent would be able to see the alteration of that gene so that the child that was going to be born would be free from muscular dystrophy or from cystic fibrosis by altering the DNA.

We can easily understand where the language that is included may not be the purpose of the Senator, but certainly the language I think is sufficiently vague as to prohibit some promising research.

At this time, I think this is a matter of enormous importance. I don’t think we really ought to be dealing with this issue on this bill. I want to understand the Senator’s frustration in not being able to have the debate in the Senate and to hear the different views on this issue. But I believe we ought to defeat the amendment for now, have additional review and study and hearings, and that we ought to then consider the various public policy issues and the ethical issues that surround this.

Mr. REID. Madam President, will the Senator yield?

Mr. KENNEDY. Yes.

Mr. REID. I would like to ask the Senator a question. A couple of years ago when I was chairman of the Democratic Policy Committee, one of the issues at the time was cloning, for lack of a better description. We had a luncheon at the Democratic Policy Committee. This may not be directly in point, but it points up what the Senator is saying. This is a very complex issue. We need more time and medical experts to respond to this.

But the Senator will remember that we had a hematology professor from Harvard. We had the leading expert on gene therapy at NIH. The Senator will
recall a number of things. The thing that is so vivid in my mind is the Har- 
vard professor, who was of course a prac-
ticing physician, gave an example of 
how great the progress is being made
in the medical field and in the areas
that need more research.
He said that a young woman with 
leukemia was referred to him. I do not
know the scientific name nor the type
of leukemia. He did the examination
and looked at the information he had
been given.
The Senator from Kansas will recall 
that the doctor asked this young lady if
she had a brother or sister. She said no.
He said that right then he knew she
was in big trouble. She probably couldn’t
make it and would die.

The next day, the Senator will recall,
another teenager came in with leu-
kemia. It was the same process. He
asked this young man if he had a
brother or sister. She said no, and
paused for a second. He said: I am a
twin. The doctor said that he knew
right then that the young man was
going to live as long as anybody in this
room because they could do a bone
marrow transplant and regenerate
those cells.

I do not fully understand what the
Senator from Kansas is advocating
with his amendment. I know he is can-
did and is well placed. I know after
having listened to the woman from NIH
and the professor from Harvard that I
have great hope progress is being made
on some of the most dreaded diseases
that face especially children in Amer-
ica today.

The Senator from Massachusetts and
I know how well-intentioned the Sen-
ator from Kansas is. I think we should
defeat this amendment and wait for a
later day so we can have more oppor-
tunity to examine this more closely.

The Senator remembers that meeting
in the room right down the hall here?
Mr. KENNEDY. I do remember. All of
us as Members of this body get a
chance to go out to NIH and visit with
the researchers and listen, watch, and
hear about those extraordinary, dedi-
cated men and women who are dealing
with so much of the cutting edge re-
search.

I think we want to make sure that we
are very careful in the steps we are
going to take in some way would
inhibit research. There are obviously
strong ethical issues which we con-
stantly have to examine and consider.

But I am very much concerned about
the kind of prohibition that this type
of amendment would include.

I want to make it clear that the
amendment that the Senator from
Kansas puts forward does not ban
cloning, but it would ban similar cut-
ing edge research.

That is what our concern is and why
we will oppose it tomorrow.

The PRESIDING OFFICER. The Sen-
ator from Kansas.

Mr. BROWNBACK. Madam President,
I would like to correct some mis-
calculation with the Senator from Mas-
sachusetts. I want to read from the
amendment because he represented a
couple of examples that we specifically
state in the bill we are not prohibiting.

On page 4 of the amendment under
“construction,” it states specifically
that:

Nothing in this Act is intended to limit so-
matic cell gene therapy, or to effect research
involving human pluripotent stem cells.

This somatic cell gene therapy is
what you are talking about where you
have already the sperm and egg, and
you have this ability to make changes.
That is the kind of prohibition that this
amendment says we should try to
deal with. I agree that we should.

We specifically added that. We cov-
ered that point the Senator raised and
about which he has concern because we
don’t want to impact that area. We
talked about this on page 3. It says:

The term “human germine gene modifica-
tion” means the intentional modification
of DNA in any human cell for the purpose
of producing a genetic change which can
be passed on to future generations.

In this amendment we are saying: Do
we really want to change the human
species without knowing what the im-
pact is going to be down the road?

Maybe we have a shot at changing this
one, but what is it going to do to the
next one? The second one, the third one,
the fourth one, and after that?

I also point out to the good Senator
who has worked tirelessly to get this
bill through to passage—I appreciate
both his work and the work of the Sen-
ator from Nevada on just continuing
to press forward. They have done a very
good job. But I point out to them that
we have significant limitations on
doing this to animals. Right now, if
you received to take a field and put a to-
mato germine in it, or something from
a tomato gene—actually this is being
done—this is a heavily regulated area
by FDA, and the USDA, as well it
should be. My goodness, do we want to
get super fish out here that could swim
and do things and take over a whole
area of species? They are actually con-
cerned. It may sound scientific, like
this is just off the wall. But this is hap-
pening today.

We have these deep concerns within
our society. You do not have to listen
to me. The Senator from California
knows what is taking place this week
in southern California. People are
deeplgy concerned about this being
done with animals and plants.

All I am talking about with this
amendment is to say, the careful thing
for us to do right now is to prohibit it
in humans.

As the Senator from Massachusetts
knows, in any future legislative ses-
ssions we can prohibit. We could do
that next year. But wouldn’t the
careful, thoughtful thing be to say
right now: “We don’t want to modify
the human species”? It has no regula-
tion, no limitation, no review on it
today. People are out there doing these
things.

Wouldn’t the really thoughtful posi-
tion be that we should stop this be-
cause we don’t know where it might
do it down the road—stop this now—and
then, if the researchers really convince us
this is the right thing to do, we can open it
back up? I think we open up an incred-
ible Pandora’s box if we allow this un-
regulated area of human experimen-
tation to continue at this time. And that
is what is being defended here.

I think this should give us some
thoughtful consideration. This is lim-
ited in its drafting. We have worked
with a number of groups on its draft-
ing. It is very specific. This has to do
with it being passed down to future
generations. This is something that we
should prohibit at this time.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Sen-
ator from Massachusetts.

Mr. KENNEDY. Madam President,
there are several organizations that
draw different conclusions about the
Senator’s amendment. You have the
Biotechnology Industry Organization
that says:

Unfortunately, the Brownback amend-
ment reaches far beyond germ line gene modifica-
tion. It attempts to regulate genetic re-
search—a complex and dynamic field of
science that holds great potential for pa-
ients with serious and often life-threatening
illnesses.

And from the Association of Amer-
ican Medical Colleges:

Much more troubling, however, the amend-
ment reaches far beyond germ line therapy.
Taken on its face, the amendment would
prohibit other areas of research into gene ther-
apy as well.

I ask unanimous consent an analysis
be printed in the RECORD.

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

MEMORANDUM


To: Michael Werner, Esquire, BIO Bioethics 
Counsel.
From: Edward L. Korwek, Ph.D., J.D.
Re: Some Initial Comments/Analysis of the

Brownback Amendment.

The Brownback Amendment is poorly
worded and confusing as to its precise cov-
rage. It uses a variety of scientific terms
and other complex language both to prohib-
ited certain gene modifying activi-
ties. Many of the sentences are composed of
language that is incorrect or ambiguous
from a scientific standpoint. A determina-
tion needs to be made of which each sentence
of the Amendment is intended to accomplish.
As to a few of the important definitions,
the term “somatic cell” is defined in pro-
posed section 303(3) of Chapter 16, as “a
diploid cell (having two sets of the chro-
omesomes of almost all body cells) obtained
or derived from a living or deceased human
being at any stage of development.” What
does “of almost all body cells” mean? Is this
an oblique reference to the haploid nature
of human sex cells, i.e., sperm and eggs? Also,
why is it important a confusing detail from where the cells are derived
(contrast in simply saying, for example, a
somatic cell is a human diploid cell? From a scientific standpoint, the definition of a somatic cell is not dependent on whether the cell is from living or dead human beings. More relevant to this human science issue, when does a "human body" exist such that its status as "living" or "dead" or its "stages of development" become relevant criteria for determining what is a "somatic cell."

Similarly, the definition of "human germline modification," especially the first sentence, is very convoluted. The first sentence states: "The term 'human germline gene modification' means the intentional modification of DNA in a cell (including human eggs, sperm, fertilized eggs (i.e., embryos, or any early cells that will differentiate into gametes or can be manipulated to do so) for the purpose of producing a genetic change which can be passed on to future individuals, including DNA from any source, and in any form, such as nuclei, chromosomes, nuclear, mitochondrial, and synthetic DNA.

Among other problems, which of the examples listed are "sources" or "forms" of DNA and why does it matter? Moreover, the sentence goes on to "including DNA from any source, and in any form, such as nuclei, chromosomes, nuclear, mitochondrial, and synthetic DNA." To what part of the definition, "For the purpose of producing a genetic change which can be passed on to future individuals, including DNA from any source, and in any form, such as nuclei, chromosomes, nuclear, mitochondrial, and synthetic DNA."? Does the last sentence of the definition, "For the purpose of producing a genetic change which can be passed on to future individuals, including DNA from any source, and in any form, such as nuclei, chromosomes, nuclear, mitochondrial, and synthetic DNA." prohibit in vitro fertilization? Does any other part of the Amendment prohibit or allow in vitro fertilization? What genetic technologies does "normal" cover, if any?

Similarly, the second sentence in the definition, stating what is not covered by the definition of "human germline gene modification," states: "Not covered by the definition of "human germline gene modification" is any intentional modification of a cell that is not a part of and will not be used to construct human embryos" (emphasis added). Also, what is an "embryo" for purposes of this Amendment and what does "part of" mean? Are fertilized sex cells "part of" an embryo?

These and other problems leave the bill unnecessarily current form. Due to this imprecision, the amendment's impact is unclear and seemingly far reaching.

Mr. KENNEDY. Madam President, a memorandum by Hogan & Hartson says:

The Brownback Amendment is... confusing as to its precise coverage. It uses a variety of scientific terms and other complex language both to prohibit and allow certain gene modification activities.

And it gives a several-page analysis of the issues.

The fact is, as I understand it, there is a moratorium now at NIH. NIH does not permit any of the research in transferring the materials in terms of genes at the present time.

I just quickly, on page 3 of the amendment, on lines 10 and 11, it talks about "for the purpose of producing a genetic change which can be passed on to future individuals." That ought to be a matter of concern to parents because that is an area of very great potential concern to parents who have the gene—in terms of cystic fibrosis, muscular dystrophy—in trying to impact that kind of DNA so that they will not pass this on. Yet this is talking about restricting the research for "producing a genetic change which can be passed on to future individuals." That area is a matter of enormous importance and consequence.

I know the Senator has given this a lot of thought. It is enormously important. I respect him for it. I know that he revisits these issues continuously. We will look forward to continuing to work with him. I know he is incredibly concerned about all areas of ethical issues. In those areas of ethical concerns there are no simple, easy answers. There is enormous division, significant divisions, in many different areas.

But it does seem to me that in the time that we have available to consider this, and on this particular legislation, and with the very strong opposition of the research community generally, that it would be unwise for us to add this sentence to the legislation at this time.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. BROWNBACK. Madam President, I would just note once more for my colleagues that the area of genetic manipulation, gene line that is regulated in animals and in plants but is completely unregulated—there is nothing on it—in humans.

Is there a responsible way for us to go? There are ways to do it right now on the human species in the United States, go ahead, fine. If you want to do that, release that into us, into the human species, fine, go ahead. If you want to do it in fish, we have a series of hoops that you have to jump through and filings that you have to make and limitations on where this can take place all up and down, everywhere. But for humans, fine. I guess if we are going to eat it, we are concerned about it. But if it is one of us, OK.

I have deep respect for the Senator from Massachusetts. He is very thoughtful and one of the most productive Members of this body, probably in the history of this body. But I would seriously ask him to look at this area. Is this something we want to do in this society? This is not only technically or theoretically feasible today; it can be done today. It has been done in the animal line for years now. This has been the unique advantage of assemb-

I would hope we could at least get some agreement that this is going to be further considered sometime during this legislative session. If we want more limited language, I am more than happy to work with individuals in drafting more limited language. If they want more limited language on it, I am willing to draft it as tight as they want to on gene therapy. That would be just fine by me. But to let this go on now, you are inviting people to step up. If we need to work with the groups the Senator listed to draft it more tightly, I am happy to do that.

This is a serious matter. We have more and more people in the streets talking about this thing. I think we should wake up on the particular point, if nothing else. We saw the protest that took place in Seattle. We saw what it did to the World Trade Talks. That was on food. We are seeing what is sure to happen in the Biotechnology Expo in Southern California right now. That is on humans.

This issue is not going away. It is something that we are going to have to confront. I would hope and I would think we would be far wiser to do it sooner rather than later. I am happy to work with anybody on drafting the language to see that that takes place.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Will I include the regulations which are in existence now. I ask unanimous consent they be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD.

From pages 90-92—NIH Guidelines for Research Involving Recombinant DNA Molecules

Appendix K-VII. Pathogen. A pathogen is any microbiological agent or eukaryotic cell containing sufficient genetic information, which upon expression of such information, is capable of producing disease in healthy people, plants, or animals.

Appendix K-VII. K. Barrier. A physical barrier is considered any equipment, facilities, or devices (e.g., fermenters, factories, filters, thermal oxidizers) which are designed to achieve containment.

Appendix K-VII-M. Release. Release is the discharge of a microbiological agent or eukaryotic cell from a containment system. Discharges can be incidental or accidental. Incidental releases are de minimis in nature; accidental releases may be de minimis in nature.

Appendix L. Gene Therapy Policy Conferences (GTPCs)

In order to enhance the depth and value of public discussion relevant to scientific, safety, social, and ethical issues associated with gene therapy research, the NIH Director will convene GTPCs at regular intervals. As appropriate, the NIH Director may convene a GTPC in conjunction with a RAC meeting. GTPCs will be administered by NIH/OBA. Conference participation will not involve a standing committee membership but rather be an opportunity for interested individuals to submit written comments. At least one member of RAC will serve as Co-chair of each GTPC and report the findings of each GTPC to RAC at its next scheduled meeting. The RAC may then direct each GTPC will be chosen based on the participant's area of expertise relative to the specific gene therapy research issue to be discussed. All RAC members will be invited to attend GTPCs. GTPCs will have representation from other Federal agencies, including FDA and OPRR. GTPCs will focus on broad oversight policy issues related to gene therapy research. Proposals for GTPC topics may be submitted by members.
of RAC, representatives of academia, industry, patient and consumer advocacy organizations, other Federal agencies, professional scientific societies, and the general public. GTPC will be limited to discussions of human applications of gene therapy research, i.e., they may include basic research on the use of novel gene delivery vehicles, or novel gene transfer protocols for basic research.

The RAC, with the Director's approval, will have the primary responsibility for planning GTPC agendas. GTPC findings will be transmitted to the Director for use and will be publicly available. The NIH Director anticipates that this public policy forum will serve as a model for interagency communication and for an enhanced discussion of novel scientific issues and their potential societal implications, and enhanced opportunity for public discussion of specific applications of human gene transfer protocols on human health and the environment.

Appendix M. Points to Consider in the Design of Submission Protocols for the Transfer of Recombinant DNA Molecules into One or More Human Research Participants (Points to Consider)

Appendix M applies to research conducted at or on behalf of an institution that receives any support for recombinant DNA research from NIH. Researchers not covered by the NIH Guidelines are encouraged to use Appendix M (see Section I-C, General Applicability).

The acceptability of human somatic cell gene therapy has been addressed in several public documents as well as in numerous academic studies. In November 1982, the President's Commission for the Study of Ethical Problems in Medicine and Biology released a report, Splicing Life, which resulted from a two-year process of public deliberation and hearings. Upon release of that report, a U.S. House of Representatives subcommittee held three days of public hearings with witnesses from a wide range of fields from the biomedical and social sciences to theology, philosophy, and law. In December 1982, the Office of Technology Assessment released a background paper, Human Gene Therapy, which concluded that civic, religious, scientific, and ethical concerns have surfaceed, in principle, the appropriateness of gene therapy of somatic cells in humans for specific genetic or non-genetic diseases. Gene therapy is seen as an extension of present methods of therapy that might be preferable to other technologies. In light of this public support, RAC is prepared to consider proposals for somatic cell gene transfer.

RAC will not at present entertain proposals for germ line alterations but will consider proposals involving somatic cell gene transfer. The purpose of somatic cell gene therapy is to treat an individual patient, e.g., by inserting a properly functioning gene into a somatic cell. Germ line alteration involves a specific attempt to introduce genetic changes into the germ (reproductive) cells of an individual, with the aim of changing the set of genes passed on to the individual's offspring.

The RAC continues to explore the issues raised by the potential of in utero gene transfer in clinical trials. Significant additional preclinical and clinical data and understanding of vector transduction efficacy, biodistribution, and toxicity are required before a human in utero gene transfer protocol can proceed. In addition, although understanding of the development of human organ systems, such as the immune and nervous systems, is needed to better define the potential efficacy and risks of human in utero gene transfer. Prerequisites for considering any specific human in utero gene transfer procedure include (i) the pathophysiology of the candidate disease and a demonstrable advantage to the in utero approach. Once the above criteria are met, the Director will consider approving a Phase I protocol for rationalized human in utero gene transfer clinical trials.

RAC may consider research proposals involving the deliberate transfer of recombinant DNA, or DNA or RNA derived from recombinant DNA, into human subjects (human gene transfer) will require continued preclinical research involving both NIH/OBA and RAC. Investigators must submit their relevant information on the proposed human gene transfer experiments to NIH to be in the format described in Appendix M–1, Submission Requirements—Human Gene Transfer Experiments. Submission is required. NIH shall be for registration purposes and will ensure continued public access to relevant human gene transfer public information in compliance with the Public Health Service Act. For investigational New Drug (IND) applications should be submitted to FDA in the format described in 21 Federal Register Part 312, Subpart B, Section 312.10, IND Content and Format.

Institutional Biosafety Committee approval for each experiment at which recombinant DNA material will be administered to human subjects (as opposed to each institution involved in the production of vectors for human application and each institution at which there is in vivo transduction of recombinant DNA material into target cells for human application). The RAC would be willing to consider full public access to relevant human gene transfer public information in compliance with the Public Health Service Act. For investigational New Drug (IND) applications should be submitted to FDA in the format described in 21 Federal Register Part 312, Subpart B, Section 312.10, IND Content and Format.

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Factors that may contribute to public deliberation and hearings. Upon release of that report, a U.S. House of Representatives subcommittee held three days of public hearings with witnesses from a wide range of fields from the biomedical and social sciences to theology, philosophy, and law. In December 1982, the Office of Technology Assessment released a background paper, Human Gene Therapy, which concluded that civic, religious, scientific, and ethical concerns have surfaceed, in principle, the appropriateness of gene therapy of somatic cells in humans for specific genetic or non-genetic diseases. Gene therapy is seen as an extension of present methods of therapy that might be preferable to other technologies. In light of this public support, RAC is prepared to consider proposals for somatic cell gene transfer.

RAC will not at present entertain proposals for germ line alterations but will consider proposals involving somatic cell gene transfer. The purpose of somatic cell gene therapy is to treat an individual patient, e.g., by inserting a properly functioning gene into a somatic cell. Germ line alteration involves a specific attempt to introduce genetic changes into the germ (reproductive) cells of an individual, with the aim of changing the set of genes passed on to the individual's offspring.

The RAC continues to explore the issues raised by the potential of in utero gene transfer in clinical trials. Significant additional preclinical and clinical data and understanding of vector transduction efficacy, biodistribution, and toxicity are required before a human in utero gene transfer protocol can proceed. In addition, although understanding of the development of human organ systems, such as the immune and nervous systems, is needed to better define the potential efficacy and risks of human in utero gene transfer. Prerequisites for considering any specific human in utero gene transfer procedure include (i) the pathophysiology of the candidate disease and a demonstrable advantage to the in utero approach. Once the above criteria are met, the Director will consider approving a Phase I protocol for rationalized human in utero gene transfer clinical trials.

RAC may consider research proposals involving the deliberate transfer of recombinant DNA, or DNA or RNA derived from recombinant DNA, into human subjects (human gene transfer) will require continued preclinical research involving both NIH/OBA and RAC. Investigators must submit their relevant information on the proposed human gene transfer experiments to NIH to be in the format described in Appendix M–1, Submission Requirements—Human Gene Transfer Experiments. Submission is required. NIH shall be for registration purposes and will ensure continued public access to relevant human gene transfer public information in compliance with the Public Health Service Act. For investigational New Drug (IND) applications should be submitted to FDA in the format described in 21 Federal Register Part 312, Subpart B, Section 312.10, IND Content and Format.

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Mr. ENSIGN. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

Mr. ENSIGN. Madam President, I call on the clerk to read the text of the amendment.

The senior assistant bill clerk read as follows:

The Senator from Nevada [Mr. ENSIGN] proposes an amendment numbered 49B.

Mr. ENSIGN. Madam President, the amendment that I have proposed really is entitled the “protection against genetic discrimination act.” The Senator from Massachusetts is one of the co-authors of a bill that contains this particular amendment, along with 22 other Senators.

The mapping of the human genome is one of the most amazing scientific breakthroughs in recent history. Information that is embedded in the genome holds the key to understanding the illnesses and diseases that affect millions of people across the world every day.

I would like to note, this has nothing to do with the amendment that Senator DASCHLE has introduced on this very same subject. Simply put, this amendment prohibits health insurance companies from using genetic information when deciding whether or not to provide health insurance for an individual.

Insurance companies would not be able to use genetic information to deny an individual’s application for coverage or charge excessive premiums.

Think about diseases such as Tay–Sachs, sickle-cell anemia, breast cancer, colon cancer, cystic fibrosis, and other diseases in which we have identified genes that predispose people to these diseases. Just think about how many Americans this affects now and will affect in the future as we discover new genes that predispose people to certain diseases. It is because of this that we must include this amendment if we are truly going to call this bill a Patients’ Bill of Rights.

The amendment takes the first step toward providing individuals with the protections they need to protect their individual genetic information.

This amendment, as I mentioned before, is part of a larger bill that Senator DASCHLE has introduced on this very same subject. Simply put, this amendment prohibits health insurance companies from using genetic information when deciding whether or not to provide health insurance for an individual.

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Mr. ENSIGN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be.

The yeas and nays were ordered.

Mr. ENSIGN. Mr. President, I yield back the remainder of my time on this amendment.

AMENDMENT NO. 848

Mr. ENSIGN. Mr. President, I call up amendment No. 848 and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. ENSIGN] proposes an amendment numbered 848.

Mr. ENSIGN. Mr. President, I ask that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To provide that health care professionals who provide pro bono medical services medically underserved or indigent individuals are immune from liability)

At the end, add the following:

SEC. __ IMMUNITY.

(a) In General.—Notwithstanding any other provision of law, no health care professional shall be liable for the performance of, or the failure to perform, any duty in providing pro bono medical services to a medically underserved or indigent individual.

(b) Definitions.—In this section:

(1) HEALTH CARE PROFESSIONAL.—The term "health care professional" has the meaning given in the term section 151.

(2) MEDICALLY UNDERSERVED OR INDIGENT INDIVIDUAL.—The term "medically underserved or indigent individual" means an individual that does not have health care coverage under a group health plan, health insurance coverage, or any other health care coverage program, or who is unable to pay for the health care services that are provided to this individual.

Mr. ENSIGN. Mr. President, this next amendment I am offering comes once again from personal experience. I have a very close friend, Dr. Tony Alamo. He is a few years younger than me, and is an internist in Las Vegas. Our parents have known each other for a long time. He graduated from USC medical school. I don't know that I have ever seen anybody work harder.

Internists today don't make nearly the money that a lot of surgical specialists do, but the compassion that they have for their patients is just incredible. I remember a few years ago talking to him and what he had to tell me was amazing. As a practicing veterinarian, we get to choose who we take, and when we don't take, and when they come into our offices. But as a physician, when he happens to be there treating another patient, if somebody comes in and he happens to be the attending physician, he has to treat that person, regardless of whether they have insurance or no insurance, can pay or cannot pay.

When he takes that person on as a patient, he cannot get rid of that patient. So he has to continue through the course of the disease, if he is in the hospital, has a heart condition, he has to continue regardless of whether he gets reimbursed or not.

The purpose of my amendment is to say that if some kind of care, but if out of the goodness of their heart they are treating for free, we just want to eliminate the possibility that they can be sued for such a matter.

We are looking at this as a situation that is similar to Good Samaritan laws. For example, when somebody stops on the side of the freeway because somebody is hurt and they don't know exactly what to do but they want to help and they happen to do more harm than good, we have passed laws across the country that helps a Good Samaritan in that regard.

The practice of medicine, as anybody who has practiced knows, whether it is veterinary medicine or human medicine, is like a science. As a matter of fact, it is more art than science. Things go wrong. Sometimes things go wrong that may look like malpractice. And sometimes it is something the doctor had nothing to do with, yet they can still be taken to court.

Our amendment says that if health care professionals are going to do this, we want to protect those people from lawsuits.

It seems to me that if somebody is providing something out of the goodness of their heart on a pro bono basis, they could not be sued. In fact, I would support a similar proposal that granted lawyers the same protection. If they are providing pro bono services, they could not be sued. I think if this was a lawyer's bill of rights, we would include that as well. But this happens to be a Patients' Bill of Rights, and for the physicians that are treating these patients, we want to make sure they are protected.

We have spoken to Senator McCAIN's staff and, apparently, they think the language is acceptable. I think in the long run this is going to go a long way. I have spoken to Senator FRIST who, as many of you know, is a heart surgeon. He does volunteer work in clinics, both overseas and also here in the United States. He doesn't get paid for these services. Yet, he has to maintain medical malpractice insurance. He pays premiums out of pocket each year so that if he gets sued, he is covered.

This is probably the only amendment in this entire bill that actually will lower—it will only lower it slightly—the cost of health insurance. It would help lower both the cost of medical malpractice premiums and eventually the cost of coverage premiums for consumers as well.

Mr. President, I don't know if anybody is going to disagree with this amendment. I don't understand why they would. I would be more than happy to engage in a debate on this if anybody has a problem with it.

I yield the floor at this time.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. EDWARDS. First, I say to the Senator from Nevada that Senator Coverdell had a bill that he passed called the Volunteer Protection Act of 1997. It specifically provides protection for volunteers, including physicians, who provide pro bono services. So I suggest to my colleague, I don't know if he thinks there is a problem with the way it is written. There is no way for me to know that based on this amendment. But a specific law already covers this subject matter. It was passed by the Senate and signed into law in 1997. So, first, I suggest that my colleague look at that law and make sure what he is concerned about is not covered by it.

Second, this Bipartisan Patient Protection Act is about HMO reform. It is not about physician liability or the lack thereof—either of those. We would certainly have a problem with adding an amendment to this legislation that is not related to the issue of HMO reform.

So I say to my colleague, again, understanding that we are just seeing his amendment, in fairness I would be happy to talk with him about it, but those were my immediate concerns. There appears to be a law that already covers this subject matter. We would always be concerned, of course, even under circumstances, about a health care provider who acted recklessly. I don't know whether his amendment covers that or not.

Third, the general issue of adding these kinds of provisions to an HMO reform bill, which is what this bill is about, would also be a concern.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. ENSIGN. First of all, physicians I have spoken to do not think the bill the Senator is talking about adequately covers them. That is why they still have to carry medical malpractice insurance, similar to what Senator FRIST has to carry. My amendment would help lower the cost of this type of coverage, so we think this bill is necessary. I don't understand—if this is already covered in law, why would it be a problem to include it to make sure we are saying to the courts that we absolutely want to cover people who are providing pro bono services to the needy.

Mr. EDWARDS. I say to my colleague that if there is already a law in place that covers this issue, it seems as a matter of procedure that the appropriate thing to do would be to amend the already existing law that covers the subject matter, as opposed to adding this measure to an HMO reform piece of legislation.

So I guess, just as a matter of orderly process, something that would make sense to me.

Mr. ENSIGN. We have been looking for a vehicle to include this in. We have wanted to deal with this for some time.
This is a Patients' Bill of Rights, and I know it deals mostly with HMOs, but we are looking at our health care system and providing rights to patients. This is part of the health care bill that I think appropriately should have an amendment or that the Senate should take action on because I don’t think there is any question that we are driving up health care costs in this country. If anything can help drive down, even a small amount, the cost of health care, I think we should pursue it.

If between now and tomorrow morning, if there is other language the Senator thinks we need to massage into our amendment, I would be more than happy to work with the Senator from North Carolina. But as it stands, we think this is an important amendment.

Mr. EDWARDS. Mr. President, I say to my colleague, I appreciate his comments. He and I are friends, and I would like to find a way to work on this. I would be happy to talk to him about this when we adjourn.

Having said that, I continue to have a significant concern about raising an issue on the HMO reform bill that is not addressed in the HMO reform. We have pretty consistently throughout this debate opposed and defeated amendments unrelated to the coverage of this bill. There are obviously many subject matters that are related to the general area of health reform and health care. If we were to add amendments on all subjects of health care, we would never get this legislation completed and passed. I continue to have that concern.

I am happy to work with my colleague and listen to his concerns and work on language, although at this moment this is an amendment we would be compelled to oppose.

Mr. ENSIGN. I ask for the yeas and nays.

The PRESIDING OFFICER. Mr. Reid's motion to ask for the yeas and nays is agreed to.

The yeas and nays are ordered.

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.

The PRESIDING OFFICER. Is there a quorum?

Mr. REID. Mr. President, I indicated earlier in my remarks that I would complete reading into the RECORD the names and titles of organizations that support the Patient Protection Act. Therefore the following is the final list:

[Gateway: Gateways for Youth and Families in WA; Goal: George Junior Republic in Indiana; Gubernia: Girls and Town in NE; Goodwill-Hinckley Homes for Boys; Goodrich Children's Center in WI; Goodwill, Paul, MN; Haddassah; Heart of America Family Services; Hemochromatosis Foundation; Hereditary Colon Cancer Association; Hightowers; Holy Family Institute of Pittsburgh, PA; Home on the Range in Sentinel Butte in Sentinel Butte, ND; Hubert H. Humphrey, III—Former Minnesota Attorney General; Human Services, Inc.; IARCCA An Association of Children.]

Idaho Youth Ranch; Indian United Methodist Children; Infectious Disease Society of America; Institute for Public Relations; Psychosexual Rehabilitation Services; Jacksonfield Foods in VA; Jane Addams Hull House Association; Jeffrey Modell Foundation; Jewish Family Service in New York, NY; Jewish Community Services of South Florida; Jewish Family & Career Services; Jewish Family & Children's Service in NJ; Jewish Family & Children's Service in Boston, MA; Jewish Family & Children's Service in Jacksonville, FL; Jewish Family Service in Minnesota, MN; Jewish Family and Children's Services; Jewish Family and Community Service; Jewish Family Service in Providence, RI; Jewish Family Service in Teaneck, NJ; Jewish Family Service in TX; Jewish Family Services of Akron, OH; Jewish Family Services of Los Angeles; Julia Dyckman Andrus Memorial Children's Center in NY; June Burnett Institute; Kemmerer Village; Kentucky United Methodist Homes; KidsPeace National Centers, Inc. in PA; Lakeside, Kalamazoo, MI; LaSalle School, Inc. in Albany, NY; League of Women Voters; Leake and Watts Services, Inc. in Yonkers, NY; Learning Disabilities of America, National; Children's Home in TX; Lupus Foundation of America; Lutheran Child & Family Service in Bay City, MI; Lutheran Social Services; Lutheran Social Services of Wisconsin; Manisses Communications Group in RI; Maple Shade Youth & Family Services; Marywood Association of Resources for Families & Youth; Massachusetts Council of Family; Mental Fitness Center; Mental Health Liaison Group; Mental Health America, Inc.; Methodist Children's Home in TX; Metropolitan Family Service of Portland, OR; Metropolitan Family Services of Chicago; McGurk & Burtly of Private Child & Family Agencies; Mid-South Chapter of the Paralyzed Veterans of America; Milton Hershey School in Hershey, PA; Missouri Baptist Children’s Home in MO; Missouri Children's Agencies; Missouri Girls Town; Mooseheart Child City and School; Morning Star Boys’ ranch in WA; Mountain Community Rehabilitation in Eye Care; National Black Women's Health Research; National Alliance for the Mentally Ill; National Association for Rural Mental Health; National Association for State Hospitals; National Association of County Behavioral Health Directors; National Association of Long-Term Care Disabilities Councils; National Association of People with AIDS; National Association of Private Special Education Centers; National Association of Protection and Advocacy Systems; National Association of School Psychologists; National Association of Social Workers; National Association of Wholesaler-Distributors; National Breast Cancer Coalition; National Catholic Social Justice Lobby; National College of Optometrists; National Community Pharmacists Association; National Consumers League; National Council for Community Behavioral Health; National Depression Advocacy Association; National Down Syndrome Congress; National Family Planning and Reproductive Health Association; National Health Coalition; National Hemophilia Foundation; National Marfan Foundation; National Mental Health Association; National Multiple Sclerosis Society; National Organization of Physicians Who Care; National Organization of State Association for Children in MD; National Parent Network on Disabilities; National Partnership for Women and Families; National Patient Advocate Foundation; National Psoriasis.

National Rehabilitation Association; National Therapeutic Recreation Association; National Transplant Action Committee; National Women's Health Network; Nation's Voice on Mental Illness; Nazareth Children's Home in Rockford, IL; National Association of Community Corporation in Newark, NJ; Newark Emergency Services for Families in New Jersey; NISH; Norris Adolescent Center in WI; Northeast Parent & Child Society in NY; Northern Virginia Family Service; Northwest Chapter of the Paralyzed Veterans of America; Northwest Children's Home in WA; New England Community Corporation in Sanford, ME; Oak Grove Institute for Children; Oddfellows Children's Home in Duluth, MN; Oak Grove Institute Foundation; Oakland Family Services; Olives Treatment Centers; Organization of Specialist in Emergency Medicine; Outcomes, Inc. in Albuquerque, NM; PA Alliance for Children and Families in Hummelstown, PA.

Pacific Lodge Youth Services; Pajet Foundation; Pain Care Coalition; Palmer Home for Children in Columbus, MS; Paralyzed Veterans of America; Patient Access Coalition; Patient Access to Responsible Care Alliance; Metropolitan Orthopedic Society of North America; Pennsylvania Council of Children in Harrisburg, PA; Personal & Family Counseling Service of New Philadelphia, OH; Philadelphia Association for Independent Living Corporation in PA; Planned Parenthood Federation of America; Presbyterian Home for Children; Provident Counseling, Inc. in St. Louis, MO; Rehabilitation Engineering and Assistive Technology Society of North America; Religious Action Center of Reform Judaism; Research Institute for Innovative Living; Riverbend Head Start & Family Service; Salem Children’s Home; Salvation Army Family Services; San Mar, Inc. of Boonsboro, MD; Sarah's Hope Children and Families in NY; School Social Work Association of America.

Seattle Children’s Home in WA; Seedco/Non-Profit Assistance; Service Net, Inc. in PA; Sherrills Youth Programs of Minneapolis; Siepe’s Orchard Home in Conover, NC; Sjogren’s Syndrome Foundation; Society for Children’s Eye Care; Society for Women’s Health Research; Society of Cardiovascular & Interventional Radiology; Society of Excellence in Eye Care; Society of Gynecologic Oncologists; Society of Nuclear Medicine; Southmountain Children’s Home of America; St. Anne Institute of Albany, NY; St. Colman’s Home in Watervliet, NY; St. Joseph’s Children’s Home in Indian School in SD; St. Mary’s Home of Beaverton, OR; St. Vincent’s Services, Inc. of...
Brooklyn, NY; Starr Commonwealth; Sunbeam Family Services of Oklahoma City, OK; Sunny Ridge Family Center.

Touroette Syndrome; Tourette Syndrome Association; Treatment Access Expansion Project; Triangle Family Services in Raleigh, NC; Turning Point Center; Ulrich Children’s Home; United Cerebral Palsy Association; United Community & Family Service; United Methodist Home; United Ostomy Association; United Methodist Children’s Home; US Public Interest Research Group; Vera Lloyd Presbyterian Home & Family Services; Lloyd Presbyterian Home; Verduco Mental Health Center; Village for Families & Children; Virginia Home for Boys; Webster-Canterell Hall; Whaley Children’s Center; Wisconsin Association of Family and Children; Wisconsin Paralyzed Veterans of America; Woodland Hills in Duluth, MN; Yellowstone Boys and Girls Ranch in Butte, MT; Youth Haven, Inc.; Youth Service Bureau; and YWCA of Northeast Louisiana.

Mr. FLEINSTEIN. Mr. President, I rise today in support of the Bipartisan Patient Protection Act of 2001. Put simply, I believe this is a good bill.

If the Senate approves this bill, we could offer health care protections to all 190 million Americans in private health plans within a week. It’s that simple.

Congress has a duty to pass a comprehensive Patients’ Bill of Rights to make HMOs accountable to patients, and it is urgent that the HMO industry be held accountable with medical decision making. We need to ensure, for example, access to emergency rooms, specialists, and clinical trials. Patients should be able to go to the emergency room closest to their home in the event of a medical emergency. This bill does just that.

Each day, 10,000 physicians see patients harmed because a health plan has refused services. Patients and doctors believe that there is something wrong with quality care. It is a constant battle. It is time for this to stop. And the time is now.

Each day we wait to approve a comprehensive Patients’ Bill of Rights, 35,000 patients are denied access to the specialized care they need to manage or diagnose their illness.

I want to read to you a heart-wrenching letter I received from a California mother who has had difficulty getting her health plan to approve medically necessary services for her disabled daughter.

I believe this letter really highlights the humane reasons Congress must enact a strong Patients’ Bill of Rights this year. This mother writes:

My daughter is a total-care patient. She was in a terrible car accident approximately 14 years ago and sustained brain stem injuries and is a quadriplegic. I chose to keep her home. Her licensed care coverage is to be 24-hour care. In the past two years, her insurance company has unilaterally cut back on her nursing care. This is not based on my daughter’s current condition, her therapy which included physical, speech, and occupational.

I received a letter from her current insurance carrier stating that she was considered an custodian, and I was a custodian. She will not be a custodian in the year 2001 all the aforementioned items would be stopped. This is not based on my daughter’s current doctor’s orders nor her needs. This is not based on an assessment from an independent medical establishment or by an experienced, licensed nurse that was selected by the insurance company for a complete assessment which supported the necessity of 24-hour nursing care. This decision is being made unilaterally by the insurance company officials. Is this what today in support of the Bipartisan Patient Protection Act of 2001. Put simply, I believe this is a good bill.

This decision highlights the importance of giving doctors the power to make medical decisions about coverage and care rather than the “green eye shade” of the insurance companies.

I commend this mother for her commitment to providing her daughter with the best care available.

This letter highlights the importance of giving doctors the power to make medical decisions about coverage and care rather than the “green eye shade” of the insurance companies.

I strongly believe that doctors should be making the medical decisions. This is why it is important that the HMOs be required to help physicians determine what is medically necessary and to prevent insurance plans from defining medical necessity.

These provisions are necessary because doctors believe that their “horror stories” of how plans try to arm twisted, coerced, countermand, interfere with and deny treatments that have been determined medically necessary, and appropriate. The bill prohibits plans from punishing providers for advising patients about their options for medical treatment.

The bill also establishes, as the standard for review, that decisions should be made based on the medical condition of the patient and valid, relevant scientific evidence and clinical evidence and expert opinion.

It requires reviewers in the independent review process to be a physician or health care professional who is licensed and “typically treats the condition, makes the diagnosis, or provides the type of treatment under review.”

On prescription drugs, the bill requires plans to make exceptions to restrictive drug formularies for medical necessity, if prescribed by the treating physician.

It is my hope that these provisions will give doctors and other providers the legal underpinnings they need to make the professional medical judgments they are trained to make in their effort to give patients the best care possible.

I also want to briefly speak to two other very important provisions included in this bill: First, this bill provides coverage to all 190 Americans in private health plans. The competing bill in the Senate (Frist-Breaux) excludes approximately 20 million Americans because they are enrolled in a self-insured State and local government health plans. The competing bill also stops all the aforementioned items would be stopped.

Second, I believe this bill offers a responsible approach to liability.

Today, patients have few opportunities for recourse against the health plans that harm them. This is wrong.

This bill gets rid of a health plan’s special privileges. A health plan would have to compensate patients for their mistakes under State law. If a “green eye shade” overrules a doctor’s medical judgment and harms a patient, the plan too should be held responsible.

At the same time, this bill protects employers. If an employer does not make medical decisions, the employer can’t be held liable. It is that simple.

This bill does not overturn or preempt existing State liability laws. It specifically exempts health plans from new causes of action. These are reasonable provisions. In States like California that have strong patient protections there has not been an explosion of lawsuits.

In fact, since the inception of California’s right-to-sue law in January 2001 and the unlimited damage it provides for, there has not been a single lawsuit filed.

Instead, HMOs appear to be deferring more to patients’ requests for treatment, according to the first data to emerge from the State’s HMO regulator.

California has the longest history in managed care and the highest number of insured people in HMOs nationwide. Over 70 percent of Californians are enrolled in either a commercial HMO or a preferred provider organization. PPO, HMO, or HMO-PPO. Over 70 percent of Californians have access to health insurance through their job or privately purchase coverage.
So for California, these protections are critical. Due in part to the high penetration of managed care, California's health care system is on the verge of collapse. Resources are stretched to the limit and patients, as a result, are not getting the care they need.

For example, California's capitation rate, the rate paid to doctors for treatment, is one of the lowest in the Nation. The average capitation rate in California reached its peak in 1993 at $45 per month. Last year, the rate dropped to $29 (PriceWaterhouse Coopers).

These low reimbursement rates undoubtedly impact quality of care and access to services.

Many California hospitals and other health care providers have been forced to limit hours of operation and discontinue services. The burden to provide care is put on those that have remained open, and many of these facilities are now facing financial problems of their own.

I know that California's health care system is not unlike other systems across the country. The bottom line is that patients should not be the one's made to suffer at the hands of a failing health care system.

People pay monthly premiums. They expect their health insurance to be there when they need it. That is what insurance is. It insures against loss from unforeseen illness or injury.

But with HMOs today, the certainty of good health care is being seriously eroded. Many people feel that every time they need care, it is a tremendous hassle.

The bottom line is that people feel they have to fight to get the quality care they have paid for. Americans are tired of jumping through hoops to get good care.

People should not have to fight for their health care. They pay for it out of their monthly paycheck. It should be there for them when they need it.

I would like to close with a very tragic story about a young, 16 year old girl from Irvine, California who did not get the care she needed from her HMO in a timely manner. I think her story provides a poignant summary of the problem with managed care providers. Unfortunately, her story does not have a happy ending.

Serenity Silen was diagnosed with acute myeloid leukemia, or AML, in late February 1998. She had gone to her HMO four times, to four different HMO doctors, since the beginning of 1998. Each time she complained of the exact same symptoms, all of which could indicate leukemia.

Over the course of the four visits, Serenity’s condition was never diagnosed. Finally, in the middle of February 1998, Serenity was taken to the emergency room of an out-of-network hospital by her parents. The police were called to the hospital door by Serenity’s mother, who was so frustrated with the care at their HMO.

The emergency room doctor was the first doctor, in the five weeks since the symptoms arose, to order a complete blood count test. The blood count test indicated a dangerously high white blood cell count that was symptomatic of leukemia. With a much delayed diagnosis, Serenity’s leukemia was now going to be much more difficult to treat.

Fed up with the HMO, Serenity’s parents sought a second opinion from a highly recognized oncologist at an out-of-network hospital. Serenity was transferred to that hospital to be under the oncologist’s care. After being at the new hospital only a few days, Serenity explained to her parents that she did not realize how much pain she was in until the new hospital helped to take it away. After 2 1/2 months at the new hospital, Serenity died. The disease had not been diagnosed in time.

I urge my colleagues to support this bill. Support this bill for the children like Serenity in your State. The constituents who battle with their HMOs daily to get the quality care they need and deserve. Many of these patients are too sick to fight with their HMOs to get access to the services necessary to treat their illnesses. How many more lives are we going to lose to the HMO battle before Congress wises up and passes a Patients’ Bill of Rights that protects the patient?

This bill has been a long time in the making. Let’s get it done this session.

ADJOURNMENT OF THE TWO HOUSES OVER THE FOURTH OF JULY HOLIDAY

Mr. REID. Mr. President, I have a unanimous consent request that the Senate proceed to H. Con. Res. 176, the adjournment resolution, which is at the desk.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (H. Con. Res. 176) providing for conditional adjournment of the House of Representatives and a recessional adjournment of the Senate.

Mr. REID. Mr. President, I ask unanimous consent that the resolution be agreed to and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The concurrent resolution (H. Con. Res. 176) was agreed to, as follows:

Resolved by the House of Representatives (the Senate concurring), That when the House adjourns on the legislative day of Thursday, June 28, 2001, or Friday, June 29, 2001, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand adjourned until 2 p.m. on Tuesday, July 3, 2001, or until noon on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first; and that when the Senate recesses or adjourns the Senate concurring, That when the House adjourns on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first; and that when the Senate recesses or adjourns the Senate concurring.

Resolved by the House of Representatives (the Senate concurring), That when the House adjourns on the legislative day of Thursday, June 28, 2001, or Friday, June 29, 2001, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand adjourned until 2 p.m. on Tuesday, July 3, 2001, or until noon on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first; and that when the Senate recesses or adjourns the Senate concurring.

HONORING NEW YORK FIREFIGHTERS—JOHN J. DOWNING, BRIAN FAHEY, AND HARRY FORD, WHO LOST THEIR LIVES IN THE LINE OF DUTY

On June 17, as a treacherous five-alarm fire raged at the Long Island General Supply Company in Queens, NY, without hesitation, as they have done countless times before, nearly 350 firefighters and numerous police officers responded to the call for help. Two civilians and dozens of firefighters and police officers were injured. And three courageous fathers lost their lives. It
was the last time their children would be able to spend Father's Day with them.

John Downing was 40 years old, an 11-year veteran of the New York Fire Department when he responded to the five-alarm fire in the department from East Rockaway, NY, was a volunteer firefighter and father of three. His years of service to his community were made proud by his courage. He is survived by his wife Anne, and three sons: Brendan, 8; and twins, Patrick and James, 3 years old.

Harry Ford, age 50, gave nearly three decades of service to the New York City Fire Department. During his exemplary career, he received nine bravery citations. He is survived by his wife Denise, daughter Janna, and his three-year-old twins, Patrick and James.

Mr. President, I pay a call on the two firehouses early Sunday morning who had lost these brave compatriots, and I am talking to the firemen who go to work every day not knowing what is going to be asked of them, who sometimes go for, thankfully, days, or weeks, or months, and even years without ever having to put themselves in danger, but the very call comes, they are ready. And whether it is a call to respond to an emergency need because of an illness, an accident, or a huge raging fire that is about to get out of control, they represent the very best we have in our society.

We live in a society that seems to be in perpetual search for heroes, whether in the form of sports figures or screen idols. But to find true heroes, sometimes we don’t have to look so very far from home. We certainly don’t have to look any farther than the brave men we are honoring today.

The unmistakable courage and the incalculable sacrifices that they and their families have made for the good of their neighbors and their community are the kinds of virtues and values that should be held up to our children and ourselves as something we should all aspire to.

Finally, in so honoring these men, we honor the hundreds of thousands of public safety officers across this country that, every single day, risk their lives and put them and their families at risk to keep us safe from harm. Their strong tradition of bravery and sacrifice keeps our communities safe and fills our hearts with pride for their selfless acts of courage for others.

I hope that next year when Father's Day comes around, the children who have lost their fathers in this fire and those who have lost fathers and mothers because they were serving will know how grateful we are for their sacrifice. I hope all of my colleagues will join me in supporting this resolution.

I yield back the remainder of my time.

Mr. DODD. Mr. President, I rise in support of Senator CLINTON's resolution honoring the fallen firefighters of New York and to join with her in acknowledging the commitment of Harry Ford, Brian Fahey, and John Downing. These men were firefighters—firefighters who risked their lives and gave their lives to protect the public. These men died on Sunday, June 17th, while fighting a fire in New York City.

No amount of funding can bring back Firefighters Ford, Fahey, and Downing, New fire trucks or better training programs or even more firefighters cannot even begin to compensate for the loss suffered by the people of Queens and the families of these brave men, whose lives were cut so tragically short.

John Downing. These men were firefighters Ford, Fahey, and Downing worked quickly to fight a fire in a local hardware store. Thirty minutes after leaving the fire station, responding to what they thought was a routine call, an explosion buried the men under a pile of rubble. Dozens of firefighters worked to rescue the men, but they could not be reached in time.

These men were husbands and fathers. Harry Ford leaves behind his wife, Denise, and two sons, Harry, age 12, and Gerard, 10. Brian Fahey leaves behind his wife, Denise, and three sons: Brendan, who is 8 years old, and 3-year-old twins, Patrick and James. John Downing is survived by his wife Anne, his daughter Joanne, age 7, and his son Michael, who is 3. My thoughts and prayers are with their families.

I am humbled by their devotion to public service. Their deaths represent the ultimate sacrifice a person can make for his or her fellow human beings. They died while fighting a fire and it is not hyperbole to say that they died while making America a safer place to live.

I am always saddened to realize that it takes a tragedy like this to bring attention to the needs of fire departments nationwide. I hope that the memory of these three men will help Americans realize the impact of firefighters on our daily lives.

Firefighters are almost always the first in a community to respond to a call for help. They are on the scene of traffic accidents and construction accidents. When a natural or man-made calamity strikes—from hurricanes to school shootings to bombings—firefighters are there without fail, restoring order and saving lives.

Unfortunately, fire departments across the Nation struggle to find the resources to help keep our communities safe. As the demands placed on fire departments have grown in volume and magnitude, the ability of local residents to support them has been put to a severe test. As a result, towns and cities throughout the country are struggling mightily to provide the fire departments with the resources they require.

For these reasons I have strongly supported helping localities meet their critical objectives. Communities need more firefighters and community firefighters need the resources to ensure that they have the training and equipment to protect themselves and the public.

Last year we passed an important piece of legislation called the Firefighter Investment and Response Enhancement Act which authorized the Federal Emergency Management Agency to provide grants to local fire departments so they can purchase the equipment they need. Congress appropriated $100 million for the program last year and the FEMA has just completed the first grant competition under the program. The demand is extraordinary. FEMA received nearly $3 billion worth of grant applications—that’s 30 times more in requests that is currently available.

No amount of funding can bring back Firefighters Ford, Fahey, and Downing. New fire trucks or better training programs or even more firefighters cannot even begin to compensate for the loss suffered by the people of Queens and the families of these brave men, whose lives were cut so tragically short.

So I stand here before you, Mr. President, and the members of this chamber to say that these men and their families shall not be forgotten. They have sacrificed their lives for us, and for this they deserve no less than the highest degree of honor and respect. We here today cannot compare our own deeds to those of Harry Ford, Brian Fahey, and John Downing, but we can bring honor to ourselves and justice to their memories by keeping them and the needs of the fire service in mind as we perform our own duties.

MRS. CLINTON. Mr. President, I ask unanimous consent that the resolution and preamble be agreed to in bloc, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 117) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

WHEREAS on June 17, 2001, 350 firefighters and numerous police officers responded to a 911 call that sent them to Long Island General Supply Company in Queens, New York; Whereas a fire and an explosion in a 2-story building had turned the 126-year-old, family-owned store into a heap of broken bricks, twisted metal, and shattered glass; Whereas all those who responded to the scene were without reservation and with their personal safety on the line; Whereas 2 civilians and dozens of firefighters were injured by the blaze, including firefighters Joseph Vesilura and Brendan Manning who were severely injured; Whereas John J. Downing of Ladder Company 163, an 11-year veteran of the department, resident of Ronkonkoma, and a husband and father of 2, lost his life in the fire;
Whereas Brian Fahey of Rescue Company 4, a 14-year veteran of the department and resident of East Rockaway, and a husband and father of 3, lost his life in the fire; and
Whereas Harry Ford of Rescue Company 4, a 27-year veteran of the department from Long Beach, and a husband and father of 3, lost his life in the fire; Now, therefore, be it
Resolved by the Senate (2):
(1) honors John J. Downing, Brian Fahey, and Harry Ford, who lost their lives in the course of duty as firefighters, and recognizes them for their bravery and sacrifice;
(2) extends its deepest sympathies to the families of these 3 brave heroes; and
(3) pledges its support and to continue to work on behalf of all of the National firefighters who risk their lives every day to ensure the safety of all Americans.

A CALL FOR ACTION

Mr. LEVIN. Mr. President, a new poll conducted by the Opinion Research Corporation International and released by the Brady Campaign to Prevent Gun Violence confirms once again that the American people support sensible gun safety legislation. Eighty-three percent of those polled said they support criminal background checks on all gun purchases at gun shows. Nearly four out of five respondents voiced support for preventing gun dealers from selling guns to anyone who has not passed a background check, even if it takes more than 3 days to complete the check. And more than 8 out of every 10 people polled believe that all guns should be sold with childproof safety locks.

The message here is clear. People are fed up with the reports of gun violence that dominate the front page and the evening news. America wants action.

The Brady Campaign's poll and countless other studies demonstrate our mandate. The incidents of gun violence that plague our neighborhoods and endanger our children confirm our moral obligation.

We should ignore neither. We cannot let another Congress go by without action. Let's close the loopholes in our gun laws and remember the 107th Congress as a time when we made America a safer place for our children and our grandchildren.

GENERAL ACCOUNTING OFFICE REPORT ON DISADVANTAGED BUSINESS ENTERPRISES PROGRAM

Mr. MCCONNELL. Mr. President, when the 105th Congress passed the Transportation Equity Act for the 21st Century, TEA-21, there was a vigorous and close debate about whether to convert the Disadvantaged Business Enterprise Program into a race neutral program helping all small disadvantaged businesses. It troubled many members of both Houses that we lacked basic information about the characteristics of DBEs and non-DBEs and about alleged discrimination in the transportation industry. Consequently, I introduced, with widespread bi-partisan support, an amendment to TEA-21, requiring the GAO to gather the information Congress was missing that is essential to understanding the DBE program. As Congressman SHUSTER, Chair of the House Committee on Transportation and Infrastructure and the floor manager for the transportation bill, emphasized during the House debate, the Act “also requires a GAO study that would examine whether there is continued evidence of discrimination against small business owned and controlled by socially and economically disadvantaged individuals. I believe such a study will lay the groundwork for future reform.”

Three years later, the GAO has produced a comprehensive report on the questions Congress asked it to investigate. This objective, impartial report entitled, “Disadvantaged Business Enterprises: Critical Information is Needed to Understand Program Impact,” GAO Report GAO-01-586, June 2001, is highly significant to the continuing legislative and judicial debate over the Disadvantaged Business Enterprise Program. Professor George R. La Noue, one of the distinguished scholars in this field, has analyzed the GAO’s report. He notes that the “DBE program has been continuously subject to vigorous legislative and judicial debate since its almost two decades of existence.” Professor La Noue concludes that “the picture of the DBE program that emerges from the GAO report is one of essential information that is missing, or if available, does not support any finding of a national pattern of discrimination against DBEs.” I am pleased to provide Professor La Noue’s analysis of the GAO report, and I request that it be printed in the RECORD.

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

AN ANALYSIS OF "DISADVANTAGED BUSINESS ENTERPRISES: CRITICAL INFORMATION IS NEEDED TO UNDERSTAND PROGRAM IMPACT" (GAO-01-586 June 2001)

(By George R. La Noue, Professor of Political Science)

DIRECTOR, PROJECT ON CIVIL RIGHTS AND PUBLIC CONTRACTS, UNIVERSITY OF MARYLAND, BALTIMORE COUNTY

During the 1998 consideration of the Transportation Equity Act for the 21st Century (TEA-21), there was extensive debate in both Houses about whether to make the DBE program race-neutral. In the end, a compromise was reached to retain a race conscious DBE program, while requiring the General Accounting Office to make a three year study of the characteristics of the DBEs and non-DBEs participating in federal transportation programs and to gather existing evidence of discrimination against DBEs and non-DBEs.

During these years, GAO conducted a survey of discrimination complaints received from recipients of USDOT state assisted contracts. The major findings were thus:

1. DISCRIMINATION COMPLAINTS

GAO conducted a survey of discrimination complaints received from recipients of USDOT state assisted contracts. The major findings were thus:

(a) There was little agreement among the agencies on whether complaints were discriminatory. (p. 7)

(b) In fact GAO reported there were few if any studies by government agencies or industry groups regarding barriers to DBE Contractors. Because of this, the agency does not compile or track complaints. (p. 1)

(c) The USDOT permits recipients to use disparity studies to set their annual goals. (p. 2)

(d) GAO found that about 30 percent of the recipients surveyed used disparity studies to set their FY 2000 goals. (p. 29)

2. DISPARITY STUDIES

GAO also reviewed 14 transportation-specific disparity studies completed between 1996 and 2000. GAO examined these studies because they might be a source of evidence about discrimination against DBEs and because USDOT permits recipients to use disparity studies to set annual goals and to determine the level of discrimination these goals purportedly are supposed to remedy. GAO found that about 30 percent of the recipients surveyed used disparity studies to set their FY 2000 goals. (p. 29)

GAO made other specific criticisms of these studies. For example, the studies did not have information on firm qualifications or characteristics that could be used to analyze both the DBE question and the results of 14 transportation related disparity studies.

2. DISPARITY STUDIES

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GAO found that the limited data used to calculate disparities, compounded by the methodological weaknesses, create uncertainties about the study findings. (p. 2)

While not all studies suffered from every problem, each suffered enough problems to make its findings questionable. While not all studies suffered from every problem, each suffered enough problems to make its findings questionable. We recognize there are difficulties inherent in conducting disparity studies and that such limitations are common to social science research; however, the studies we reviewed did not sufficiently address such problems or disclose these limitations. (p. 23)

GAO then detailed disparity study problems, particularly in calculating DBE availability. The problems are significant not only because they undermine the validity of the disparity studies involved, but because these same problems exist in the regulations USDOT issued regarding annual goal setting. USDOT as a practical matter permits recipients to use a wide variety of sources to measure availability on which goals are then based.

GAO made other specific criticisms of the studies. For example, the studies did not have information on firm qualifications or characteristics that could be used to analyze both the dollars and contracts awarded and some-times did not have subcontracting data. This
was important: Because MBE/WBEs are more likely to be awarded subcontracts than prime contracts, MBEs/WBEs may appear to be underutilized when the focus remains on prime contract data. Furthermore, although some studies did include calculations based on the number of contracts, all but two based their determination of disparities on only the dollar amounts of the DBEs. Because MBEs/WBEs tend to be smaller than non-MBEs/WBEs, they often are unable to perform on larger contracts. Therefore, it would be misleading to compare them on a disproportionately smaller amount of contract dollars. (p. 32) (see data on contracting awards on p. 51)

Finally GAO notes that although USDOT advised recipients that disparity studies should be “reliable,” USDOT provided no guidance on what would be a reliable study. GAO concluded that: USDOT’s guidance does not. From a legal standpoint, the most basic policy or methodology used to make a disparity study is consistent with the findings of DBE goals. (p. 32)

Nor are respondents acquiring relevant information: 98.8% have not conducted any study determining if awarding prime or sub contracts to DBEs affects contract costs; 67.5% no study on discrimination against DBEs firms; 84.2% no study of discrimination against DBEs by financial credit, insurance or bond markets; 79.5% no study of factors that such owners net worth not exceed $750,000. Only a handful of respondents could report data on the gross revenues or owner net worth characteristics of DBE firms. (p. 64) While 79 respondents could report data about subcontracts awarded DBEs, only 28 respondents could report similar data for non-DBE firms. Respondents did not regard comparing DBE and non-DBE subcontractor utilization relevant in setting goals or in determining whether discrimination exists.

LOCAL LAW ENFORCEMENT ACT

Mr. SMITH of Oregon. Mr. President, I rise today to speak about hate crimes legislation I introduced with Senator KENNEDY in March of this year. The Local Law Enforcement Act of 2001 would add new categories to current hate crimes legislation sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred April 18, 1998 in New York City. A man who used anti-gay epithets allegedly slashed a gay man in the face with a knife. Eric Rodriguez, 22, was charged with attempted murder, assault, and criminal possession of a weapon.

I believe that government’s first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act of 2001 is now a symbol that can become substance. I believe that by passing this legislation, we can change hearts and minds as well.

RAILROAD CROSSING DELAY REDUCTION ACT

Mr. DURBIN. Mr. President, earlier this month I introduced the Railroad Crossing Delay Reduction Act, S. 1015, with my colleagues, Senators LEVIN and STABENOW.

This legislation would accelerate efforts at the U.S. Department of Transportation to address the issue of rail safety by requiring the Secretary of Transportation to prepare regulations regarding trains that block automobile traffic at railroad crossings.

Currently, there are no Federal limits on how long trains can block crossings. The Railroad Crossing Delay Reduction Act would simply minimize automobile traffic delay caused by trains blocking traffic at railroad grade crossings.

In northeastern Illinois, there are frequent blockages at rail crossings. These blockages can prevent emergency vehicles, such as fire trucks, police cars, ambulances, and other related vehicles from getting to their destinations during the times of need. This is a serious problem and one I have had the opportunity to address by passage of this important legislation.

Blocked rail crossings also delay drivers by preventing them from getting to their destinations. Motorists, knowing they will have to wait for a train to move at blocked crossings, sometimes try to beat the train or ignore signals completely. This is a threat to public safety, and one that must stop. Motorists must act responsibly, but we can reduce the temptation by reducing delays.

Trains stopped for long periods of time also tempt pedestrians to cross between the track cars. I’ve heard from local mayors in my state that children, in order to get home from school, cross between the rail cars. This is a terrible invitation to tragedy.

Trains blocking crossings cause traffic problems, congestion, and delay. These issues are very real. They are serious. And more importantly, they are a threat to public safety. To address these problems, I’ve introduced with my colleagues the Railroad Crossing Delay Reduction Act. I’m hopeful this legislation will provide for a safer Illinois and a safer Nation. I urge my colleagues to join the effort to reduce blocked rail-grade crossings by cosponsoring and supporting S. 1015.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Wednesday, June 27, 2001, the Federal debt stood at $5,655,167,264,852.88, Five trillion, six hundred fifty-five million, five hundred sixty-four thousand, eight hundred sixty-seven million, two hundred thirty-eight cents.

One year ago, June 27, 2000, the Federal debt stood at $5,650,720,000,000, Five trillion, six hundred fifty billion, seven hundred twenty million.

Five years ago, June 27, 1996, the Federal debt stood at $5,118,104,000,000, Five trillion, one hundred eighteen billion, one hundred four million.

Ten years ago, June 27, 1991, the Federal debt stood at $3,502,028,000,000, Three trillion, five hundred twenty-eight billion.

Fifteen years ago, June 27, 1986, the Federal debt stood at $2,977,000,000,000, Two trillion, forty-seven billion.

Twenty years ago, June 27, 1976, the Federal debt stood at $2,040,977,000,000, Two trillion, forty billion, ninety-seven billion.

Thirty years ago, June 27, 1966, the Federal debt stood at $1,090,127,000,000, One trillion, ninety billion, one hundred twenty-seven billion.
sixty-four thousand, eight hundred fifty-two dollars and eighty-eight cents during the past 15 years.

ADDITIONAL STATEMENTS

CONGRATULATING JAMES W. AND JESSE ANN DAVIS

• Mr. ALLEN. Mr. President, I rise today to congratulate two residents of Ashburn, Virginia, on the birth of one of my newest constituents and a fine young man, James Michael Davis. James Michael was born on March 20, 2001, weighing 6 pounds and 10 ounces, and is the proud son of James W. Davis, a member of the U.S. Capitol K-9 Police Force, and Jesse Ann Davis. He is the grandson of Edith Louise Davis and the late James Carl Davis, and Stella Canchola and the late Raymond Canchola.

James Michael has entered a world of unlimited opportunity and possibilities. His parents and grandparents will help instill virtues of independence, self-reliance, perseverance and determination, all of which will serve him well in the road of life. I want to extend my best wishes to James Michael for many years of health and happiness.

IN RECOGNITION OF DR. RICHARD W. MCDOWELL

• Mr. LEVIN. Mr. President, I am delighted to speak today to acknowledge a leader, from my home State of Michigan, who has dedicated his life to serving the citizens in Michigan, Dr. Richard W. McDowell. Today, many people will gather to pay tribute to Dr. McDowell for his service as President of Schoolcraft College, in Livonia, MI, for the past twenty years.

Dr. McDowell has dedicated his life, both professionally and personally, to the service of his community. Dr. McDowell has served capably and honorably as the President of Schoolcraft College during a period of incredible growth for this institution. He has presided over programs and projects that have reshaped the campus, and enhanced its ability to meet the needs of students at Schoolcraft College.

During his tenure as President, Dr. McDowell has presided over the construction of numerous structures including additions to the Campus Center, the Child Care Center and the student center that bears his name. In addition to enhancing the physical facilities, he has greatly enhanced the economic structure of the campus by forming the Schoolcraft Development Authority, and by expanding the endowment of the college. These efforts will secure the ability of the school to maintain a world-class campus while providing students with access to an affordable education.

In addition to these activities, Dr. McDowell is a leader in his profession and in numerous civic institutions. His love of academia and education translated into his desire to serve the educational community writ large. Dr. McDowell has served as President of the Michigan Community College Association, and he has been a member of the Michigan Educational Trust Board, the National Advisory Panel for the Community College Program at the University of Michigan, the American Association of Community Colleges and the North Central Association of Colleges and Schools.

He has further supported his community by serving on the board of Wayne County Private Industry Corporation, St. Mary Mercy Hospital and the City of Livonia Ethics Board. This selfless leadership has been recognized by many organizations, including his alma mater—Indiana University of Pennsylvania and Purdue University. Both of these institutions awarded him their distinguished alumni awards. In addition, he was selected one of the top fifty community college presidents in the United States by the Community College Leadership Program at the University of Texas at Austin.

I hope my Senate colleagues will join me in saluting Dr. McDowell for his career of public service, particularly the commitment to education which he has exhibited for the last two decades.

CONCRETE CANOE COMPETITION

• Mr. SESSIONS. Mr. President, I join with my colleagues in support of the Concrete Canoe Competition. Civil Engineers design the backbone of our Nation's infrastructure. By designing, building, and maintaining our infrastructure, these engineers have quietly helped to shape the history of our Nation and its communities. Civil Engineers contribute daily to our standard of living through their design, building, and maintaining our transportation, clean water, and power generation systems.

A great example of civil engineering ingenuity is manifested through the National Concrete Canoe Competition. The Concrete Canoe Competition provides college and university students an opportunity to use the engineering principles learned in the classroom, and apply them in a competitive environment where they further learn important team and project management skills.

I am very pleased to announce that on June 16, 2001, the University of Alabama at Huntsville won an unprecedented fifth national championship in the Concrete Canoe Competition.

RETIREMENT OF JOHN C. HOY AS PRESIDENT OF THE NEW ENGLAND BOARD OF HIGHER EDUCATION

• Mr. KENNEDY. Mr. President, it is an honor today to recognize the outstanding accomplishments of John C. Hoy, president of the New England Board of Higher Education, who is retiring this month. Mr. Hoy has dedicated the past twenty-three years to serving the higher education institutions of New England, and his leadership will be greatly missed.

Since he became president of the Board in 1978, Mr. Hoy has led the effort to provide an accessible and affordable education for every New Englander. To accomplish this goal, he established reforms in his own organization, and he also involved individuals and businesses throughout New England in effective partnerships that served students and institutions alike.

Among his primary achievements was the publication of numerous important books, including studies on the relationship between higher education and economic well-being in New England, the links between U.S. competitiveness and international aspects of higher education, and the effects of legal education on the New England economy.

In addition, John Hoy offered much-needed support to minority communities. He encouraged greater participation by Blacks and Hispanics in higher education, and worked effectively to increase the number of ethnic minorities completing PhD programs. He also created a scholarship program for Black South African students at South Africa's open universities under apartheid.

John Hoy also cared deeply about the way technology was changing higher education, in New England and around the country. Under his initiative, the Board explored the need for tech industries and manufacturing in New England, and worked to improve technical education, with the help of both professional educators and the private sector. In addition, he worked with other regional boards of higher education to coordinate telecommunication among higher educational institutions.

John C. Hoy deserves great credit for all he has done to enhance higher education in New England and the accomplishments are deeply appreciated by all of us who know him, and I welcome this opportunity to wish him a long and happy retirement.

HONORING DR. BERNARD MEYERS

• Mr. CRAPO. Mr. President, I rise today to say thank you to Dr. Bernard ‘Bernie’ Meyers, President and General Manager of BBWI, Idaho, LLC (BBWI). BBWI manages the Idaho National Engineering and Environmental Laboratory (INEEL) for the United States Department of Energy.

The INEEL is the third largest employer in the state of Idaho and the largest employer in my hometown of Idaho Falls. For the past 2 years Bernie’s professional and personal skills have helped lead the INEEL in its mission by delivering sustainable solutions to the world’s environmental, energy and security challenges.
On August 1, 2001, Bernie will retire as President of BBWI and assume additional duties on behalf of Bechtel. In addition to his duties as President of BBWI, Bernie is also Senior Vice President in the 30,000 employee worldwide Bechtel organization.

Bernie’s 39-year professional career includes 26 years spent with Bechtel, where he has risen through the nuclear engineering ranks while serving as an Engineer, Supervisor, Project Manager, Vice President, and finally as Senior Vice President.

Bernie’s stewardship of Bechtel BWXT Idaho represents a strong demonstration of Bechtel’s commitment to provide customer satisfaction and operational excellence for the eastern Idaho community. In addition to being a Senior Vice President, Bernie has in the past directed major Bechtel companies, managed North American operations, headed up the firm’s Engineering and Construction operations, managed Bechtel’s nuclear business line and served as an “in-the-trenches” project manager for some $30 billion worth of nuclear power jobs.

During that same time, Bernie gained INEEL-applicable experience in integrating safety through diverse workforces and in serving as a leader in nuclear technologies and nuclear operations. Over the years, he has managed large, complex and highly technical entities; overseen research and development organizations; and helped expand new and existing business lines into both national and international markets. He also has integrated technical, management and business systems across multiple offices, companies, sites, and disciplines.

Bernie is a Fellow in the American Society of Civil Engineers and the American Concrete Institute, and has authored a textbook, as well as more than 60 professional papers. He holds a master's degree in civil engineering from the University of Missouri and a doctor's degree in civil engineering from Cornell University.

During his time in Idaho, Bernie Meyers has provided sound thinking, decisive leadership and an intelligent vision for the future of the INEEL. He has provided honest and frequent communications about INEEL activities with Idaho’s Congressional delegation, Idaho elected officials, key stakeholders, business and community leaders and employees. Under Bernie leadership, BBWI has proven to be a solid corporate neighbor throughout the state of Idaho. His advocacy for science education has helped to firmly establish the JASON Science Education program in the state, creating an awareness of science and technology careers for Idaho’s elementary and secondary school students. His support of art, cultural and civic causes have contributed to the financial well-being of many of organizations in Idaho.

On behalf of the people of Idaho, I want to say thank you to Bernie Meyers for a job well done. I want to wish Bernie and his wife Rita all the best as they tackle new challenges in the years ahead.

WE THE PEOPLE COMPETITION

Mr. MILLER. Mr. President, I would like to congratulate the following students for their outstanding performance in the national finals of the “We the People... The Citizen and the Constitution” contest in Washington, D.C. on June 18.


The leaders of this exceptional group of students are: Celeste Boemker, Teacher, Parker Davis, State Coordinator, and John Carr; District Coordinator.

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 where were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT OF THE CORPORATION FOR PUBLIC BROADCASTING FOR FISCAL YEAR 2000—MESSAGE FROM THE PRESIDENT—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 Commerce, Science and Transportation.


REPORT ON THE COMPREHENSIVE NATIONAL ENERGY POLICY DATED JUNE 2001—MESSAGE FROM THE PRESIDENT—PM 33

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 Energy and Natural Resources.

To the Congress of the United States:

One of the first actions I took when I became President in January was to create the National Energy Policy Development Group to examine America’s energy needs and to develop a policy to put our Nation’s energy future on sound footing.

I am hereby transmitting to the Congress proposals contained in the National Energy Policy that require legislative action. In conjunction with executive actions that my Administration is already undertaking, these legislative initiatives will help address the underlying causes of the energy challenges that Americans face now and in the years to come. Energy has enormous implications for our economy, our environment, and our national security. We cannot let another year go by without addressing these issues together in a comprehensive and balanced package.

These important legislative initiatives, combined with regulatory and administrative actions, comprise a comprehensive and forward-looking plan that utilizes 21st century technology to allow us to promote conservation and diversify our energy supply. These actions will increase the quality of life of Americans by providing reliable energy and protecting the environment.

Our policy will modernize and increase conservation by ensuring that energy is used as efficiently as possible. In addition, the National Energy Policy will modernize and expand our energy infrastructure, creating a new high-tech energy delivery network that increases the reliability of our energy supply. Further, it will diversify our energy supply by encouraging renewable and alternative sources of energy as well as the latest technologies to increase environmentally friendly exploration and production of domestic energy resources.

Importantly, our energy policy improves and accelerates environmental protection. By utilizing the latest in pollution control technologies to cut harmful emissions we can integrate our desire for a cleaner environment and a sufficient supply of energy for the future. We will also strengthen America’s energy security. We will do so by reducing our dependence on foreign sources of oil, and by protecting low-income Americans from soaring energy prices and supply shortages through programs like the Low Income Housing Energy Assistance Program.

My Administration stands ready to work with the Congress to enact comprehensive energy legislation this year.

The following bills were read the first time and referred or ordered to lie on the table:

H.R. 691. An act to extend the authorization of funding for child passenger protection education grants through fiscal year 2003; to the Committee on Commerce, Science, and Transportation.

H.R. 2133. An act to establish a commission for the purpose of encouraging and providing for the commemoration of the 50th anniversary of the Supreme Court decision in Brown v. Board of Education; to the Committee on the Judiciary.

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table:

POM–123. A concurrent resolution adopted by the Senate of the Legislature of the State of Louisiana relative to the Interstate highway system; to the Committee on Environment and Public Works.

SENATE CONCURRENT RESOLUTION NO. 106
Whereas, safety rest areas located on the rights of way of the Interstate highway system provide necessary services for Louisiana motorists, as well as visitors to Louisiana; and
Whereas, there are currently thirty-four rest areas along interstate highways in Louisiana; and
Whereas, the annual cost of upkeep and maintenance of these rest areas is approximately three and one-half million dollars; and
Whereas, the state is required by federal law to maintain these rest areas; and
Whereas, the Louisiana Department of Transportation and Development has scheduled approximately fifteen of these rest areas for closure; and
Whereas, these rest areas scheduled for closure could remain open if private entities were charged with the responsibility of maintenance and upkeep; and
Whereas, Federal law currently prohibits privatization of safety rest areas located on the rights of way of the Interstate highway system. Therefore be it
Resolved, That the Legislature of Louisiana memorializes the Congress of the United States to allow states to privatize safety rest areas located on the rights of way of the Interstate highway system. Be it further
Resolved, That a copy of this Resolution shall be transmitted to the secretary of the United States Senate and the clerk of the United States House of Representatives and to each member of the Louisiana delegation to the United States Congress.

EXECUTIVE REPORTS OF COMMITTEES
The following executive reports of committees were submitted:

Mr. LEVIN. Mr. President, for the Committee on Armed Services.
To be vice admiral
Maj. Gen. Edward Hanlon Jr., 0000

(The above nominations were reported with the commendation that they be confirmed.)

Mr. LEVIN. Mr. President, for the Committee on Armed Services, I report favorably the following nomination lists which were printed in the RECORDS of 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 and status.

The PRESIDING OFFICER. Without objection, it is so ordered.

Air Force nominations beginning STEVEN L. ADAMS and ending JANNETTE YOUNG, which nominations were received by the Senate and appeared in the Congressional Record on June 18, 2001.

Army nominations beginning KEITH S. * ALBERTSON and ending ROBERT K. ZUHRLKE, which nominations were received by the Senate and appeared in the Congressional Record on January 3, 2001.

Army nominations beginning ERIC D. * ADAMS and ending DAVID S. ZUMBO, which nominations were received by the Senate and appeared in the Congressional Record on May 21, 2001.

Army nominations beginning GREGORY R. CLUFF and ending STEVEN W. VINSON, which nominations were received by the Senate and appeared in the Congressional Record on June 5, 2001.

Army nominations beginning CYNTIA J. ABRADINI and ending THOMAS R. * YARBER, which nominations were received by the Senate and appeared in the Congressional Record on June 5, 2001.

Army nominations beginning JAMES E. GELETA and ending GARY S. OWENS, which nominations were received by the Senate and appeared in the Congressional Record on June 12, 2001.

Army nominations beginning FLOYD E. BELL. JR., and ending STEVEN N. WICKSTROM, which nominations were received by the Senate and appeared in the Congressional Record on June 12, 2001.

Army nominations beginning ROBERT E. ELLISON and ending PETER G. SMITH, which nominations were received by the Senate and appeared in the Congressional Record on June 18, 2001.

Army nominations beginning BRUCE M. BENNETT and ending GRANT E. ZACHARY JR., which nominations were received by the Senate and appeared in the Congressional Record on June 18, 2001.

Navy nomination of Charlie C. Biles, which was received by Senate and appeared in the Congressional Record on May 21, 2001.

Navy nominations beginning JAMES W. ADKISSON III and ending MIKE ZIMMERMAN, which nominations were received by the Senate and appeared in the Congressional Record on May 21, 2001.

Navy nominations of William J. Diehl, which was received by the Senate and appeared in the Congressional Record on June 5, 2001.

Navy nominations of Christopher M. Rodrigues, which was received by the Senate and appeared in the Congressional Record on June 12, 2001.

Navy nominations beginning ROBERT T. BANKS and ending CARL ZIEGLER, which nominations were received by the Senate and appeared in the Congressional Record on June 12, 2001.

Marine Corps nominations of Donald E. Gray Jr., which nominations were received by the Senate and appeared in the Congressional Record on June 12, 2001.

Marine Corps nominations beginning JES- SICA L. ACOSTA and ending JOSEPH J. ZWILLER, which nominations were received by the Senate and appeared in the Congressional Record on June 12, 2001.

By Mr. TSUJI for the Committee on Indian Affairs.
Neal A. McCabe, of Oklahoma, to be an Assistant Secretary of the Interior.

(The above nomination was reported with the commendation that it be requested that the name be confirmed subject to the nominee’s commitment to respond to the requests to appear and testify before any duly constituted committee on the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. INOUYE (for himself and Mr. DOMENICI):
S. 1118. A bill to amend the Intermodal Surface Transportation Efficiency Act of 1991 to identify certain routes in New Mexico as part of the Ports-to-Plains Corridor, a high priority corridor on the National Highway System; to the Committee on Commerce, Science, and Transportation.

By Mr. LEAHY (for himself, Mr. DWEINE, Mr. DASCHLE, Mr. COCHRAN, Mrs. CARNAHAN, Ms. SNOWE, and Mr. JOHNSON):
S. 1119. A bill to require the Secretary of Defense to carry out a study of the extent to which the coverage of members of the Selected Reserve of the Ready Reserve of the Armed Forces under health benefits plans and to submit a report on the study to Congress, and for other purposes; to the Committee on Armed Services.

By Mrs. BOXER (for herself and Mr. SMITH of Oregon):
S. 1120. A bill to amend the Foreign Assistance Act of 1961 to authorize appropriations for fiscal year 2002, and to authorize appropriations for fiscal year 2003, to combat HIV and AIDS, and for other purposes; to the Committee on Foreign Relations.

By Mr. KENNEDY (for himself and Mr. KERRY):
S. 1123. A bill to suspend temporarily the duty on certain R-22 transformers; to the Committee on Finance.

By Mr. TORRICELLI:
S. 1124. A bill to amend the Internal Revenue Code of 1986 to provide a refundable credit against tax with respect to education and training of developmentally disabled children; to the Committee on Finance.

By Mr. FEINGOLD (for himself, Mr. CRAIG, and Mr. KOHL):
S. 1125. A bill to amend the Dairy Production Stabilization Act of 1983 to ensure that all persons who benefit from the dairy promotion and research program contribute to the cost of the program, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. THOMPSON:
S. 1124. A bill to amend section 13831 of the Consumer Product Safety Act of 1985 to provide for a user fee to cover the cost of custom inspections at express courier facilities; to the Committee on Finance.

By Mr. MCCONNELL (for himself, Mr. AKAKA, Mr. ALLARD, Mr. BATH, Mr. BENHAMAN, Mr. COCHRAN, Mr. EDWARDS, Mr. FITZGerald, Mr. FRIST, Mr. GRAHAM, Mr. HELMS, Mr. INHOFE, Mr. JEFFORDS, Mr. KENNEDY, Mr. KIRK, Mr. KOHL, Mr. KYL, Mr. LEAHY, Mr. LEVIN, Mr. REED, Mr. SMITH of Oregon, Mr. SMITH of New Hampshire, Mr. SPECTER, Mr. TORRANCE, and Mr. WYDEN):
S. 1125. A bill to conserve global bear populations by prohibiting the importation, exportation, and interstate trade of bear body parts, bear hide, and bear organ and body parts, bear meat and body parts, bear bones and body parts, bear skin, and to increase penalties for violation of the act; to the Committee on Environment and Public Works.

By Mr. BROWNBACK (for himself and Mr. ENZI):
S. 1126. A bill to facilitate the deployment of broadband telecommunications services, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. BROWNBACK (for himself and Mr. ENZI):
S. 1127. A bill to stimulate the deployment of advanced telecommunications services in rural areas, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mrs. CLINTON:
S. 1128. A bill to provide grants for FSA-in- sured hospitals; to the Committee on Bank- ing, Housing, and Urban Affairs.

By Mr. WARNER:
S. 1129. A bill to increase the rate of pay for certain offices and positions in the executive and judicial branches of the Gov- ernment, respectively, and for other pur- poses; to the Committee on Governmental Affairs.

By Mr. CRAIG (for himself, Mrs. FEN- STEIN, and Mr. CORZINE):
S. 1130. A bill to require the Secretary of Energy to develop a plan for a magnetic fusion burning plasma experiment for the pur- pose of accelerating the scientific under- standing and development of fusion as a long term energy source, and for other purposes; to the Committee on Energy and Natural Re- sources.

By Mr. LEAHY:
S. 1131. A bill to promote economically sound modernization of electric power generation capacity in the United States, to es- tablish requirements to improve the combus- tion, heat rate efficiency of fossil fuel-fired electric utility generating units, to reduce emissions of mercury, carbon dioxide, nitro- gen, oxides, and sulfur dioxide, to require that all fossil fuel-fired electric utility generating units operating in the United States meet new sources review requirements, to promote the use of clean coal technologies, and to promote alternative energy and clean energy sources such as solar, wind, biomass, and fuel cells; to the Committee on Finance.

By Mr. CRAPO:
S. 1132. A bill to amend the Federal Food, Drug, and Cosmetic Act relating to the distri- bution chain of prescription drugs; to the Committee on Health, Education, Labor, and Pension Reform.

By Mrs. BOXER (for herself, Mrs. CARNAHAN, and Mr. BOND):
S. 1133. A bill to amend title 49, United States Code, to preserve nonstop air service to and from Ronald Reagan Washington Na- tional Airport for certain communities in case of airline bankruptcy; to the Committee on Commerce, Science, and Transportation.

By Mr. LIEBERMAN (for himself and Mr. HATCH):
S. 1134. A bill to amend the Internal Revenue Code of 1986 to modify the rules applicable to qualified small business stock; to the Committee on Finance.

By Mr. GRAHAM (for himself, Mr. CHAFEE, Mr. CONRAD, Mrs. LINCOLN, Mr. MILLER, Mr. ROCKEFELLER, Mr. BINGAMAN, Mr. KERRY, and Mr. CARPER):

S. 1135. A bill to amend title XVIII of the Social Security Act to provide comprehensive reform of the Medicare program, including the provision of coverage of outpatient prescription drugs under such program; to the Committee on Finance.

By Mr. SARBANES (for himself, Mr. Baucus, Mr. Cleland, Mr. Corzine, Mr. Dodd, Mrs. Feinstein, Mr. Reid, Mr. Schumer, Ms. Snowe, Ms. Stabenow, Mr. Thompson, and Mr. Wyden):

S. 1136. A bill to provide for mass transportation in certain Federally owned or managed areas that are open to the general public; to the Committee on Energy and Natural Resources.

By Mr. HARKIN (for himself and Mr. Grassley):

S. 1137. A bill to direct the Secretary of the Army to convey the remaining water supply storage allocation in Rathbun Lake, Iowa, to the Rathbun Regional Water Association; to the Committee on Environment and Public Works.

ADDITIONAL COSPONSORS

S. 1135

At the request of Mr. BINGAMAN, the name of the Senator from Alaska (Mrs. LINCOLN) was added as a cosponsor of S. 1135, a bill to amend title 5, United States Code, to eliminate an inequity in the applicability of early retirement eligibility requirements to military reserve technicians.

At the request of Mr. CAMPBELL, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 212, a bill to amend the Indian Health Care Improvement Act to revise and extend such Act.

At the request of Mr. JOHNSON, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 280, a bill to amend the Agriculture Marketing Act of 1946 to require retailers of beef, lamb, pork, and perishable agricultural commodities to inform consumers, at the final point of sale to consumers, of the country of origin of the commodities.

S. 92

At the request of Mr. SANTORUM, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 592, a bill to amend the Internal Revenue Code of 1986 to create Individual Development Accounts, and for other purposes.

S. 634

At the request of Ms. COLLINS, the name of the Senator from Maine (Ms. Snowe) was added as a cosponsor of S. 634, a bill to amend section 2007 of the Social Security Act to provide grant funding for additional Enterprise Communities, and for other purposes.

S. 661

At the request of Mr. THOMPSON, the names of the Senator from Mississippi (Mr. COCHRAN) and the Senator from Nebraska (Mr. HAGEL) were added as cosponsors of S. 661, a bill to amend the Internal Revenue Code of 1986 to repeal the 4.3-cent motor fuel excise taxes on railroads and inland waterway transportation which remain in the general fund of the Treasury.

S. 677

At the request of Mr. HATCH, the name of the Senator from Indiana (Mr. Bayh) was added as a cosponsor of S. 677, a bill to amend the Internal Revenue Code of 1986 to repeal the required use of certain principal repayments on mortgage subsidy bond financing to redeem bonds, to modify the purchase price limitation under mortgage subsidy bond rules based on median family income, and for other purposes.

S. 775

At the request of Mrs. LINCOLN, the name of the Senator from West Virginia (Mr. Rockefeller) was added as a cosponsor of S. 775, a bill to amend title XVIII of the Social Security Act to permit expansion of medical residency training programs in geriatric medicine and to provide for reimbursement of care coordination and assessment services provided under the medicare program.

S. 778

At the request of Mr. HAGEL, the name of the Senator from California (Mrs. Feinstein) was added as a cosponsor of S. 778, a bill to expand the class of beneficiaries who may apply for adjustment of status under section 245(i) of the Immigration and Nationality Act by extending the deadline for classification petition and labor certification filings.

S. 814

At the request of Mr. DODD, the name of the Senator from Massachusetts (Mr. Kennedy) was added as a cosponsor of S. 814, a bill to establish the Child Care Provider Retention and Development Grant Program and the Child Care Provider Scholarship Program.

S. 818

At the request of Mr. HATCH, the name of the Senator from Connecticut (Mr. Lieberman) was added as a cosponsor of S. 818, a bill to amend the Internal Revenue Code of 1986 to provide a long-term capital gains exclusion for individuals, and to reduce the holding period for long-term capital gain treatment to 6 months, and for other purposes.

S. 912

At the request of Mr. SCHUMER, the name of the Senator from New York (Mr. Schumer) was added as a cosponsor of S. 912, a bill to amend title XVIII of the Social Security Act to provide for coverage under the medicare program of all oral anticancer drugs.

S. 940

At the request of Mr. DODD, the name of the Senator from New York (Mrs. Clinton) was added as a cosponsor of S. 940, a bill to leave no child behind.

S. 992

At the request of Mr. NICKLES, the names of the Senator from Massachusetts (Mr. Kerry) and the Senator from Nebraska (Mr. Hagel) were added as cosponsors of S. 992, a bill to amend the Internal Revenue Code of 1986 to repeal the provision taxing policy holder dividends of mutual life insurance companies and to repeal the policyholder surplus surplus account provisions.

S. 1032

At the request of Mr. FRIST, the names of the Senator from Utah (Mr. Hatch) and the Senator from Ohio (Mr. DeWine) were added as cosponsors of S. 1032, a bill to expand assistance to countries seriously affected by HIV/AIDS, malaria, and tuberculosis.

S. 1075

At the request of Mrs. HUTCHISON, the names of the Senator from Alaska (Mr. MURkowski) and the Senator from Connecticut (Mr. Lieberman) were added as cosponsors of S. 1075, a bill to amend title 10, United States Code, to authorize disability retirement to be granted posthumously for members of the Armed Forces who die in the line of duty while on active duty, and for other purposes.

S. 1076

At the request of Mr. JEFFORDS, the names of the Senator from Idaho (Mr. Craig) and the Senator from Colorado (Mr. Allard) were added as cosponsors of S. 1076, a bill to amend the Internal Revenue Code of 1986 to improve access to tax-exempt debt for small nonprofit health care and educational institutions.

S. 1079

At the request of Mr. JOHNSON, his name was added as a cosponsor of S. 1079, a bill to extend and modify the Drug-Free Communities Support Program, to authorize the National Community Antidrug Coalition Institute, and for other purposes.

S. 1087

At the request of Mr. CONRAD, the names of the Senator from Texas (Mr. Gramm) and the Senator from Georgia (Mr. Miller) were added as cosponsors of S. 1087, a bill to amend the Internal Revenue Code of 1986 to provide a longer recovery period of the depreciation of certain leasehold improvements.

S. RES. 71

At the request of Mr. HARKIN, the names of the Senator from Florida (Mr. Graham), the Senator from Florida (Mr. Nelson), and the Senator from California (Mrs. Boxer) were added as cosponsors of S. Res. 71, a resolution expressing the sense of the Senate regarding the need to preserve six day mail delivery.

S. RES. 99

At the request of Mr. CAMPBELL, the name of the Senator from Mississippi
June 28, 2001

BILLS AND JOINT RESOLUTIONS

By Mr. BINGAMAN (for himself, Senator Domenici, Senator Corzine, Senator Allen, Senator Hatch, and Senator Domenici):

S. 1118. A bill to amend the Intermodal Surface Transportation Efficiency Act of 1991 to identify certain routes in New Mexico as part of the Ports-to-Plains Corridor, a high priority corridor on the National Highway System;

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

Mr. BINGAMAN. Mr. President, I rise today to introduce legislation to promote the future economic vitality of the communities in Union and Colfax Counties, and throughout Northeast New Mexico. Our bill designates the route for New Mexico's section of the Ports-to-Plains High Priority Corridor, which runs 1,000 miles from Laredo, Texas, to Denver, Colorado. I am pleased to have my colleague, Senator Domenici, as a cosponsor.

I am certain every senator recognizes the importance of basic transportation infrastructure to economic development in their State. Roads and airports link a region to the world economy.

In New Mexico, it is well known that regions with four-lane highways and economical commercial air service will most readily attract new jobs. I have long pressed at the Federal level to ensure our communities have the roads and airports they need for their long-term economic health. That is why this bill I am introducing today is so important. With the passage of NAFTA, the Ports-to-Plains corridor is centrally situated to serve international trade and promote economic development along its entire route.

In 1998 Congress identified the corridor from the Mexico state line to Denver, CO, as a High Priority Corridor on the National Highway System. Last year, a comprehensive study was undertaken to determine the feasibility of creating a continuous four-lane highway along the corridor. Alternative highway alignments for the trade corridor were also developed and evaluated. The study was conducted under the direction of a steering committee consisting of the State departments of transportation in Texas, New Mexico, Oklahoma, and Colorado.

It is important to note that public input was an important facet at every stage of the study. The steering committee sponsored public meetings in May of last year in Clayton, NM, and five other locations along the corridor. A final series of seven public meetings was held this year. I note that the level of public interest and participation was highest in New Mexico. Over 600 citizens attended the public meeting in Ramon, NM, on March 6, 2001, while a total of only 700 people attended all six of the other public meetings in Texas, Oklahoma, and Colorado clearly demonstrating the importance of this trade corridor designation to Northeast New Mexico.

The construction costs of the New Mexico alignment are $175 million less than the route bypassing New Mexico.

The alternative route had a very slight advantage over the New Mexico alignment in economic development benefits. With the feasibility study results now complete, The New Mexico High Priority Corridor Study, voters in neighboring Las Animas and Pueblo Counties in Colorado, including the cities of Trinidad and Pueblo.

In Texas, the state already plans to widen to four lanes its portion of the route between Dumas and the New Mexico Colorado line. In New Mexico, the Citizens’ Highway Assessment Task Force identified the route between Clayton and Raton as a priority to upgrade to four lanes. The initial needs and purposes study for the project is currently under way.

Finally, the construction costs of the New Mexico route was 75 percent better than for the route bypassing New Mexico.

The traffic volume in 2025 would be 150 percent higher on the New Mexico corridor than on the alternative, including 25 percent more trucks.

The traffic volume in 2025 would be 150 percent higher on the New Mexico corridor than on the alternative, including 25 percent more trucks.

The portstoplains.

The portstoplains.
Congressional designation of the southern route was enacted long before we had the results of the feasibility study. The Texas Transportation Commission is voting today to confirm Congress' designation of the southern leg.

The route now being completed. The results are in. The route south of Amarillo has been set. Congress should now complete the designation of the final leg of the Ports-to-Plains Trade Corridor by passing our bill.

The time to act is now. Once the route is established the States can move forward with their regional and statewide transportation plans, environmental studies, design work, acquisition of rights of way, and initial construction of the most critical segments.

I thank Senator DOMENICI for cosponsoring the bill, and I hope all senators will join us in support of this important legislation.

I ask unanimous consent that a copy of the New Mexico State Highway Commission's resolution and the text of the bill be printed in the RECORD.

The purpose of the bill, the material was ordered to be printed in the RECORD, as follows:

S. 1118

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

SECTION 1. IDENTIFICATION OF PORTS-TO-PLAINS HIGH PRIORITY CORRIDOR ROUTES IN NEW MEXICO AND COLORADO.

Section 1105(c)(38) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2032, 114 Stat. 2763A–201) is amended—

(1) in subparagraph (A), by redesignating clauses (i) through (viii) as subclauses (i) through (VIII), respectively;
(2) by redesignating subparagraph (A) as clause (i);
(3) by striking "(38) The" and inserting "(38)(A) The";
(4) in subparagraph (A) (as designated by paragraph (3)—

(A) in clause (i) (as redesignated by paragraph (2) —

(i) in subclause (VII) (as redesignated by paragraph (1), by striking "and" at the end;
(ii) in subclause (VIII) (as redesignated by paragraph (1), by striking the period at the end and inserting "; and"

(iii) by adding at the end the following:

"(IX) United States Route 87 from Dumas to the border between the States of Texas and New Mexico; and"

(2) by adding at the end the following:

"(II) Interstate Route 25 from Raton, New Mexico, to Denver, Colorado."; and
(3) by redesignating subparagraph (B) of the port designation contained in paragraph (A) "and" and inserting the following:

"(B) The corridor designation contained in subsections (i) through (VIII) of subparagraph (A)".

STATE OF NEW MEXICO, STATE HIGHWAY COMMISSION, RESOLUTION No. 2001–3 (JUN)

Whereas, in the Transportation Equity Act for the 21st Century (Public Law 105–178, Section 1211) Congress designated the Ports to Plains Corridor (Corridor), from the Mexican border via I–27 (in Texas) to Denver, Colorado, as one of 43 High Priority Corridors to be considered for special Federal designation; and

Whereas, the Texas Department of Transportation designated the highways in Texas that it will recommend to the Federal Highway Administration be part of the Corridor from Laredo to Dumas, but has deferred to the States of New Mexico, Oklahoma, and Colorado to reach a consensus on the recommendation of highways to complete the Corridor from Dumas to Denver; and

Whereas, a feasibility study (Study) under the direction of the steering committee made up of representatives of the affected states, has identified two alternatives to complete the Corridor from Amarillo to Denver. The first alternative designated N1, goes from Amarillo (following U.S. 277) to Dumas, Texas, then follows U.S. 87 and U.S. 44/87 from Dumas, through Clayton, New Mexico, to Raton, New Mexico, and then continues to Denver through Trinidad, Pueblo, and Colorado Springs, Colorado. The second alternative, designated N4, bypasses New Mexico by following U.S. 277 through Boise City, Oklahoma, to Amarillo, Texas, and Colorado Springs, Colorado and then follows I–70 to Denver; and

Whereas, the public participation process of the Study reflects overwhelming support in the communities and related areas of Clayton, Raton, Trinidad, and Pueblo for the N1 alternative; and

Whereas, the N4 alternative will better serve the intent of Congress in creating the High Priority Corridor program because it will integrate more regional population centers and provide additional opportunities for economic development than the N4 alternative, which bypasses these population centers and thus limits the potential for economic development; and

Whereas, the N4 alternative will cost more to construct than the N1 alternative because the N4 alternative will require the construction of more new four land highway, including the cost of right of way acquisition; and

Whereas, portions of I–25 in alternative N1 from Denver to Raton, New Mexico are being improved and need additional improvements to better serve current needs and this Commission understands that a bypass on the Interstate Highway System for Colorado Springs is in conceptual plans of the Colorado Department of Transportation: Now, therefore it is

Resolved, that the State Highway Commission, in concert with all affected States, all federal agencies, and the private sector, will work to construct the Ports-to-Plains Corridor through New Mexico and Colorado.

FURTHER WHEREAS, the New Mexico State Highway Commission has identified the highways in New Mexico that it will recommend to the Federal Highway Administration be part of the Corridor from Dumas to Colorado Springs, Colorado, as one of 43 High Priority Corridors to be considered for Federal designation; and

Adopted in open meeting by the State Highway Commission recently passed a resolution supporting the Ports-to-Plains designation from Dumas, Texas to Raton, New Mexico.

Mr. DOMENICI. Mr. President, I rise today to support the Ports-to-Plains NAFTA corridor designation through New Mexico, along U.S. Highway 64/87 from Clayton to Raton.

From the beginning, I have vigorously supported the proposed route through New Mexico. In fact, while a member of the Senate Appropriations Subcommittee on Transportation, I worked to make the proposed route through New Mexico a possibility.

Further, representatives from my office attended a public comment meeting on the route in Raton, New Mexico in March 2001. I thought it important that the more than three hundred New Mexicans in attendance knew that I was behind them.

I have supported the route from the beginning because I knew that it would be good for the people of my state and good for the country.

The conclusions of the feasibility study give clear and convincing evidence supporting what I had suspected all along. The route through New Mexico, known as the N-1 route, is the best choice.

In order to demonstrate that a particular infrastructure best meets the public interest over another, one must consider a host of factors.

Those factors include considering the public's preferences, the cost of the competing projects, and the relative efficiency of implementing each project.

The feasibility study concluded that the Ports-to-Plain route best meets this criteria.

The traveling public overwhelmingly prefers the route through New Mexico, which carries 28,000 vehicles per day. The competing proposal only has traffic flows of 11,000 vehicles each day.

The N-1 route through New Mexico represents the best deal for the taxpayer since it costs $175 million less than the competing route.

Last, the route through New Mexico would be the most efficient to implement since sixty-seven percent of the highway has already been programmed for four-lane expansion. The competing route has only programmed thirty-seven percent of the road for crucial four-lane improvements.

Furthermore, the State of New Mexico is committed to securing the Ports-to-Plains designation. Evidencing that commitment, the State's Highway Commission recently passed a resolution supporting the Ports-to-Plains designation from Dumas, Texas to Raton, New Mexico.

I pledge to continue working to ensure that the Ports-to-Plains corridor is designated through New Mexico. The route through Raton, New Mexico is the most efficient and cost effective.
option for the U.S. taxpayer, furthers the interest of the people of my State, and is supported by the State government.

By Mr. LEAHY (for himself, Mr. DEWINE, Mr. DACSHLE, Mr. COCHRAN, Mrs. CARNAHAN, Ms. SNOWE, and Mr. JOHNSON):

S. 1119. A bill to require the Secretary of Defense to carry out a study of the extent to the coverage of members of the Selected Reserve of the Ready Reserve of the Armed Forces under health benefits plans and to submit a report on the study of Congress, and for other purposes; to the Committee on Armed Services.

Mr. LEAHY. Mr. President, I rise today to introduce important legislation that will impact the health and readiness of the Selected Reserve. The Selected Reserves includes over 900,000 dedicated men and women divided between the National Guard and the Reserves. Over the past ten years, this force has become increasingly critical to carrying out our Nation's defense, whether deploying to far-flung regions of the globe or backfilling for other units making deployments.

The country simply cannot meet its commitments without these proud citizen-soldiers. It follows, then, that steps to increase the readiness of the Selected Reserves will have a positive effect on the readiness of the entire force. It was this goal in mind that I introduce the Health Care for Selected Reserve Act.

This legislation will ensure that all members of the drilling reserves have adequate health insurance. The legislation acknowledges our reserves' continuing contributions to the defense of the Nation and expresses the need for full medical coverage. The legislation will commission an independent study on the extent of insurance shortfalls and examine the feasibility of extending the TRICARE or FEHBP program to the reserves.

Currently, when a member of the Selected Reserve goes on active duty over 60 days, they are provided full coverage under the TRICARE Prime program conducted through the active military's medical treatment facilities. But when reservists are not on active duty, they are left to gain insurance through their civilian employers. Like the rest of society, most gain adequate coverage through their employers like the rest of society, but, mirroring broader shortfalls in the wider population, many go without any health coverage at all. This shortfall has an even more noticeable affect on the country because it affects military readiness.

There is also an underlying issue of fairness here. It seems wrong to me that one week someone can be patrolling the skies over Iraq with full coverage and the next week they can have no health coverage at all. That situation gives the impression that the National Guard and the Reserves are the poorly-paid subcontractor to the active duty force. If we really believe in the idea of the Total Force, we cannot let these health coverage shortfalls exist.

I want to thank the other sponsors of this bill for helping me craft this bill. Senators DEWINE, DACSHLE, COCHRAN, CARNAHAN, SNOWE, and JOHNSON are deeply engaged in this issue, and I look forward to working with them to develop a set of concrete steps to meet this problem. I urge the legislation's adoption.

Mr. President, I ask unanimous consent that the full text of the bill be printed in the RECORD, as follows:

S. 1119

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

SECTION 1. FINDINGS.

Congress makes the following findings:

(1) The Selected Reserve of the Ready Reserve of the Armed Forces of the United States that has the capability quickly to augment the active duty forces of the Armed Forces successfully in times of crisis.

(2) The Selected Reserve has been assigned increasingly critical levels of responsibility for carrying out the worldwide military missions of the Armed Forces since the end of the Cold War.

(3) Members of the Selected Reserve have served proudly as mobilized forces in numerous theaters from Europe to the Pacific and South America, indeed, around the world.

(4) The active duty forces of the Armed Forces cannot successfully perform all of the national security missions of the Armed Forces without augmentation by the Selected Reserve.

(5) The high and increasing tempo of activity of the Selected Reserve causes turbulence in the relationships of members of the Selected Reserve with their families, employers, and reservists.

(6) The turbulence often results from lengthy, sometimes year-long, absences of the members of the Selected Reserve from their families and their civilian employment.

(7) Family turbulence includes the difficulties associated with vacillation between coverage of members' families for health care under civilian health benefits plans and coverage under the military health benefits options.

(8) Up to 200,000 members of the Selected Reserve, including, in particular, self-employed members, do not have adequate health benefits.

SEC. 2. SENSE OF CONGRESS.

It is the sense of Congress that steps should be taken to ensure that every member of the Selected Reserve of the Ready Reserve of the Armed Forces and the member's family have health care benefits that are adequate—

(1) to ease the transition of the member from civilian life to full-time military life during a mobilization of reserves;

(2) to minimize the adverse effects of a mobilization on the member's ability to provide for the member's family to have ready access to adequate health services; and

(3) to improve readiness and retention in the Selected Reserve.

SEC. 3. STUDY OF HEALTH CARE BENEFITS COVERAGE FOR MEMBERS OF THE SELECTED RESERVE.

(a) Requirement and Study.—The Secretary of Defense shall enter into a contract with a federally funded research and development center to carry out a study of the needs of members of the Selected Reserve of the Ready Reserve of the Armed Forces and their families for health care benefits.

(b) Report.—(1) Not later than March 1, 2002, the Secretary shall submit a report on the results of the study to Congress.

(2) The report shall include the following matters:

(A) Descriptions, and an analysis, of how members of the Selected Reserve and their dependents currently obtain coverage for health benefits, including data on enrollments in health care benefits plans.

(B) The percentage of members of the Selected Reserve, and dependents of such members, who are not covered by any health insurance or other health benefits plan, together with the reasons for the lack of coverage.

(C) Descriptions of the disruptions in health benefits coverage that a mobilization of members of the Selected Reserve causes for the members and their families.

(D) At least three recommended options for cost-effectively preventing or reducing the disruptions by means of extending health care benefits under the Defense Health Program or the Federal Employees Health Benefits program to all members of the Selected Reserve and their families, together with an estimate of the costs of individual coverage and family coverage under each option.

(E) A profile of the health status of members of the Selected Reserve and their dependents, together with a discussion of how that profile would affect the cost of providing adequate health benefits coverage for that population of beneficiaries.

(F) An analysis of the likely effects that providing enhanced health benefits coverage to members of the Selected Reserve and their families would have on recruitment and retention for, and the readiness of, the Selected Reserve.

(3) In formulating the options to recommend under paragraph (2)(D), the Secretary shall consider the TRICARE program or the Federal Employees Health Benefits program to cover members of the Selected Reserve and their families.

Mr. DACSHLE. Mr. President, today I join with several important leaders of the Senate's National Guard Caucus to introduce S. 1119, which we believe will one day result in improved health care for Guard and Reserve members and their families.

It is appropriate that we introduce this now, during a week in which Senate floor debate has focused almost exclusively on health care, with several likely discussions about the importance of expanding health coverage to the uninsured.

Unfortunately, Guard members and leaders in South Dakota tell me that many of the uninsured serve in the National Guard. Many of them work for small businesses that cannot afford to offer health insurance to their employees. Some of them have insurance for themselves, but cannot afford to insure their dependents.

While this Nation is utilizing the Guard more heavily than at any other time in our Nation's history. During the Cold War, a Guard member
might serve and retire without ever being called to active duty. Staring with the Persian Gulf War and continuing to this day in Bosnia, Kosovo, and Iraq, reservists are serving alongside the active duty military during deployments that can last 6 months or more.

Each of these deployments strains the Guard member’s employer, who temporarily gives up a valued employee. And it strains individual soldiers and their families, even if they have health insurance, because employer-provided coverage often lapses during periods of active duty.

The premise of our bill is that health coverage can help the Guard attract and retain top-flight personnel and also improve readiness; that it can help service members and their families, especially in coping with mobilization; and that it can relieve some of the burdens faced today by National Guard employers, particularly small businesses.

This bill lays the groundwork for a solution. S. 1119 would authorize a study by a non-government research center to explore the extent of the problem and recommend at least three cost-effective solutions, including the possibility of opening the TRICARE program or the Federal Employees Health Benefits Program to reservists and their families. The study would look at disruptions to health care coverage caused by mobilizations and analyze the likelihood of enhanced health care on recruitment and retention.

We have developed this bill in consultation with the Military Coalition and several of its members. I appreciate their concern for this problem and their work to help develop a solution. In this regard, I would particularly like to acknowledge the role of the Enlisted Association of the National Guard of the United States, the Reserve Officers Association, the National Association of the United States, and the Retired Officers Association.

I hope and believe that today’s bill introduction can be an important step toward providing adequate health care for members of the South Dakota National Guard and other reservists around the nation, who do much on behalf of their communities, their States, and this Nation.

By Mrs. BOXER (for herself and Mr. SMITH of Oregon):

S. 1120. A bill to amend the Foreign Assistance Act of 1961 to increase the authorization of appropriations for fiscal year 2002, and to authorize appropriations for fiscal year 2003, to combat HIV and AIDS, and for other purposes; to the Committee on Foreign Relations.

Mrs. BOXER. Mr. President, this week, as the United Nations meets to prepare a global strategy to combat the growing worldwide HIV-AIDS crisis, I am proud to introduce legislation aimed at ensuring that the United States continues to be a leader in the fight against this deadly disease. I am pleased to once again join my good friend and colleague from Oregon, Senator SMITH, in introducing this bill. Last year, we teamed up to offer the Global AIDS Relief Act that doubled funding for the United States Agency for International Development’s HIV-AIDS programs. Not only was this legislation included in broader international health legislation which became law, it was also fully funded for the current fiscal year. This year, we are looking to build upon last year’s success by again doubling the amount USAID spends on fighting the global HIV-AIDS epidemic.

The Global AIDS Research and Relief Act would authorize $600 million in each of the next two fiscal years. It is designed to complement international HIV-AIDS relief efforts so that a truly global response can be implemented in sub-Saharan Africa, Latin America, Southeast Asia, and other places where people are suffering from this epidemic.

In the 20 years since AIDS was first recognized, 22 million people worldwide have died from the disease, and 36 million people are living with HIV or AIDS today. Of those living with the disease, 95 percent live in the developing world where advanced technology to combat AIDS is not readily available. It is predicted that AIDS will soon become the deadliest infectious disease in world history, surpassing the Plague, which killed an estimated 25 million people.

This new chapter in the AIDS epidemic is especially tragic because its growth is preventable. While there is no cure for this horrible disease, progress is being made. New medical breakthroughs afford HIV-positive people a much greater life expectancy than they would have had ten years ago. Unfortunately, these efforts are not reaching the Nations whose people need help the most. By increasing authorization for USAID to establish and expand these valuable initiatives in developing countries, our bill helps to remedy this disparity in the quality of care.

Specifically, the bill addresses the need for increased voluntary testing and counseling, so that we can educate people and keep its spread in check. With this funding authorization, the United States will be able to focus more on the most vulnerable constituencies, children and young adults. The money will be used for drugs like nevirapine, which is given to expectant HIV-positive mothers to prevent the spread of the infection to their unborn children.

The United States is a trendsetter in the effort to end the spread of AIDS. The European Union continues to be a leader in the world effort to fight AIDS and in the development of new drug treatments for those suffering from the disease. The response to the AIDS epidemic in the developing world is already impressive, and I urge my colleagues to support this measure and 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. 1120

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 “Global AIDS Research and Relief Act of 2001”.

SEC. 2. DEFINITIONS.

In this Act:

(1) AIDS.—The term “AIDS” means the acquired immune deficiency syndrome.

(2) ASSOCIATION.—The term “Association” means the International Development Association.

(3) BANK.—The term “Bank” or “World Bank” means the International Bank for Reconstruction and Development.

(4) HIV.—The term “HIV” means the human immunodeficiency virus, the pathogen, which causes AIDS.

(5) HIV/AIDS.—The term “HIV/AIDS” means, with respect to an individual, an individual who is infected with HIV or living with AIDS.

SEC. 3. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress makes the following findings:

(1) According to the Surgeon General of the United States, the epidemic of human immunodeficiency virus/acquired immune deficiency syndrome (HIV/AIDS) will soon become the worst epidemic of infectious disease in recorded history, eclipsing both the bubonic plague of the 1300s and the influenza epidemic of 1918–1919 which killed more than 20,000,000 people worldwide.

(2) According to the Joint United Nations Programme on HIV/AIDS (UNAIDS), more than 36,100,000 people are living with HIV/AIDS, of which approximately 95 percent live in the developing world.

(3) UNAIDS data shows that among children age 15 and under worldwide, more than 4,300,000 have died from AIDS, more than 4,000,000 are living with the disease; and in 1 year alone—2000—an estimated 600,000 became infected, of which over 90 percent were babies born to HIV-positive women.

(4) Although sub-Saharan Africa has only 10 percent of the world’s population, it is home to more than 25,300,000 roughly 70 percent of the world’s HIV/AIDS cases.

(5) Worldwide, there have already been an estimated 21,900,000 deaths. Children without care or hope are often drafted into prostitution, crime, substance abuse, or child soldierry.
(8) The discovery of a relatively simple and inexpensive means of interrupting the transmission of HIV from an infected mother to the unborn child—namely with nevirapine (NVP)—has created a great opportunity for an unprecedented partnership between the United States Government and the governments of Asian, African, and Latin American countries to reduce the vertical transmission of HIV. Efforts to understand the causes associated with mother-to-child transmission (also known as "vertical transmission") of HIV.

(9) According to UNAIDS, if implemented this strategy could prevent the protection of orphans that are HIV-infected and decrease infant and child mortality rates in these developing countries.

(10) A mother-to-child antiretroviral drug strategy can be a force for social change, providing the opportunity and impetus needed to change the understanding provide of inadequate services and the profound stigma associated with HIV-infection and the AIDS disease. Strengthening the health infrastructure improves maternal and child health, antenatal, delivery, and postnatal services, and couples counseling generates enormous spillover effects toward combating the AIDS epidemic in developing regions.

(11) A January 2000 United States National Intelligence Estimate (NIE) report on the global infectious disease threat concluded that "new[s] of infectious diseases—especially HIV/AIDS—are already significant and could reduce GDP by as much as 20 percent or more by 2010 in some sub-Saharan African countries.

(12) The HIV/AIDS epidemic is of increasing concern in other regions of the world, with UNAIDS estimating that there are more than 5,800,000 cases in South and Southeast Asia, that the rate of HIV infection in the Caribbean is second only to sub-Saharan Africa, that HIV-infected infants have doubled in just 2 years in the former Soviet Union.

(13) Russia is the new "hot spot" for the pandemic and more Russians are expected to be diagnosed with HIV/AIDS by the end of 2001 than all cases from previous years combined.

(14) Despite the discouraging statistics on the spread of HIV/AIDS, some developing nations—such as Uganda, Senegal, and Thailande—have implemented prevention programs that have substantially curbed the rate of HIV infection.

(15) Accordingly, United States financial support for medical research, education, and disease containment as a global strategy has support for medical research, education, and disease containment as a global strategy has.

(b) P URPOSES.—The purposes of this Act are to—

(1) help prevent human suffering through the prevention, diagnosis, and treatment of HIV/AIDS; and

(2) help ensure the viability of economic development, stability, and national security in the developing world by advancing research to—

(A) understand the causes associated with HIV/AIDS in developing countries; and

(B) assist in the development of an AIDS vaccine.

SEC. 3. ADDITIONAL ASSISTANCE AUTHORITIES TO COMBAT HIV AND AIDS.

Paragraphs (4) through (6) of section 151(c) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151(c)) are amended to read as follows:

"(4)(A) Congress recognizes the growing epidemic of children with the infectious disease caused by the human immunodeficiency virus (HIV) and the maternal transmission of this virus. Congress further recognizes that mother-to-child transmission prevention strategies can serve as a major force for change in developing regions, and it is, therefore, a major objective of the foreign assistance program to control the acquired immunodeficiency syndrome (AIDS) epidemic.

(4)(B) The agency primarily responsible for administering this program shall—

(i) provide assistance to UNAIDS, UNICEF, WHO, national and local governments, other organizations, and other Federal agencies to develop and implement effective strategies to prevent transmission of HIV and AIDS;

(ii) coordinate with those organizations to increase intervention programs and introduce voluntary counseling and testing, antiretroviral therapy, replacement feeding, and other strategies.

(5)(A) Congress encourages the agency primarily responsible for administering this program to make the human immunodeficiency virus (HIV) and the acquired immune deficiency syndrome (AIDS) a priority in the foreign assistance program and to undertake a comprehensive, coordinated effort to combat HIV and AIDS.

(6)(A) Assistance described in subparagraph (A) shall include help providing—

(i) primary prevention and education;

(ii) voluntary testing and counseling;

(iii) medications to prevent the transmission of HIV from mother to child;

(iv) programs and the support of health care systems infrastructure and the capacity of health care systems in developing countries to deliver HIV/AIDS pharmaceuticals, prevention, and treatment to those afflicted with HIV/AIDS; and

(v) care for those living with HIV or AIDS.

(6)(B) Of the funds authorized to be appropriated under subparagraph (A), not less than 65 percent is authorized to be available through United States and foreign non-governmental organizations, including private and voluntary organizations, for-profit organizations, religious affiliated organizations, educational institutions, and research facilities.

(6)(C)(i) Of the funds authorized to be appropriated under subparagraph (A), not less than 5 percent may be used for the administrative expenses of the agency primarily responsible for carrying out this part of this Act in support of activities described in paragraphs (4) and (5).

(ii) Assistance made available under this subsection, and assistance made available under chapter 4 of part II to carry out the purposes of this subsection, may be made available notwithstanding any other provision of law that restricts assistance to foreign countries.

(6)(D) Of the funds authorized to be appropriated under subparagraph (A), not less than 7 percent may be used for the administrative expenses that are attributable to the effort of the Department of State to conduct activities described in paragraphs (4) and (5).

(6)(E) Funds appropriated under this paragraph are authorized to remain available until expended.

Mr. SMITH of Oregon. Mr. President, I rise today to join my colleague Senator BOXER to introduce the "Global AIDS Research and Relief Act of 2001." This important legislation increases the authorization for USAID to carry out its prevention, treatment and care programs to $600 million for fiscal years 2002 and 2003. These additional resources will help prevent human suffering through the prevention, diagnosis and treatment of HIV/AIDS.

The world is facing a global health problem of disastrous proportions in the global HIV/AIDS pandemic. In the past year, this issue has received much needed attention from the international community and the U.S. Government. But, unfortunately, our efforts and the efforts of other governments, the private sector, and many foundations have not been enough and the pandemic continues to wreak havoc on the lives of millions of people around the world. The United States passes a key role in the global effort and our bill seeks to strengthen those efforts.

Over 58 million people have already been infected with HIV/AIDS and 36 million people are living today with HIV/AIDS. Of those living with the disease, over 95 percent live in the developing world where the economic and social infrastructure of these countries are being destroyed. Sub-Saharan Africa is truly an epicenter for this disease, but increasingly, people are becoming infected in Asia, the Caribbean, and Eastern Europe. Soon, HIV/AIDS will be the worst infectious epidemic in recorded history, causing more deaths than both the bubonic plague of the 1930s and the influenza epidemic of 1918–1919.

Young adults and children have been particularly hard hit by the pandemic. Among children under the age of 15, more than 4.3 million have died of AIDS and more than 1.4 million are living with AIDS. Just last year, 600,000 young people became infected and over 90 percent were babies born to HIV-positive mothers.

HIV/AIDS is also hitting those between the ages of 15–21. In some sub-Saharan African countries, the infection rates are more than 40 percent in this age group. If the current infection rates will have a significant impact on the social and economic health of developing nations. The United States Census Bureau has found the life expectancy in sub-Saharan Africa has fallen almost 30 years within a decade. By 2010, it is estimated that the average life expectancy in Botswana will be 29 years of age, 30 years in Swaziland, 33 years in Namibia, and 36 years in South Africa. Millions of young adults are losing their lives to an epidemic that is significantly impacting the economic and political viability of these Nations. Some Nations are estimated to have a reduced GDP of at least 20 percent or more by 2010 due to decreased productivity of its workers. Over the last thirty years, the United States has invested millions of dollars in democracy building programs and economic stabilization programs. HIV/AIDS has quickly eroded much of this progress.

As we look to the future of the world, we are also confronted by the problem of AIDS orphans. USAID estimates that there will be 44 million orphans by 2010. Without a parent or family to
care for them, many will be drawn into prostitution, crime, substance abuse or child soldiery. Furthermore, without stability many of these children will not seek help when they are sick. AIDS threatens to reverse years of steady progress of child survival in developing countries.

The prevalence of HIV/AIDS in the young will have a significant impact on the economic future of the world. The pandemic is contributing to economic decay, social fragmentation, and political destabilization in already strained and volatile societies. These factors are of particular concern in South and Southeast Asia, the Caribbean, Eastern Europe, and the former Soviet Union where the pandemic is just beginning to become a problem. It is estimated that there are more than 5.8 million cases in South and Southeast Asia and the rate of HIV infection in the Caribbean is second only to sub-Saharan Africa. Russia is the new “hot spot” for HIV/AIDS. Most Russians are unaware that they have been diagnosed with HIV/AIDS by the end of 2001 than all cases from previous years combined. Many of these countries do not yet have prevention, treatment and care programs in place and we need federal agencies to work with the resources and flexibility needed to address the pandemic in all of these areas.

The United States is seen as a leader in efforts to address the epidemic. We conducted our first $100 million to fight HIV/AIDS in fiscal year 2001. Through programs at the U.S. Agency for International Development, we have instituted prevention, care and treatment programs in some of the worst hit countries in sub-Saharan Africa. At the Centers for Disease Control and Prevention, we have worked with partners in other countries to expand treatment and home-based care programs. Other agencies, including the Department of Labor, the Department of Defense, and the Department of Agriculture have contributed in their areas of expertise.

This legislation recognizes the growing problems encountered by children around the world and instructs USAID to make efforts to prevent mother-to-child transmission and orphan programs a major objective of their programs. Through coordination with UN agencies, national and local governments, non-governmental organizations, foundations, the U.S. government shall implement effective strategies to prevent vertical transmission of HIV. Further, the bill states that the agency must strengthen and expand all of its primary prevention and education programs.

This bill also calls on USAID to continue to provide support to research that will help the world to understand the causes associated with HIV/AIDS in developing countries and assist in the development of an effective AIDS vaccine.

I believe the “Global AIDS Research and Relief Act of 2001” can make a profound difference in the lives of millions of people facing the HIV/AIDS epidemic. I ask all my colleagues to join us and support this legislation at this critical moment in the spread of the disease.

By Mr. FEINGOLD (for himself, Mr. CRAIG, and Mr. KOHL):
S. 1123. A bill to amend the Dairy Production Stabilization Act of 1983 to ensure that all persons who benefit from the dairy promotion and research program contribute to the cost of the program, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. FEINGOLD. Mr. President, I rise today with my colleagues Senator CRAIG and Senator KOHL to introduce a modified version of the “Dairy Promotion Fairness Act,” which I introduced earlier this year. This legislation provides equity to domestic producers who have been paying into the Promotion Program while importers have gotten a free ride.

I introduce a revised version of this legislation, after I received suggestions on how to improve this legislation from the American Dairy Association. Their input is vital to enacting effective dairy legislation, and I thank all the dairy producers of my State not only for their views, but also their work to strengthen Wisconsin’s rural economy.

Since the National Dairy Promotion and Research Board conducts only generic promotion and general product research, domestic farmers and importers alike benefit from these actions. The Dairy Promotion Fairness Act requires that all dairy product importers contribute to the program.

Unlike other agricultural commodity checkoff promotion programs, such as beef, cotton and eggs, the dairy checkoff program collects funds solely from domestic producers. Importers of dairy products do not pay into the program, yet they reap the benefits of dairy promotion.

I would also like to make sure my colleagues are aware that June is Dairy Month. This tradition of honoring our hard working dairy farmers began as “National Milk Month” first held in the summer of 1937. Wisconsin celebrates this proud heritage every June by honoring our past accomplishments in Wisconsin as America’s Dairy State.

Wisconsin became a leader in the dairy industry after the first dairy cow came to Wisconsin in the 1800’s and by 1930 it earned the nickname, America’s Dairyland. Dairy history and the State’s history have been intertwined from the beginning. The people of Wisconsin are defined by the image of dairy farmers: hardworking, honest and the heirs of a great tradition.

I would like to share with you some of the accomplishments of Wisconsin’s Dairy Farmers. Wisconsin is the No. 1 cheese-producing State in the country, with 28 percent of the total annual U.S. cheese production. Wisconsin’s 130 cheese plants produce more than 350 varieties, types and styles of Wisconsin cheese.

We produce more than 2 billion pounds of cheese annually. We have more licensed cheese makers than any other state with some of the most stringent state standards for cheese-making and overall dairy product quality. We lead the nation in the production of specialty cheeses, such as Gorgonzola, Gruyere (gru-yure), Asiago, Provolone, Aged Cheddar, Gouda, Blue, Feta and many others. In fact, we are the only producer of Limburger cheese in the country.

Colby, Wisconsin is the home Colby cheese. And Brick cheese was invented in Wisconsin, Brick is named for its shape, and because cheese makers originally used bricks to press moisture from the cheese.

Wisconsinites have recognized this proud tradition by holding over 100 dairy celebrations across our State, including dairy breakfasts, cream so-cials, cooking demonstrations, festivals and other events. These events are all designed to make the public aware of the quality, variety and great taste of Wisconsin dairy products and thank the producers who make it all possible.

We must follow the lead of Wisconsin, and honor our dairy farmers by passing this legislation and halting the free ride dairy importers currently receive.

The Dairy Promotion Fairness Act supports the dairy marketing board’s efforts to educate consumers on the nutritional value of dairy products. It also treats our farmers fairly by asking them not to bear the entire financial burden for a promotional program that benefits importers and domestic producers alike.

We have put our own producers at a competitive disadvantage for far too long. It’s high time importers paid for their fair share of the program.

By Mr. MCCONNELL (for himself, Mr. AKAKA, Mr. ALLARD, Mr. BATH, Mr. BINGAMAN, Mr. CLELAND, Mr. COCHRAN, Mr. EDWARDS, Mr. FITZGERALD, Mr. FRIST, Mr. GRAHAM, Mr. HELMS, Mr. INHOFE, Mr. JEFFORDS, Mr. KENNEDY, Mr. KERRY, Mr. KOHL, Mr. KYL, Mr. LEAHY, Mr. LEVIN, Mr. REED, Mr. SMITH of Oregon, Mr. SMITH of New Hampshire, Mr. SPECKER, Mr. TORRIESELLI, and Mr. WYDEN):
S. 1125. A bill to conserve global bear populations by prohibiting the importation, exportation, and interstate trade of bear viscera and items, products, or substances containing, or labeled or advertised as containing, bear viscera, and for other purposes; to the Committee on Environment and Public Works.

Mr. MCCONNELL. Mr. President, incredibly, there is a good chance that today someone will put on a facial cream, apply a medicine, or even eat a
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soy sauce that contains bear parts. Bear bile, gallbladders, paws and claws are found in culinary delicacies, cosmetics and traditional ethnic medicines in Asia, and these parts often fetch thousands of dollars. A cup of bear paw soup has sold for $12,000 on the black market. Wildlife experts say that a galbladder can command tens of thousands of dollars on the Asian market. Not surprisingly, the lure of astronomical profits overseas has spawned rampant poaching of American bears. The United States Fish and Wildlife Service continues to find bear carcasses rotting with their gallbladders ripped out and their paws sliced off. Just today, creator Jack Elrod chronicled this heinous act in his wildlife preservation comic strip, “Mark Trail.”

The slaughter of American black bears and the sale of their parts is a deliberate and dastardly plot hatched by a black market of poachers, traders, and smugglers who have been lurking on transport bear parts in cans of chocolate syrup or bottles of scotch. Because certain Asian bear populations are being poached to near extinction, poachers and smugglers often target American black bears to meet the demands of Asian consumers within certain communities here at home. In Oregon alone, one poaching-for-profit ring reportedly killed between 50–100 black bears a year for 5 to 10 years simply to harvest their gallbladders. Bear populations in North America presently is stable, the growth of illegal and inhumane poaching, coupled with the difficulty of anti-poaching enforcement efforts, could pose a real threat to our resident bear population. We should not stand by and allow American bears to be decimated by poachers.

The depleted bear populations in Asia suffer a different, but equally cruel, fate as they are “protected” to meet the demands of consumers. In the editorial, U.S News and World Report (June 28, 2001), the British Wildlife Trust estimated the illegal trade of bear parts in the United States and overseas.

This legislation will in no way affect the rights of sportsmen to hunt bears legally in any State. Illegal bear poaching does not pit hunters against conservationists. Nor does it pit States against the heavy hand of poaching enforcement efforts, could pose a real threat to our resident bear population. We should not stand by and allow American bears to be decimated by poachers.

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S7092

CONGRESSIONAL RECORD — SENATE June 28, 2001

1. BEAR VISCERA.—The term “bear viscera” means the body fluids or internal organs, including the gallbladder and its contents but not including the blood or brains, of a species of bear.


3. IMPORT.—The term “import” means to land on, bring into, or introduce into any place subject to the jurisdiction of the United States, regardless of whether the landing, bringing, or introduction constitutes an importation within the meaning of any regulation issued under this section.

4. PERSON.—The term “person” means—

(A) an individual, corporation, partnership, trust, association, or other private entity;

(B) an officer, employee, agent, department, or instrumentality of—

(i) the Federal Government;

(ii) any State or political subdivision of a State;

(iii) any foreign government; and

(C) any other entity subject to the jurisdiction of the United States.

5. SECRETARY.—The term “Secretary” means the Secretary of the Interior.

6. STATE.—The term “State” means a State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, American Samoa, and any other territory, commonwealth, or possession of the United States.

7. TRANSPORT.—The term “transport” means to move, convey, carry, or ship by any means, or to deliver or receive for the purpose of movement, conveyance, carriage, or shipment.

SEC. 5. PROHIBITED ACTS.

(a) IN GENERAL.—Except as provided in subsection (b) of this section, it shall not—

(1) import into, or export from, the United States bear viscera or any product, item, or substance containing, or labeled or advertised as containing, bear viscera;

(2) sell or barter, offer to sell or barter, purchase, possess, transport, deliver, or receive, in interstate or foreign commerce, bear viscera or any product, item, or substance containing, or labeled or advertised as containing, bear viscera.

(b) EXCEPTION FOR WILDLIFE LAW ENFORCEMENT PERSONS.—A person described in section 4(4)(B) may import into, or export from, the United States, or transport between places subject to the jurisdiction of the United States, any product, item, or substance containing, or labeled or advertised as containing, bear viscera if the importation, exportation, or transportation—

(1) is solely for the purpose of enforcing laws relating to the protection of wildlife; and

(2) is authorized by a valid permit issued under Appendix I or II of CITES, in any case in which such a permit is required under CITES.

SEC. 6. PENALTIES AND ENFORCEMENT.

(a) CRIMINAL PENALTIES.—A person that knowingly violates section 5 shall be fined under title 18, United States Code, imprisoned not more than 1 year, or both.

(b) CIVIL PENALTIES.—

(1) AMOUNT.—A person that knowingly violates section 5 may be assessed a civil penalty not exceeding $25,000 for each violation.

(2) MANNER OF ASSESSMENT AND COLLECTION.—A civil penalty under this subsection shall be assessed and collected in the manner in which a civil penalty under the Endangered Species Act of 1973 may be assessed and collected under section 11(a) of that Act.

(3) SEIZURE AND FORFEITURE.—Any bear viscera or any product, item, or substance imported, exported, sold, bartered, attempted to be imported, exported, sold, or bartered, offered for sale or barter, purchased, possessed, transported, delivered, or received, sold or bartered, or offered for sale or barter, purchased, possessed, transported, delivered, or received, in interstate or foreign commerce (including any regulation issued under this section) shall be seized and forfeited to the United States.

(d) REGULATIONS.—After consultation with the Secretary of the Treasury and the United States Trade Representative, the Secretary shall issue such regulations as are necessary to carry out the provisions of this section.

(e) ENFORCEMENT.—The Secretary, the Secretary of the Treasury, and the Secretary of the department in which the Coast Guard is operating, shall enforce this section in the manner in which the Secretaries carry out enforcement activities under section 11(e) of the Endangered Species Act of 1973 (16 U.S.C. 1531(e)).

(f) USE OF PENALTY AMOUNTS.—Amounts received as penalties, fines, or forfeiture of property under this section shall be used in accordance with section 6(d) of the Lacey Act Amendments of 1981 (16 U.S.C. 3375(d)).

SEC. 7. DISCUSSIONS CONCERNING BEAR CONSERVATION AND THE BEAR PARTS TRADE.

In order to seek to establish coordinated efforts with other countries to protect bears, the Secretary shall continue discussions concerning trade in bear viscera with—

(1) the appropriate representatives of Parties to CITES; and

(2) the appropriate representatives of countries that are not parties to CITES and that are determined by the Secretary and the United States Trade Representative to be the leading consumers of bear viscera.

SEC. 8. CERTAIN RIGHTS NOT AFFECTED.

Except as provided in section 5, nothing in this Act affects—

(1) the regulation by any State of the bear population of the State; or

(2) any hunting of bears that is lawful under applicable State law (including regulations).

HSUS STATEMENT IN SUPPORT OF THE BEAR PROTECTION ACT

The Humane Society of the United States, the nation’s largest animal protection organization with over seven million members and constituents, strongly supports Senator McConnell’s Endangered Species Act Amendments of 1981 (16 U.S.C. 3375(d)).

The Bear Protection Act would eliminate the patchwork of state laws in the U.S. and improve protection of America’s bears. Thirty-four states already ban commerce in bear viscera. The remaining states fall into three categories: six allow trade in gallbladders from bears legally killed in-state; eight allow trade in gallbladders from bears killed legally outside the state; and two states do not have pertinent laws. This current patchwork of state laws creates loopholes that enable poachers to launder gallbladders through states that permit their sale. The Bear Protection Act would eliminate this patchwork of state laws, replacing it with one national law prohibiting import, export, and interstate commerce in bear viscera.

Beaver viscera, particularly the gallbladder and bile, have been traditionally used in Asian medicines to treat a variety of illnesses, from diabetes to heart disease. Today, Asian demand for bear viscera and products has increased with growing human populations and increased wealth. Bears are worth more than their weight in gold, potentially yielding a price of about $10,000 each.

While demand for bear viscera and products has grown, Asian bear populations have dwindled. Seven of the eight extant species of bears are threatened by poaching to support the increasing market for bear viscera and products. Most species of bears, and all Asian bear species, are afforded the highest level of protection under the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). CITES has noted that the continued illegal trade in bear parts and products undermines the effectiveness of the Convention and that CITES parties do not take action to eliminate such trade, poaching, or other enforcement failures that could lead to the extirpation of certain populations or even species.

Dwindling Asian bear populations have caused poachers to look to American bears to meet market demand for bear parts and products. While each year nearly 40,000 American black bears are legally hunted in thirty-six states and Canada, it is estimated that roughly the same number are illegally poached each year, according to a former chief law enforcement officer with the U.S. Fish and Wildlife Service.

The U.S. Senate passed this legislation in the 106th Congress and we hope swift action will be taken again to ensure that the House will follow the Senate’s wise lead and act to protect bears across the globe before it’s too late. The majority of the United States applauds Senator McConnell and the quarter of the United States Senate that has signed onto the Bear Protection Act as original cosponsors. With Senator McConnell’s leadership, there may come a day when bear poachers and bear parts profiteers no longer are able to play their cruel trade unpunished.

BEAR PROTECTION ACT IS URGENTLY NEEDED

The Society for Animal Protective Legislation strongly supports Senator Mitch McConnell in his effort to pass the Bear Protection Act once again. This bill would end the United States’ involvement in the trade of bear viscera by prohibiting the import, export and interstate commerce in bear gallbladders and bile. Bears are targeted for their internal organs, which fetch enormous prices on the black market. We urge Congress to support the Bear Protection Act and protect our iconic black bears if a law is not passed to eliminate the United States’ role in supplying this devastating bear parts trade.

There is a price— the head of every bear in this country and Senator Mitch McConnell deserves high praise for introducing proactive legislation protecting bears from the looming threat of the gallbladder trade. The current patchwork of state laws addressing the trade in bear gallbladders and bile is an illegal market for which it is impossible to distinguish visually the disassociated gallbladder of one state’s black bear from another. This enables smugglers to acquire gallbladders in one state, transport them to a state where commercialization of bear parts is legal, and sell the gallbladders under false pretenses.

There are also potential misconceptions that if a law is not passed the American black bear could be wiped out while the US imports bear parts from the Far East. This is not the case. While demand for bear viscera and products has grown, protecting bears is a step in the right direction to ensure that bears are protected appropriately for their illegal and immoral activity.
Mr. McConnell's bill does not impact a state's ability to manage its resident bear population or a lawful hunter's ability to hunt bears in accordance with applicable state laws and regulations. The Rebuttal Act is not about bear hunting—it's about ending bear poaching. This is a laudable goal that all Americans should support.

American citizens should not sit by helplessly while bears are slaughtered, their gall-bladders ripped out and the carcass unnecessarily left to rot. It's time to take a stand against bear poachers and profiteers. Congratulations to Senator McConnell for taking up the charge.


Hon. MITCH MCCONNELL, U.S. Senate, Washington, DC.

DEAR SENATOR MCCONNELL: I am writing on behalf of the 196 accredited members of the American Zoo and Aquarium Association (AZA) in support of your proposed Bear Protection Act.

AZA institutions draw over 35 million visitors annually and have more than 5 million zoo and aquarium members who provide almost $100 million a year. Collectively, these institutions teach more than 12 million people each year in living classrooms, dedicate over $200 million annually to education, and over $50 million annually to scientific research and support over 1,300 field conservation and research projects in 80 countries.

In addition, AZA member institutions have established the Species Survival Plan (SSP) program—a long-term plan involving genetically-diverse breeding, habitat preservation, public education, field conservation and supportive research to ensure survival for many threatened and endangered species. Currently, AZA institutions are involved in 96 different SSP programs throughout the world, including four species of bear—cloth, sun, spectacled and the giant pandas.

It is in this context that AZA expresses its support for the Bear Protection Act. There is little question that most populations of the world's eight bear species have experienced significant declines during this century, particularly in parts of Europe and Asia. Habitat loss and poaching are the major reasons for these declines, although overhunting and poaching have also been factors in some cases, especially in Asia. In recent years, the commercial trade in bear parts, in particular bear gallbladders and bile, for use in traditional Asian medicines has been implicated as the driving force behind the illegal hunting of some bear populations. Analyses by the US Fish and Wildlife Service (USFWS), TRAFFIC and other organizations have documented the existence of illicit commercial markets and smuggling rings for bear body parts.

Recent information suggests that this is not one but a diverse and significant one as well. The American black bear is listed on Appendix II of CITES due to the similarity of appearance to other listed bear species, and conservation and management of black bear populations remains largely in the hands of the states. Most states prohibit commercial trade in bear parts but there are some that do allow the commercial trade of products from bears taken within their borders. Several other states do not explicitly ban commercial trade in parts from bears taken within the borders of other jurisdictions. This has raised concerns that inconsistent state laws may facilitate illegal trade and laundering of bear parts.

The relatively high value of the wild bear parts, particularly visceras, on the international market warrants that continued action be taken to minimize the threat or potential threat of illegal trade. Your bill provides the necessary first step for closing the potential loopholes that are afforded to bear poachers and dealers by fragmented state laws. Equally important, the bill encourages dialogue between the U.S. and countries known to be bear exporters, and consumers of bear visceras in an attempt to coordinate efforts to protect threatened and endangered bear populations worldwide. AZA applauds your efforts in this important wildlife conservation matter. In addition, AZA stands ready to work with you to ensure that the necessary funds are authorized and appropriated to ensure enforcement and enforcement of this critical work.

Please feel free to contact AZA if you have any question or comments.

Regards,
SYDNEY J. BUTLER, Executive Director.

By Mr. BROWNBACK (for himself and Mr. ENZI):
S. 1126. A bill to facilitate the deployment of advanced telecommunications services, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. BROWNBACK (for himself and Mr. ENZI):
S. 1127. A bill to stimulate the deployment of advanced telecommunications services in rural areas, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. BROWNBACK. Mr. President, next week our nation will celebrate Independence Day. Yet, as we celebrate the land of opportunity that is America, we must keep in mind those who, even in this great nation, do not have the same opportunities as everyone else. In rural communities across the nation, an entire segment of our population does not have the opportunity to access powerful broadband communications services. This high-speed, high-capacity on-ramps to the information super highway. Why? Because for all intents and purposes broadband does not exist in most of rural America.

Broadband is increasing the speeds and capacity with which consumers and businesses alike access the Internet, and opening up a whole new world of information, e-commerce, real-time high quality telemedicine, distance education, and entertainment. The power of broadband will level the playing field between rural and urban communities in a global economy.

Today I rise to introduce the Rural Broadband Deployment Act of 2001 and the Broadband Deployment and Competition Enhancement Act of 2001. Two bills designed to ensure that all Americans have access to the advantages of broadband connections. I would like to thank my colleague from Wyoming, Senator Enzi, for his cosponsorship and support of these bills. Together or individually, will ensure broadband deployment in our nation's rural areas, and will enable us to renew our long-standing commitment that rural communities have access to the same telecommunications resources as urban communities.

My singular objective, in both bills, is high-speed Internet access for every citizen in America. This is a bipartisan objective. The Democratic party has announced its intention to ensure universal access to broadband by the end of this decade. I commend my colleagues on the other side of the aisle for their recognition of the importance of broadband and I look forward to working with them to achieve our common goal.

New approaches will be needed to achieve universal broadband availability. Some of my colleagues have introduced legislation consisting of tax incentives or loan subsidies. Programs such as these can help to deliver on the commitment to make broadband universally available, but these proposals alone will not achieve that goal. Deregulation has a key role to play in this effort.

Deregulation has been the driver of broadband deployment to date: cable companies, largely deregulated by the 1996 Telecommunications Act, have invested almost $50 billion in upgrades to their networks. These upgrades have in turn enabled them to deploy broadband, and cable companies now serve 70 percent of the broadband market. Satellite companies, also unregulated in the broadband market, are deploying one-way high-speed Internet access and are working to deploy two-way broadband services. Some companies are utilizing wireless cable licenses to deploy broadband, and they too are unregulated in the broadband market.

Deregulation is a powerful motivator for the deployment of new technologies and services. Unregulated small cable companies, and all but unregulated rural and small telephone companies, are taking advantage of their regulatory status to deliver broadband to rural consumers.

The broadband market, distinct from the local telephone market, is new. Yet, federal and State regulators are placing local telephone competition regulations on broadband-specific facilities deployed by incumbent local exchange carriers, ILECs, the only regulated broadband service providers, as if they were part of the local telephone service. This is simply not the case. The local telephone market is not synonymous with the broadband market. The disparate regulatory treatment of phone companies deploying broadband and all other broadband service providers is serving to deny broadband to many rural communities.

Broadband facilities being deployed by ILECs throughout our cities and towns require billions of dollars of capital investment in new infrastructure that must be added to the existing telephone network. The sparse populations of rural communities already diminish...
the return on infrastructure investment so that, when combined with local telephone market regulations, ILEC broadband deployment has not proven to be cost effective.

As a result, rural telephone exchange regulated companies are not being upgraded for broadband services even while unregulated companies seem to be capable of making that substantial investment. In Wellington, Kansas, a rural community with a 10,000 residents, a small unregulated cable company called Sumner Cable has deployed broadband service. Yet, Southwestern Bell, the local regulated telephone company and a Bell operating company, is not deploying broadband. Different regulatory treatments of these companies creates the incentive for one to deploy broadband, but not the other. This is being seen throughout our nation's rural communities, and is particularly disappointing. The Bell operating companies serve approximately 65 percent of rural telephone lines like those found in Wellington.

Broadband is certainly being deployed at a much faster rate in urban markets than rural markets. But that does not mean our country is any better off in our nation's cities. Today, broadband deployment in urban markets is being characterized by the market dominance of the cable TV industry, unregulated in the broadband market, which serves approximately 70 percent of all broadband subscribers. This is good for consumers. Cable companies have taken full advantage of their deregulated status, and the inherent economic incentives, to deploy new technologies and provide new services to consumers. But while the cable industry finishes rebuilding its entire infrastructure with digital technology that permits it to offer broadband, ILECs are, in many instances, not making the same investment to rebuild their infrastructure.

The Broadband Deployment and Competition Enhancement Act of 2001 promotes broadband deployment in rural markets by requiring ILECs to deploy to all of their telephone exchange subscriber lines within 5 years. In exchange, ILEC broadband services are placed on a more level-playing field with their broadband competitors. This is achieved by deregulating only those new technologies added to the local telephone infrastructure that make broadband possible over telephone lines. By permitting ILECs to compete on a level playing field with their broadband competitors in their urban markets, we can create the proper balance between requirements and incentives.

The limited deregulation in this legislation will not affect competition in the local telephone market. CLECs will still have access to the entire legacy telephone network to use as they see fit, and they will still be permitted to combine their own broadband equipment with the telephone network to compete in the broadband market. In those parts of the local telephone network where new network architecture must be deployed to make broadband possible, CLECs are free to add their own facilities to the network so they can compete for every potential broadband subscriber in a market.

In Kansas, I live near Parker, Kansas. My hometown has 250 people. My singular goal in introducing this legislation is to facilitate rural broadband deployment. Given the use of ensuring broadband is deployed in rural communities, I have elected to introduce two different bills on the same issue. I am willing to pursue either approach depending on which one will get us to the day of ubiquitous broadband.

It seems clear that, no matter how worthy of broadband deregulation is in the broadband market, any such effort must navigate through the typical back and forth between the baby Bells, the ILECs, and, now, the CLECs. If a more limited approach can avoid the traditional “phone wars” then I am happy to put forth such an alternative.

The Rural Broadband Deployment Act of 2001 is a more geographically limited approach to spurring broadband deployment. It includes broader deregulation of ILEC broadband services, but limits that deregulation only to rural communities. By ramping up the deregulation, yet restricting the size of the market where that deregulation is applied, it is my intention to create the same balance of requirements that I previously mentioned.

I urge my colleagues to give consideration to either of these bills, and I urge your cosponsorship.

Mr. ENZI, Mr. President, I rise as an original cosponsor of Senator BROWNBACK’s Broadband Deployment and Competition Enhancement Act of 2001. I thank my colleague from Kansas for drafting this innovative legislation to help solve one of the main problems we face in making sure the telecommunications needs of our nation’s rural communities are met.

Telecommunications has come a long way from the days of the party line and operator assisted calls. Telecommunications services have allowed entrepreneurs to locate their businesses anywhere they can get a dial tone and have helped to bring jobs to rural America. I have been working to encourage more infrastructure development as a way of creating a business environment for persuading agriculture to move to the places that need them.

The 20th Century has seen the economy of the United States and the world change from an industrial economy to an information economy. We are only at the beginning of the “Information Revolution” and now is the best time for private industry and government to take a pro-active role in helping to create the proper regulatory conditions necessary to encourage the widespread deployment of advanced telecommunications services.

Since 1995, the State of Wyoming has been attempting to create a competitive local phone market. That would have a multitude of competitors and result in lower rates. The cost of providing service in Wyoming is significantly higher than in other areas of the nation due to our low population and long distances between towns. This has caused many companies to pass Wyoming by in search of easier profits in urban areas and leave many of our towns with only one choice for broadband service, if they have a provider at all.

One of the reasons why advanced services have been slowly deployed is that Wyoming’s wide open spaces make the telecommunications needs of our residents very different than people in urban areas. The economic model of the 20th Century is really well in place in Wyoming’s cities. Today, broadband deployment in urban markets is being characterized by the market dominance of the cable TV industry, unregulated in the broadband market, which serves approximately 70 percent of all broadband subscribers. This is good for consumers. Cable companies have taken full advantage of their deregulated status, and the inherent economic incentives, to deploy new technologies and provide new services to consumers. But while the cable industry finishes rebuilding its entire infrastructure with digital technology that permits it to offer broadband, ILECs are, in many instances, not making the same investment to rebuild their infrastructure.

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The limited deregulation in this legislation will not affect competition in the local telephone market. CLECs will still have access to the entire legacy telephone network to use as they see fit, and they will still be permitted to combine their own broadband equipment with the telephone network to compete in the broadband market. In
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greater deployment of services to even the smallest of towns.

That is why I am an original cosponsor of Senator BROWNBACK’s bill. His bill creates a deregulatory regime that is backed by specific performance requirements, and strong enforcement provisions.

The bill requires Incumbent Local Exchange Carriers, ILEC’s, to be able to provide advanced services to all of its customers within 5 years of the enactment of this legislation in order to receive the benefits of deregulation. This ensures that companies will bring advanced services and competition to rural areas by giving a hard deadline for companies to complete their build-out.

Advanced services would be deregulated by exempting them from the requirements that ILECs make packet switching and fiber available to competitors at wholesale rates. This would specifically deregulate the equipment that makes it possible to provide advanced services over traditional phone lines. The bill also exempts fiber optic lines owned by ILECs from below cost pricing, providing incentives to deploy fiber to the home or in areas that never had telephone infrastructure before. I believe that this will be key to making the economics of rural advanced services more favorable for companies wanting to invest in rural broadband deployment.

The bill would also give ILECs the necessary pricing flexibility for their broadband services. I believe that we should be hamstrung by outdated cost principles now used to regulate the telephone system.

The bill does not change the requirements that ILECs allow competitors to collocate their equipment in an ILEC facility. The bill does require that the ILEC provide switched services to a competitor to any other customer with whom a collocation agreement exists.

The bill also does not eliminate the requirement that ILECs give competitors access to local loops. In fact, an ILEC does not grant a competitor access to local loops if the ILEC has no customers in that area. The bill also requires that ILECs give competitors access to local loops, state regulators the right to strip the ILEC of the deregulatory benefits contained in the bill.

The bill’s enforcement provisions are very strong and explicit. If a company does not meet the build-out requirement, does not permit a competitor to collocate equipment, or does not give access to local loops, state regulators have the authority to return an ILEC to the old regulatory regime. Deregulation without proper enforcement mechanisms does not benefit consumers and competition.

I have been working with my colleagues to create a mix of deregulation and incentives to encourage private infrastructure development. Government cannot force private firms to make unprofitable investments, but government can work to make investments in broadband in areas where they are more favorable. The Broadband Deployment and Competition Investment Act helps to make investment in advanced services in rural areas possible.

The great strides made by both Qwest, the largest local phone companies and the cooperatives show that rural areas can support fiber optic based services. The Wyoming Equality Network, the fiber based network linking all of Wyoming’s high schools, has been a great advancement for education and I applaud the State’s foresight for undertaking such a far reaching project.

The WEN has had the added effect of showing other companies that it is possible to link rural areas with fiber, bringing much higher speed data services and other advanced services to homes and businesses.

I am pleased to see that Qwest and several smaller companies have worked together to close the inter-office fiber loop, linking all local phone exchanges with a fiber optic connection. This will allow for greater capacity and new services like DSL and other high speed broadband services.

The objective of telecommunications policy should be to bring as many players into the marketplace and allow them to compete in the marketplace. Congress should not tie a company’s hands in a continually changing and competitive marketplace. We should ensure that all parties are on a level playing field and that all services are regulated in the same manner regardless of who is offering the service or the technology they are using.

This legislation will help bring some needed consistency to the regulation of advanced services and I urge my colleagues to support this vital legislation.

By Mr. WARNER:

S. 1129. A bill to increase the rate of pay for certain officers and positions within the judicial, executive, and legislative branches of the Government, respectively, and for other purposes; to the Committee on Governmental Affairs.

Mr. WARNER. Mr. President, I am pleased to introduce legislation today to provide relief from the pay compression affecting career Federal employees serving in the Senior Executive Service, SES. It is nearing a decade since Senior Executive Service members have seen a meaningful adjustment in pay.

The salaries earned by these employees are, on average, well below those earned by their peers in private industry. Pay caps for the Senior Executive Service and certain other positions in the government are tied to the Executive Schedule which includes senior level officials as well as Members. Pay freezes for positions on the Executive Schedule in five of the past eight years has resulted in pay compression so severe that very few career executive corps earns essentially the same salary despite differences in obligation and executive level. Over the past eight years, pay increases for these executives would average 1 percent per year.

Many senior executives leave Federal service to begin second careers in the private sector because of the salary compression. Others find that retirement is a more sensible option, whereas Federal annuitants receive an average two and a half percent cost of living adjustment every year compared to the average one percent per year pay increase a senior executive may receive if she or he remained in Federal service.

I have heard from many SES employees relating their own stories as to how they followed the program of pay compression affected them. I would like to share a few of these personal accounts.

From an ES-6 with the Department of Defense: “My pay has been capped and I have not been receiving raises. Thus, I have not received a raise for five years and have not been receiving raises. Thus, I have not received a raise for five years, pay increases for these executives would average 1 percent per year. Many senior executives leave Federal service to begin second careers in the private sector because of the salary compression.”

A Senior Executive at the Department of Health and Human Services: “The highest career Deputy General Counsel position in my agency became vacant, and I was called by the General Counsel to seriously consider taking it. Aside from the many family issues involved in any move to Washington, an overriding aspect is the fact that I am already at the pay cap. Thus, a move into a position with more responsibilities would provide no financial incentive. Although I’m obviously not in government service for the financial rewards, I don’t want to go back financial.”

A Consultant, Department of Defense: “I turned down a job at the US Nuclear Command and Control System Support Staff, where I was stationed in active duty as a Regular Air Force Officer. I retired from the USAF after 21 years in the Air Force, and was honored to get offered a Civil Service position back at the office. Instead, I reluctantly turned
down the job. The reason was primarily monetary. In order to take the job, it would have been necessary to give up part of my Air Force retirement pay because I retired as a regular officer. To make matters worse, my pay would have been capped. The bottom line is I retired as a regular officer.

To make matters worse, my pay would have been capped. The bottom line is I retired as a regular officer.

Therefore, I encourage my Senate colleagues to support this bill.

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. 1129

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

SECTION 1. SHORT TITLE.

(a) EXECUTIVE SCHEDULE PAY RATES.—

(1) IN GENERAL.—Section 5301 of title 5, United States Code, is amended—

(A) by redesignating subsection (a) as subsection (a)(1) and inserting the following as a new subsection (a)(2):-

(2) I NCREASE IN MAXIMUM RATES OF BASIC PAY ALLOWABLE.—

(A) FOR POSITIONS COVERED BY SECTION 5314 OF TITLE 5, UNITED STATES CODE.—Section 5314(b)(1)(C), 5372a(b)(1), 5376(b)(1)(B), and 5382(b) of title 5, United States Code, are each amended by inserting "level III" after "Executive Schedule".

(2) PROVISIONS RELATING TO CERTAIN OFFICES AND POSITIONS WITHIN THE EXECUTIVE BRANCH.

(a) EXECUTIVE SCHEDULE PAY RATES.—

(1) IN GENERAL.—Section 5301 of title 5, United States Code, is amended—

(A) by redesignating subsection (a) as subsection (a)(1) and inserting the following as a new subsection (a)(2):—

(2) I NCREASE IN MAXIMUM RATES OF BASIC PAY ALLOWABLE.—

(A) FOR POSITIONS COVERED BY SECTION 5314 OF TITLE 5, UNITED STATES CODE.—Section 5314(b)(1)(C), 5372a(b)(1), 5376(b)(1)(B), and 5382(b) of title 5, United States Code, are each amended by inserting "level III" after "Executive Schedule".

SEC. 2. EFFECTIVE DATE.

The amendments made by this Act shall be effective with respect to pay periods beginning on or after the date of enactment of this Act.

By Mr. CRAIG (for himself, Mrs. FEINSTEIN, and Mr. CORZINE):
term energy source, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. CRAIG. Mr. President, today I am introducing a bill of great significance to our energy future, the Fusion Energy Sciences Act of 2001. I am especially pleased that my colleague from California, Senator Feinstein, is joining me as the primary cosponsor of this legislation. This bill is designed to strengthen the fusion program at the Department of Energy and to accelerate the next major step in fusion energy science development.

In recent months, the news has been dominated by energy concerns. Although there may be differences of opinion about the causes of our current energy problems and what the appropriate solutions might be, there is general agreement that energy forms a vital link to our economic prosperity and provides the means by which the conduct of our daily lives is made easier and more convenient. Moreover, we need to solve the problems that short term remedies cannot.

If we can achieve this joining of atoms, and successfully contain and harness the energy produced, fusion will be close to an ideal energy source. It produces no air pollutants because the byproduct of the reaction is helium, it is safe and its fuel source, hydrogen, is practically unlimited and easily obtained.

In the technical community, the debate over the scientific feasibility of fusion energy has waxed and waned over the past decade, substantial amounts of fusion energy have been created in the laboratory setting. I am proud to note that some of this underlying scientific work has been conducted at the Idaho National Engineering and Environmental Laboratory in my State, which has been selected by the Department of Energy to lead efforts on fusion safety.

Although certain scientific questions remain, the primary outstanding issue about fusion energy at this point is whether fusion energy can make the challenging step from the laboratory into a practical energy resource. Achieving this goal will require high quality science, innovative research and international collaboration, and the resources to make this possible.

That is the goal to which this legislation is directed.

According to the scientific experts, the path to practical fusion will involve three steps. First, there is a need to conduct a ‘burning plasma’ experiment. Second, this effort would be further developed in an engineering test facility. The third step would be a demonstration plant. If taken in series, each of these steps would take approximately fifteen years, but through international collaboration, it may be possible to accelerate this process. In addition to these steps, continued investment in a strong underlying program of basic and plasma physics will still be necessary.

Therefore, this bill instructs the Secretary of Energy to transmit to the Congress by July 1, 2004, a plan for a burning plasma experiment, which is the next necessary step towards the eventual realization of practical fusion energy. At a minimum, the Secretary must submit a plan for a domestic U.S. experiment, but may also submit a plan for U.S. involvement in an international burning plasma experiment if such involvement is cost effective and has equivalent scientific benefits to a domestic experiment. The bill also requires that within six months of the enactment, the Secretary of Energy shall select the approach to ensure a strong scientific base for the fusion energy sciences program. Finally, for ongoing activities in the Department of Energy’s fusion energy sciences program and for the purpose of preparing the plans called for, the bill authorizes $325,000,000 in fiscal year 2002 and $335,000,000 in fiscal year 2003. As we suffer through near term challenges in the energy sector and meeting our immediate needs, it is more crucial than ever that we invest in those that hold the promise for long term solutions. Recent accomplishments in the laboratory demonstratethat fusion energy has this long term potential. The Fusion Energy Sciences Act of 2001 will bring this promise closer to reality for future generations.

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:

SEC. 1. SHORT TITLE.
This Act may be cited as the “Fusion Energy Sciences Act of 2001”.

SEC. 2. FINDINGS.
The Congress finds that—
(1) economic prosperity is closely linked to an affordable and ample energy supply;
(2) environmental quality is closely linked to energy productions and use;
(3) population, worldwide economic development, energy consumption, and stress on the environment are all expected to increase substantially in the coming decades;
(4) the few energy options with the potential to meet economic and environmental needs for the long term must be pursued aggressively now, as part of a balanced national energy plan;
(5) fusion energy is a long-term energy solution that is expected to be environmentally benign, safe, and economical, and to use a fuel source that is practically unlimited;
(6) the National Academy of Sciences, the President’s Committee of Advisers on Science and Technology, and the Secretary of Energy Advisory Board have each recently reviewed the Fusion Energy Sciences Program and each strongly supports the fundamental science and development of the program, and has confirmed that progress toward the goal of producing practical fusion energy has been excellent;
(7) there is a strong need for the Fusion Energy Sciences Program to move forward to a magnetic fusion burning plasma experiment, producing substantial fusion power output and providing key information for the advancement of fusion science;
(8) the National Academy of Sciences has also called for a broadening of the Fusion Energy Sciences Program research base as a means to more fully integrate the fusion science community into the broader scientific community; and
(9) the Fusion Energy Sciences Program budget is inadequate to support the necessary science and innovation for the present generation of experiments, and cannot accommodate the cost of a burning plasma experiment, the goal of practical fusion energy, states, or even the cost of key participation by the United States in an international effort.

SEC. 3. PLAN FOR FUSION EXPERIMENT.
Plan for U.S. Fusion Experiment.—The Secretary of Energy (in this Act referred to as ‘‘the Secretary’’), on the basis of full consultation with, and the recommendation of, the Fusion Energy Sciences Advisory Committee (in this Act referred to as “FESAC”), shall develop a plan for United States construction of a magnetic fusion burning plasma experiment for the purpose of accelerating scientific understanding of fusion plasmas. The Secretary shall request a review of the plan by the National Academy of Sciences and shall transmit the plan and the review to Congress by July 1, 2004.

(1) REQUIREMENTS OF PLAN.—The plan described in subsection (a) shall—
(1) address key burning plasma physics issues; and
(2) include specific information on the scientific capabilities of the proposed experiment, the relevance of these capabilities to the goal of practical fusion energy, and the overall design of the experiment including its estimated cost and potential construction sites.

United States Participation in an International Experiment.—In addition to the plan described in subsection (a), the Secretary, on the basis of full consultation with, and the recommendation of, the FESAC, may also develop a plan for United States participation in an international burning plasma experiment for the same purpose, whose construction is found by the Secretary to be highly likely and where United States participation is cost effective relative to the cost and scientific benefits of a domestic experiment described in subsection (a). If the Secretary elects to develop a plan under this subsection, he shall include the information described in subsection (a) and an estimate of the cost of United States participation in such an international experiment. The Secretary shall request a review of the plan by the National Academy of Sciences and Engineering of a plan developed under this subsection, and shall transmit the plan and the review to the Congress no later than July 1, 2004.

SEC. 4. PLAN FOR FUSION ENERGY SCIENCES PROGRAM.
Not later than 6 months after the date of enactment of this Act, the Secretary, in full
consultation with FESAC, shall develop and transmit to the Congress a plan for the purpose of ensuring a strong scientific base for the Fusion Energy Sciences Program and to enable the Secretary to proceed as described in section 3. Such plan shall include as its objectives—

(1) to ensure that existing fusion research facilities and equipment are more fully utilized with appropriate measurements and control tools;

(2) to ensure a strengthened fusion science theory and computational base;

(3) to ensure and that the selection of and funding for new magnetic and inertial fusion research facilities is based on scientific merit and cost effectiveness;

(4) to improve the communication of scientific results and methods between the fusion science community and the wider scientific community;

(5) to ensure that adequate support is provided to optimize the design of the magnetic fusion burning plasma experiments referred to in section 3; and

(6) to ensure that inertial confinement fusion facilities are utilized to the extent practicable for the purpose of inertial fusion energy research and development.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary for the development and review of the plans described in this Act and for activities of the Fusion Energy Sciences Program $320,000,000 for fiscal year 2002 and $335,000,000 for fiscal year 2003.

Mrs. FEINSTEIN. Mr. President, I rise today to join my colleague, Senator LARRY CRAIG, in introducing this legislation to accelerate the development of fusion energy as a practical and realistic alternative to fossil fuels for our nation's energy needs.

As a co-sponsor of this legislation, I hope to see fusion move quickly from an experiment in the lab to a reality for our homes and businesses.

We have already succeeded in using scientific advancements to harness energy occurring elsewhere on our planet. Solar panels collect the sun's rays to heat pools and power homes. Windmills transfer nature's gusts into electrical current. Water running from mountain tops to the sea can produce significant amounts of hydroelectric power.

And now, with fusion energy, we will be able to harness the power of the stars to create an almost unlimited and clean form of energy.

Fusion energy is the result of two small hydrogen atoms combining into a larger atom. The energy released from this fusion of the atoms can be harnessed to generate electricity. Unlike nuclear power, which uses radioactive materials for fuel, fusion uses hydrogen from water. Unlike fossil fuels, which pollute the air when burned, the only byproduct in a hydrogen fusion reaction is helium, an element already plentiful in the air.

Besides being environmentally benign, fusion is a practically unlimited fuel source. In fact, scientists predict that using 1 gallon of sea water, fusion can produce three times the energy produced from 300 gallons of gasoline. And with fusion, 50 cups of sea water can be the energy equivalent of 2 tons of coal.

Fusion energy has been proven to be a practical energy endeavor, worthy of more investment for research and development. So just where do we go from here? How do we harness the power of the stars?

A 1999 review by the Department of Energy's task force on Fusion Energy concluded: significant scientific progress has been made in the science of fusion energy; two, the budget for fusion research needs to grow; and three, a burning plasma experiment needs to be carried out.

To expedite the use of fusion to meet our energy needs, we need to strengthen the efforts already underway in fusion research and development and create new programs financed by the government.

Scientists agree that at current funding levels, fusion is approximately 45 years away from entering the marketplace as a viable energy source.

This timetable is based upon a three-step process in which the scientific community can: first, carry out a burning plasma experiment; second, build a fusion energy test facility; and third, establish a fusion demonstration plant to generate electricity.

Since practical fusion energy generation is still three stages from real implementation, the first thing we can do is fund the development of a burning plasma experiment.

This legislation will ensure this project will happen soon, carried out either by the scientific community in the United States, or in collaboration with an international effort. The bill requires the Secretary of Energy to develop a plan by 2004 for a magnetic fusion burning plasma experiment.

It is important to point out that this bill adds the burning plasma experiment in addition to, and not at the expense of, other ongoing projects.

The goal of fusion energy is to create a continually burning nuclear plasma that is self-refueling itself. Developing a magnetic fusion plasma experiment will help the scientific community demonstrate how the heat from the fusion reaction can maintain the reaction as a self-generated fuel. Strong magnetic fields allow the hydrogen plasma to be heated to high temperatures for fusion.

This legislation will help the scientific community overcome the key stumbling block to fusion development. By authorizing $320 million for Fiscal Year 2002 and $335 for Fiscal Year 2003 the fusion plasma experiment will be carried out and fusion funding that peaked in the 1970s, but has since tapered off, will be restored.

Let me just take a moment to mention where this funding is going, because it is particularly important for me to point this out.

Annual Federal funding for fusion energy has averaged around $230 million in the last few years. In Fiscal Year 2001, Congress appropriated $249.48 million for fusion research.

This money has provided approximately 1,100 jobs in California at the following U.S. Fusion Program Participant locations: UC Davis, UC Berkeley, Stanford, UCLA, UC Santa Barbara, Cal Tech, UC San Diego, UC Irvine, Occidental College, Lawrence Livermore National Lab, Sandia National Lab, Stanford Linear Accelerator Center, Lawrence Berkeley National Lab, TSI Research Inc. and General Atomics.

Despite all of the past advancements at these facilities and others, the Fusion Energy Science Advisory Committee has concluded that lack of funding is hindering the technological advancement towards fusion energy development. And the Department of Energy’s task force on Fusion Energy has concluded that, “in light of the promise of fusion,” funding remains “subcritical.” Consequently, the international community is outpacing us on the road to realizing the myriad benefits of this new energy resource. The Japanese budget for this type of research is about 1.5
times that of the U.S., and the European budget is about 3 times greater.

It is critical that we be the leader in the renewable energy resources sector. I urge my colleagues to join Senator Craig and me in supporting fusion energy, which is clean, safe, and abundant energy source for our Nation's long-term energy supply.

By Mr. LEAHY.

S. 1131. A bill to promote economically sound modernization of electric power generation capacity in the United States, to establish requirements to improve the combustion heat rate efficiency of fossil-fueled electric utility generating units, to reduce emissions of mercury, carbon dioxide, nitrogen, oxides, and sulfur dioxide, to require that all fossil fuel-fired electric utility generating units operating in the United States meet new sources review requirements, to promote the use of clean coal technologies, and to promote alternative energy and clean energy sources such as solar, wind, biomass, and fuel cells; to the Committee on Finance.

Mr. LEAHY. Mr. President, the Administration finally released its National Energy Policy last month. As I noted at the time, I have serious concerns about several of its recommendations, not the least of which was its proposal to build 1,300 to 1,900 new electric power plants many of them burning coal or oil fuel while, at the same time, questioning the enforcement of clean air laws that protect the public from excess power plant emissions.

Today, fossil fuel-fired power plants constitute the largest source of air pollution in the United States. Every year, they collectively emit approximately 2.2 billion tons of carbon dioxide, 13 million tons of acid rain-producing sulfur dioxide, 7 million tons of acid rain and smog-producing nitrogen oxides, and 43 tons of highly toxic mercury.

How could pollutants still be dumped into our atmosphere at this scale? One reason that cannot be ignored is that more than 75 percent of the fossil-fuel fired power plants in the United States are still "grandfathered," or exempt from modern Clean Air Act standards. When the Clean Air Act and its amendments were passed, Congress assumed that electric power plants would be retired over time and replaced by newer, cleaner plants within 30 years. They were not. Unfortunately, utilities have kept these inefficient, pollution-prone power plants on line because they are inexpensive. Those grandfathered plants continue to burn cheap coal and refuse to invest in emissions control technologies that protect air quality.

The continuing harm to our atmosphere, lands, waters, State economies, and public health by power plant emissions is well documented. In my home state of Vermont, acid deposition caused by emissions of sulfur dioxide and nitrogen oxide has scarred our forests and poisoned our streams. Emissions of mercury have contaminated our rivers and lakes to the point that statewide advisories against fish consumption are necessary to protect our children from mercury exposure.

Economically damaging fish consumption advisories have threatened to negatively change the climate for Vermont maple trees the source of Vermont maple syrup and other economic Vermont crops. And despite Vermont's tough air laws and small population, out-of-state particulates and smog lower our air quality, endanger our health, and ruin views of our Green Mountains.

Earlier this year, I cosponsored bipartisan legislation, the "Clean Power Act of 2001," that strictly capped national power plant emissions and ended "grandfather" loophole exemptions. To promote rapid and reliable changes in the utility industry, that legislation also gave utilities the regulatory tools needed to make those changes with incentives for trading emissions credits, a so-called "cap-and-trade" mechanism. I remain a supporter of the Clean Power Act of 2001 and hope it becomes key to energy policy negotiations in Congress. However, I believe we can do even more.

So today I am introducing a second piece of legislation covering power plant emissions that I also intend to promote during the energy debate, the "Clean Power Plant and Modernization Act of 2001."

I believe we can do even more.

And this bill goes beyond emissions caps and transition incentives to recognize the emergence of energy technologies that are more environmentally sustainable. It provides substantial funding for research, development, and commercial demonstrations of renewable and clean energy technologies such as solar, wind, biomass, and new nuclear technologies. It also authorizes expenditures for implementing known ways of biologically sequestering carbon dioxide from the atmosphere such as planting trees, preserving wetlands, and soil restoration.

The bill emphasizes the importance of immediately capping, if not totally eliminating, the release of mercury from power plants. In December, the EPA finally determined to regulate mercury emissions from electric utility power plants, an action I strongly commended. However, such regulations are years away, and it is uncertain what form they will take. Yet, just last year, 41 states issued more than 2,200 fish consumption advisories because of mercury contamination. Eleven states, including Vermont, issued statewide advisories. In 2000, the National Academy of Sciences confirmed the health risks of mercury, emphasizing the special vulnerability of unborn and young children. I believe we need to do something now.

As the energy landscape of our nation changes, this bill also recognizes the need to train our national energy work force. As U.S. power plants become more efficient and more power is produced by renewable technologies, less fossil fuel will be consumed. This will have an impact on the workers and communities that produce fossil fuels. The effects are likely to be greatest for coal, even with significant deployment of clean coal technology. The bill provides funding for programs to help workers and communities during the period of transition. I am eager to work with Senator Craig and my colleagues to ensure that these provisions address the needs of workers, particularly those who may not fully benefit from retraining programs.

Finally, this bill holds the electric power industry, and Congress, accountable for any and all taxpayer dollars used to aid the transition to cleaner electric generation facilities. To assess how well clean air laws and emissions reductions are working, our nation needs a robust nationwide monitoring networks capable of generating reliable, consistent, long-term data about natural ecosystems. Networks such as the National Atmospheric Deposition Program currently provide the national data needed by scientists and Federal agencies to accurately assess the trends in pollutant deposition. Yet, over the past 30 years, these networks have struggled to survive with ever-decreasing funding. My bill provides modest funding for national support and modernization of scientific sites that are so critical to understanding of our ecosystems and our public health.

The American public overwhelmingly supports the environmental commitments that we have made since the early 1970s. It is our responsibility to preserve the environment for our children and grandchildren, and it is our duty to protect their health as well. The proposed energy policy of this administration is weakening our resolve, encouraging more drilling and more about energy efficiency and protection of air quality.

This bill will, I hope, add another way
in which we can ensure reliable, affordable electric power while modernizing energy efficiency and protecting our national resources.

I ask unanimous consent that the text of the bill, and the section-by-section overview of the bill be printed in the RECORD.

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

S. 113

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 “Clean Power Plant and Modernization Act of 2001.

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

   Sec. 1. Short title; table of contents.
   Sec. 2. Findings and purposes.
   Sec. 3. Definitions.
   Sec. 4. Combustion heat rate efficiency standards for fossil fuel-fired generating units.
   Sec. 5. Air emission standards for fossil fuel-fired generating units.
   Sec. 6. Extension of renewable energy production tax credits.
   Sec. 7. Megawatt hour generation fees.
   Sec. 8. Clean Air Trust Fund.
   Sec. 9. Accelerated depreciation for investor-owned generating units.
   Sec. 10. Grants for publicly owned generating units.
   Sec. 11. Recognition of permanent emission reductions in future climate change implementation programs.
   Sec. 12. Renewable and clean power generation technologies.
   Sec. 13. Clean coal, advanced gas turbine, and combined heat and power demonstration program.
   Sec. 14. Evaluation of implementation of this Act and other statutes.
   Sec. 15. Assistance for workers adversely affected by reduced consumption of coal.
   Sec. 16. Community economic development incentives for communities adversely affected by reduced consumption of coal.
   Sec. 17. Carbon sequestration.
   Sec. 18. Atmospheric monitoring.

SEC. 2. FINDINGS AND PURPOSES.

(a) Findings.—The Congress finds that—

(1) the United States is relying increasingly on old, needlessly inefficient, and highly polluting power plants to provide electricity;

(2) the pollution from those power plants causes a wide range of health and environmental damage, including—

(A) air pollution that is associated with the deaths of approximately 50,000 Americans annually;

(B) urban ozone, commonly known as “smog”, that impairs normal respiratory functions and is of special concern to individuals afflicted with asthma, emphysema, and other respiratory ailments;

(C) rural ozone that obscures visibility and damages forests and wildlife;

(D) acid deposition that damages estuaries, lakes, rivers, and streams (that depend on them for survival) and leaches heavy metals from the soil;

(E) mercury and heavy metal contamination that renders fish unsafe to eat, with especially serious consequences for pregnant women and their fetuses;

(F) eutrophication of estuaries, lakes, rivers, and streams; and

(G) global climate change that may fundamentally and irreversibly alter human, animal, and plant life.

(3) tax laws and environmental laws—

(A) provide a very strong incentive for electric utilities to keep old, dirty, and inefficient power plants in operation; and

(B) provide a strong disincentive to investing in new, clean, and efficient generating technologies;

(4) fossil fuel-fired power plants, consisting of plants fueled by coal, fuel oil, and natural gas, produce more than two-thirds of the electricity in the United States;

(5) since, according to the Department of Energy, the average combustion heat rate efficiency of fossil fuel-fired power plants in the United States is 35 percent, 67 percent of the heat generated by burning the fuel is wasted;

(6) technology exists to increase the combustion heat rate efficiency of coal combustion from 35 percent to 50 percent above current levels, and technological advances are possible that would boost the net combustion heat rate efficiency even more;

(7) coal-fired power plants are the leading source of mercury emissions in the United States, releasing more than 42 tons of this potent neurotoxin into the environment each year;

(8) in 1999, fossil fuel-fired power plants in the United States produced nearly 2,000,000,000 tons of carbon dioxide, the primary greenhouse gas;

(9) on average, fossil fuel-fired power plants emit approximately 2,000 pounds of carbon dioxide for every megawatt hour of electricity produced;

(10) the average fossil fuel-fired generating unit in the United States commenced operation in 1964, 8 years before the Clean Air Act (42 U.S.C. 7401 et seq.) was amended to establish requirements for stationary sources;

(11)(A) according to the Department of Energy, only 23 percent of the 1,000 largest emitting units are subject to stringent new source performance standards under section 111 of the Clean Air Act (42 U.S.C. 7411); and

(B) the remaining 77 percent, commonly referred to as “grandfathered” power plants, are subject to much less stringent requirements;

(12) according to available scientific and medical evidence, exposure to mercury and mercury compounds is of concern to human health and the environment;

(13) according to the report entitled “Toxicological Effects of Methylmercury” and submitted to Congress by the National Academy of Sciences in 2000, and other scientific and medical evidence, pregnant women and their developing fetuses, women of childbearing age, and individuals who subsist primarily on fish are most at risk for mercury-related health impacts such as neurotoxicity;

(14) although exposure to mercury and mercury compounds occurs most frequently through consumption of mercury-contaminated fish, such exposure can also occur through—

(A) ingestion of breast milk;

(B) ingestion of drinking water, and foods other than fish, that are contaminated with methyl mercury; and

(C) dermal uptake through contact with soil and water;

(15) the report entitled “Mercury Study Report to Congress” and submitted by the Environmental Protection Agency under section 112(n)(1)(B) of the Clean Air Act (42 U.S.C. 7412(n)(1)(B)), in conjunction with the other standards and rules proposed, imposes a plausible link between mercury emissions from combustion of coal and other fossil fuels and mercury concentrations in air, soil, water, and sediments;

(16)(A) the Environmental Protection Agency report described in paragraph (15) supports a plausible link between mercury emissions from combustion of coal and other fossil fuels and methylmercury concentrations in freshwater fish;

(B) in 2000, 37 States issued health advisories that warned the public about consuming mercury-tainted fish, as compared to 27 States that issued such advisories in 1993; and

(C) the number of mercury advisories nationwide increased from 899 in 1993 to 2,242 in 2000, an increase of 149 percent;

(17) pollution from power plants can be reduced through adoption of modern technologies and practices, including—

(A) methods of combusting coal that are intrinsically more efficient and less polluting, such as pressurized fluidized bed combustion and an integrated gasification combined cycle system;

(B) methods of combusting cleaner fuels, such as gases from fossil and biological resources and combined cycle turbines;

(C) treating five gases through application of pollution controls;

(D) methods of extracting energy from natural, renewable resources of energy, such as solar and wind sources;

(E) methods of producing electricity and thermal energy from fuels without conventional combustion, such as fuel cells; and

(F) combined heat and power methods of extracting and using heat that would otherwise be wasted, for the purpose of heating or cooling office buildings, providing steam to processing facilities, or otherwise increasing total efficiency;

(18) adopting the technologies and practices described in paragraph (17) would increase competitiveness and productivity, secure employment, save lives, and preserve the future; and

(19) accurate, long-term, nationwide monitoring of atmospheric acid and mercury deposition is essential for—

(A) determining deposition trends;

(B) evaluating the local and regional transport of emissions; and

(C) assessing the impact of emission reductions.

(b) PURPOSES.—The purposes of this Act are—

(1) to create and preserve the environment while safeguarding health by ensuring that each fossil fuel-fired generating unit minimizes air pollution to levels that are technologically feasible through modernization and application of pollution controls;

(2) to greatly reduce the quantities of mercury, carbon dioxide, sulfur dioxide, and nitrogen oxides entering the environment from combustion of fossil fuels;

(3) to permanently reduce emissions of those pollutants by increasing the combustion heat rate efficiency of fossil fuel-fired generating units to levels achievable through—

(A) use of commercially available combustion technology, including clean coal technologies such as pressurized fluidized bed combustion and an integrated gasification combined cycle system;

(B) installation of pollution controls;

(C) expanded use of renewable and clean energy sources such as biomass, geothermal, solar, wind, and fuel cells; and

(D) promotion of adoption of combined heat and power technologies;

(4)(A) to create financial and regulatory incentives to retire thermally inefficient generation capacity and to deploy new units that employ high-thermal-efficiency combustion technology; and
SEC. 3. DEFINITIONS.

In this Act:
(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Environmental Protection Agency.
(2) GENERATING UNIT.—The term "generating unit" means an electric utility generating unit.
(3) FUTURE GENERATING UNITS.—Not later than 10 years after the date of enactment of this Act, each fossil fuel-fired generating unit that commences operation on or before that day shall achieve and maintain, at all operating levels, a combustion heat rate efficiency of not less than 45 percent (based on the higher heating value of the fuel), unless granted a waiver under subsection (d).
(4) TEST METHODS.—Not later than 2 years after the date of enactment of this Act, the Administrator, in consultation with the Secretary of Energy, shall promulgate methods and demonstration programs established under this Act;
(5) PERMIT REQUIREMENT.—Not later than 10 years after the date of enactment of this Act, each generating unit shall have a permit issued under title V of the Clean Air Act (42 U.S.C. 7661 et seq.) that requires compliance with this section.
(6) W. HEAT RATE EFFICIENCY STANDARD.—
(A) APPLICATION.—The owner or operator of a generating unit that commences operation more than 10 years after the date of enactment of this Act may apply to the Administrator for a waiver of the combustion heat rate efficiency standard specified in subsection (a)(2) that is applicable to that type of generating unit.
(B) ISSUANCE.—The Administrator may grant the waiver only if—
(1) the owner or operator of the generating unit demonstrates that the technology to meet the combustion heat rate efficiency standard is not commercially available; or
(2) the owner or operator of the generating unit demonstrates that, despite best technical efforts and willingness to make the necessary level of financial commitment, the combustion heat rate efficiency standard is not achievable at the generating unit; and
(B) to achieve an emission rate of not more than 0.8 pounds of carbon dioxide per kilowatt hour of net electric power output.
(C) COAL-FIRED GENERATING UNITS.—Each coal-fired generating unit shall be required to achieve an emission rate of not more than 1.4 pounds of carbon dioxide per kilowatt hour of net electric power output.
(4) SULFUR DIOXIDE.—Each fossil fuel-fired generating unit shall be required—
(A) to remove 90 percent of the sulfur dioxide that would otherwise be present in the flue gas; and
(B) to achieve an emission rate of not more than 0.3 pounds of sulfur dioxide per million British thermal units of fuel consumed.
(5) NITROGEN OXIDES.—Each fossil fuel-fired generating unit shall be required—
(A) to remove 90 percent of nitrogen oxides that would otherwise be present in the flue gas; and
(B) to achieve an emission rate of not more than 0.15 pounds of nitrogen oxides per million British thermal units of fuel consumed.
through 1 or more published reports and 1 or more forms of electronic media, facility-specific emission data for each generating unit and pollutant covered by this section.

(2) SOURCE OF DATA.—The emission data shall be taken from the emission reports submitted under subsection (e)(3).

SEC. 6. EXTENSION OF RENEWABLE ENERGY PRODUCTION CREDIT.

Section 45(c) of the Internal Revenue Code of 1986 (relating to definitions) is amended—

(1) in paragraph (1)—

(A) in subparagraph (A), by striking "2002" and inserting "2003"; and

(B) in subparagraph (C), by striking the period and inserting a comma; and

(C) by adding at the end the following:

"(D) solar power, and "

"(E) geothermal power.";

(2) in paragraph (3)—

(A) in subparagraph (A), by striking "2002" and inserting "2016";

(B) in subparagraph (B), by striking "2002" and inserting "2016";

(C) in subparagraph (C), by striking "2002" and inserting "2016"; and

(D) by adding at the end the following:

"(D) SOLAR POWER Facility.—In the case of a facility using solar power to produce electricity, the term ‘qualified facility’ means any facility owned by the taxpayer which is originally placed in service after December 31, 2001, and before January 1, 2016.

"(E) GEOTHERMAL POWER Facility.—In the case of a facility using geothermal power to produce electricity, the term ‘qualified facility’ means any facility owned by the taxpayer which is originally placed in service after December 31, 2001, and before January 1, 2016; and

(3) by adding at the end the following:

"(F) SOLAR POWER.—The term ‘solar power’ means any facility owned and operated through photovoltaic systems, solar boilers which provide process heat, and any other means.

"(G) GEOTHERMAL POWER.—The term ‘geothermal power’ means thermal energy extracted from the earth for the purposes of producing electricity."

SEC. 7. MEGAWATT HOUR GENERATION FEES.

(a) IN GENERAL.—Chapter 38 of the Internal Revenue Code of 1986 (relating to miscellaneous excise taxes) is amended by inserting after section 4981 the following:

"Subchapter E—Megawatt Hour Generation Fees

"Sec. 4961. Imposition of fees.

"Sec. 4961. IMPOSITION OF FEES.

"(a) TAX IMPOSED.—There is hereby imposed on each electric utility that produces megawatt hours of electricity by the covered fossil fuel-fired generating unit a tax equal to 30 cents per megawatt hour of electricity produced by the covered fossil fuel-fired generating unit.

"(b) AMOUNT OF RATES.—Not less than once every 2 years beginning after 2005, the Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall evaluate the rate if necessary for any succeeding calendar year to ensure that the Clean Air Trust Fund has been established to provide amounts sufficient to full the activities described in section 9511(c).

"(c) PAYMENT TAX.—The tax imposed by this section shall be paid quarterly by the owner or operator of each covered fossil fuel-fired generating unit.

"(d) COVERED FUEL-FIRED GENERATING UNIT.—The term ‘covered fossil fuel-fired generating unit’ means an electric utility generating unit which—

"(1) is powered by fossil fuels; "

"(2) has a generating capacity of 5 or more megawatts; and

"(3) because of the date on which the generating unit commenced commercial operation, is not subject to all regulations promulgated under section 111 of the Clean Air Act (42 U.S.C. 7411).

"(e) EFFECTIVE DATE.—The amendments made by this section shall be effective, for taxable years beginning after December 31, 2003, as if inserted in section 4981(a)(1) of the Internal Revenue Code of 1986 (relating to the excise tax on the production, advertising, and promotion of synthetic fuels), by striking "and" at the end of clause (iii) and inserting '', and'', and by adding at the end the following:

"(iv) any 45-percent efficient fossil fuel-fired generating unit."; and

(2) by adding at the end the following:

"(F) 12-YEAR PROPERTY.—The term ‘12-year property’ includes any 50-percent efficient fossil fuel-fired generating unit.

SEC. 8. CLEAN AIR TRUST FUND.

(a) IN GENERAL.—Subchapter A of chapter D of the Internal Revenue Code of 1986 (relating to tax credit for clean air) is amended by inserting after section 4985 the following:

"Sec. 4986. Clean Air Trust Fund.

"(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a fund to be known as the ‘Clean Air Trust Fund’. The term ‘Clean Air Trust Fund’ (hereafter referred to in this section as the ‘Trust Fund’), consisting of such amounts as may be appropriated or credited to the Trust Fund is established by the amendments made by this section to the trust fund contained in section 4985 of the Internal Revenue Code of 1986.

"(b) TRANSFERS TO TRUST FUND.—There are hereby appropriated to the Trust Fund amounts equivalent to the taxes received in the Treasury under section 4961.

"(c) EXPENDITURES FROM TRUST FUND.—The Administrator of the Environmental Protection Agency, to place into service such a unit which is in compliance with sections 4(a)(2) and 5(c) of the Clean Power Plant and Modernization Act of 2003, as in effect on the date of enactment of this Act to purchase, install, and bring into commercial operation any new publicly owned generating unit that—

"(1) is in compliance with sections 4(a)(1) and 5(b) shall, for a 15-year period, be eligible for partial reimbursement through annual grants made by the Secretary of the Treasury, in consultation with the Administrator, in an amount equal to the monetary value of the deductions claimed as a result of such expenses under section 168 of the Internal Revenue Code of 1986; and

"(2) is in compliance with sections 4(a)(2) and 5(b) shall, over a 15-year period, be eligible for partial reimbursement through annual grants made by the Secretary of the "

"Sec. 9511. Clean Air Trust Fund."

SEC. 9. ACCELERATED DEPRECIATION FOR INVEST-OWNER GENERATING UNITS.

(a) IN GENERAL.—Section 168(c)(3) of the Internal Revenue Code of 1986 (relating to classification of certain property) is amended—

(1) in subparagraph (A), by striking the section and inserting after such section the following:

"(5) SOLAR POWER.—The term ‘solar power’ means—

"(A) solar energy harnessed through photovoltaic systems, solar boilers which provide process heat, and any other means.

"(B) geothermal power."

(2) in subparagraph (C), by striking the period and inserting a comma; and

(3) by adding at the end the following:

"(E) geothermal power."

(b) DEFINITIONS.—Section 168(i) of the Internal Revenue Code of 1986 (including definitions and special rules) is amended by adding at the end the following:

"(F) 15-YEAR PROPERTY.—The term ‘15-year property’ includes any 50-percent efficient fossil fuel-fired generating unit."

SEC. 10. GRANTS FOR PUBLICLY OWNED GENERATING UNITS.

Any capital expenditure made after the date of enactment of this Act to purchase, install, and bring into commercial operation any new publicly owned generating unit that—

(1) is in compliance with sections 4(a)(1) and 5(b) shall, for a 15-year period, be eligible for partial reimbursement through annual grants made by the Secretary of the Treasury, in consultation with the Administrator, in an amount equal to the monetary value of the deductions claimed as a result of such expenses under section 168 of the Internal Revenue Code of 1986; and

"Sec. 9511. Clean Air Trust Fund."
Treasury, in consultation with the Administrator, in an amount equal to the monetary value of the depreciation deduction that would be realized by reason of section 186(c)(1)(D) or such Code by a similarly-situated investor-owned generating unit over that period.

SEC. 11. RECOGNITION OF PERMANENT EMISSION REDUCTIONS IN FUTURE CLIMATE CHANGE IMPLEMENTATION PROGRAMS

It is the sense of Congress that—

(1) permanent reductions in emissions of carbon dioxide and nitrogen oxides that are accompanied by the retirement of old generating units and replacement by new generating units that meet the combustion heat rate efficiency and emission standards specified in this Act through replacement of old generating units with nonpolluting renewable power generation technologies, should be credited to the utility sector, and to the owner or operator that retires or replaces the old generating unit, in any climate change implementation program enacted by Congress;

(2) the base year for calculating reductions under a program described in paragraph (1) should be the calendar year preceding the calendar year in which this Act is enacted; and

(3) a reasonable portion of any monetary value that may accrue from the crediting described in paragraph (1) should be pass-through to utility customers.

SEC. 12. RENEWABLE AND CLEAN POWER GENERATION TECHNOLOGIES

(a) IN GENERAL.—Under the Renewable Energy and Efficiency Technology Act of 1989 (42 U.S.C. 12001 et seq.), the Secretary of Energy shall fund research and development programs and projects and partnerships to demonstrate the commercial viability and environmental benefits of electric power generation from—

(1) biomass (excluding unseparated municipal solid waste), geothermal, solar, and wind technologies; and

(2) fuel cells.

(b) TYPES OF PROJECTS.—Demonstration projects may include solar power tower plants, solar dishes and engines, co-firing of biomass with coal, biomass modular systems, next-generation wind turbines and wind turbine verification projects, geothermal, solar, and fuel cell technologies.

(c) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts made available under any other law, there is authorized to be appropriated to carry out this section $15,000,000 to conduct research and development activities in basic and applied science in support of development by September 30, 2005, of a carbon sequestration strategy that is designed to reduce and offset up to a total of $75,000,000 for each of fiscal years 2003 through 2012.

SEC. 13. CLEAN COAL, ADVANCED GAS TURBINE, AND COMBINED HEAT AND POWER DEMONSTRATION PROGRAM

(a) IN GENERAL.—Under subsection B of title XXI of the Energy Policy Act of 1992 (42 U.S.C. 13471 et seq.), the Secretary of Energy shall establish a program to fund projects and partnerships designed to demonstrate the environmental benefits of electric power generation from—

(1) clean coal technologies, such as pressurized fluidized combustion and an integrated gasification combined cycle system;

(2) advanced gas turbine technologies, such as flexible fired gas turbines and base-load utility-scale applications; and

(3) combined heat and power technologies.

(b) SELECTION CRITERIA.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary of Energy shall promulgate criteria and procedures for selection of demonstration projects and partnerships to be funded under this section.

(2) REQUIRED CRITERIA.—At a minimum, the selection criteria shall include—

(A) the potential of a proposed demonstration project or partnership to reduce or avoid emissions of pollutants covered by section 3 and air pollutants covered by section 111 of the Clean Air Act (42 U.S.C. 7402 et seq.); and

(B) the potential commercial viability of the proposed demonstration project or partnership.

(c) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—In addition to amounts made available under any other law, there is authorized to be appropriated to carry out this section $25,000,000 for each of fiscal years 2003 through 2012.

(2) DISTRIBUTION.—The Secretary shall make reasonable efforts to ensure that, under the program under this section, the same amount of funding is provided for demonstration projects and partnerships under each of paragraphs (1), (2), and (3) of subsection (a).

SEC. 14. EVALUATION OF IMPLEMENTATION OF THIS ACT AND OTHER STATUTES

(a) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary of Energy, in consultation with the Chairman of the Federal Energy Regulatory Commission and the Administrator, shall submit to the Congress a report on the implementation of this Act.


(c) RECOMMENDATIONS.—The report shall include recommendations from the Secretary of Energy, the Chairman of the Federal Energy Regulatory Commission, and the Administrator for legislative or administratively measures to harmonize and streamline the statutes specified in subsection (b) and the regulations implementing those statutes.

SEC. 15. ASSISTANCE FOR WORKERS ADVERSELY AFFECTED BY REDUCED CONSUMPTION OF COAL

In addition to amounts made available under any other law, there is authorized to be appropriated $75,000,000 for each of fiscal years 2003 through 2012 to assist communities adversely affected by reduced consumption of coal by the electric power generation industry.

SEC. 16. COMMUNITY ECONOMIC DEVELOPMENT INCENTIVES FOR COMMUNITIES ADVERSELY AFFECTED BY REDUCED CONSUMPTION OF COAL

In addition to amounts made available under any other law, there is authorized to be appropriated $75,000,000 for each of fiscal years 2003 through 2012 to provide assistance under the economic dislocation and worker adjustment assistance program of the Department of Labor, and to provide assistance under the economic dislocation and worker adjustment assistance program of the Department of Labor authorized by title III of the Job Training Partnership Act (29 U.S.C. 1651 et seq.), to coal industry workers who are terminated from employment as a result of reduced consumption of coal by the electric power generation industry.

SEC. 17. CARBON SEQUESTRATION

(a) CARBON SEQUESTRATION STRATEGY.—In addition to amounts made available under any other law, there is authorized to be appropriated to the Environmental Protection Agency and the Department of Energy for each of fiscal years 2003 through 2005 a total of $15,000,000 to conduct research and development activities in basic and applied science in support of development by September 30, 2005, of a carbon sequestration strategy that is designed to reduce and offset up to a total of $75,000,000 for each of fiscal years 2003 through 2012 a total of $30,000,000 to carry out soil restoration, tree planting, wetland protection, and other measures of biologically sequestering carbon dioxide.

(b) METHODS FOR BIOLOGICALLY SEQUES-
Section-by-Section Overview of the Clean Power Plant and Modernization Act of 2001

What Will the Clean Power Plant and Modernization Act of 2001 Do?

The Clean Power Plant and Modernization Act of 2001 lays out an ambitious, achievable, and balanced set of financial incentives and regulatory requirements designed to increase combustion efficiency, reduce emissions, and encourage the use of renewable energy and clean power generation methods. The bill encourages innovation, entrepreneurship, and ingenuity. In the long term, the bill will reduce acid precipitation, decrease mercury contamination, help mitigate climate change, improve visibility, and safeguard human health.

Section 4. Combustion Heat Rate Efficiency Standards for Fossil Fuel-Fired Generating Units

Fossil fuel-fired power plants in the United States operate at an average combustion efficiency of 35%. This means that, on average, 67% of the heat generated by burning the fuel is wasted. Without changing fuels, increasing 1% per kilowatt-hour of output is the most affordable way to reduce carbon dioxide emissions. Section 4 lays out a phased two-stage process for increasing efficiency. In the first stage, by 10 years after enactment, all units in operation must achieve a combustion heat rate efficiency of not less than 45%. In the second stage, with expected advances in combustion technology and diminishing returns on more than 10 years after enactment, all units in operation must achieve a combustion heat rate efficiency of not less than 50%. Carbon dioxide emissions reduction credits equal to 650 million tons per year are expected, and the potential exists for even larger reductions.

If, for some unforeseen reason, technological advances do not achieve the 50% efficiency level, Section 4 contains a waiver provision that allows the owners of new units to opt out of any shortfalls in carbon dioxide emissions reductions through implementation of carbon sequestration projects.

Section 5. Air Emission Standards for Fossil Fuel-Fired Generating Units

Subsection (a) eliminates the grandfather provision of the Clean Air Act that required all units, regardless of when they were constructed or began operation, to comply with existing new source review requirements under Section 111 of the Clean Air Act.

Subsection (b) sets mercury, carbon dioxide, sulfur dioxide, and nitrogen oxide emission standards for units that are subject to the 45% thermal efficiency standard set forth in Section 4. For mercury, 90% of the mercury contained in the fuel must be removed. For carbon dioxide, the emission limits are set by fuel type (i.e., natural gas = 0.9 pounds per kilowatt-hour of output; fuel oil = 1.3 pounds per kilowatt-hour of output; coal = 1.55 pounds per kilowatt-hour of output; and 0.15 pounds per kilowatt-hour of output).

Subsection (c) sets emission standards for units that are subject to the 50% thermal efficiency standard set forth in Section 4. Standards for mercury, sulfur dioxide, and nitrogen oxides are the same as those in Subsection (b). Greater combustion efficiency results in lower concentrations of carbon dioxide, and the fuel-specific emission limits are lowered accordingly (i.e., natural gas = 0.8 pounds per kilowatt-hour of output; fuel oil = 1.2 pounds per kilowatt-hour; coal = 1.4 pounds per kilowatt-hour of output).

Section 6. Extension of Renewable Energy Production Credit

Section 45(c) of the Internal Revenue Code of 1986 is amended to include solar power and geothermal power and to extend the renewable energy production credit through 2015. (This credit is currently set to expire in 2001.)

Section 7. Megawatt-Hour Generation Fees and Section 11. Recognition of Permanent Emission Reductions in Future Climate Change Implementation Programs

To offset the impact to the Treasury of the incentives in Sections 9 and 10, the bill establishes the Clean Air Trust Fund. The Trust Fund is similar to the Highway Trust Fund of the Superfund. The Clean Air Trust Fund will be provided by assessing a fee of 30 cents per megawatt-hour of electricity produced by covered electric generating units.

The Trust Fund will also be used to pay for assistance to workers and communities adversely affected by reduced consumption of coal, research and development for renewable power generation technologies (e.g., wind, solar, and biomass), and carbon sequestration projects.

Section 9. Accelerated Depreciation for Investor-Owned Generating Units

Under the Internal Revenue Code of 1986, utilities can depreciate their generating equipment over a 20 year period. Section 9 extends Section 168 of the Internal Revenue Code of 1986 to allow for depreciation over a 15 year period for units meeting the 45% efficiency level and the emission standards in Section 5(b). Section 9 also amends Section 168 to allow for depreciation over a 12 year period for units meeting the 50% efficiency level and the emission standards in Section 5(c).

Section 10. Grants for Publicly Owned Generating Units

No federal taxes are paid on publicly-owned generating units. To provide publicly-owned utilities with comparable incentives to modernize, Section 10 provides for annual grants in an amount equal to the monetary value of the depreciation deduction that would be realized by a similarly situated investor-owned generating unit under Section 9. Units meeting the 45% efficiency level and the emission standards in Section 5(b) would receive annual grants over a 15 year period, and units meeting the 50% efficiency level and the emission standards in Section 5(c) would receive annual grants over a 12 year period.

Section 11. Recognition of Permanent Emission Reductions in Future Climate Change Implementation Programs

This section expresses the sense of Congress that permanent reductions in emissions of carbon dioxide and nitrogen oxides that are accomplished through the retirement of old generating units and replacement by new generating units that meet the efficiency and emission standards in the bill, or through replacement with non-polluting renewable power generation technologies, should be credited to the utility sector and to the owner/operator in any climate change implementation program enacted by Congress.

Section 12. Renewable and Clean Power Generation Technologies

This section provides a total of $750 million over 10 years to fund research and development programs and commercial demonstration projects to demonstrate the commercial viability and environmental benefits of electric power generation from biomass, geothermal, solar, and wind technologies. Federal funds may include solar power tower plants, solar dishes and engines, co-firing biomass with coal, bio-
mass modular systems, next-generation wind turbines and wind verification projects, and geothermal energy conversion.

Section 13. Clean Coal, Advanced Gas Turbine, and Combined Heat and Power Demonstration Programs

This section provides a total of $750 million over 10 years to fund research and development programs and commercial demonstration projects to demonstrate the commercial viability and environmental benefits of electric power generation from clean coal technologies, advanced gas turbine technologies, and combined heat and power technologies.

Section 14. Evaluation of Implementation of This Act and Other Statutes

No later than 2 years after enactment, DOE shall report to Congress on the implementation of the Clean Power Plant and Modernization Act. The report shall identify any provisions of other laws that conflict with the efficient implementation of the Clean Power Plant and Modernization Act. The report shall include recommendations for legislative or administrative measures to harmonize and streamline these other statutes.

Section 15. Assistance for Workers Adversely Affected by Reduced Consumption of Coal

Beginning 3 years after enactment, this section authorizes a total of $750 million over 13 years to provide assistance to coal industry workers who are adversely affected as a result of reduced consumption of coal by the electric power generation industry. These funds will be administered under the economic dislocation and worker adjustment assistance program of the Department of Labor authorized by Title III of the Job Training Partnership Act.

Section 16. Community Economic Development Incentives for Communities Adversely Affected by Reduced Consumption of Coal

Beginning 3 years after enactment, this section provides a total of $975 million over 13 years to provide assistance to communities adversely affected as a result of reduced consumption of coal by the electric power generation industry. The funds will be administered under the economic adjustment program of the Department of Commerce authorized by the Economic Development Act of 1965.

Section 17. Carbon Sequestration

This section authorizes $45 million over 3 years for DOE to conduct research and development support for carbon sequestration technologies. This section also authorizes $300 million over 10 years for EPA and USDA to fund carbon sequestration projects such as soil restoration, tree planting, wetlands protection, and other ways of biologically sequestering carbon.

Section 18. Atmospheric Monitoring

This section authorizes $13.6 million over 10 years to support the operation of existing instrument networks that monitor the deposition of sulfates, nitrates, mercury, and other pollutants, as well as the effects of these pollutants of ecosystem health. This section also authorizes a one-time expenditure of $13.6 million for equipment modernization for these instrument networks.

By Mr. CRAPO:


Mr. CRAPO. Mr. President, I rise today to introduce a bill designed to...
prevent a serious disruption in the distribution of prescription drugs across America. Unless changed by this legislation, or modified by the agency itself, a regulation issued by the Food and Drug Administration will drive out of business small and medium-size drug wholesalers. Tens of thousands of small nursing homes, clinics, doctor’s offices, drug stores, and veterinary practices, especially in rural areas, would be forced to find new suppliers of prescription drugs who would almost certainly charge higher prices. Consumers, especially the sick and the least able to pay, would be even further hard-pressed to afford the prescription drugs they need to maintain their health.

There is no real health or safety reason behind the FDA’s action, which is simply a lack of understanding of how the wholesale distribution of drugs actually works. The agency’s regulation would completely the implementation of the Prescription Drug Marketing Act, which was enacted in April 1988. That statute, which was designed to stop the misuse of drug samples, prevent various types of resale fraud, stop the importation of counterfeit drugs, and establish national standards for the storage and handling of drugs by wholesalers, has worked well.

However, the FDA’s regulation, which will go into effect on April 1, 2001, creates problems for wholesalers, neither of which were present when the agency issued its initial policy guidance on the statute in 1988. The first problem relates to the sales history of drug products which wholesalers must provide their customers. A wholesaler who does not purchase directly from a manufacturer must provide their customer with a detailed history of all prior sales of that product back to the wholesaler who did purchase the drugs from the manufacturer. The FDA was not designed to prevent the introduction of counterfeits or other drugs from questionable or unknown sources into the marketplace. The FDA’s initial guidance was that resellers who did not purchase drugs directly from a manufacturer had to trace the product back to the wholesaler who did purchase directly from the manufacturer. This wholesaler is known as an authorized distributor.

Notwithstanding the fact that this system has produced a drug distribution system of exceptional quality, the FDA has changed its mind as to what the statute requires and proposed that a reseller now be required to trace the product history all the way back to the manufacturer. At the same time, however, the agency also concluded that the statute does not require either the manufacturer or the authorized distributor to provide this sales history to the secondary reseller. But without this detailed sales history, wholesalers would be illegal for the secondary wholesaler to resell products. Since it is economically and logistically impractical for manufacturers or authorized distributors to keep track of the huge volume of product in the extreme detail required by the FDA rule, thousands of secondary wholesalers will be forced to cease business.

Fortunately, there is a simple solution. In 1990, the FDA finalized a regulation implementing another part of the PDMA, which requires wholesalers to keep very detailed records of all purchases, sales, or other dispositions of the drugs they obtain. These records, which are virtually identical to the detailed sales history in the FDA’s latest regulation, are also subject to audit by the agency, by state regulators, and must be made available to law enforcement agencies if needed. Thus, there is really no need for a secondary wholesaler to try and assemble the detailed and virtually unobtainable sales history now demanded by the FDA and to pass it on to their customers. Instead, the bill I am introducing today requires only that manufacturers or authorized distributors provide a written statement to their customers that the drug products were first purchased from a manufacturer or authorized distributor. Substituting the written statement would prevent a serious disruption in the wholesale drug sector while preserving the original intent of the PDMA, which was to guard the network of licensed and inspected wholesalers from counterfeiters or drugs from questionable sources. It would be a simple matter for a secondary wholesaler to determine that a shipment of drugs was first purchased by an authorized wholesaler, and the written statement would be subject to criminal penalties if falsified under existing law. Substituting the written statement for the paper trail requirement would also reduce selling costs, which could be passed on to the consumer.

This bill is a companion to H.R. 68, introduced on January 3, 2001, by Representatives JO ANN EMERSON and MARK BERRY, which has 45 co-sponsors who represent an especially diverse and ideological cross section of the House and is supported by nine major trade and professional organizations representing most companies that wholesale or retail prescription drugs in the U.S. I invite my colleagues in the Senate to add their names to this commonsense measure.

By Mrs. BOXER (for herself, Mrs. CARNAHAN, and Mr. BOND):

S. 1133. A bill to amend the Internal Revenue Code of 1986 to modify the rules applicable to qualified small business stock; to the Committee on Finance.

Mr. LIEBERMAN, Mr. President, I rise today to introduce legislation to provide an incentive for capital formation for entrepreneurs.

This incentive is tailor-made to form capital for entrepreneurial firms so they can spur economic growth, create high wage jobs, and ensure American competitiveness into the 21st Century. It focuses on equity investments as this is the only form of capital most entrepreneurial firms secure to fund research and development; most such firms are unable to secure debt capital. The incentive applies to founders stock and employee stock options, and not just stock offered to outside investors, it provides a powerful

est U.S. city without nonstop air service to this vital airport in the Nation’s capital.

Since the DCA to lax flight began 10 months ago, 45,000 passengers have taken the flight. Not only is it popular, but it serves small and medium-size communities throughout the state, including Bakersfield, Fresno, Monterey, and San Luis Obispo, rely on this flight. They have connecting flights into LAX specifically designed so that passengers can take the LAX-DCA nonstop flight. These communities will suffer because of this decision.

This happened because TWA, which operated the flight, went bankrupt. Even though American Airlines purchased the assets of TWA and was willing to continue the flight, the Administration gave the LAX slot at National Airport to another city.

This was an unfortunate decision, and one that was both unnecessary and unjustified. Therefore, today, I am introducing legislation to reinstate the service. It is narrowly crafted to address the unique situation we have here.

My bill only applies in cases where a community loses service to DCA because the airline operating the flight went bankrupt. In those cases, the air carrier that purchases the assets of the bankrupt airlines has a right to continue the nonstop service. In exchange, however, the air carrier must give up one of its several slots that it uses to fly to its hub airports. In this way, my bill would not create any additional flights to National Airport. Nor would it take away any of the long-distance nonstop flights now in operation, including to the city that just received the slot originally granted to Los Angeles. But, it would allow the very popular nonstop air service between LAX and DCA to continue.

It seems to me that this is a fair compromise to ensure that service between National Airport and Los Angeles continues. I look forward to working with my colleagues to address this problem before the end of the summer.

By Mr. LIEBERMAN (for himself and Mr. HATCH):

S. 1134. A bill to amend the Internal Revenue Code of 1986 to modify the rules applicable to qualified small business stock; to the Committee on Finance.

Mr. LIEBERMAN, Mr. President, I rise today to introduce legislation to provide an incentive for capital formation for entrepreneurs.

This incentive is tailor-made to form capital for entrepreneurial firms so they can spur economic growth, create high wage jobs, and ensure American competitiveness into the 21st Century. It focuses on equity investments as this is the only form of capital most entrepreneurial firms secure to fund research and development; most such firms are unable to secure debt capital. The incentive applies to founders stock and employee stock options, and not just stock offered to outside investors, it provides a powerful...
incentive for the human infrastructure and culture that drives and grows our nation’s entrepreneurial firms.

This legislation could not be more timely given the drought we see in equity capital for entrepreneurs, Nationwide Mutual Fire Insurance Company reported a $625 million decrease in equities, including T-bond, T-note, and stock investments. In 1996, 610 in 1997, 362 in 1998, 501 in 1999, and 379 in 2000. So far in 2001 we have seen only 50. The total value of these offerings was $47 billion in 1996, $39 billion in 1997, $37 billion in 1998, $39 billion in 1999, and $54 billion in 2000. So far in 2001, it’s only $20 billion. Entrepreneurs are starved for capital and this incentive is tailor made to provide an incentive to investors to provide it to them.

The details of our proposal are straight forward. They call for a 100 percent exclusion, a zero capital gains rate, for new, direct, long-term investments in the stock of a small corporation. “New” means that the stock must be offered after the effective date of the bill and not applicable to sale of previously acquired equity shares. “Direct” means the stock must have been acquired from the firm and not in secondary markets. So it includes founders stock, stock options, venture capital placements, and subsequent public stock offerings. “Long-term” means the stock must be held for three years. “Stock” includes any type of stock, including convertible preferred shares. “Small corporation” means a corporation with less than $5 million or less in capitalization (not valuation, but paid-in capital). The incentive applies to both individual and corporate taxpayers. And the excluded gains are not a preference item for the Alternative Minimum Tax.

I am pleased that Senator HATCH has agreed to serve as the lead cosponsor of the legislation. He and I worked closely together from 1995 through 1997 to restore the capital gains incentive. There were many Members involved with that effort, but Senator HATCH and I were pleased to be the leaders of the legislative coalition that proved to be so effective. Our work now on this venture capital gains legislation is a continuation of that long and successful partnership.

I am pleased that Representatives JENNIFER DUNN and ROBERT MATSUI are introducing the same bill in the other body. I have long championed this approach to capital gains incentives. Most recently, this proposal was included as Section 4 of S. 798, the Productivity, Opportunity, and Prosperity Act of 2001. The first proposal on this subject was introduced on April 7, 1987 in the 100th Congress by Senator Dale Bumpers as S. 932. I was an early supporter of this proposal and I cosponsored a version of this proposal introduced in 1991 by Senator Bumpers as S.1932. A version of this bill was enacted as the 1993 tax bill, Section 1202, but it was laden with technical requirements that limited its effectiveness. In the 104th Congress sent amendments to strengthen Section 1202 to President Clinton in the tax bill vetoed he vetoed in 1996. In the 105th Congress these amendments were included in all of the key capital gains, including S. 2 (Rothen), S. 66 (Hatch-Leafbdy), S. 501 (Mack), and S. 745 (Bumpers). These amendments were sent to the conference on that bill but did not emerge from it. A broad-based capital gains incentive, which I supported, was enacted into law and a broad-based capital gains rate was enacted with regard to Section 1202 stock. In the 106th Congress, amendments to strengthen Section 1202 were introduced in the House by Representatives JENNIFER DUNN and BOB MATSUI, H.R. 2331. Then I introduced the incentive as part of S. 798 and we are today introducing it again as a stand-alone bill.

Today I am pleased to cosponsor S. 818, the capital gains proposal introduced by Senator HATCH and TORRICELLI and others. That proposal capitalizes on the long and successful part-

The Productivity, Opportunity, and Prosperity Act of 2001, including this capital gain proposal, was enacted into law with a purpose. And that purpose is, above all else, to stimulate private sector economic growth, to create jobs that lift the lot of all Americans. In the spirit of the “New Economy,” where the fundamentals of our economy have changed through entrepreneurship and innovation, this package includes business tax incentives that will spur the real drivers of growth: innovation, investment, a skilled workforce, and productivity.

Ten years from now we will be judged by the economic policy decisions we make today. People will ask, did we fully understand the awesome changes taking place in our economy and in our society? Did we give our industry and workers the environment and the tools they need to seize the opportunities that an innovation economy offers? I believe that a true Prosperity Agenda is within our grasp. Never before has America been in a stronger position, economically, socially, politically, to shape our future. But we will take strong and focused leadership. I am confident that if we in the public sector in Washington work in partnership with the private sector throughout our country, we can truly say of America’s future that the best is yet to come. I believe that the Productivity, Opportunity, and Prosperity Act and this venture capital incentive are an important step toward that future. Mr. President, I ask unanimous consent that the text of the bill and section analysis be printed in the RECORD. There being no objection the material was ordered to be printed in the RECORD as follows:

SEC. 2. MODIFICATIONS APPLICABLE TO QUALIFIED SMALL BUSINESS STOCK.

(a) REPEAL OF MINIMUM TAX PREFERENCE.—
In general.—Subsection (a) of section 1202 of the Internal Revenue Code of 1986 (relating to items of tax preference) is amended by striking “other than a corporation.”

(2) Technical amendment.—Subsection (c) of section 1202 of such Code is amended by adding at the end the following new paragraph:

“(4) Stock held among members of controlled group not eligible.—Stock of a member of a parent-subsidiary controlled group as defined in subsection (d)(6) shall not be treated as qualified small business stock while held by another member of such group.”

(3) Stock of larger businesses eligible for exclusion.—

In general.—Paragraph (1) of section 1202(d) of the Internal Revenue Code of 1986 (defining qualified small business) is amended by striking “‘5 years’” and inserting “‘3 years’”.

(4) Inflation adjustment.—Section 1202(d)(4) of such Code is amended by adding at the end the following new paragraph:

“(4) Inflation adjustment of asset limitation.—Section 1202(d)(4) of the internal revenue code of 1986 (defining qualified small business) is amended by striking, in paragraph (1), ‘‘$50,000,000’’ each place it appears and inserting ‘‘$300,000,000.’’”

(5) Effective date.—The amendments made by this section shall apply to stock issued after the date of the enactment of this Act.

Description of venture capital gains incentive

Section 1202 enacted in 1993:

50% capital gains exclusion for new investments—not sale of previously acquired assets—new investments made after effective date, August 1993.

Only if investments made directly in stock—not secondary trading, founders stock, stock options, public offerings, common, preferred, convertible preferred.

Only if purchased by corporation of its own stock) is amended by striking “‘5 years’” and inserting “‘3 years’”.

(6) 100 percent exemption from AMT.—Now only if investment held for five years.

(7) Only if investment held for five years.

(8) Extend coverage of Section 1202 to additional corporations.

(9) Fix technical problems—modify redemption of stock, “spending speed-up” provision.

By Mr. GRAHAM (for himself, Mr. CHAFEE, Mr. CONRAD, Mrs. LINCOLN, Mr. MILLER, Mr. ROGERS, Mr. ROCKEFELLER, Mr. BINGMAN, Mr. KERRY, and Mr. CARPER):

S. 1135. A bill to amend title XVII of the Social Security Act to provide comprehensive reform of the Medicare program, including the provision of prescription drug benefits under such program; to the Committee on Finance.

Mr. GRAHAM. Mr. President, I rise today joined by my colleagues to introduce the Medicare Reform Act of 2001.

Today we are in the midst of a major health-care debate on the Patients’ Bill of Rights. This crucial bill should be the beginning, not end, of reform in the health care system. Now we need to take this momentum and turn to Medicare reform.

Reform is not a word to be tossed around lightly. When we bat around the term Medicare reform, this is what we need to be talking about, ideas that could not possibly have planned for in any modern health care regime. In fact, it was created today.

The Medicare Reform Act offers such ideas. It keeps what is best about Medicare intact. Under this bill the program’s creators could not possibly have planned for in 1965.

Of one of these realities is that prescription drugs are a crucial part of any modern health care regime. In fact, it is unthinkable that prescription drugs would be excluded if Medicare were created today.

The Medicare Reform Act offers a benefit that, like the existing Medicare program, is both affordable and available for all seniors, regardless of income. The benefit also harnesses the power of today’s competitive health care marketplace to keep costs down and offer seniors choices.

Perhaps most importantly, the benefit offered by the Medicare Reform Act has no gaps, no caps and no gimmicks.

This is our line-in-the-sand. Other plans being discussed have major gaps.

Let’s look at one: the bill the House Republicans passed last year offers seniors a benefit of a scant $1,050-a-year.
Once they hit that cap, coverage stops. It picks up again only if the beneficiary spends $6,000 a year.

Imagine this scenario: An 85-year-old woman pays her monthly prescription drug premium. For the first 6 months of the year, she goes to the drugstore each month to pick up her cholesterol medication and pays $25.

But then she comes to the 7th month, and has hit her benefit cap. Now she has to pay the same prescription. She’s still paying her premium, but she’s getting no benefit. Under this benefit, Medicare says “Sorry. Can’t help. Come see me if you have a catastrophe.”

I call plans like this donuts, substance around the edges, giant hole in the middle. I also call them pointless. Who needs insurance you can’t be sure of?

No caps, no gaps, no gimmicks. That is set in stone. What is not set is stone is the exact level of the coinsurance or deductible. We’re going to be listening to seniors as we move toward a mark-up, and if we hear they would prefer a lower premium in exchange for higher cost-sharing, we can turn those dials, as long as it’s within the parameter of $300 billion.

In structure, the Medicare Reform Act represents a true compromise. It takes the best ideas of all engaged in this issue.

One school of thought has been that the private sector is best equipped to offer an affordable prescription drug benefit. We agree, up to a point. We do not believe that private insurers should assume all of the risk for this benefit. We do not believe this because private insurers have told us they want no part of this type of system. And we know that we can pass all the laws we want, but we can’t make private companies take on Medicare patients.

Rather than foreign the private sector to attempt to do something they do not want to do, we take advantage of the fact that we already have an efficient, workable mechanism in place. That mechanism is the pharmacy benefit manager of PBM. These businesses operate successfully today in every ZIP code of the country. They are in a perfect position to manage the Medicare prescription drug benefit—and to offer seniors a choice.

The Medicare Reform Act would allow PBMs in each geographic region to administer, manage and deliver the prescription drug benefit. They would be allowed to use all of the methods they use currently in the private sector to provide benefits economically, including the use of formularies, preferred pharmacy networks, and generic drug substitution. Additionally, PBMs would be allowed to use mechanisms to encourage beneficiaries to select cost-effective drugs, including the use of disease management, and therapeutic interchange programs.

Beneficiaries in every part of the country would have access to coverage provided by PBMs that would not assume full insurance risk for drug costs. In this way, adverse selection and inappropriate incentives would be avoided.

However, to ensure that PBMs pursue and are held accountable for high-quality beneficiary services, improved health outcomes, and managing costs, we require PBMs to put a substantial portion of their management fees at risk for their performance. Performance goals would include price discounts and generic substitution rates, timely decision with regard to appeals, sustained pharmacy network access and notifications to avoid adverse drug reactions.

Although all PBMs would be required to offer the standard benefit at a minimum, payments received on the basis of their performance could be used to reduce beneficiary cost-sharing or to waive the deductible for generic drugs. Requiring PBMs to share risk provides a middle ground between proposals that have risk being assumed by the private sector, and proposals that have required the assumption of insurance and selection risk for the cost of drugs.

This arrangement would bring us the benefits of private sector competition without the instabilities that would be associated with a full risk-bearing model. It would take advantage of the fact that the private sector has provided an efficient, workable, stable system for the payment of prescription drugs, and the management of drug costs, and would allow beneficiaries to choose between multiple vendors.

Prescription drugs are not all that is missing from Medicare.

We live in a world of near miracles. We can stop disease in its track. We can keep a health problem from becoming a health crisis. We can make the lives our seniors better. We can make their bodies stronger. We have the technology. It’s time to let our seniors have it as well.

The “Medicare Reform Act” would shift the focus of Medicare from simply treating illness to promoting wellness. Several proven-effective preventive benefits, like cholesterol screening and smoking cessation counseling, would be added to package. These benefits could save lives.

We also provide a new process for changes to the preventive benefit package. As a member of the Finance Committee, I have sat through hours-long discussions on coverage of screening for colorectal cancer. I’ve heard debated the relative benefits of barium x-rays vs. colonoscopies in minute details. I’m not qualified to make these decisions. A new “fast-track” process would move members of Congress out of the picture of making decisions about the clinical and scientific merits of different benefits, and move the doctors and scientists in.

The Medicare Reform Act is not just about adding benefits. It’s also about changing the way we do business.

We’ve looked at the private sector for lessons on how to run the fee-for-service program. We allow Medicare to use the same competitive tools insurance companies have in place to control costs. This will save the Medicare program money in comparison to some other competition proposals.

We’ve looked to the private sector and learned that to serve seniors and providers better, we need to make an investment in the program, and provide additional administrative funds. Our bill gives the agency responsible for these programs the money to truly serve their clients, our seniors.

We’ve turned again to the medical and scientific experts. We’ve taken the decision about what Medicare should and shouldn’t cover out of the hands of bureaucrats and given it to independent medical, clinical and scientific experts who have the skills to assess new technologies and procedures.

We also need to prepare for the future. The Medicare program is in the best shape it has been in over a quarter century. But, the baby-boomers are going to be joining the program soon.

We need to begin to fortify the program now, so that we are ready for them. Our bill takes modest steps in that direction by indexing the Part B deductible to inflation, and providing the Part B premium subsidy on a sliding scale basis.

While I think we need to spend the lion’s share of our efforts on reforming the part of the program with the lion’s share of the beneficiaries, we also need to take a close look at the Medicare-Choice program. There are several different proposals on the table to replace the current payment system with one based on competitive bidding, and we face a lot of questions regarding which of the proposals would work best.

In 1997, Senators Breaux and Mack proposed a Medicare Competitive Pricing Demonstration Project; the Project was included in the Balanced Budget Act. The purpose of the demonstration project was to test a new method of paying plans based on a competitive market approach. It has not yet been implemented.

This demonstration project is exactly what we need to learn how to design and implement a competitive system. It is not sound to undertake wholesale restructuring of the Medicare-Choice system without knowing what would, and would not, work.

The “Medicare Reform Act of 2001” would lay the groundwork for a sound, workable, competitive system by moving forward with the Demonstration project in the state of Florida.

Taken together these disparate pieces represent real reform.

Before the recess, I hope we will have passed legislation to protect basic rights of managed-care patients.

Then we need to pick up that ball and run with it.

The time is now. The money is there. The plan exists. Our seniors are waiting.
By Mr. SARBANES (for himself, Mr. BAUCUS, Mr. BAYH, Mr. CLELAND, Mr. CORZINE, Mr. DODD, Mrs. FEINSTEIN, Mr. REID, Mr. SCHUMER, Ms. SNOWE, Ms. STABENOW, Mr. THOMPSON, and Mr. WYDEN).

S. 1136. A bill to provide for mass transportation in certain Federally owned or managed areas that are open to the general public; to the Committee on Energy and Natural Resources.

Mr. SARBANES. Mr. President, I rise today to introduce legislation to help protect our Nation's natural resources and improve the visitor experience in our National Parks and Wildlife Refuges. The Transit in Parks Act, or "TRIP," will establish a new Federal transit grant initiative to support the development of mass transit and alternative transportation services for our national parks, wildlife refuges, Federal recreational areas, and other public lands used to be enjoyed by Senators BAUCUS, BAYH, CLELAND, CORZINE, DODD, FEINSTEIN, REID, SCHUMER, SNOWE, STABENOW, THOMPSON, and WYDEN, who are cosponsors of this legislation.

Let me begin with a little history. When the National parks first opened in the second half of the nineteenth century, visitors arrived by stagecoach along dirt roads. Travel through parks, such as Yosemite or Yellowstone, was lengthy, difficult, and costly. Not many people could afford or endure such a trip. The introduction of the automobile gave every American greater mobility and freedom, which included the freedom to travel and see some of our Nation's great natural wonders. Early in this century, landscape architects from the National Park Service and highway engineers from the U.S. Bureau of Public Roads collaborated to produce many feats of road engineering that opened the National Park lands to millions of Americans.

Yet greater mobility and easier access now threaten the very environments that the National Park Service is mandated to protect. The ongoing tension between preservation and access has always been a challenge for our national park system. Today, record numbers of visitors and cars has resulted in increasing congestion in our parks. Yellowstone alone has almost five million visitors a year. As many as 6,000 vehicles arrive in a single summer day. They compete for 2,400 parking spaces. Between 32,000 and 35,000 tour buses go to the park each year. During the peak summer season, the entrance route becomes a giant parking lot.

In 1975, the total number of visitors to America's national parks was 190 million. By 1999, that number had risen to 287 million annual visitors, almost equal to one visit by every man, woman, and child in this country. This dramatic increase in visitation has created an overwhelming demand on these areas, resulting in severe traffic congestion, visitor restrictions, and in some instances vacations being shut out of the parks altogether. The environmental damage at the Grand Canyon is visible at many other parks: Yosemite, which has more than three million visitors a year and experiences such severe traffic congestion that access has to be restricted; Zion; Acadia; Bryce; and many others. We need to solve these problems now or risk permanent harm to our nation's natural, cultural, and historical heritage.

Visitor access to the parks is vital not only to the parks themselves, but to the economic health of their gateway communities. For example, visitor to Yosemite infuse $3 billion a year into the local economy of the surrounding area. At Yellowstone, tourists spend $725 million annually in adjacent communities. Wildlife-related tourism generates an estimated $60 billion a year nationwide. If the parks are forced to close their gates to visitors due to congestion, the economic vitality of the surrounding region would be jeopardized.

The challenge for park management has always been twofold: to conserve and protect the Nation's natural, historical, and cultural resources, while at the same time ensuring visitor access to sensitive environments. Until now, the principal transportation systems that the Federal Government has developed to provide access into our national parks are roads, primarily for private automobile access. The TRIP legislation recognizes that we need to do more than simply build roads; we must invest in alternative transportation solutions before our national parks are damaged beyond repair.

In developing solutions to the parks' transportation needs, this legislation builds upon the 1997 Memorandum of Understanding between Secretary of Transportation Rodney Slater and Secretary of the Interior Bruce Babbitt, in which the two Departments agreed to work together to address transportation and resource management needs in and around National Parks. The findings in the MOU are especially revealing: Congestion in and approaching many National Parks is causing lengthened delays that substantially detract from the visitor experience. Visitors find that many of the National Parks contain significant noise and air pollution, and traffic congestion similar to that found on the city streets they left behind. In many National Park units, the capacity of parking facilities at interpretive or scenic areas is well below demand. As a result, visitors park along roadways, damaging park resources and subjecting people to hazardous safety conditions by traveling on near busy roads to access visitor use areas. On occasion, National Park units must close their gates during high visitation periods and turn away the public because the existing infrastructure and transportation systems are at, or beyond, the capacity for which they were designed.

In addition, the TRIP legislation is designed to implement the recommendations from a comprehensive study of alternative transportation needs in public lands that I was able to include in the Transportation Equity Act for the 21st Century, TEA-21, as section 3039. The study is nearing completion, and is expected to confirm what those of us who have visited our National parks already know: there is a significant and well-documented need for alternative transportation solutions in the national parks to prevent lasting damage to these incomparable natural treasures.

The Transit in Parks Act will go far toward meeting this need. The bill's objectives are to develop new and expanded mass transit services throughout the national parks and other public lands to conserve and protect fragile natural, cultural, and historical resources and wildlife habitats, and to prevent or mitigate adverse impact on those resources and habitats, and to reduce pollution and congestion, while at the same time facilitating appropriate visitor access and improving the visitor experience.

The new Federal transit grant program will provide funding to the Federal land management agencies that manage the 379 various sites within the National Park System, the National Wildlife Refuges, Federal recreational areas, and other public lands, including National Forest System lands, and to their state and local partners. The program will provide capital funds for transit projects, including rail or clean fuel bus projects, joint development activities, pedestrian and bike paths, or parking lot access within or adjacent to national parks and other public lands. The bill authorizes $65 million for this new program for each of the fiscal years 2002 through 2007. It is anticipated that other resources, both public and private, will be available to augment these amounts.

The bill formalizes the cooperative arrangement in the 1997 MOU between the Secretary of Transportation and the Secretary of the Interior to exchange technical assistance and to develop procedures relating to the planning, selection and funding of transit projects in national park lands. The bill further provides funds for planning, research, and technical assistance that can supplement other financial resources available to the Federal land management agencies. The projects eligible for funding would be developed through the TEA-21 planning process and prioritized for funding by the Secretary of the Interior in consultation and cooperation with the Secretary of Transportation. Any projects that the Secretary of the Interior would select projects that are diverse in location and size. While major National
parks such as the Grand Canyon or Yel-
lowstone are clearly appropriate can-
didates for significant transit projects under this section, there are numerous small urban and rural Federal park lands that can benefit enormously from small projects, such as bike paths or improvements within an urban or regional public transit system. No single project will receive more than 12 percent of the total amount available in any given year. This ensures a diversity of projects selected for assistance.

In conclusion, I firmly believe that this program will create new opportunities for the Federal land management agencies to partner with local transit agencies in gateway communities adjacent to the parks, both through the TEA–12 planning process and in developing integrated transportation systems. This will spur new economic development within these communities, as they develop transportation centers for park visitors to connect to transit links into the national parks and other public lands.

The ongoing tension between preservation and access has always been a challenge for the National Park Service. Today, that challenge has new dimensions, with overcrowding, pollution, congestion, and resource degradation increasing at many of our national parks. This legislation—the Transit in Parks Act—will give our Federal land management agencies important new tools to preserve and enhance access. Just as we have found in metropolitan areas, transit is essential to moving large numbers of people in our national parks—quickly, efficiently, at low cost, and without adverse impact. At the same time, transit can enhance the economic development potential of our gateway communities.

As we begin a new millennium, I cannot think of a more worthy endeavor to help our environment and preserve our national parks, wildlife refuges, and Federal recreational areas than by encouraging alternative transportation in these areas. My bill is strongly supported by the American Public Transportation Association, the National Park Service, the National Recreation Association, the National Recreation Association of the Earth, the National Association of Counties, the American Planning Association, the Surface Transportation Policy Project, the Smart Growth America, Scenic America, the National Center for Bicycling and Walking, the National Association of Railroad Passengers, and the American State Foundation.

Mr. President, I urge my colleagues to support this important legislation and to recognize the enormous environmental and economic benefits that transit can bring to our national parks. I ask unanimous consent that the bill, a section-by-section analysis, and letters of support be printed in the Record.

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

SEC. 1. SHORT TITLE.

This Act may be cited as the “Transit in Parks Act” or the “TRIP Act.”

SEC. 2. FEDERAL LAND TRANSPORT PROGRAM.

(a) In General.—Chapter 59 of title 49, United States Code, is amended by inserting after section 5015 the following:

8 §5316. Federal land transit program

(3) MASS TRANSPORTATION.—

(i) The term ‘mass transportation’ means transportation by bus, rail, or any other publicly or privately owned transportation service, with Federal land management agencies and State and local governmental authorities in financing areawide mass transportation systems to be operated by public or private mass transportation providers, as determined by local and regional needs, and to encourage public-private partnerships; and

(b) DEFINITIONS.—In this section:

(i) The term ‘eligible area’ means—

(A) a unit of the National Park System; (B) a unit of the National Wildlife Refuge System; or (C) a recreational area managed by the Bureau of Land Management.

(ii) The term ‘Federal land management agency’ means a Federal agency that manages an eligible area.

(iii) The term ‘mass transportation’ means transportation by bus, rail, or any other publicly or privately owned service, that provides regular or special service on a regular basis.

(iv) The term ‘qualified participant’ means—

(A) a Federal land management agency; or

(B) a State or local governmental authority with jurisdiction over land in the vicinity of an eligible area acting with the consent of the Federal land management agency, alone or in partnership with a Federal land management agency or other Governmental or nongovernmental participant.

(v) The term ‘qualified project’ means a planning or capital project in or in the vicinity of an eligible area that—

(A) is an activity described in section 5302(a)(1), 5309, or 5309(b)(1)(A);

(B) involves—

(i) the purchase of rolling stock that incorporates clean fuel technology or the replacement of buses of a type in use on the date of enactment of this section with clean fuel vehicles; or

(ii) the deployment of mass transportation vehicles that introduce innovative technologies or methods;

(C) relates to the capital costs of coordinated Federal land management agency mass transportation systems with other mass transportation systems;
"(D) provides a nonmotorized transportation system (including the provision of facilities for pedestrians, bicycles, and nonmotorized watercraft);

"(E) provides for or facilitates access to and from land or water resources located within or in the vicinity of an eligible area, as appropriate to and consistent with the purposes described in subsection (a)(2), or

"(F) develops other mass transportation project that—

"(i) enhances the environment;

"(ii) prevents or mitigates an adverse impact on the environment; and

"(iii) improves Federal land management agency resource management;

"(G) ensures visibility, mobility and accessibility and the visitor experience;

"(H) reduces congestion and pollution (including noise pollution and visual pollution); and

"(I) conserves a natural, historical, or cultural resource (excluding rehabilitation or restoration of a nontransportation facility).

"(6) SECRETARY.—The term ‘Secretary’ means the Secretary of Transportation.

"(c) FEDERAL AGENCY COOPERATIVE ARRANGEMENTS.—The Secretary shall develop cooperative arrangements with the Secretary of the Interior that provide for—

"(1) technical assistance in mass transportation system planning, research, and technical assistance under this section, including requirements for the design and implementation of technology appropriate for use in a qualified project;

"(2) interagency and multidisciplinary teams to develop Federal land management agency mass transportation policy, procedures and guidelines; and

"(3) the development of procedures and criteria relating to the planning, selection, and funding of qualified projects and the implementation and oversight of the program of projects in accordance with this section.

"(d) TYPES OF ASSISTANCE.—

"(1) IN GENERAL.—The Secretary may enter into a contract, grant, cooperative agreement, interagency agreement, intra-agency agreement, or other agreement to carry out a qualified project under this section.

"(2) OTHER USES.—A grant, cooperative agreement, interagency agreement, intra-agency agreement, or other agreement to carry out a qualified project under this section may not be used or financed in any manner or for any purpose that—

"(A) the qualified participant applies for or receives any amount of money, including interest, from another source; and

"(B) the qualified participant shall—

"(i) of section 5307; and

"(ii) include qualified projects in eligible projects assisted under this section.

"(m) ASSET MANAGEMENT.—The Secretary may, in cooperation with the Secretary of Transportation in, and control over, all facilities and equipment acquired under this section to a qualified participant for use and operation in accordance with such section, carry out a qualified project at the time of borrowing.

"(n) COST SHARING.—

"(1) DEPARTMENTAL SHARE.—The Secretary, in cooperation with the Secretary of the Interior, shall establish the share of assistance to be provided under this section to a qualified participant.

"(2) CONSIDERATIONS.—In establishing the departmental share of the net project cost of a qualified project, the Secretary shall consider—

"(A) visitation levels and the revenue derived from user fees and in which the qualified project is carried out;

"(B) the extent to which the qualified project coordinates with a public or private mass transportation authority;

"(C) private investment in the qualified project, including the provision of contract services, joint development activities, and the use of innovative financing mechanisms;

"(D) the clear and direct benefit to the qualified participant; and

"(E) any other matters that the Secretary considers appropriate to carry out this section.

"(3) NONDEPARTMENTAL SHARE.—Notwithstanding any other provision of law, Federal funds appropriated to any Federal land management agency may be counted toward the nondepartmental share of the cost of a qualified project.

"(d) SELECTION OF QUALIFIED PROJECTS.—

"(1) IN GENERAL.—The Secretary of the Interior, after consultation with and in cooperation with the Secretary, shall determine the final selection and funding of an annual program of qualified projects in accordance with this section.

"(2) CONSIDERATION.—In determining whether to include a project in the annual program of qualified projects, the Secretary of the Interior shall consider—

"(A) the justification for the qualified project, including the extent to which the qualified project would provide opportunities to conserve resources, prevent or mitigate adverse impact, and enhance the environment;

"(B) the location of the qualified project, to ensure that the selected qualified projects—

"(i) are geographically diverse nationwide;

"(ii) include qualified projects in eligible areas located in both urban areas and rural areas;

"(iii) are subject to Federal, State, and local governmental authority, to the extent that the proceeds of the bond are expended in carrying out that part;

"(C) the requirements of section 5307;

"(D) the extent to which the Secretary determines to be appropriate, requirements consistent with those under subsections (d) and (i) of section 5307; and

"(E) any other terms, conditions, requirements, and provisions that the Secretary determines to be appropriate, requirements consistent with those under subsections (d) and (i) of section 5307; and

"(F) the extent to which the qualified project would—

"(i) enhance livable communities;

"(ii) reduce pollution (including noise pollution, air pollution, and visual pollution); and

"(iii) reduce congestion; and

"(iv) improve the mobility of people in the most efficient manner; and

"(G) any other matters that the Secretary considers appropriate to carry out this section, including—

"(i) visitation levels;

"(ii) the use of innovative financing or joint development structures; and

"(iii) coordination with gateway communities.

"(4) QUALIFIED PROJECTS CARRIED OUT IN ADVANCE.—

"(1) IN GENERAL.—When a qualified participant carries out any part of a qualified project without assistance under this section, the Secretary may pay the departmental share of the net project cost of a qualified project if—

"(A) the qualified participant applies for the payment;

"(B) the Secretary approves the payment; and

"(C) before carrying out that part of the qualified project, the Secretary approves the plans and specifications in the same manner as other projects assisted are approved for other projects assisted under this section.

"(2) INTEREST.—

"(A) IN GENERAL.—The cost of carrying out part of a qualified project under paragraph (1) includes the amount of interest earned and payable on bonds issued by a State or local governmental authority, to the extent the proceeds of the bond are expended in carrying out that part.

"(B) LIMITATION.—The rate of interest under this paragraph may not exceed the most favorable rate reasonably available for the qualified project at the time of borrowing.

"(C) CERTIFICATION.—The qualified participant shall certify, in a manner satisfactory to the Secretary, that the qualified participant has exercised reasonable diligence in seeking the most favorable interest rate.

"(d) FUNDING AGREEMENT; PROJECT MANAGEMENT PLAN.—If the amount of assistance anticipated to be required for a qualified project under this section is more than $25,000,000—

"(1) the qualified project shall, to the extent that the Secretary considers appropriate, be carried out through a full funding agreement in accordance with section 5306(g) and

"(2) the qualified participant shall prepare a project management plan in accordance with section 5306(a).

"(e) RELATIONSHIP TO OTHER LAWS.—Qualified participants shall be subject to—

"(1) the requirements of section 5307;

"(2) to the extent that the Secretary determines to be appropriate, requirements consistent with those under subsections (d) and (i) of section 5307; and

"(m) ASSET MANAGEMENT.—The Secretary may transfer the interest in, and control over, all facilities and equipment acquired under this section to a qualified participant for use and operation in accordance with such section, carrying out a qualified project assisted under this section.

"(n) COST SHARING.—A qualified project assisted under this section shall be eligible for funding through a State Infrastructure Bank or other innovative financing mechanism otherwise available to finance an eligible project under this chapter.

"(o) INNOVATIVE FINANCING.—A qualified project assisted under this section shall be eligible for funding through a State Infrastructure Bank or other innovative financing mechanism otherwise available to finance an eligible project under this chapter.
Amends Federal transit laws by adding new section 5316, "Federal Land Transit Program."

Section 3: Findings and purposes

The purpose of this section is to promote the planning and establishment of alternative transportation systems within, and in the vicinity of, the national parks and other public lands to protect and conserve natural, historical, and cultural resources and mitigate adverse impact on those resources, relieve congestion, minimize transportation fuel consumption, enhance public accessibility, attract Federal land users and visitors and provide a viable public transportation system in the vicinity of eligible areas.

Section 4: Definitions

This section defines eligible projects and eligible participants in the program. A "qualified participant" is a Federal land management agency, or a State or local governmental authority, as designated by the Department of Transportation pursuant to section 3039 of TEA–21, by establishing Federal assistance to finance mass transportation projects within and in the vicinity of the national parks and other public lands, to increase coordination with gateway communities and agencies, and instrumentalities of the Federal Government, and other Federal land management agencies, for the exchange of technical assistance, with a lower Departmental share for projects that may not have access to such development strategies, and coordination with gateway communities.

Section 5: Federal Agency cooperative arrangements

This section implements the 1997 Memorandum of Understanding between the Department of Transportation and the Interior for the exchange of technical assistance in mass transportation, the development of mass transportation policy and coordination, and the establishment of criteria for planning, selection, and funding of projects under this section.

Section 6: Uses of assistance

This section gives the Secretary of Transportation authority to provide Federal assistance through grants, cooperative agreements, inter- or intra-agency agreements, or other agreements, including leasing under certain conditions, for a qualified project under this section.

Section 7: Limitation on use of available amounts

This section specifies that the Secretary may not use more than 5% of the amounts available under this section for planning, research, and technical assistance; these amounts can only be used from other sources. In addition, to ensure a broad distribution of funds, no project can receive more than 12% of the total amount available under this section in any given year.

Section 8: Planning process

This section directs the Secretary of Transportation to develop a planning process consistent with TEA–21 for qualified participants which are Federal land management agencies. If the qualified participant is a State or local governmental authority, the qualified participant shall comply with the TEA–21 planning process and consult with the appropriate Federal land management agency during the planning.

Section 9: Department's share of the costs

This section requires that in determining the Department's share of the project costs, the Secretary of Transportation, in cooperation with the Secretary of the Interior, must consider certain factors, including visitation levels and user fee revenues, coordination in project development with a public or private transit provider, private investment, and whether there is a clear and direct financial benefit to the qualified participant. The intent is to establish criteria for a sliding scale of assistance, with a lower Departmental share for projects that can attract outside investment, and a higher Departmental share for projects that may not have access to such development strategies in addition, this section specifies that funds from the Federal land management agencies can be counted toward the local share.

Section 10: Selection of qualified projects

This provision provides that the Secretary of the Interior, in cooperation with the Secretary of Transportation, shall prioritize the qualified projects for funding in an annual programmatic agreement under TEA–21, in consultation with gateway communities.

Section 11: Undertaking projects in advance

This provision applies current transit law to this section, allowing projects to advance prior to receiving Federal funding, but allowing the advance amount to be counted toward the local share as long as certain conditions are met.

Section 12: Full funding agreement; project management plan

This section provides that large projects require a project management plan, and shall be carried out through a full funding agreement to the extent the Secretary considers appropriate.

Section 13: Relationship to Other Laws

This provision applies certain transit laws to projects funded under this section, and permits the Secretary to apply any other transit laws or conditions he or she deems appropriate.

Section 14: Innovative financing

This section provides that a project assisted under this Act can also use funding from a State Infrastructure Bank or other innovative financing, and specifies that the amount that is available to fund other eligible transit projects.

Section 15: Asset management

This provision permits the Secretary of Transportation to transfer or convey a transit asset acquired with Federal funds under this section to a qualified government entity.
participant in accordance with certain Fed-
eral property management rules.

Section 16. Coordination of research and deploy-
ment of new technologies

This provision allows the Secretary, in co-
operation with the Director of the Interior, to
enter into grants or other agreements for
research and deployment of new technologies
to meet the special needs of eligible areas
under this Act.

Section 17: Report

This section requires the Secretary of
Transportation to submit a report on
projects funded under this section to the
House Transportation and Infrastructure
Committee and the Senate Banking, Hous-
ing, and Urban Affairs Committee, to be in-
cluded in the Department’s annual project
report.

Section 18: Authorization

$65,000,000 is authorized to be appropriated
for the Secretary to carry out this program
for each of the fiscal years 2002 through 2007.

Section 19: Conforming amendments

Confirming amendments to the transit title,
including an amendment to allow 0.5%
per year of the funds made available under
this Act, including an amendment to allow 0.5%
for each of the fiscal years 2002 through 2007.

Section 20: Technical amendments

Technical corrections to the transit title in
TEA–21.

AMERICAN PUBLIC
TRANSPORTATION ASSOCIATION,

Hon. PAUL S. SARBANES,
Chairman, Committee on Banking, Housing,
and Urban Affairs,
Dirksen Senate Office Building, Washington,
DC.

DEAR SENATOR SARBANES: Thank you for
sharing with us a copy of the “Transportation to
Fulfill the Promise of the National Parks
Act” which would amend the federal transit law at
chapter 53, title 49 U.S.C.

The Act would authorize federal assistance
to certain federal agencies and state and
local entities to finance mass transportation
projects generally for the purpose of address-
ing transportation congestion and mobility
issues at national parks and other eligible
areas. In addition, the legislation would en-
courage enhanced cooperation between the
Department of Transportation and Interior
regarding joint efforts of those federal agen-
cies to encourage the use of public transpor-
tation at national parks.

I am pleased to support your efforts to im-
prove mobility in our national parks. Public
transportation clearly has much to offer citi-
zans who visit these national treasures,
where congestion and pollution are signifi-
cant—and growing—problems. Moreover, this
legislation should broaden the base of sup-
port for public transportation, a key prin-
ciple that American motorists and advocates
have been advocating for many years. In that regard, we will review your
bill with the American Public Transpor-
tation Association’s legislative leadership.

I applaud you for writing the legislation,
and look forward to continuing to work with
you and your staff. Let us know what we can
do to help your initiative!

Sincerely yours,

WILLIAM W. MILLAR,
President.

NATIONAL PARKS
CONSERVATION ASSOCIATION,

Hon. PAUL SARBANES,
Hart Office Building,
Washington, DC.

DEAR SENATOR SARBANES: On behalf of the
National Parks Conservation Association
(NPCA) and its over 400,000 members, I want
to thank you for proposing the Transit in
Parks Act that will enhance transit options
for access to and within our national parks.

NPCA advocates for the importance of
visitation, and forecasts that the critical role that mass transit can play in protecting our parks and
improving the visitor experience.

Visitation to America’s national parks—typically by automobile—will have a
powerful, positive effect on the ecological and cultural
integrity of the parks. Your initiative will
boost the role of alternative transportation solutions for national parks, particularly
those most heavily impacted by visitation
such as Yellowstone-Grand Teton, Yosemite,
Grand Canyon, Acadia, and the Great Smoky
Mountains national parks.

The Act would authorize federal assistance
to certain federal agencies and state and
local entities to finance mass transportation
projects under this Act. This provision will provide a
vital tool to fulfill the primary
mission of the National Park System:
“to conserve the scenery and the natural
and historic objects and the wildlife therein,
and to provide for the enjoyment of such
resources in such manner and by such means as will leave
them unimpaired for the enjoyment of future
generations.”

We look forward to working with you to
move this legislation to enactment.

Sincerely,

THOMAS C. KIERMAN,
President.

FRIENDS OF THE EARTH,

Hon. PAUL SARBANES,
Hart Office Building,
Washington, DC.

DEAR SENATOR SARBANES: On behalf of
Friends of the Earth, I want to thank you for
proposing the Transit in Parks Act. This
important bill will enhance transit options
for access to and within our national parks.

Your leadership in this matter is greatly
appreciated.

Americans are visiting our national parks
at an unprecedented rate, with visitation
growing from 190 million visitors in 1975 to
approximately 286 million visitors last year.

Increased funding for attractive and effec-
tive transit services in and adjacent to our
national parks is essential to mitigating these
growing problems.

Webirds and individual
animals, unique cultural traditions, and spec-
tacular natural resources and vistas are
being damaged from air and water pollution,
noise intrusion, and inappropriate use.

We appreciate your leadership on this
issue and your dedication to the health of
our national parks and expanded choices in
our transportation systems.

I look forward to working with you to
move your legislation forward.

Sincerely,

MICHAEL REPELOGLE,
Transportation Director.

COMMUNITY TRANSPORTATION
ASSOCIATION,

Hon. PAUL SARBANES,
Chairman, Committee on Banking, Housing and
Urban Affairs,
U.S. Senate, Washington, DC.

DEAR SENATOR SARBANES: The Community
Transportation Association continues to
support your efforts to provide alternative
transportation strategies in our national
parks and other public lands. Our associa-
tion’s members provide public and com-
munity transportation services in many of
the smaller communities that border these
national parks, monuments, and recreational areas, and our association has members actively involved in providing transportation services at several national parks.

All of us are concerned about the danger that congestion and increases in traffic pose for the future of these sites and locations. Your continued sponsorship of the Transit in Parks Act is an important step in helping ensure that America's natural beauty and historic treasures remain a continuous part of our nation's future. We have members throughout the country whose experiences support the principle that public transit investments in and near national parks and public lands can improve mobility, support the economic vitality of these "gateway communities," and make dramatic improvements in the experiences of park visitors, employees, and community residents. As an illustration of this point, enclosed is an article recently published in our Community Transportation magazine that discusses public transportation as part of the solution to traffic congestion and mobility issues in Acadia, Yosemite and Zion National Parks. These success stories could be replicated in many other communities under your Transit in Parks proposal.

We appreciate your dedicated efforts and initiative in this regard, and look forward to helping you advance this important piece of legislation.

Sincerely,
Dalk J. Marsico, Executive Director.

AMENDMENTS SUBMITTED AND PROPOSED

SA 831. Mr. BOND (for himself, Mr. Roberts, and Mr. Helms) proposed an amendment to the bill S. 1052, to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage.

SA 832. Mr. FRIST (for himself, Mr. Breaux, and Mr. Jeffords) submitted an amendment intended to be proposed by him to the bill S. 1052, supra; which was ordered to lie on the table.

SA 833. Mr. WARNER proposed an amendment to the bill S. 1052, supra.

SA 834. Ms. SNOWE (for herself, Mrs. LINCOLN, Ms. NELSON, of Nebraska, Mr. SPERRY, Mr. McCAIN, Mr. BAUCUS, Ms. STABENOW, and Mr. CHAFEE) proposed an amendment to the bill S. 1052, supra.

SA 835. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 1052, supra; which was ordered to lie on the table.

SA 836. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 1052, supra; which was ordered to lie on the table.

SA 837. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 1052, supra; which was ordered to lie on the table.

SA 838. Mrs. HUTCHISON submitted an amendment intended to be proposed by her to the bill S. 1052, supra; which was ordered to lie on the table.

SA 839. Mrs. HUTCHISON (for herself and Mrs. CLINTON) submitted an amendment intended to be proposed by her to the bill S. 1052, supra.

SA 840. Mr. ENZI proposed an amendment to the bill S. 1052, supra.

SA 841. Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill S. 1052, supra; which was ordered to lie on the table.

SA 842. Mr. WATENBERRY submitted an amendment intended to be proposed by him to the bill S. 1052, supra.

SA 843. Mr. GRAMM (for himself and Mr. MCCAIN) proposed an amendment to the bill S. 1052, supra.

SA 844. Mr. SPERRY proposed an amendment to the bill S. 1052, supra.

SA 845. Mr. GRASSLEY proposed an amendment to the bill S. 1052, supra.

SA 846. Mr. NICKLES (for himself and Mr. ENZI) proposed an amendment to the bill S. 1052, supra.

SA 847. Mr. BROWNBACK proposed an amendment to the bill S. 1052, supra.

SA 848. Mr. GRASSLEY proposed an amendment to the bill S. 1052, supra.

SA 849. Mr. ENSIGN proposed an amendment to the bill S. 1052, supra.

TEXT OF AMENDMENTS

SA 831. Mr. BOND (for himself, Mr. ROBERTS, and Mr. HELMS) proposed an amendment to the bill S. 1052, to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage.

On page 154, between lines 2 and 3, insert the following:

(11) MINIMUM SHARE OF SETTLEMENT OF AWARD.—

(A) IN GENERAL.—Except as provided in subparagraph (B), a participant or beneficiary (or the estate of such participant or beneficiary) shall receive not less than 85 percent of any award made as a result of a cause of action brought by a participant or beneficiary (or estate) under this subsection, after subtracting the amount of any attorneys' fees from the total amount of such award.

(B) EXCEPTION.—This paragraph shall not apply where the amount awarded as a result of a cause of action brought by a participant or beneficiary (or estate) under this subsection is less than $100,000.

(C) DEFINITIONS.—In this paragraph:

(I) ATTORNEYS' FEES.—The term 'attorneys' fees' means any compensation for the direct or indirect representation or other legal work performed in connection with a cause of action brought under this subsection, including any attorney's fees for any expenses incurred in connection with such representation or work.

(ii) AWARD.—The term 'award' means the sum of—

(I) any monetary consideration provided to a participant or beneficiary (or the estate of such participant or beneficiary) by a fiduciary of a group health plan, a health insurance issuer offering health insurance coverage in connection with a group health plan, an agent of a plan sponsor in connection with a cause of action brought under this subsection, including any monetary consideration provided for in any—

(aa) final court decision;

(bb) court order;

(cc) settlement agreement;

(dd) arbitration procedure; or

(em) alternative dispute resolution procedure (including mediation); less

(II) any reimbursement for any expenses incurred in connection with direct or indirect representation or other legal work performed in connection with a cause of action under this subsection.

SA 832. Mr. FRIST (for himself, Mr. Breaux, and Mr. Jeffords) submitted an amendment intended to be proposed by him to the bill S. 1052, to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage; which was ordered to lie on the table; as follows:

On page 139, line 1 after "treatment" insert the following: "The name of the designated decision-maker (or decision-makers) appointed under section 502(h)(2) of the Employee Retirement Income Security Act of 1974 for purposes of making final determinations under section 103 and approving coverage pursuant to the written determination of an independent medical reviewer under section 104."

Beginning on page 139, strike line 21 and all that follows through line 14 on page 171, and insert the following:

SECTION 302. AVAILABILITY OF COURT REMEDIES.

(a) IN GENERAL.—Section 502 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132) is amended by adding at the end the following:

(II) CAUSE OF ACTION RELATING TO DENIAL OF A CLAIM FOR HEALTH BENEFITS.—

(III) FAILURE TO COMPLY WITH EXTERNAL MEDICAL REVIEW.—With respect to an action commenced by a participant or beneficiary (or the estate of such participant or beneficiary) in connection with a claim for benefits under a group health plan, if—
"(i) a designated decision-maker described in paragraph (2) fails to exercise ordinary care in approving coverage pursuant to the written determination of an independent medical reviewer under section 104(d)(3)(F) of the Bipartisan Patient Protection Act that reverses a denial of the claim for benefits; and

(ii) the failure described in clause (i) is the proximate cause of substantial harm (as defined in paragraph (10)(G) to the participant or beneficiary; such designated decision-maker shall be liable to the participant or beneficiary (or the estate) for economic and noneconomic damages in connection with such failure and such injury or death (subject to paragraph (4)).

(B) WRONGFUL DETERMINATION RESULTING IN DELAY IN PROVIDING BENEFITS.—With respect to an action commenced by a participant or beneficiary in connection with a claim for benefits under a group health plan, if

(i) a designated decision-maker described in paragraph (2)—

(I) fails to exercise ordinary care in making a determination denying the claim for benefits under section 102 of the Bipartisan Patient Protection Act (relating to an initial claim for benefits); or

(II) specifically agrees to accept such appointment in accordance with paragraph (2), the plan sponsor or named fiduciary, or any other person or group of persons (other than the participant or beneficiary) designated with the plan sponsor or named fiduciary, shall not be liable under this paragraph.

(ii) the delay attributable to the failure described in clause (i) is the proximate cause of substantial harm to, or the wrongful death of, the participant or beneficiary; such designated decision-maker shall be liable to the participant or beneficiary (or the estate) for economic and noneconomic damages in connection with such failure and such injury or death (subject to paragraph (4)).

(C) LIMITATION ON LIABILITY BASED ON APPOINTMENT OF DESIGNATED DECISION-MAKER.—If a plan sponsor or named fiduciary designates another person to serve as a designated decision-maker in accordance with paragraph (2), the plan sponsor or named fiduciary, or any other person or group of persons (other than the participant or beneficiary) designated with the plan sponsor or named fiduciary, shall not be liable under this paragraph. The appointment of a designated decision-maker in accordance with paragraph (2) shall not affect the liability of the appointing plan sponsor or named fiduciary for the failure of the plan sponsor or named fiduciary to comply with any other requirement of this title.

(D) PREVENTION OF DUPLICATION OF ACTION WITH ACTION UNDER STATE LAW.—No action may be brought under this subsection based upon facts and circumstances if a cause of action under State law is brought based upon the same facts and circumstances.

(2) DESIGNATED DECISION-MAKER.—

(A) APPOINTMENT.—

(i) In general.—The plan sponsor or named fiduciary of a group health plan shall, in accordance with paragraph (2), designate one or more persons to serve as a designated decision-maker with respect to causes of action described in subparagraphs (A) and (B) of paragraph (1) that—

(I) with respect to health insurance coverage offered in connection with a group health plan, the health insurance issuer shall be the designated decision-maker unless the plan sponsor and the issuer specifically agree in writing (on a form to be prescribed by the Secretary of Health and Human Services) that another person as designated decision-maker; or

(ii) with respect to the designation of a person other than a plan sponsor or health insurance issuer offering health insurance coverage in connection with such failure and such injury or death (subject to paragraph (4)).

(B) WRONGFUL DETERMINATION RESULTING IN DELAY IN PROVIDING BENEFITS.—With respect to an action commenced by a participant or beneficiary in connection with a claim for benefits under a group health plan, if

(i) a designated decision-maker described in paragraph (2)—

(I) fails to exercise ordinary care in making a determination denying the claim for benefits under section 102 of the Bipartisan Patient Protection Act (relating to an initial claim for benefits); or

(II) specifically agrees to accept such appointment in accordance with paragraph (2), the plan sponsor or named fiduciary, or any other person or group of persons (other than the participant or beneficiary) designated with the plan sponsor or named fiduciary, shall not be liable under this paragraph unless the professional appointment is made in accordance with subparagraph (D).

(ii) LIMITATION ON APPOINTMENT.—A treating health care professional who directly delivered the care, treatment, or service that is the subject matter of the action under this subsection may not be designated as a designated decision-maker under this paragraph unless the professional—

(I) is a person or entity that may be appointed in accordance with subparagraph (A); and

(ii) specifically agrees to accept such appointment in accordance with the requirements under such subparagraph.

(3) REQUIREMENT OF EXHAUSTION OF INDEPENDENT MEDICAL REVIEW.—

(A) IN GENERAL.—Paragraph (1) shall apply only if a final determination denying a claim for benefits under section 102 of the Bipartisan Patient Protection Act has been referred for independent medical review under section 104(d) of such Act and a written determination by an independent medical reviewer to reverse such final determination has been issued with respect to such review under such subsection.

(B) LIMITATION ON APPOINTMENT.—A designated decision-maker appointed with respect to—

(i) purposes of paragraph (1)(A), the approval or denial of a claim under section 104 of the Bipartisan Patient Protection Act;

(ii) purposes of paragraph (1)(B), making determinations on a claim for benefits under section 103 of such Act (relating to an internal appeal); or

(iii) purposes of paragraph (1)(B), making final determinations on claims for benefits under section 104 of such Act (relating to internal appeals), except that not more than one designated decision-maker may be appointed with respect to each level of review under clauses (i), (ii), and (iii) in paragraph (1) unless the allocation is made, liability under a cause of action under paragraph (1) shall be assessed against the appropriate designated decision-maker.

(D) QUALIFICATIONS.—

(i) CERTIFICATION OF ABILITY.—To be appointed as a designated decision-maker under this paragraph, a person shall provide the plan sponsor or named fiduciary with certification that such person has the ability to meet the requirements of this paragraph (relating to financial obligation for liability under this subsection). Such certification shall be provided upon appointment and not less frequently than annually thereafter, or if the designation is pursuant to a multi-year contract, in conjunction with the renewal of the contract, but in no case less than once every 3 years.

(II) OTHER REQUIREMENTS RELATING TO FINANCIAL OBLIGATIONS.—For purposes of clause (i), requirements relating to financial obligation for liability shall include evidence of—

(I) coverage of the person under insurance policies or other arrangements, secured and maintained by the person, to insure the person against losses arising from professional liability claims, including those arising from being designated as a designated decision-maker under this paragraph; or

(II) minimum annual and surplus levels that are maintained by the person to cover any losses as a result of liability arising from being designated as a designated decision-maker under this paragraph.

The appropriate amounts of liability insurance and minimum capital and surplus levels for purposes of subclauses (I) and (II) shall be determined by an actuary using sound actuarial principles and accounting practices pursuant to established guidelines of the American Academy of Actuaries and shall be updated every 2 years throughout the course of the contract in which such person is designated as a designated decision-maker.

(E) FLEXIBILITY IN ADMINISTRATION.—A group health plan, plan sponsor, health insurance issuer offering health insurance coverage in connection with a group health plan, may provide

(i) that any person or group of persons may serve in more than one capacity with respect to the plan or coverage (including service as a designated decision-maker, administrator, and named fiduciary); or

(ii) that a designated decision-maker may employ one or more persons to provide advice with respect to the responsibilities of such decision-maker under the plan or coverage.

(4) FAILURE TO APPOINT.—

(i) In general.—With respect to any cause of action under paragraph (1) relating to a denial of a claim for benefits where a designated decision-maker has not been appointed in accordance with paragraph (2), the plan sponsor or named fiduciary responsible for determinations under section 103 shall be deemed to be the designated decision-maker under this paragraph unless the professional—

(I) is a person or entity that may be appointed in accordance with subparagraph (A); and

(ii) specifically agrees to accept such appointment in accordance with the requirements under such subparagraph.

(5) REQUIREMENT OF EXHAUSTION OF INDEPENDENT MEDICAL REVIEW.—

(A) IN GENERAL.—Paragraph (1) shall apply only if a final determination denying a claim for benefits under section 102 of the Bipartisan Patient Protection Act has been referred for independent medical review under section 104(d) of such Act and a written determination by an independent medical reviewer to reverse such final determination has been issued with respect to such review under such subsection.

(B) LIMITATION ON APPOINTMENT.—A designated decision-maker appointed with respect to—

(i) purposes of paragraph (1)(A), the approval or denial of a claim under section 104 of the Bipartisan Patient Protection Act;

(ii) purposes of paragraph (1)(B), making determinations on a claim for benefits under section 103 of such Act (relating to an internal appeal); or

(iii) purposes of paragraph (1)(B), making final determinations on claims for benefits under section 104 of such Act (relating to internal appeals), except that not more than one designated decision-maker may be appointed with respect to each level of review under clauses (i), (ii), and (iii) in paragraph (1) unless the allocation is made, liability under a cause of action under paragraph (1) shall be assessed against the appropriate designated decision-maker.

(D) QUALIFICATIONS.—

(i) CERTIFICATION OF ABILITY.—To be appointed as a designated decision-maker under this paragraph, a person shall provide the plan sponsor or named fiduciary with certification that such person has the ability to meet the requirements of this paragraph (relating to financial obligation for liability under this subsection). Such certification shall be provided upon appointment and not less frequently than annually thereafter, or if the designation is pursuant to a multi-year contract, in conjunction with the renewal of the contract, but in no case less than once every 3 years.

(II) OTHER REQUIREMENTS RELATING TO FINANCIAL OBLIGATIONS.—For purposes of clause (i), requirements relating to financial obligation for liability shall include evidence of—

(I) coverage of the person under insurance policies or other arrangements, secured and maintained by the person, to insure the person against losses arising from professional liability claims, including those arising from being designated as a designated decision-maker under this paragraph; or

(II) minimum annual and surplus levels that are maintained by the person to cover any losses as a result of liability arising from being designated as a designated decision-maker under this paragraph.

The appropriate amounts of liability insurance and minimum capital and surplus levels for purposes of subclauses (I) and (II) shall be determined by an actuary using sound actuarial principles and accounting practices pursuant to established guidelines of the American Academy of Actuaries and shall be updated every 2 years throughout the course of the contract in which such person is designated as a designated decision-maker.

(E) FLEXIBILITY IN ADMINISTRATION.—A group health plan, plan sponsor, health insurance issuer offering health insurance coverage in connection with a group health plan, may provide

(i) that any person or group of persons may serve in more than one capacity with respect to the plan or coverage (including service as a designated decision-maker, administrator, and named fiduciary); or

(ii) that a designated decision-maker may employ one or more persons to provide advice with respect to the responsibilities of such decision-maker under the plan or coverage.
"(4) LIMITATIONS ON RECOVERY OF DAMAGES.—

(A) MAXIMUM AWARD OF NONECONOMIC DAMAGES.—The aggregate amount of liability for noneconomic loss in action under paragraph (1) may not exceed the greater of—

(i) $750,000; or

(ii) an amount equal to 5 times the amount awarded for economic loss.

(B) INCREASE IN AMOUNT.—The amount referred to in subparagraph (A)(i) shall be increased or decreased, for each calendar year after September 30, 2001, by the same percentage as the percentage by which the Consumer Price Index for All Urban Consumers for the United States city average, published by the Bureau of Labor Statistics, for September of the preceding calendar year has increased or decreased from the such Index for September 2001.

(C) SEVERAL LIABILITY.—In the case of any action commenced pursuant to paragraph (1), the designated decision-maker shall be liable only for the amount of noneconomic damages attributable to such designated decision-maker in direct proportion to such decision-maker’s share of fault or responsibility for the injury suffered by the participant or beneficiary. In all such cases, the liability of a designated decision-maker for noneconomic damages shall be several and not joint.

(D) TREATMENT OF COLLATERAL SOURCE PAYMENTS.—

(1) IN GENERAL.—In the case of any action commenced pursuant to paragraph (1), the total amount of damages received by a participant or beneficiary under such action shall be reduced, in accordance with clause (ii), by any other payment that has been, or will be, made to such participant or beneficiary, pursuant to an order or judgment of another proceeding resulting from such participant or beneficiary for the injury that was the subject of such action.

(2) AMOUNT OF REDUCTION.—The amount by which which an award of damages to a participant or beneficiary for an injury shall be reduced under clause (i) shall be—

(i) the total amount of any payments (other than such award) that have been made or that will be made to such participant or beneficiary to pay costs of or compensate such participant or beneficiary for the injury that was the subject of such action; or

(ii) the amount paid by such participant or beneficiary (or by the spouse, parent, or legal guardian of such participant or beneficiary) to secure the payments described in subparagraph (A)."
group of claimants or consolidated for any purpose with any other proceeding. In this paragraph, the terms ‘group health plan’ and ‘health insurance coverage’ have the meanings given in section 733.

(2) EFFECTIVE DATE.—This subsection shall apply to all civil actions that are filed on or after the date of enactment of the Bipartisan Patient Protection and Affordable Care Act. This subsection shall apply to civil actions that are pending and have not been finally determined by judgment or settlement prior to such a date.

(2) RICO.—Section 1964(c) of title 18, United States Code, is amended—

(1) by inserting “(1)” after the subsection designated paragraph

(2) by adding at the end the following:

“(2)(A) No action may be brought under this subsection, or alleging any violation of section 1962, where the action seeks relief concerning the manner in which any person has marketed, provided information concerning, established, administered, or otherwise operated a group health plan, or health insurance coverage in connection with a group health plan. Any such action shall only be brought by the Employee Retirement Income Security Act of 1974.

(B) Subparagraph (A) shall apply to civil actions that are pending and have not been finally determined by judgment or settlement prior to the date of enactment of the Bipartisan Patient Protection Act and all actions commenced on or after such a date.

(c) CONFORMING AMENDMENT.—Section 502(a)(1)(A) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132(a)(1)) is amended by inserting “or” after “(n)” after “subsection (c)”.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to acts and omissions (from which a cause of action arises) occurring on or after October 1, 2002.

SA 833. Mr. WARNER proposed an amendment to the bill S. 1052, to amend the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage; as follows:

On page 154, between lines 2 and 3, insert the following:

“(11) LIMITATION ON AWARD OF ATTORNEYS’ FEES.—

(A) In general.—Subject to subparagraph (C), with respect to a participant or beneficiary (or the estate of such participant or beneficiary) who brings a cause of action under this subsection and prevails in that action, the amount of attorneys’ fees awarded may not exceed an amount equal to 25 percent of such excess recovery above $100,000.

(B) In general.—With respect to a recovery in such a cause of action that exceeds $500,000, the amount of the attorneys’ fees awarded may not exceed an amount equal to 15 percent of such excess recovery above $500,000.

(C) Equitable discretion.—A court in its discretion may adjust the amount of attorneys’ fees awarded under subparagraph (A) as equity and the interests of justice may require.

On page 156, between lines 21 and 22, insert the following:

“(19) LIMITATION ON ATTORNEYS’ FEES.—

(A) In general.—Notwithstanding any other provision of law, any voluntary arrangement, agreement, or contract regarding attorneys’ fees, subject to subparagraph (B), a court shall limit the amount of attorneys’ fees awarded under this subsection to the amount of attorneys’ fees that may be awarded under section 502(n)(11).

(B) Equitable discretion.—A court in its discretion may adjust the amount of attorneys’ fees awarded under this subsection as equity and the interests of justice may require.

SA 834. Ms. SNOWE (for herself, Mrs. LINCOLN, Mr. DEWINE, Mr. NELSON of Nebraska, Mr. SPECTER, Mr. MCCAIN, Mr. BAUCUS, Ms. STABENOW, and Mr. CHAFEE) proposed an amendment to the bill S. 1052, to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage; as follows:

On page 106, between lines 16 and 17, insert the following:

(19) DESIGNATED DECISIONMAKERS.—A description of the participants and beneficiaries with respect to whom each designated decisionmaker under the plan has assumed liability under section 502(o) of the Employee Retirement Income Security Act of 1974 and the name and address of each such decisionmaker.

On page 141, strike lines 16 through 21, and insert the following:

“tions of the plan or coverage.”

On page 142, lines 10 and 11, strike “or the failure described in clause (ii)”.

On page 143, strike lines 12 through 18, and insert the following:

“of a denial of a claim for benefits.

Beginning on page 145, strike lines 22 and all that follows through line 6 on page 146, and insert the following:

“(ii) In general.—For purposes of subparagraph (B), the term ‘direct participation’ means, in connection with a decision described in paragraph (1)(A), the actual making of such decision or the actual exercise of control in making such decision.

On page 146, line 14, strike “clause (i)” of.

On page 146, strike lines 16 through 20, and insert the following:

“or beneficiary, including (but not limited).”

On page 148, between lines 23 and 24, insert the following:

“(ii) Determination to Certain Plans.—

(A) In general.—Notwithstanding any other provision of this subsection, no group health plan described in clause (ii) shall be liable under paragraph (1) for the nonperformance of, or the failure to perform, any nonmedically reviewable duty under the plan.

(ii) Definition.—A group health plan described in this clause is—

(I) a group health plan that is self-insured and self-administered; or

(II) a group health plan that is maintained by one or more employers or employee organizations described in section 3(19)(B)(iii).

On page 156, between lines 15 and 16, insert the following:

(17) Relief from Liability for Employer or Other Plan Sponsor by Means of Designated Decisionmaker.—

(A) In general.—Notwithstanding the direct participation (as defined in paragraph (5)(B)) of an employer, in any case in which there is deemed to be a designated decisionmaker under subparagraph (B) that meets the requirements of subsection (o)(1)(A) or (B) for an employer or other plan sponsor—

(i) all liability of such employer or plan sponsor (and any employee thereof acting within the scope of employment) under this subsection in connection with any participant or beneficiary shall be transferred to, and assumed by, the designated decisionmaker;

(ii) with respect to such liability, the designated decisionmaker shall be substituted for the employer or other plan sponsor in the action and may not raise any defense that the employer or plan sponsor (or employee) could not raise if such a decisionmaker were not so deemed.

(B) Automatic designation.—A health insurance issuer shall be deemed to be a designated decisionmaker for purposes of subparagraph (A) with respect to the participants and beneficiaries of an employer or plan sponsor, whether or not the employer or plan sponsor makes such a designation, and shall be deemed to have assumed unconditionally all liability of the employer or plan sponsor under such designation in accordance with subsection (o), unless the employer or plan sponsor affirmatively enters into a contract to prevent the service of the designated decisionmaker.

(18) Previous Services.—

(A) In general.—Except as provided in this paragraph, a cause of action shall not arise under paragraph (1) where the denial involved relates to an item or service that has already been fully provided to the participant or beneficiary under the plan or coverage and the claim relates solely to the subsequent denial of payment for the provision of such item or service.

(B) Exception.—Nothing in subparagraph (1) shall be construed to—

prohibit a cause of action under paragraph (1) where the nonpayment involved results in the participant or beneficiary being unable to receive further items or services that are directly related to the item or service involved in the denial referred to in subparagraph (A) or that are part of a continuing treatment or series of procedures; or

limit liability that otherwise would arise from the provision of the item or services or the performance of a medical procedure.

(19) Exemption from Personal Liability for Individual Members of Boards of Directors, etc.—Any individual who—

(I) a member of a board of directors of an employer or plan sponsor; or

(II) a member of an association, committee, employee organization, joint board of trustees, or other similar group of representatives of the entities that are the plan sponsor or are maintained by two or more employers and one or more employee organizations;
shall not be personally liable under this subsection for conduct that is within the scope of employment of the individuals unless the individual acts in a fraudulent manner for personal enrichment.

(‘‘o) REQUIREMENTS FOR DESIGNATED DECISIONMAKERS OF GROUP HEALTH PLANS.—

(1) For purposes of subsection (n)(17) and section 514(d)(9), a designated decisionmaker meets the requirements of this paragraph with respect to any participant or beneficiary if—

(A) such designation is in such form as may be prescribed in regulations of the Secretary.

(B) the designated decisionmaker—

(i) meets the requirements of paragraph (2),

(ii) assumes unconditionally all liability of the employer or plan sponsor involved (and any employee thereof acting within the scope of employment) either arising under subsection (n) or arising in a cause of action permitted under section 514(d) in connection with actions (and failures to act) of the employer or plan sponsor (or employee) occurring during the period in which the designation under section 514(d)(9) or section 514(d)(9) is in effect relating to such participant and beneficiary,

(C) the decisionmaker and the participant or beneficiary for whom the designated decisionmaker has assumed liability are identified in the written instrument required under section 462(a) and as required under section 121(b)(19) of the Bipartisan Patient Protection Act.

Any liability assumed by a designated decisionmaker pursuant to this subsection shall be in addition to any liability that it may otherwise have under applicable law.

(2) QUALIFICATIONS FOR DESIGNATED DECISIONMAKERS.—

(A) IN GENERAL.—Subject to subparagraph (B), an entity is qualified under this paragraph to serve as a designated decisionmaker with respect to a group health plan if the entity has the ability to assume the liability described in paragraph (1) with respect to participants and beneficiaries under such plan, including requirements relating to the financial obligation for timely satisfying the assumed liability, and maintains with the plan sponsor and the Secretary certification of such ability. Such certification shall be provided to the plan sponsor or named fiduciary and to the Secretary upon designation under section 514(d)(9)(B) or section 514(d)(9)(B) and not less frequently than annually thereafter, or if such designation constitutes a multiyear arrangement, in conjunction with the renewal of the arrangement.

(B) SPECIAL QUALIFICATION IN THE CASE OF CERTAIN RECOVERABLE DECISIONS.—In the case of a group health plan that provides benefits consisting of medical care to a participant or beneficiary only through health insurance coverage offered by a single health insurance issuer, such issuer is the only entity that may be qualified under this paragraph to serve as a designated decisionmaker with respect to such participant or beneficiary, and shall serve as such decisionmaker unless the employer or other plan sponsor acts affirmatively to prevent such service.

(‘‘p) REQUIREMENTS RELATING TO FINANCIAL OBLIGATIONS.—For purposes of paragraph (2)(A), the requirements relating to the financial obligation of an entity for liability shall include—

(A) coverage of such entity under an insurance policy or other arrangement, separately maintained by such entity, of any liability arising from the provision of the item or service;

(B) requirements relating to the financial obligation of an entity under a group health plan to make payments to providers of items or services if such payments would be required by applicable law or regulation in the absence of a designated decisionmaker under this part; or

(C) evidence of minimum capital and surplus levels that are maintained by such entity to cover any losses as a result of liability arising from the provision of such item or service.

Beginning on page 161, strike line 14, and all that follows through line 13 on page 162, and insert the following:

(‘‘q) REQUIREMENTS FOR DESIGNATED DECISIONMAKERS.—

(A) IN GENERAL.—For purposes of section 514(d) in connection with subsection (o) of the Bipartisan Patient Protection Act, section 121(b)(19) of the Bipartisan Patient Protection Act, and subsection (n) of the Bipartisan Patient Protection Act, the Secretary may prescribe and shall be maintained throughout the term for which the designation is in effect, sound actuarial principles and accounting practices pursuant to established guidelines of the American Academy of Actuaries and in accordance with such regulations as the Secretary may prescribe and shall be maintained throughout the term for which the designation is in effect.

(B) LIMITATION ON APPOINTMENT OF TREATING PHYSICIANS.—A treating physician who directly delivered the care, treatment, or service involved in the denial referred to in subparagraph (A) or that is provided the patient is the subject of a cause of action by a participant or beneficiary under subsection (n) or section 514(d) may not be designated as a designated decisionmaker with respect to such participant or beneficiary.

On page 162, lines 19 and 20, strike ‘‘(i) or (A)’’ and insert ‘‘(i) or (A)’’.

On page 163, line 8, strike ‘‘(iii)’’ and ‘‘(i)’’ and insert ‘‘(i)’’.

On page 170, between lines 21 and 22, insert the following:

(A) PROTECTION OF THE HIPPOCRATIC OATH.

(1) Provide notice to each participant, beneficiary, or enrollee that the physician treats of whether or not the physician has taken an oath to uphold the Hippocratic Oath.

(2) In the case of a physician who notifies such participant, beneficiary, or enrollee...
that the physician does not uphold any part of
the Oath, disclose the part of the Oath to
which he or she does not subscribe.
(b) SPECIFIC AREAS OF DISCLOSURE.—A phys-
ician who fails to engage in physical rela-
tionships with his or her patients.
(1) That the physician does not provide
the State to purchase
State to provide refundable tax credits to en-
award the amount described in paragraph (2)
ployee Retirement Income Security Act of
awarded with respect to a cause of action
and that meets the applicable re-
quirements of law; or
(i) be used to provide a benefit for private
insurance that includes, at a minimum, cata-
strophic coverage.
(ii) be available to any resident of a State who—
(i) is without access to adequate health in-

surance through the resident’s employer; or
(II) is from a family with an income that is
less that 220 percent of the poverty line, is
not eligible for veteran’s health benefits, and
is younger than thirty-
(ii) be used to provide a benefit for private
insurance that includes, at a minimum, cata-
strophic coverage.
(i) In GENERAL.—A State shall have in
place a refundable tax credit, as described in
subsection (a)(1), not later than 2 years after
the date of enactment of the Bipartisan Pati-
ent Protection Act.
(ii) TRANSFER OF FUNDS.—A State that fails
to have a refundable tax credit in place as re-
quired by clause (i) shall transfer funds described
in section (a)(2) to the National Institutes of
Health.
SA 837. Mr. BROWNBACK submitted an amendment intended to be proposed
by him to the bill S. 1052, to amend the
Public Health Service Act and the Em-
ployee Retirement Income Security
Act of 1974 to protect consumers in
managed care plans and other health
coverage; which was ordered to lie on the
table; as follows:
On page 171, between lines 14 and 15, insert
the following:
(1) FREEDOM FROM EMPLOYER LIABILITY.—
In the case of a group health plan, or health
insurance coverage provided by a health
insurance issuer, that meets the requirements of
subsection (b)—
(1) an employer maintaining the plan or
entering into an arrangement for the cov-

erage provided by the issuer shall not be lia-
bler pursuant to any cause of action relating
to the provision of (or failure to provide, or
manner of provision of) benefits under any
health insurance coverage that may be se-
cured by participants, beneficiaries, or en-
rollees; and
(2) there shall be no right of recovery, in-
demnity or contribution by a person against
such an employer (or an employee of such an
employer acting within the scope of employ-
ment) for damages assessed against the per-
son pursuant to any such cause of action.
(b) REQUIREMENTS.—A group health plan or
health insurance coverage provided by a
health insurance issuer meets the require-
ments of this subsection if each trustee of the
trust—
(A) is not a related party;
(B) does not have a material familial, fi-
nancial, or professional relationship with
such a party; and
(C) does not otherwise have a conflict of
interest with such a party (as determined under
the laws of the State in which the trust is
formed or administered).
(2) EXCEPTION FOR REASONABLE COMPENSA-
TION.—Nothing in paragraph (1) shall be con-
strued to prohibit receipt by a trustee of the
separate trust of compensation from the
issuer for the conduct of the trustee’s du-
ties as trustee, except that any such compen-
sation—
(A) may not exceed a reasonable level; and
(B) may not be contingent on any decision
rendered by the trustee in the exercise of the
trustee’s duties.
(c) RELATED PARTY.—For purposes of this
subsection, the term “related party” means,
in connection with a separate trust forming
a part of the plan or the arrangement for
such coverage, the plan sponsor; any
health insurance issuer offering the cov-

erage involved; any fiduciary (except as
provided in subsection (c)(2)) officer, direc-
tor, or employee of such plan, plan sponsor,
or issuer.
(d) RULES OF CONSTRUCTION.—
(1) ADDITIONAL EMPLOYER CONTRIBUTIONS
PROHIBITED.—The requirements of this sec-
tion shall not be treated as not met solely
because a participant, beneficiary, or en-
rollee may need to supplement employer
contributions provided under the plan or ar-

rangement for coverage for purposes of ac-
quiring health insurance coverage, in order
to acquire such coverage.
(2) LIABILITY OF OTHER PARTIES UNA-
FFECTED.—Nothing in this subsection shall be
construed to affect any cause of action in

SEC. 303. DEDICATION OF PUNITIVE DAMAGES
FOR THE PURCHASE OF HEALTH INS-
SURANCE COVERAGE.
(a) AWARD OF DAMAGES.—
(1) IN GENERAL.—If any penalty is assessed,
or non-economic or punitive damages are
awarded with respect to a cause of action
under section 502(m) or 514(d) of the Em-
ployee Retirement Income Security Act of
1974 (as added by section 302), the court shall
award the amount described in paragraph (2)
to the State health insurance trust fund es-
established under subsection (b) for the State
in which the claim was filed to enable the
State to provide refundable tax credits to en-
able State residents to purchase health insurance coverage.
(2) AMOUNT.—The amount awarded to a
State under paragraph (1) shall consist of—
(A) any penalty assessed that is not award-
ed to the aggrieved participant or bene-
ficiary; and
(B) any non-economic or punitive damages
awarded in excess of $2,000,000.
(b) STATE REQUIREMENTS.—
(1) STATE HEALTH INSURANCE TRUST FUND.—
A State that desires to receive payments under
subsection (a)(2) shall establish a State health
insurance trust fund.
(2) REFUNDABLE TAX CREDIT.—
(A) IN GENERAL.—The refundable tax credit
described in section 2804(a)(2) shall—
(i) be available to any resident of a State who—

SEC. 836. Mr. BROWNBACK submitted an amendment intended to be pro-
based on the requirements of section 303(b), the
issuing an amendment intended to be pro-
based on the requirements of section 303(b), the
issuing an amendment intended to be pro-

SEC. 203. DEDICATION OF PUNITIVE DAMAGES
FOR THE PURCHASE OF HEALTH IN-
SURANCE COVERAGE.
(a) AWARD OF DAMAGES.—
(1) IN GENERAL.—If any penalty is assessed,
or non-economic or punitive damages are
awarded with respect to a cause of action
under section 502(m) or 514(d) of the Em-
ployee Retirement Income Security Act of
1974 (as added by section 302), the court shall
award the amount described in paragraph (2)
to the State health insurance trust fund es-
established under subsection (b) for the State
in which the claim was filed to enable the
State to provide refundable tax credits to en-
able State residents to purchase health insurance coverage.
(2) AMOUNT.—The amount awarded to a
State under paragraph (1) shall consist of—
(A) any penalty assessed that is not award-
ed to the aggrieved participant or bene-
ficiary; and
(B) any non-economic or punitive damages
awarded in excess of $2,000,000.
(b) STATE REQUIREMENTS.—
(1) STATE HEALTH INSURANCE TRUST FUND.—
A State that desires to receive payments under
subsection (a)(2) shall establish a State health
insurance trust fund.
(2) REFUNDABLE TAX CREDIT.—
(A) IN GENERAL.—The refundable tax credit
described in section 2804(a)(2) shall—
(i) be available to any resident of a State who—

connection with the health insurance coverage referred to in subsection (a)(1) against the plan sponsor or health insurance issuer providing such coverage or any other party (other than the employee).

(1) DEFINITIONS.—The definitions contained in section 2791 of the Public Health Service Act (42 U.S.C. 300gg–91) shall apply for purposes of this section.

(g) REGULATIONS.—The Secretary of Health and Human Services, the Secretary of Labor, and the Secretary of the Treasury may issue such regulations as are necessary to carry out the provisions of this section. Such regulations shall be issued consistent with section 104 of the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. 300gg–92 note).

SA 838. Mrs. HUTCHISON submitted an amendment intended to be proposed by her to the bill S. 1052, to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage plans or issuers ordered to lie on the table; as follows:

Beginning on page 98, strike line 2 and all that follows through line 21 on page 109, and insert the following:

SEC. 121. PATIENT ACCESS TO INFORMATION.

(A) REQUIREMENT.—

(1) DISCLOSURE.—

(A) IN GENERAL.—A group health plan, and a health insurance issuer that provides coverage in connection with health insurance coverage, shall provide for the disclosure to participants, beneficiaries, and enrollees—

(i) of the information described in subsection (b) at the time of the initial enrollment of the participant, beneficiary, or enrollee under the plan or coverage;

(ii) of such information on an annual basis;

(iii) in conjunction with the election period of the plan or coverage if the plan or coverage has such an election period; or

(iv) in the case of a plan or coverage that does not have an election period, in conjunction with the beginning of the plan or coverage year;

(iv) of information relating to any material reduction in the benefits or information described in paragraph (1), (2), or (3) of subsection (b) of section 116 that the health plan in which the participant, beneficiary, or enrollee is enrolled provides, if the reduction or information is communicated to participants, beneficiaries, and enrollees under subtitle A in obtaining access to information about plan or coverage benefits, including—

(1) DISENROLLMENT.—Information relating to the disenrollment of a participant, beneficiary, or enrollee.

(2) BENEFITS.—A description of the covered benefits, including—

(A) any in- and out-of-network benefits;

(B) specific preventive services covered under the plan or coverage if such services are covered;

(C) any specific exclusions or express limitations of benefits described in section 104(b)(3)(C); and

(D) any other benefit limitations, including any annual or lifetime benefit limits and any monetary limits or limits on the number of visits, days, or services, and any specific coverage exclusions; and

(E) any definition of medical necessity used in making coverage determinations by the plan, issuer, or claims administrator.

(3) COST SHARING.—A description of any cost-sharing requirements, including—

(A) any premiums, deductibles, coinsurance, copayment amounts, and liability for balance billing, for which the participant, beneficiary, or enrollee will be responsible under each option available under the plan or issuer provides such coverage through a network of providers that includes, at a minimum, the name, address, and telephone number of primary care providers, and information about how to inquire whether a participating provider is currently accepting new patients, and the State licensure status of, the name, number, and participating health care facilities, and, if available, the education, training, specialty qualifications or certifications of such professionals.

(3) CHOICE OF PRIMARY CARE PROVIDER.—A description of any requirements and procedures to be used by participants, beneficiaries, and enrollees in selecting, accessing, or changing their primary care provider, including providers both within and outside of the network (if the plan or issuer permits out-of-network services), and the right to seek services from a health care provider under section 116 for a participant, beneficiary, or enrollee who is a child if such section applies.

(4) PREAUTHORIZATION REQUIREMENTS.—A description of the requirements and procedures to be used to obtain preauthorization for health services, if such preauthorization is required.

(5) EXPERIMENTAL AND INVESTIGATIONAL TREATMENTS.—A description of the process for determining whether a particular item, service, or treatment is considered experimental or investigational, and the circumstances under which such treatments are covered by the plan or issuer.

(6) SPECIALTY CARE.—A description of the requirements and procedures to be used by participants, beneficiaries, and enrollees in obtaining specialty care and obtaining item, service, or treatment is considered experimental or investigational, and the circumstances under which such treatment is covered by the plan or issuer.

(7) CLINICAL TRIALS.—A description of the circumstances and conditions under which participation in clinical trials is covered under the terms and conditions of the plan or coverage, and the right to obtain coverage for approved clinical trials under section 119 if such section applies.

(8) PRESCRIPTION DRUGS.—To the extent the plan or issuer provides coverage for prescription drugs, a statement of whether such coverage is limited to drugs included in a formulary, a description of any provisions and cost-sharing required for the purchase of off-formulary medications, and a description of the rights of participants, beneficiaries, and enrollees in obtaining access to prescription drugs under section 114 if such section applies.

(9) EMERGENCY SERVICES.—A summary of the rules and procedures for accessing emergency services, including the right of a participant, beneficiary, or enrollee to obtain emergency services under the prudent lay person standard under the plan or issuer provides such services, and any educational information that the plan or issuer may provide regarding the appropriate use of emergency services.

(10) CLAIMS AND APPEALS.—A description of the rules and procedures for filing and processing claims and appeals, including the right of participants, beneficiaries, and enrollees under subsection (a) to obtain information about plan or coverage benefits, filing a claim for benefits, and appealing the denial of coverage or benefit determination, and the right of participants, beneficiaries, and enrollees seeking information about plan or coverage benefits and services, payment of a claim, or authorization for services and treatment. Notice of whether the benefits under the plan or coverage are covered under a contract or policy of insurance issued by an issuer, or whether benefits are provided directly by the plan sponsor who bears the insurance risk.

(11) TRANSLATION SERVICES.—A summary description of any translation services (including the availability of printed information in languages other than English, audio tapes, or information in Braille) that are available for non-English speakers and participants, beneficiaries, and enrollees with communication disabilities.
and a description of how to access these items or services.

(14) ACCREDITATION INFORMATION.—Any information that is made public by accrediting organizations of accreditation of plans if the plan or issuer is accredited, or any additional quality indicators (such as the results of enrollee satisfaction surveys) that the plans or issuers publicize, or are available to participants, beneficiaries, and enrollees.

(15) NOTICE OF REQUIREMENTS.—A description of procedures used and requirements (including circumstances, timeframes, and appeals rights) under any utilization review program under sections 181 and 182, including any drug formulary program under section 118.

(16) UTILIZATION REVIEW ACTIVITIES.—A description of procedures used and requirements (including circumstances, timeframes, and appeals rights) under any utilization review program under sections 181 and 182, including any drug formulary program under section 118.

(17) EXTERNAL APPEALS INFORMATION.—Aggregate information on the number and outcomes of external medical reviews, relative to the sample size (such as the number of covered lives) under the plan or the coverage of the issuer.

(d) RULES OF CONSTRUCTION.—Nothing in this section shall be construed to prohibit a plan or issuer from disclosing information that is made public by accrediting organizations in the process of accreditation or from disclosing information that is made public by accrediting organizations.

SA 840. MR. ENZI proposed an amendment to the bill S. 1052, to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage; as follows:

On page 172, between lines 15 and 16, insert the following:

SEC. 304. IMMUNITY FROM LIABILITY FOR PROVISION OF INSURANCE OPTIONS.

(a) IN GENERAL.—Section 502 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132), as amended by section 302, is further amended by adding at the end the following:

"(1) IN GENERAL.—No liability shall arise under section (n) with respect to a participant or beneficiary against a group health plan described in paragraph (4) if such plan shall be treated as having the coverage option described in paragraph (2).

"(2) COVERAGE OPTION.—The coverage option described in this paragraph is one under which the group health plan, at the time of enrollment or as provided for in paragraph (3), provides the participant or beneficiary with the option to—

"(A) enroll in the group health plan; or

"(B) receive an individual benefit payment, in an amount equal to the amount that would be contributed on behalf of the participant or beneficiary by the plan sponsor for enrollment in the group health plan (as determined by the plan actuary, including factors related to participant or beneficiary's age and health status), for use by the participant or beneficiary in obtaining health insurance coverage.

"(3) TIME OF OFFERING OPTION.—The coverage option described in paragraph (2) shall be offered to a participant or beneficiary who—

"(A) during any special enrollment period provided by the group health plan after the date of enactment of the Patients' Bill of Rights Plus Act for purposes of offering such coverage option;

"(B) receive a payment for coverage under a fully insured health plan;

"(C) receive an individual benefit payment, in an amount equal to the amount that would be contributed on behalf of the participant or beneficiary by the plan sponsor for enrollment in the group health plan (as determined by the plan actuary, including factors related to participant or beneficiary's age and health status), for use by the participant or beneficiary in obtaining health insurance coverage.

"(4) GROUP HEALTH PLAN DESCRIBED.—A group health plan described in this paragraph is a group health plan that is self-insured and self-administered prior to the general effective date described in section 401(a)(1) of the Bipartisan Patient Protection Act."

(b) AMENDMENTS TO INTERNAL REVENUE CODE.—

(1) EXCLUSION FROM INCOME.—Section 106 of the Internal Revenue Code of 1986 (relating to contributions by employer to accident and health plans) is amended by adding at the end the following:

"(d) TREATMENT OF CERTAIN COVERAGE OPTIONS.—No amount shall be included in the gross income of an individual by reason of—

"(1) the individual's right to elect a coverage option described in section 502(o)(2) of the Employee Retirement Income Security Act of 1974, or

"(2) the receipt by the individual of an individual benefit payment described in section 502(o)(2)(A) of such Act."

(2) NONDISCRIMINATION RULES.—Section 106(c) of such Code (relating to insured medical expense reimbursement plans) is amended by adding at the end the following:

"(11) TREATMENT OF CERTAIN COVERAGE OPTIONS.—If a group health plan offers the coverage option described in section 502(o)(2) of the Employee Retirement Income Security Act of 1974, enrollees who select such option shall be treated as eligible to benefit under the plan and the plan shall be treated as benefitting such employees."

SA 841. MR. SANTORUM submitted an amendment intended to be proposed by him to the bill S. 1052, to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage; which was ordered to lie on the table; as follows:

At the end, add the following:

SEC. 9511. HEALTH INSURANCE REFUNDABLE CREDITS TO ESTABLISH A TRUST FUND FOR THE UNINSURED FINANCED WITH CERTAIN CIVIL MONETARY PENALTIES.

(a) PAYMENT IN GENERAL.—To the Secretary of the Treasury.

(1) IN GENERAL.—Notwithstanding any other provision of law, 75 percent of any civil monetary penalty (as defined under any other provision of law, or amendment made by this Act) may only be awarded to the Secretary of the Treasury.

(b) ESTABLISHMENT OF TRUST FUND.—

(1) IN GENERAL.—Subchapter A of chapter 96 of the Internal Revenue Code (relating to trust fund code) is amended by adding at the end the following new section:

"SEC. 9511. HEALTH INSURANCE REFUNDABLE CREDITS TRUST FUND.

"(a) CREATION OF TRUST FUND.—There is hereby established in the Treasury of the United States a trust fund to be known as the 'Health Insurance Refundable Credits Trust Fund', consisting of such amounts as may be—

"(1) appropriated to such Trust Fund as provided in this section, or

"(2) credited to such Trust Fund as provided in section 9602(b).

"(b) TRANSFER TO TRUST FUND OF AMOUNTS EQUIVALENT TO CERTAIN AWARDS.—There are hereby appropriated to the Health Insurance Refundable Credits Trust Fund amounts equal to the awards made by the Secretary of the Treasury under section 9510(a) of such Act.

"(c) EXPENDITURES FROM TRUST FUND.—Amounts in the Health Insurance Refundable Credits Trust Fund shall be available to fund the appropriations under paragraph (2) of section 9602(b) of such Act, the title 31 United States Code, with respect to any refundable tax credit to assist uninsured individuals and families with the purchase of health insurance under this title.

(2) CLERICAL AMENDMENT.—The table of sections for subsection A of chapter 96 of the
SA 842. Mr. DeWINE submitted an amendment intended to be proposed by him to the bill S. 1052, to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage; as follows:

On page 171, between lines 14 and 15, insert the following:

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SEC. 303. LIMITATION ON CERTAIN CLASS ACTION LITIGATION.
(a) ERIKA.—Section 502 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132), as amended by section 302, is further amended by adding at the end the following:
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'(o) LIMITATION ON CLASS ACTION LITIGATION.—

'(1) IN GENERAL.—Any claim or cause of action that is brought under this section in connection with a group health plan, or health insurance coverage issued in connection with a group health plan, as a class action, derivative action, or as an action on behalf of any group of 2 or more claimants, may be maintained only if the class, the derivative claimant, or the group of claimants is limited to the participants or beneficiaries of a group health plan established by only 1 plan sponsor. No action maintained by such class, such derivative claimant, or such group of claimants may be joined in the same proceeding with any action maintained by another class, derivative claimant, or group of claimants or consolidated for any purpose with any other proceeding. In this paragraph, the terms 'group health plan' and 'health insurance coverage' have the meanings given such terms in section 733.''.
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SA 844. Mr. SPECTER proposed an amendment to the bill S. 1052, to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage; as follows:

On page 153, strike line 9 and all that follows through page 154, line 2, and insert the following:

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'(a) CLASS ACTIONS CONSOLIDATED FOR ANY PURPOSE.—In any action brought under this section, any exclusion of an exact medical condition that is the subject of such action occurred.
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SA 845. Mr. GRASSLEY proposed an amendment to the bill S. 1052, to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage; as follows:

SA 846. Mr. NICKLES (for himself and Mr. ENSIGN) proposed an amendment to the bill S. 1052, to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage; as follows:

On page 179, strike lines 1 through 14.

SA 847. Mr. BROWNBACK proposed an amendment to the bill S. 1052, to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage; as follows:

At the end of the bill, add the following:

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TITLE —HUMAN—GERMLINE GENE MODIFICATION

SEC. 01. SHORT TITLE.

This title may be cited as the "Human Germline Gene Modification Prevention Act of 2001".
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SEC. 02. FINDINGS.

Congress makes the following findings:

(1) Human Germline gene modification is not needed to save lives, or alleviate suffering of existing people. Its target population is "prospective people" who have not been conceived.

(2) The cultural impact of treating humans as biologically perfectible artifacts would be entirely negative. People who fall short of some technically achievable ideal would be seen as "damaged goods", while the standards for what is genetically desirable will be those of the society's economically and politically dominant groups. This will only increase prejudice and discrimination in a society where too many such prejudices already exist.

(3) There is no way to be accountable to those affected by these decisions who were harmed or stigmatized by wrongful or unsuccessful human germline modifications of themselves or their ancestors.

(4) The effects of human germline manipulation would not be fully known for generations, if ever, meaning that countless people will have been exposed to harm probably often fatal as the result of only a few instances of germline manipulations.

(5) All people have the right to have been conceived.

SEC. 03. PROHIBITION ON HUMAN GERMLINE GENE MODIFICATION

(a) In General.—Title 18, United States Code, is amended by inserting after chapter 15, the following:

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Chapter 16—Germline Gene Modification

Sec. 301. Definitions.

Sec. 302. Prohibition on germline gene modification.
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\*301. Definitions.

In this chapter:

(1) A noun germline gene modification.—

The term "human germline modification" means the intentional modification of DNA in any human cell (including human eggs, sperm, protoplasts, embryos, or any precursor cells that will differentiate into gametes or can be manipulated to do so) for the purpose of producing a genetic modification that can be passed on to future individuals, including inserting, deleting, or altering DNA from any source, and in any form, such as nuclei, chromosomes, nucleic acids, and synthetic DNA.

The term does not include any modification of cells that are not a part of and will not be used to create human embryos. Nor does it include DNA involved in the normal process of sexual reproduction.

(2) Human haploid cell.—The term "haploid cell" means a cell that contains only a single copy of each of the human chromosomes, such as eggs, sperm, and their precursors.

(3) Somatic cell.—The term "somatic cell" means a diploid cell (having two sets of the chromosomes of almost all body cells) obtained or derived from a living or deceased human body, or any stage of development.

Somatic cells are diploid cells that are not precursors of either eggs or sperm. A genetic modification of somatic cells is therefore not germline genetic modification.

Rule of construction: Nothing in this Act is intended to limit somatic cell gene therapy, or to effect research involving human pluripotent stem cells.

\*302. Prohibition on germline gene modification.

(a) In General.—It shall be unlawful for any person or entity, public or private, in or affecting interstate commerce, to:

(1) to intentionally participate in an attempt to perform human germline gene modification; or

(2) to intentionally participate in an attempt to perform human germline gene modification; or

(b) Importation.—It shall be unlawful for any person or entity, public or private, to import the product of human germline gene modification for any purpose.

(c) Penalties.—

(1) In general.—Any person or entity that is convicted of violating any provision of this section shall be fined under this section or imprisoned not more than 10 years, or both.

(2) Civil penalty.—Any person or entity that is convicted of violating any provision of this section shall be subject to, in the case of a violation that involves the derivation of a pecuniary gain, a civil penalty of not less than $1,000,000 and not more than an amount equal to the amount of the gross gain multiplied by 2, if that amount is greater than $1,000,000.

(b) Clerical Amendment.—The table of chapters for part I of title 18, United States Code, is amended by inserting after the item relating to chapter 15 the following:

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SA 848. Mr. ENSIGN proposed an amendment to the bill S. 1052, to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage; as follows:

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At the end, add the following:
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(1) GENETIC INFORMATION.—The term "genetic information" means information about genes, gene products, or inherited characteristics that may derive from an individual or a family member of such individual (including information about a request for or the receipt of genetic services by such individual or a family member of such individual).

(2) GENETIC SERVICES.—The term "genetic services" means health services, including genetic tests, provided to obtain, assess, or interpret genetic information for diagnostic or health-related purposes, and for genetic education and counseling.

(3) GENETIC TEST.—The term "genetic test" means the analysis of human DNA, RNA, chromosomes, proteins, and certain metabolites in order to identify genotypes, mutations, or chromosomal changes.

(4) GROUP HEALTH PLAN, HEALTH INSURANCE ISSUER.—The terms "group health plan" and "health insurance issuer" include a third party administrator or other person acting for or on behalf of such plan or issuer.

(b) Non-Discrimination.—

(A) IN GENERAL.—The term "predictive genetic information" means—

(i) information about an individual's genetic tests;

(ii) information about genetic tests of family members of the individual;

(iii) information about the occurrence of a disease or disorder in family members.

(B) LIMITATIONS.—The term "predictive genetic information" shall not include—

(i) information about the sex or age of the individual;

(ii) information about chemical, blood, or urine analyses of the individual, unless these analyses are genetic tests; or

(iii) information about physical exams of the individual, information relevant to determining the current health status of the individual.

(c) Penalties.—

(A) NA PENALTY.—Any person or entity that is convicted of violating any provision of this section shall be fined under this section or imprisoned not more than 10 years, or both.

(B) CIVIL PENALTY.—Any person or entity that is convicted of violating any provision of this section shall be subject to, in the case of a violation that involves the derivation of a pecuniary gain, a civil penalty of not less than $1,000,000 and not more than an amount equal to the amount of the gross gain multiplied by 2, if that amount is greater than $1,000,000.

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(4) Collection of Predictive Genetic Information.—Except as provided in subsections (c) and (d), a group health plan, or a health insurance issuer offering health insurance coverage, may not request, collect, or purchase predictive genetic information concerning an individual (or information about a request for or the receipt of genetic services by such individual or a family member of such individual).

(5) Disclosure of Predictive Genetic Information.—A group health plan, or a health insurance issuer offering health insurance coverage, shall not disclose predictive genetic information about an individual (or information about a request for or the receipt of genetic services by such individual or a family member of such individual) to—

(A) any entity that is a member of the same corporate family, such as an issuer or plan sponsor of such group health plan;

(B) any other group health plan or health insurance issuer or any insurance agent, third party administrator, or other person subject to regulation under State insurance laws;

(C) the Medical Information Bureau or any other provider of medical scrutiny services, complex data, or algorithms that may be used to identify genetic factors on the basis of medical claims data;

(D) the individual’s employer or any plan sponsor of such group health plan;

(E) any other person the Secretary may specify in regulations.

(6) Information for Payment for Genetic Services.—

(1) In General.—With respect to payment for genetic services conducted concerning an individual or to the extent that the subsections and sections of this title referred to in paragraph (3) are applicable, the provisions of section 2722 of the Public Health Service Act (42 U.S.C. 300gg–21(b)(2)) are amended by—

(a) in subsection (b), by striking "the prevention of any discrimination on the basis of genetic information" and inserting "the prevention of genetic information-related discrimination on the basis of genetic information";

(b) in subsection (c) by striking paragraphs (B), (C), and (D) and inserting the following:

"(B) genetic information is defined in section 300gg–901 of the Public Health Service Act (42 U.S.C. 300gg–901);"

(c) by redesignating subsection (d) as subsection (e); and

(d) by inserting after subsection (c) the following:

"(e) the Secretary shall not be liable for a claim based on genetic information that—

(i) is protected by Federal, State, or local law; or

(ii) is not otherwise subject to Federal, State, or local law; or

(iii) is protected by the provisions of section 122 of the Bipartisan Patient Protection Act;"

(f) in subsection (e), by striking "does not discriminate against any individual on the basis of genetic information" and inserting "does not discriminate against any individual on the basis of genetic information-related discrimination;"

(g) in subsection (f), by adding at the end the following:

"(3) Election Not Applicable to Requirements Concerning Genetic Information.—Section 2722(b)(2) of the Public Health Service Act (42 U.S.C. 300gg–21(b)(2)) is amended—

(1) in subparagraph (A), by striking "If the plan sponsor" inserting "Except as provided in subparagraph (D), if the plan sponsor"; and

(2) by adding at the end the following:

"(D) ELECTION NOT APPLICABLE TO REQUIREMENTS CONCERNING GENETIC INFORMATION.—The provisions of paragraphs (A), (B), (C), and (D) of section 122 of the Bipartisan Patient Protection and Affordable Care Act (42 U.S.C. 279b–12) shall not apply to the following:

(1) any request for or the receipt of genetic services by an individual or a family member of such individual; and

(2) any request for or the receipt of genetic services by an individual or a family member of such individual;"

(h) in subsection (g), by redesignating paragraph (2) as paragraph (3) and inserting after paragraph (2) the following:

"(3) in paragraph (2), the term "covered provision" means section 502 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132) or section 2722 of the Public Health Service Act (42 U.S.C. 300gg–21)."

(2) Collection of, Disclosure Authorized by Individual.—The provisions of paragraphs (4) and (5) of subsection (b) shall not apply to a request for or the receipt of genetic services by an individual, or to the collection or disclosure of predictive genetic information to the extent that such request or receipt is for the purpose of providing health care treatment (including the costs of expert witnesses).
Foreign Relations be authorized to meet during the session of the Senate on Thursday, June 28, 2001, at 2 p.m. to hold a hearing titled, “Zimbabwe’s Political and Economic Crisis” as follows:

WITNESS

Panel 1: Walter H. Kansteiner, Assistant Secretary of State for African Affairs, Department of State, Washington, DC.
Panel 2: Professor Robert Rotberg, President, World Peace Foundation, Cambridge, MA.
Yves Sorokobi, Africa Director, Committee to Protect Journalists, New York, NY.
Mr. John Prendergast, International Crisis Group, Washington, DC.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet Thursday, June 28, 2001, at 9:30 a.m. for a hearing regarding “The Impact of Electric Industry Restructuring on System Reliability.”

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON RULES AND ADMINISTRATION

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be authorized to meet during the session of the Senate on Thursday, June 28, 2001, at 10 a.m., to receive testimony from Members of the House of Representatives on election reform.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON VETERANS’ AFFAIRS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Veterans’ Affairs be authorized to meet during the session of the Senate on Thursday, June 28, 2001, at 10 a.m., to receive testimony from Members of the House of Representatives on election reform.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during these sessions of the Senate on June 28, 2001, to conduct a hearing on “The Reauthorization of the Iran and Libya Sanctions Act.”

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. REID. 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 Thursday, June 28 at 9:30 a.m. to conduct an oversight hearing. The Committee will receive testimony on science and technology studies on climate change.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, June 28, 2001, at 2 p.m. to hold a hearing titled, “Zimbabwe’s Political and Economic Crisis” as follows:

WITNESS

Panel 1: Walter H. Kansteiner, Assistant Secretary of State for African Affairs, Department of State, Washington, DC.
Panel 2: Professor Robert Rotberg, President, World Peace Foundation, Cambridge, MA.
Yves Sorokobi, Africa Director, Committee to Protect Journalists, New York, NY.
Mr. John Prendergast, International Crisis Group, Washington, DC.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet Thursday, June 28, 2001, at 9:30 a.m. for a hearing regarding “The Impact of Electric Industry Restructuring on System Reliability.”

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON RULES AND ADMINISTRATION

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be authorized to meet during the session of the Senate on Thursday, June 28, 2001, at 10 a.m., to receive testimony from Members of the House of Representatives on election reform.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON VETERANS’ AFFAIRS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Veterans’ Affairs be authorized to meet during the session of the Senate on Thursday, June 28, 2001, at 10 a.m., to receive testimony from Members of the House of Representatives on election reform.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during these sessions of the Senate on June 28, 2001, to conduct a hearing on “The Reauthorization of the Iran and Libya Sanctions Act.”

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. REID. 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 Thursday, June 28 at 9:30 a.m. to conduct an oversight hearing. The Committee will receive testimony on science and technology studies on climate change.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on
program. The program is set to expire in 2002. Sponsor: Senator AKAKA.

S. 409: To clarify the standards for compensation for Persian Gulf veterans suffering from certain undiagnosed illnesses and expand Persian Gulf compensation presumption. Sponsor: Senator HUTCHISON.

S. 5: To establish a presumption of service connection for veterans with hepatitis C. Sponsor: Senator SNOWE.

S. 662: To authorize the Secretary of Veterans Affairs to furnish headstones or markers for marked graves of, or to otherwise commemorate, certain individuals if buried after November 1, 1990. Sponsor: Senator MIKULSKI.

S. 781: To extend the authority for housing loan guarantees for members of the Selected Reserve now set to expire in 2007. Sponsor: Senator AKAKA.

S. 912: To increase burial benefits for veterans from $300 to $1,135 and plot allowances for veterans from $300 to $1,135 and from $300 to $1,135. Sponsor: Senator MIKULSKI.

S. 937: To permit the Secretary of the Treasury to transfer to thequeryString, educational assistance from members of the Armed Forces to their dependents during and after service. Sponsor: Senator CLELAND.

The PRESIDING OFFICER. Without objection, it is so ordered.

SPECIAL COMMITTEE ON AGING

Mr. REID. Mr. President, I ask unanimous consent that the Special Committee on Aging be authorized to meet on Thursday, June 28, 2001, from 10 a.m.–12 p.m. in Dirksen 226 for the purpose of conducting a hearing. Sponsor: Senator MIKULSKI.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SURFACE TRANSPORTATION AND MERCHANT MARINE

Mr. REID. Mr. President, I ask unanimous consent that the Subcommittee on Surface Transportation and Merchant Marine of the Committee on Commerce, Science, and Transportation be authorized to meet on June 28, 2001, at 10 a.m., on Surface Transportation Board Rail Merger Rules. Sponsor: Senator CLELAND.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS CONSENT AGREEMENT—S. 1077

Mr. REID. Mr. President, I ask unanimous consent that at 1 p.m., Monday, July 9, the Senate proceed to the consideration of Calendar No. 76, S. 1077, the supplemental appropriations bill; that the bill be considered under the following limitations: that the only first-degree amendments in order other than a managers’ amendment be the following list which is at the desk; that all listed amendments must be offered by 6 p.m. Monday, July 9, with the exception of the managers’ amendment; that the managers or designees be authorized to submit a listed first-degree amendment in order for that amendment to qualify under the deadline; that any listed first-degree amendment be subject to relevant second-degree amendments; that any time limitation for debate on a first-degree amendment specified in this agreement then a second-degree amendment to that amendment would be accorded the same time limit; that the point of order raised in opposition of the above amendments, the bill be advanced to third reading and the Senate then proceed to the consideration of Calendar No. 77, H.R. 2216, that all after the enacting clause be stricken and the text inserted in lieu thereof; that the bill be advanced to third reading and the Senate then vote on passage of the bill, with no intervening action or debate; finally, I ask unanimous consent that S. 1077 be returned to the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

The list of amendments is as follows: Biden amendment re: Relevant, Bond amendment re: Department of Defense, Bond amendment re: Corp of Engineers, Boxer amendment re: Path 15, Byrd amendment re: Relevant, Byrd amendment re: Relevant to any on list, Cleland amendment re: B-1 bomber transportation, Conrad amendment re: Turtle Mountain Indian Reservation, Conrad amendment re: Devil’s Lake, Conrad amendment re: Relevant, Craig amendment re: Relevant, Daschle amendment re: Relevant, Daschle amendment re: Relevant to any on list, Feingold amendment re: Relevant, Feingold amendment re: Klamath Basin, Feinstein amendment re: Klamath Basin, Hutchinson (AR) amendment re: AR ice storms, Inouye amendment re: Relevant, Johnson amendment re: Relevant, Lott amendment re: Relevant, Lott amendment re: Relevant to any on list, McCain amendment re: Defense, McCain amendment re: Dept. of Defense with a time limit of 2 hours equally divided and controlled, Nickles amendment re: Relevant, Miller amendment re: B-1 bomber transportation, Reid (NV) amendment re: Relevant, Reid (NV) amendment re: Relevant to any on list, Roberts amendment re: B-1 bombers, Schumer amendment re: IRS, Schumer amendment re: Relevant, (4) Smith (OR) amendment re: Klamath Falls, Stevens amendment re: Relevant, Stevens amendment re: Relevant to any on list, Voinovich amendment re: Social Security Lock Box, Warner amendment re: Building naming, Wellstone amendment re: LIBRAP.

ORDERS FOR FRIDAY, JUNE 29, 2001

Mr. REID. Mr. President, I ask unanimous consent that when the Senate completes its business tonight, it adjourn until the hour of 9 a.m. tomorrow, Friday, June 29, 2001. Further, I ask unanimous consent that on Friday, immediately following the prayer and the pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate resume consideration of the Patients’ Bill of Rights. The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. REID. Mr. President, on behalf of Senator DASCHEY, for tomorrow we will convene at 9 a.m. and that shortly thereafter, as soon as the prayer and pledge are completed, we will resume consideration of the Patients’ Bill of Rights, with the votes as outlined previously in the unanimously consent request.

ADJOURNMENT UNTIL 9 A.M. TOMORROW

Mr. REID. 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 10:30 p.m., adjourned until Friday, June 29, 2001, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate June 28, 2001:

DEPARTMENT OF COMMERCE

LINDA MYSILFON CONLIN, OF NEW JERSEY, AS AN ASSISTANT SECRETARY OF COMMERCE, VICE MICHAEL J. COFFEA, RESIGNED.

DEPARTMENT OF ENERGY

DONALD B. BRUHLLETT, OF LOUISIANA, AS AN ASSISTANT SECRETARY OF ENERGY CONGREGATIONAL AND INTERGOVERNMENTAL AFFAIRS, VICE JOHN C. ANGELL, RESIGNED.

ENVIRONMENTAL PROTECTION AGENCY

DONALD R. SCHROGRUDIS, OF OHIO, AS THE ASSISTANT ADMINISTRATOR FOR THE ENVIRONMENTAL PROTECTION AGENCY, VICE STEVEN ALAN HERMAN, RESIGNED.

DEPARTMENT OF STATE


INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT

CAROLE BROOKINS, OF IOWA, AS THE UNITED STATES EXECUTIVE DIRECTOR OF THE INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT FOR A TERM OF TWO YEARS, VICE JAN JUREC, THER EXPIGNED.

DEPARTMENT OF DEFENSE

H. T. JOHNSON, OF VIRGINIA, AS AN ASSISTANT SECRETARY OF THE NAVY, VICE ROBERT B. FIER, JR., RESIGNED.

In the Air Force

The following named officers for appointment in the United States air force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 801:

To be lieutenant general

LT. GEN PAUL V. HESTER, 0600

The following named officer for appointment in the United States air force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 801:

To be lieutenant general

MAJ GEN LANIER L. SMITH, 0600

The following named officer for appointment in the United States air force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 801:

To be lieutenant general

MAJ GEN THOMAS O. WASKOW, 0000
The hero of the country's poor, his consti-
tuency carried him to an overwhelming
victory first in 1998, and then again in 2000.
Chavez speaks about Chavez's support for Latin
American interests.

Chavez also has visited recently with Sadd-
dam Hussein and Fidel Castro, criticized Plan
Colombia and denounced Washington's $1.3
billion funding of it, which has heightened
Washington's edginess over the new status
quo. But all of us must keep in mind that it is
all but certain that the Venezuelan president's
vision for a more unified Latin America will not
disappear, and is shared by millions of other
Latin Americans.

It is clear that patience is being called for
as well as a sense of proportionality. After all,
Chavez, the present time poses no danger to
total United States interests, and we risk de-
structive backlash from Latin America if the
United States acts too harshly against the
Venezuelan leader. Moreover, many of his
condemnations of the development model are
also being echoed by dissident IMF and World
Bank officials.

The following research memorandum was
authored by Pamela Spivack and Jill Freeman,
Research Associates with the Washington-
based Council of Hemispheric Affairs (COHA),
an organization that has been long committed
to addressing issues associated with democ-
acy and human rights throughout the Hemi-
sphere. COHA's researchers have often spo-
ken out about controversial United States poli-
cies towards Latin American countries, and we
have all benefited over the years from such in-
sights. The attached article, which will appear
in this organization's estimable biweekly publi-
cation, The Washington Report on the Hemi-
sphere, addresses United States-Venezuelan
relations and how Chavez's rhetoric has wor-
rried and concerned Washington. The article
delves into two points: escalating tensions
toward the United States as well as Ven-
ezuela's status as the world's third largest oil
exporter are potential causes for the United
States to reexamine its benign policies toward
Caracas, emphasizing that caution and mod-
eration are now required.

[From the Washington Report on the
Hemisphere, June 25, 2001]

CAPITAL WATCH: PROSPECTS FOR U.S.
VENEZUELAN RELATIONS IN THE CHAVEZ ERA

As concern grows in Washington over
President Hugo Chavez's domestic and for-
eign policy moves, relations with Caracas
could soon being to seriously erode. Chavez's
leftist Bolivarian rhetoric, his opposition to
U.S. antidrug initiatives in Colombia, his
close friendship with Fidel Castro, as well as
the country's status as a major supplier of
petroleum to the U.S., may persuade the ad-
ministration to reexamine its relatively doc-
tile policies towards Venezuela.

This Following research memorandum was
authored by Pamela Spivack and Jill Freeman,
Research Associates with the Washington-
based Council of Hemispheric Affairs (COHA),
an organization that has been long committed
to addressing issues associated with democ-
acy and human rights throughout the Hemi-
sphere, June 25, 2001]
barrels of oil a day, at an annual market price of $3 billion. By granting cheap credits and a barter system, the cost to Cuba will be substantially less. Increased oil revenues from exporting U.S. oil supports that fill the coffers ironically help to subsidize Cuba’s own consumption. Before his visit to Cuba, Chávez suggested, “We have no choice but to form an economic axis of power,” challenging U.S.-hemispheric dominance. Chávez’s declared objective is to generate good will for Venezuela throughout the region by offering similar preferential oil deals to many other Caribbean countries.

Despite climbing oil prices in the past two years, Venezuela actually suffers a victim of increased poverty, rising crime rates and a shrinking economy. Chávez has set out to expand the state oil company to provide more jobs. To fund this strategy, Venezuela will utilize its aggressive leadership in OPEC to sustain high world oil prices. With the U.S. importing 14 percent of its oil from Venezuela, Chávez bold strategy of maximizing profits to serve his policy purposes runs counter to U.S. interests.

Chávez also expanded his presidential powers to undermine the independent power of the judiciary, legislature, media and civic offices, all of which were known for their corruption and incompetence. Up to this point, Washington has restrained itself, implicitly adjusting to Chávez’s style of rule, a difficult position to maintain in light of the growing tide of social and political maneuvers in Latin America.

The Clinton administration overlooked Chávez’s political maneuvers in Latin America. Venezuela, a country in a semblance of amicable relations, some of his outcries evoked the wrath of Cuban-Americans wishing to punish him for pro-Castro activism. This is likely to build tensions on the Bush administration to “get tough on Chávez.” Observers in Caracas assert that he has never concealed his goal of a unified Latin America:

“Chávez has set out to exploit the axis of power, some of his outcries evoked the wrath of Cuban-Americans wishing to punish him for pro-Castro activism. This is likely to build tensions on the Bush administration to “get tough on Chávez.” Observers in Caracas assert that he has never concealed his goal of a unified Latin America.

While the Clinton administration overlooked Chávez’s political maneuvers in Latin America, Venezuela is now in a position of unique advantage.

FEDERAL PHOTOVOLTAIC UTILIZATION ACT

HON. JAMES L. OBERSTAR
OF MINNESOTA
IN THE HOUSE OF REPRESENTATIVES
Thursday, June 28, 2001

Mr. OBERSTAR. Mr. Speaker, the recent increase in oil prices has focused national attention on the benefits we could achieve by reducing our dependence on fossil fuels by meeting more of our energy needs from renewable sources, such as solar, wind, biomass and hydropower.

Quite simple, a photovoltaic, or PV, system converts light energy into electricity. The term “photo” is a stem word from the Greek “phos” which means light. “Volt” is named for Alessandro Volta, a pioneer in the study of electricity. Photovoltaic literally means “light electricity”.

PV generated power offers distinct advantages over diesel generators, primary batteries, and in some instances, over conventional utility power lines. PV systems are highly reliable, and have no moving parts, so the need for maintenance is virtually non-existent. PV systems can be used anywhere in satellites today, for which maintenance is both costly and time consuming.

In addition, PV cells use sunlight to produce electricity—and sunlight is free!

The potential for photovoltaics is boundless. By way of illustration, solar panels in 1% of the Mojave Desert would provide enough energy to meet California’s expected electric shortfall. The electricity needs of the entire United States could be met by panels in a 100 mile area in the South-Western United States.

PV cells are ideal for supplying power to remote communication stations, such as those in our National Park system, and on navigational buoys. Because they burn no fuel and have no moving parts, PV systems are clean and silent.

Another important feature of PV systems is their modularity—they can easily be adapted to any size, based on energy consumption. Homeowners can add modules as their needs expand, and ranchers, for example, can use mobile stations to produce electricity for pumps to water cattle as the animals are rotated to different grazing areas. After Hurricane Andrew in 1992 Florida’s Solar Energy Center deployed several PV emergency systems right at the disaster locations where the energy was needed.

Because a PV system can be placed closer to the user, solar power lines can be used if power were brought in from a grid. Shorter lines, lower construction costs, and reduced paper work make PV systems especially attractive. Transmission and distribution upgrades are kept to a minimum, which is especially important in urban areas.

PV systems can be sized, sited, and installed faster than traditional energy systems. I have had a longstanding interest in promoting the development of this technology. In June 1977 I introduced H.R. 7629, which established a program for the Federal Government to encourage the development of PV technology by using it in federal facilities. At that time, photovoltaic technology was in its early developmental stage, and produced energy at a cost of more than $1.00 per kilowatt hour, in comparison to less than $0.10 a hour for energy from fossil fuels. In these circumstances, there is a “chicken and egg” problem: because the technology is expensive, consumers will not purchase it, but, unless there are purchases, the producers will not be able to make the investments and engage in the large-scale production needed to bring the cost down.

The Federal government, which purchases billions of dollars of energy each year, is in a unique position of facilitating a breakthrough for photovoltaics. Under my 1977 bill, the Federal Government would have purchased substantial quantities of photovoltaic technology. These purchases would have given industry the resources and incentives to develop the technology and mass production efficiencies necessary to make power.

My 1977 bill became part of a larger bill to establish a comprehensive national energy policy, PL 95–619. Most unfortunately, the Reagan administration chose not to fund the bill, resulting in not only a lackluster renewable energy program but also a serious deterioration of national focus.

The collapse of the oil cartel and the return of low oil and gas prices in the early 1980’s had a chilling effect on federal renewable energy programs. Despite Congress’ consistent support for a broader, more aggressive renewable energy program than either the Reagan or George H.W. Bush administrations supported, federal spending fell steadily through 1990. Funding for renewable energy R&D fell from less than $1 million in the early 1970’s to over $1 billion in FY 1990, but then nose-dived during the Reagan and Bush administrations. Funding declined steadily during the 1980’s to $136 million in FY 1990.

The trend was reversed during the Clinton administration. In June 1997, President Clinton announced the Million Solar Roofs Initiative. The program called for the installation of one million solar energy systems on homes and other buildings by 2010. In October 1997, President Clinton committed to placing 20,000 solar energy systems on Federal Buildings. So far the results have been encouraging: over 2000 solar systems have been installed in federal facilities through the year 2000. For example, the U.S. Coast Guard Air Station in San Francisco developed a solar hot water heating project, which qualified as part of the Federal commitment. The project was completed easily and quickly, cost less than $10,000 and has energy savings of $1,100 per year, which means that has a 9-year payback period.

Just across the Anacostia River, here in the National Capitol, at the Suitland Federal Center, the General Services Administration has installed a large PV system to supply electricity to the Federal Center. From the Presidio in San Francisco to Fort Dix in New Jersey, the Federal government has installed numerous effective PV systems. Solar power is used extensively for diverse purposes in our National Park and National Forests—supplying lighting to the Tonto National Forest in Arizona and drinking water to hikers in the Roko National Park in Lakeshore Michigan. The isolated research facilities at Fresno National Wildlife Refuge, California are powered by PV systems.

During disaster relief activities solar power systems step in quickly to supply efficient, easy to install, mobile power sources. In addition to solar power in federal buildings, national parks, communications, and disaster relief activities, solar power is used extensively in transportation support—bus stop lighting, parking lot lights, railroad signal lights, traffic monitoring and control, Coast Guard light-houses, beacons and buoys. Furthermore, the government’s R&D on photovoltaic technologies for solar powered vehicles. The Department of Energy is the chief sponsor of the American Solar Challenge, which this year
will see solar power cars race from Chicago to Southern California, over the Great Plains, the Rockies and the great American desert. Clearly, solar power offers something for everyone.

In October 2000, at the Utility Photovoltaic meeting in Baltimore, Department of Energy officials announced that more than 100,000 solar photovoltaics had been installed in the U.S. since the beginning of the solar roof initiative. Under the Clinton administration, the Department of Energy had organized 51 partnerships from coast to coast—dedicated to working on matters such as interconnection, electricity restructuring, and Federal solar purchases.

Through the efforts of the solar industry, with the support of the federal government, solar technology has made substantial progress in recent years. The cost has been reduced to $.20 per kilowatt hour, and further reductions are expected. As a result, sales are increasing at a dramatic rate. Sales of photovoltaics within the United States has been growing at a rate of 25% a year. The United States photovoltaics industry is a strong exporter, with almost 70% of U.S. production going to export sales. There is room for growth in our exports. Currently, the U.S. has about 20% of the world market and Germany and Japan each has a larger market share than our country.

I believe that we need to continue the Federal government’s role in promoting the development of this technology. The Federal government should continue to be a major customer, and help the technology reach its full potential. My bill will express Congressional support for the type of program established by the Clinton administration, and provide the necessary funding. My bill establishes a goal for the Federal government during the next five years to acquire photovoltaic systems for Federal buildings which will produce at least 150 megawatts of electricity. This will accomplish the goal of the 20,000 solar roof initiative. The bill authorizes appropriations of $210 million for the next five years, the level of funding needed to purchase approximately 18,000 photovoltaic systems. The bill also establishes a program for evaluation of the systems used in Federal facilities to ensure that the government is encouraging the development of the most advanced technology.

Mr. Speaker, using Federal government procurement to “jump start” a technology is not without precedent. In fact, photovoltaic technology itself is a product of space technology, and was advanced by NASA in the Hubble space station program. As a result, photovoltaic systems power nearly every satellite today as they circle the earth. Similarly, in the early days of the computer era the cost of microchips was prohibitive. Large-scale purchases by the government (NASA and DOD) helped bring the costs down to commercially competitive levels. As another example, the General Accounting Administration, using its FTS 2000 telecommunications contract, was also successful in promoting advancements and enhancements in telecommunications.

Mr. Speaker, I believe that the program established by my bill can make a major contribution to energy efficiency, protection of the environment and independence from foreign energy. I will be working to incorporate this program in any energy legislation passed in this Congress.

AMERICA HAS EARNED OUR RESPECT AND ALLEGIANCE EVERY DAY

HON. ROSCOE G. BARTLETT
OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 2001

Mr. BARTLETT of Maryland. Mr. Speaker, on July 4, our nation will commemorate the 225th Anniversary of the signing of the Declaration of Independence—an astounding historic act, selfless and free. It’s said that in 2001, political correctness has replaced patriotism and respect for America’s achievements with cynicism and even disrespect.

James Merna, Past Maryland Commandant of the Marine Corps League brought this example to my attention during his speech entitled, “Heroes and Role Models for Today and Tomorrow,” at the Elks Club Flag Day Observance in Frederick, Maryland on June 10.

In May, Mr. Fran Parry, a track coach from Gaithersburg High School in Maryland was suspended for 12 days. Why? He confronted and reprimanded a student who was disrespectful during the Pledge of Allegiance. The student replied that he wasn’t American and didn’t have to be respectful during the Pledge.

It took support and pressure from other students, parents and the community after the incident became public before Coach Parry was reinstated.

America has earned our respect and allegiance every day.

I submit Mr. Merna’s entire speech for the Record and urge my colleagues and all Americans to read it.

REMARKS OF JAMES E. MERNA, PAST MARYLAND STATE COMMANDANT, MARINE CORPS LEAGUE, AT THE ELKS CLUB FLAG DAY OBSERVANCE, FREDERICK, MD, JUNE 10, 2001

"HEROES AND ROLE MODELS FOR TODAY AND TOMORROW"

Thank you for inviting me. I am honored to speak to the Elks, one of America’s largest and most influential fraternal organizations.

At the outset, allow me to extend my congratulations to the Frederick Elks Lodge on the celebration of your 100th anniversary this year. This is an accomplishment of which you should be justifiably proud, for a century of service in brotherhood to each other, to your community, and to the nation. I wish you many more years of good fellowship and service.

I have a number of ties to the Frederick community, forged in years of friendship and admiration. Let me mention just three:

(1) The Shangri-La Detachment, Marine Corps League. This great organization was originally formed here in Frederick, I believe, in 1948. After many years of service, it became somewhat inactive. A few of us came here in 1968, helped reissue its charter and get it reinvigorated, and today it flourishes as one of the most active detachments in the entire League. I made many good friends here, among them, your own Tommy Grunwell, Ken Bartgis, and the late Charlie Horn.

(2) Ben Wright, your football coach here at Governor Thomas Johnson High School. Earlier in his career, before he coached your Patuxent football team, Ben’s four sons, including mine, when he was the head football coach at Eleanor Roosevelt High School, in Greenbelt.

(3) My son John Merna, Major, U.S. Marine Corps. Two summers ago, John commanded a reinforced Marine rifle company (Echo 2 – 5) on a five month cruise in the South China Sea. The float was part of the Seventh Fleet whose purpose, besides being a good will mission, was to conduct amphibious exercises and training with designated Asian forces.

Nonetheless, let me offer a few of my observations on the current fervor, or the lack thereof, for patriotism in America today, and what needs to be done, if anything, particularly with regard to our children.

We can start by asking ourselves, who still observes Flag Day today? We may see a few houses in our neighborhoods who will fly their flags on their front yards. But, increasingly, we no longer feel compelled to honor the flag. That kind of patriotic display is steadily regarded as old-fashioned or tedious. Contrast today to a little more than 100 years ago when Flag Day in 1894 drew some 300,000 people to city parks in Chicago alone. Unfortunately, powerful forces in our society, popular culture, and political circles oftentimes emphasize our cultural differences, rather than our unity as Americans.

Let me mention a recent incident that occurred only two and a half weeks ago, just down the 270 Pike from here, in Gaithersburg, Maryland, which should give us cause for concern. Many of you know the story. It was in the Washington Post on May 23rd. It involves a local high school track coach from Gaithersburg High School who was suspended for 12 days for confronting a student who was disrespectful during the school’s reciting of the Pledge of Allegiance.

I was incensed as soon as I heard of this incident. Here we have a 27-year veteran of the Montgomery County school system, a highly successful track coach who has won three state and 15 regional titles, suspended from his teaching and coaching jobs only because he attempted to get a student to show respect while the Pledge of Allegiance was being recited in the school.

The coach’s name is Fran Parry. He lives a stones throw from here, in nearby Clarksburg. He called and said it was a spontaneous event, that the student who is a football player and who was on the track team, rushed past him and asked him to stop while the Pledge of Allegiance was being recited. The student angrily replied that he wasn’t an American and didn’t have to. The coach told him that was a bad attitude and that he had relatives who died for the freedoms that the student enjoys. The student just laughed at Coach Parry and said “so what.” The coach told me he didn’t think too much of the incident until the next day when he was summoned to the principal’s office and told he was being suspended from his duties and placed on administrative leave.

The student is black. Coach Parry told me it was a spontaneous event, that the student who is a football player and who was on the track team, rushed past him and asked him to stop while the Pledge of Allegiance was being recited. The student angrily replied that he wasn’t an American and didn’t have to. The coach told him that was a bad attitude and that he had relatives who died for the freedoms that the student enjoys. The student just laughed at Coach Parry and said “so what.” The coach told me he didn’t think too much of the incident until the next day when he was summoned to the principal’s office and told he was being suspended from his duties and placed on administrative leave.

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Washington’s most popular afternoon radio talk show, had a two-hour call in. Chris Core supported the coach “110 percent.” Only two callers dissented. The very next day, Coach Parry was called by the principal and told he was being reinstated.

So here’s a case of a student who shows blatant disrespect for the symbol of our democracy and who should instead be treated as the villain, Coach Parry should be hailed as a patriot. Webster’s dictionary defines a patriot as “one who loves his country and zealously supports its authority and interests.” The coach did what you and I would have done under the same circumstances. Thomas Paine, in one of his most favorite quotes, said, “When one arm of a man is cut off, the other was meant as the villain, Coach Parry should be hailed as a patriot. Webster’s dictionary defines a patriot as “one who loves his country and zealously supports its authority and interests.” The coach did what you and I would have done under the same circumstances. Thomas Paine, in one of his most favorite quotes, said, “When one arm of a man is cut off, the other

There’s more to this story, as I found out in talking to Coach Parry. As I said earlier, the student used to be on the track team at school and knew everything about athletics. Well, the student sometimes ate his lunch in the coach’s office, used his microwave. Coach Parry even drove him home after track practice at times. I think he was just a lonely young man who needed a ride. But the student had an attitude problem, and it came to the fore with his disrespect for the Pledge of Allegiance.

Coach Parry’s dad was with the Fourth Marine Division. He landed at a place when he needed a ride. But the Parry even drove him home after track practice. I think he was just a lonely young man who needed a ride. But the student had an attitude problem, and it came to the fore with his disrespect for the Pledge of Allegiance.

Where does Coach Parry derive his patriotic fervor? From his dad and his uncle who fought with the Marines on Iwo Jima, the bloodiest battle in World War II. His uncle was with the Third Marine Division. He landed on the beach at Iwo with 48 Marines in his platoon. When he left on a stretcher, 40 of the 48 Marines were killed. The remaining 8, including himself were wounded. Coach Parry’s dad was with the Fourth Marine Division. After he learned that his brother was wounded, he visited him later aboard a hospital ship off Iwo.

And if that isn’t proof enough of Coach Parry’s patriotic heritage, I learned that his great-great-great grandfather served in the American Revolutionary War as a sergeant. His name was James Faulk, an inspirational story. Faulk was very proud of his namesake and his grandson is named James Faulk Merna. Coach Faulk was very proud of his namesake and his grandson is named James Faulk Merna. Coach Faulk said, these were gutsy kids, and true heroes they were. They were my legacy, they are yours, and they are America’s.

And the story goes on and on. As Coach Faulk talked to other Marines who were with him when he was wounded, he said, “I was sorry to hear about your wounds...”

Jim and his wife Betty were never blessed with children. But they took care of that. Some of us named our children after him. My oldest son is named James Faulk Merna. Coach Faulk was very proud of his namesake and his grandson is named James Faulk Merna. Coach Faulk said, “I was sorry to hear about your wounds...”

He produced football teams so tough that few schools wanted to play him. One of the schools was St. Cecelia’s High School in Englewood, New Jersey. Its young coach then, just out of Fordham, later went on to fame as head coach of the New York Giants and the Washington Redskins—Vincent Lombardi.

Coach Faulk tried to set up a game with the New York Military Academy, an exclusive prep school for West Point. They only played us when our coach had them flunking. We were a fancy prep school like them—they thought we were the same as when I had two genuine legs—sunshine patriot will, in this crisis, shrink from the service of his country, but he that stands and highly successful coach in jeopardy.

The summer soldier and the sunshine patriot will, in this crisis, shrink from the service of his country, but he that stands and highly successful coach in jeopardy.

During World War II, Coach Faulk took a leave of absence from St. Agnes to join the Marines. He was a Captain in command of an artillery unit and saw extensive combat in the Pacific, including action at Guadalcanal. He remained in the Marine Corps Reserve in later life and retired as a full colonel.

He wrote many inspiring letters from his combat assignments during the war that were reprinted in a newsletter sent out by the Sisters of St. Agnes. He did it all. Let the Sisters back home and ends up playing them for many years.

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of Congress and 80% of the staffers had military experience. Now less than \( \frac{1}{3} \) of Congress and 5% of their staff have had any military experience. And on the civilian side, only 6% today of Americans younger than 65 have ever served in uniform.

Those numbers by themselves are not alarming because it’s recognized that we are not at war and we have at present an all-volunteer military. We just need to be sure that we elect public officials who have a greater understanding and a strong commitment to support our national security and defense by deeds, not mere words. We need their solid support, as well as from local school board officials, for military recruiters who were denied access to high school campuses 19,228 times in 1999.

Thank you for inviting me to participate in your Flag Day celebration today. As members of the Benevolent and Protective Order of Elks, you have long set an example the rest of us must try to follow if we are going to preserve for our future generations the same priceless treasures of liberty and freedom which our forebears passed on to us.
HIGHLIGHTS


House Committee ordered reported the Campaign Reform and Citizen Participation Act of 2001.

Senate

Chamber Action

Routine Proceedings, pages S7011–S7126

Measures Introduced: Twenty bills were introduced, as follows: S. 1118–1137. Pages S7083–84

Measures Passed:

Honoring Firefighters: Committee on the Judiciary was discharged from further consideration of S. Res. 117, honoring John J. Downing, Brian Fahey, and Harry Ford, who lost their lives in the course of duty as firefighters, and the resolution was then agreed to. Pages S7076–78

Adjournment Resolution: Senate agreed to H. Con. Res. 176, providing for a conditional adjournment of the House of Representatives and a conditional recess or adjournment of the Senate. Page S7076

Patients’ Bill of Rights: Senate continued consideration of S. 1052, to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage, taking action on the following amendments proposed thereto:

Adopted:

By 64 yeas to 36 nays (Vote No. 203), Breaux Amendment No. 830, to modify provisions relating to the standard with respect to the continued applicability of State law. Pages S7011, S7016

Hutchison/Clinton Amendment No. 839, to include information relating to disenrollment in the information provided to patients. Page S7043

Gramm/McCain Amendment No. 843, to ensure the sanctity of the health plan contract. Pages S7045–46

By 96 yeas to 4 nays (Vote No. 205), Snowe Modified Amendment No. 834, to make technical corrections concerning the application of Federal causes of action to certain plans. Pages S7027–40, S7053–54

Rejected:

Collins Amendment No. 826, to modify provisions relating to preemption and State flexibility. (By 53 yeas to 44 nays (Vote No. 202), Senate tabled the amendment.) Pages S7011–16

Bond Amendment No. 831, to ensure that patients receive a minimum share of any settlement or award in a cause of action under this Act. (By 62 yeas to 38 nays (Vote No. 204), Senate tabled the amendment.) Pages S7016–26

Division I of Enzi Amendment No. 840, to provide immunity to certain self-insured group health plans that provide health insurance options. (By 55 yeas to 45 nays (Vote No. 206), Senate tabled Division I of the amendment.) Pages S7040–43, S7043–45, S7054

By 42 yeas to 58 nays (Vote No. 207), Specter Amendment No. 844, to require that causes of action under this Act be maintained in federal court. Pages S7046–53, S7054–55

Withdrawn:

Division II of Enzi Amendment No. 840, to provide immunity to certain self-insured group health plans that provide health insurance options. Page S7054

Pending:

Thompson Amendment No. 819, to require the exhaustion of administrative remedies before a claimant goes to court. Page S7011

Warner Modified Amendment No. 833, to limit the amount of attorneys’ fees in a cause of action brought under this Act. Pages S7026–27, S7055–56

DeWine Amendment No. 842, to limit class actions to a single plan. Pages S7056–57
Grassley Amendment No. 845, to strike provisions relating to customs user fees, and Medicare payment delay.  
Santorum Amendment No. 814, to protect infants who are born alive.  
Nickles Amendment No. 846, to apply the bill to plans maintained pursuant to collective bargaining agreements beginning on the general effective date.  
Brownback Amendment No. 847, to prohibit human germline gene modification.  
Ensign Amendment No. 849, to provide for genetic nondiscrimination.  
Ensign Amendment No. 848, to provide that health care professionals who provide pro bono medical services to medically underserved or indigent individuals are immune from liability.  

A unanimous-consent agreement was reached providing for further consideration of the bill and pending amendments (listed above) on Friday, June 29, 2001, with votes to occur on certain pending amendments beginning at 9 a.m.  

Supplemental Appropriations—Agreement: A unanimous-consent agreement was reached providing for consideration of S. 1077, making supplemental appropriations for the fiscal year ending September 30, 2001, at 1 p.m., on Monday, July 9, 2001, and that all first degree amendments be offered by 6 p.m., with the exception of the managers’ amendment, and that any first degree amendment be subject to relevant second degree amendments. Further, that upon disposition of the aforementioned amendments, the bill be advanced to third reading and the Senate then proceed to the consideration of H.R. 2216, House companion measure, that all after the enacting clause be stricken and the text of S. 1077, as amended, be inserted in lieu thereof, that the bill be advanced to third reading, and the Senate then vote on passage of the bill; following which, S. 1077 be returned to the calendar.  

Messages From the President: Senate received the following messages from the President of the United States:  
Transmitting, pursuant to law, the Annual Report of the Corporation for Public Broadcasting for Fiscal Year 2000; to the Committee on Commerce, Science, and Transportation. (PM–32)  
Transmitting, the Comprehensive National Energy Policy report dated June 2001; to the Committee on Energy and Natural Resources. (PM–33)  
Transmitting, pursuant to law, a report on the Emergency Regarding the Proliferation of Weapons of Mass Destruction; to the Committee on Banking, Housing, and Urban Affairs. (PM–34)  

Nominations Received: Senate received the following nominations:  
Linda Mysliwy Conlin, of New Jersey, to be an Assistant Secretary of Commerce.  
Dan R. Brouillette, of Louisiana, to be an Assistant Secretary of Energy (Congressional and Intergovernmental Affairs).  
Donald R. Schregardus, of Ohio, to be an Assistant Administrator of the Environmental Protection Agency.  
Stuart A. Bernstein, of the District of Columbia, to be Ambassador to Denmark.  
Charles A. Heimbold, Jr., of Connecticut, to be Ambassador to Sweden.  
Carole Brookins, of Indiana, to be United States Executive Director of the International Bank for Reconstruction and Development for a term of two years.  
H. T. Johnson, of Virginia, to be an Assistant Secretary of the Navy.  

3 Air Force nominations in the rank of general.  

Petitions and Memorials:  
Executive Reports of Committees:  
Messages From the House:  
Measures Referred:  
Statements on Introduced Bills:  
Additional Cosponsors:  
Amendments Submitted:  
Enrolled Bills Presented:  
Authority for Committees:  
Record Votes: Six record votes were taken today. (Total—207)  
Adjournment: Senate met at 9:15 a.m., and adjourned at 10:30 p.m., until 9 a.m., on Friday, June 29, 2001. (For Senate’s program, see the remarks of the Acting Majority Leader in today’s Record on page S7126.)  

Committee Meetings  

(Committees not listed did not meet)  

FEDERAL FARM BILL  
Committee on Agriculture, Nutrition, and Forestry: Committee held hearings to examine the context, framework, and content of the comprehensive federal Farm Bill reauthorization and new agriculture policy that can provide a more sustainable and predictable long-term economic safety net, receiving testimony from
Leland Swenson, National Farmers Union, Washington, D.C.; Bob Stallman, Columbus, Texas, on behalf of the American Farm Bureau Federation; Charles W. Fluhrty, Rural Policy Research Institute, Columbia, Missouri; Craig Cox, Soil and Water Conservation Society, Ankeny, Iowa; Howard A. Learner, Environmental Law and Policy Center of the Midwest, Chicago, Illinois; Barbara P. Glenn, Federation of Animal Science Societies/Coalition on Funding Agricultural Research Missions, Bethesda, Maryland, on behalf of the National Coalition for Food and Agricultural Research; Sharon Daly, Catholic Charities USA, Alexandria, Virginia; and David E. Carter, Mountain View Harvest Cooperative, Longmont, Colorado.

Hearings recessed subject to call.

APPROPRIATIONS—INTERIOR
Committee on Appropriations: Committee ordered favorably reported H.R. 2217, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2002, with amendments.

APPROPRIATIONS—FCC/SEC
Committee on Appropriations: Subcommittee on Commerce, Justice, State, and the Judiciary concluded hearings on proposed budget estimates for fiscal year 2002, after receiving testimony in behalf of funds for their respective activities from Michael K. Powell, Chairman, Federal Communications Commission; and Laura Simone Unger, Acting Chairman, Securities and Exchange Commission.

APPROPRIATIONS—INTERIOR
Committee on Appropriations: Subcommittee on Interior approved for full committee consideration H.R. 2217, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2002, with amendments.

APPROPRIATIONS—FAA/AMTRAK
Committee on Appropriations: Subcommittee on Transportation concluded hearings on proposed budget estimates for fiscal year 2002, after receiving testimony in behalf of funds for their respective activities from Senators Biden and McCain; Jane F. Garvey, Administrator, Federal Aviation Administration, and George D. Warrington, President and Chief Executive Officer, National Railroad Passenger Corporation (Amtrak), both of the Department of Transportation.

AUTHORIZATION—DEFENSE
Committee on Armed Services: Committee concluded hearings on proposed legislation authorizing funds for fiscal year 2002 for the Department of Defense and the Future Years Defense program, focusing on the 2002 budget amendment, after receiving testimony from Donald H. Rumsfeld, Secretary, and Dov S. Zakheim, Under Secretary/Comptroller, both of the Department of Defense; and Gen. Henry H. Shelton, USA, Chairman, Joint Chiefs of Staff.

NOMINATIONS
Committee on Armed Services: Committee ordered favorably reported 2,130 military nominations in the Air Force, Army, Navy and Marine Corps.

IRAN AND LIBYA SANCTIONS ACT
Committee on Banking, Housing, and Urban Affairs: Committee concluded hearings on S. 994, to amend the Iran and Libya Sanctions Act of 1996 to extend authorities for five years under that Act, after receiving testimony from E. Anthony Wayne, Assistant Secretary for Economic and Business Affairs, and James Larocco, Acting Assistant Secretary for Near Eastern Affairs, both of the Department of State; Patrick Clawson, Washington Institute for Near East Policy, Bradley Gordon, American Israel Public Affairs Committee, William A. Reinsch, National Foreign Trade Council, on behalf of USA*Engage, and William F. Martin, Washington Policy and Analysis, Inc./Council on Foreign Relations Energy Security Group, former Deputy Secretary of Energy/Executive Secretary of the National Security Council, all of Washington, D.C.; and Stephanie Bernstein, Justice for Pan Am 103, Bethesda, Maryland.

BUDGET SURPLUS AND ECONOMIC OUTLOOK
Committee on the Budget: Committee concluded hearings to examine the state of the projected budget surplus following approval of the Congressional budget resolution and enactment of the recent tax-reduction legislation, and the outlook of the United States economy, after receiving testimony from Robert Greenstein, Center on Budget and Policy Priorities, Robert L. Bixby, Concord Coalition, and Carol Cox Wait, Committee for a Responsible Federal Budget, all of Washington, D.C.

SURFACE TRANSPORTATION BOARD’S MERGER RULES
Committee on Commerce, Science, and Transportation: Subcommittee on Surface Transportation and Merchant Marine concluded hearings to examine the Surface Transportation Board’s new rules governing mergers of large railroads adopted in Major Rail Consolidation Procedures, STB Ex Parte No. 582 (Sub-No. 1), after receiving testimony from Linda J. Morgan, Chairman, Surface Transportation Board, Department of Transportation; Claudia L. Howells, Oregon Department of Transportation, Salem; John W. Snow,

CLIMATE CHANGE
Committee on Energy and Natural Resources: Committee held hearings to examine the recent National Research Council report on the science of climate change, energy technology options for managing the risks posed by climate change, what impact any effort to reduce greenhouse gas emissions would have on energy policy, and provisions to establish an Interagency Working Group on clean energy technology transfer of S. 597, Comprehensive and Balanced Energy Policy Act, receiving testimony from James Edmonds, Senior Staff Scientist, and William Chandler, Senior Staff Scientist and Director, Advanced International Studies Unit, both of the Pacific Northwest National Laboratory, and Mark D. Levine, Director, Environmental Energy Technologies Division, Lawrence Berkeley National Laboratory, all of the Department of Energy; F. Sherwood Rowland, University of California, Irvine, John M. Wallace, University of Washington, Seattle, and Eric Barron, Pennsylvania State University, University Park, all on behalf of the National Research Council; and Robert M. Friedman, H. John Heinz III Center for Science, Economics and the Environment, Washington, D.C.

Hearings recessed subject to call.

ZIMBABWE'S CRISIS
Committee on Foreign Relations: Subcommittee on African Affairs concluded hearings to examine the political and economic situation in Zimbabwe, after receiving testimony from Walter H. Kansteiner III, Assistant Secretary of State for African Affairs; Robert I. Rotberg, Harvard University Kennedy School of Government Program on Intrastate Conflict and Conflict Prevention, Cambridge, Massachusetts, on behalf of the World Peace Foundation; Yves Sorokobi, Committee to Protect Journalists, New York, New York; and John Prendergast, International Crisis Group, Washington, D.C.

ELECTRIC INDUSTRY RESTRUCTURING
Committee on Governmental Affairs: Committee held hearings to examine the impact of electric industries restructuring on system reliability, focusing on new participants in the electric business, changing roles of traditional participants, increasing the number of wholesale power transactions, as well as increasing the distances over which power transactions take place, receiving testimony from Kevin A. Kelly, Director, Division of Policy Innovation and Communication, Office of Markets, Tariffs and Rates, Federal Energy Regulatory Commission, Department of Energy; David N. Cook, North American Electric Reliability Council, Princeton, New Jersey; Phillip G. Harris, PJM Interconnection, Norristown, Pennsylvania; and Irwin A. Popowsky, Pennsylvania Office of Consumer Advocate, Harrisburg, on behalf of the National Association of State Utility Consumer Advocates.

Hearings recessed subject to call.

ELECTION REFORM
Committee on Rules and Administration: Committee concluded hearings to examine a report from the U.S. Commission on Civil Rights regarding the November 2000 election and election reform in general, after receiving testimony from Representatives Conyers, Ney, Hoyer, Wexler, Blunt, Eddie Bernice Johnson, Reyes, Becerra, Kildee, Waters, Corrine Brown, Deutsch, Meek, Jackson-Lee, Foley, Gonzalez, and Sweeney.

VETERANS BENEFITS
Committee on Veterans' Affairs: Committee concluded hearings on proposals providing for certain Veteran's benefits, including S. 131, to amend title 38, United States Code, to modify the annual determination of the rate of the basic benefit of active duty educational assistance under the Montgomery GI Bill, S. 228, to amend title 38, United States Code, to make permanent the Native American veterans housing loan program, S. 409, to amend title 38, United States Code, to clarify the standards for compensation for Persian Gulf veterans suffering from certain undiagnosed illnesses, S. 457, to amend title 38, United States Code, to establish a presumption of service-connection for certain veterans with Hepatitis C, S. 662, to amend title 38, United States Code, to authorize the Secretary of Veterans Affairs to furnish headstones or markers for marked graves of, or to other wise commemorate, certain individuals, S. 781, to amend section 3702 of title 38, United States Code, to extend the authority for housing loans for members of the Selected Reserve, S. 912, to amend title 38, United States Code, to increase burial benefits for veterans, S. 937, to amend title 38, United States Code, to permit the transfer of entitlement to educational assistance of the Montgomery GI Bill by members of the Armed Forces, S. 1063, to amend chapter 72 of title 38, United States Code, to improve the administration of the United States Court of Appeals for Veterans Claims, S. 1088, to amend title 38, United States Code, to facilitate the use of educational assistance under the Montgomery GI Bill for education leading to employment in high technology industry, S. 1089, to
amend section 7253 of title 38, United States Code, to expand temporarily the United States Court of Appeals for Veterans Claims in order to further facilitate staggered terms for judges on that court, S. 1090, to increase, effective as of December 1, 2001, the rates of compensation for veterans with service-connected disabilities and the rates dependency and indemnity compensation for the survivors of certain disabled veterans, S. 1091, to amend section 1116 of title 38, United States Code, to modify and extend authorities on the presumption of service-connection for herbicide-related disabilities of Vietnam era veterans, and S. 1093, to amend title 38, United States Code, to exclude certain income from annual income determinations for pension purposes, to limit provision of benefits for fugitive and incarcerated veterans, to increase the home loan guaranty amount for construction and purchase of homes, and to modify and enhance other authorities relating to veterans’ benefits, after receiving testimony from Senators Johnson and Hutchison; Leo S. Mackay, Deputy Secretary of Veterans Affairs, who was accompanied by several of his associates; and John R. Vitikacs, American Legion, Sidney Daniels, Veterans of Foreign Wars of the United States, Rick Surratt, Disabled American Veterans, and David M. Tucker, Paralyzed Veterans of America, all of Washington, D.C.

LONG-TERM CARE

Special Committee on Aging: Committee held hearings to examine the Administration’s efforts to address the long-term care needs of this nation’s elderly and disabled, including the role of families in providing care, and the role of federal programs in financing services, receiving testimony from former Senator David Durenberger, on behalf of the Citizens for Long Term Care Tommy G. Thompson, Secretary of Health and Human Services; Carol V. O’Shaughnessy, Specialist in Social Legislation, Congressional Research Services, Library of Congress; and Robert B. Blancato, Matz, Blancato and Associates, Inc., Washington, D.C., former Executive Director, White House Conference on Aging. 

Hearings recessed subject to call.

House of Representatives

Chamber Action


Reports Filed: Reports were filed as follows:

H.R. 1407, to amend title 49, United States Code, to permit air carriers to meet and discuss their schedules in order to reduce flight delays, amended (H. Rept. 107–77, Pt. 2);

H.R. 2131, to reauthorize the Tropical Forest Conservation Act of 1998 through fiscal year 2004, amended (H. Rept. 107–119);

H.R. 1866, to amend title 35, United States Code, to clarify the basis for granting requests for reexamination of patents, amended (H. Rept. 107–120); and

H.R. 1886, to amend title 35, United States Code, to provide for appeals by third parties in certain patent reexamination proceedings (H. Rept. 107–121). Page H3801

Guest Chaplain: The prayer was offered by the guest Chaplain, Rev. Byron E. Powers, Senior Pastor, the Church Love is Building, Church of God of Sheffield, Ohio. Page H3817

Energy and Water Development Appropriations Act for Fiscal Year 2002: The House passed H.R. 2311, making appropriations for energy and water development for the fiscal year ending September 30, 2002 by a yea and nay vote of 405 yeas to 15 nays, Roll No. 206. The House previously considered the bill on July 27. Pages H3817–38

Agreed To:

Bonior amendment, debated on July 27, that prohibits oil or gas drilling in any of the Great Lakes, Lake Saint Clair, or the Saint Mary’s, Saint Clair, Detroit, Niagara, or Saint Lawrence Rivers (agreed to by a recorded vote of 265 ayes to 157 noes, Roll No. 203); Pages H3720–21

Traficant amendment no. 1 printed in the Congressional Record of June 25 that prohibits funding to persons or entities convicted of violating the Buy American Act; and Pages H3723–24

Traficant amendment no. 5 printed in the Congressional Record of June 27 that prohibits funding for the drilling of oil and gas in Mosquito creek reservoir, Trumbull, County, Ohio. Page H3724

Rejected:

Tancredo amendment, debated on July 27, that sought to increase funding for renewable alternative energy programs by $8.9 million with offsets of $9.9
million from the Corps of Engineer funding for general investigations (rejected by a recorded vote of 39 ayes to 372 noes, Roll No. 199); Pages H3718

Tancredo amendment no. 4 printed in the Congressional Record of June 26, debated on July 27, that sought to strike Title 1 section 105 that deals with the 65% Federal to 35% local cost sharing formula for coastal shore protection and beach replenishment programs (rejected by a recorded vote of 84 ayes to 333 noes, Roll No. 200); Pages H3718–19

Hinchey amendment, debated on July 27, that sought to increase funding for renewable alternative energy programs by $50 million with offsets of $60 million from the National Nuclear Security Administration Stockpile Stewardship program (rejected by a recorded vote of 163 ayes to 258 noes, Roll No. 201); Pages H3719–20

Kucinich amendment no. 2 printed in the Congressional Record of June 26, debated on July 27, that sought to decrease funding for the National Ignition Facility by $122.5 million and increase funding for nuclear nonproliferation activities by $66 million (rejected by a recorded vote of 91 ayes to 331 noes, Roll No. 202); Page H3720

Berkley amendment that sought to make available $500,000 to the Nuclear Waste Technical Review Board to evaluate technical issues and hold hearings related to the proposed repository for high level radioactive waste and spent nuclear fuel at Yucca Mountain (rejected by a recorded vote of 102 ayes to 321 noes, Roll No. 204); and Pages H3724–26

Davis of Florida amendment that sought to strike the prohibition of funding for the Gulfstream Natural Gas Project (rejected by a recorded vote of 210 ayes to 213 noes, Roll No. 205). Pages H3729–35

Withdrawn:

Kelly amendment was offered but subsequently withdrawn that sought to increase funding for the Nuclear Regulatory Commission Inspector General by $700,000. Pages H3726–27

Points of order sustained:

Against section 308 dealing with the transfer of certain regulatory authorities from the Department of Energy to the Nuclear Regulatory Commission and the Occupational Safety and Health Administration. Page H3723

The House agreed to H. Res. 180, the rule that provided for consideration of the bill on June 27.

Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations: The House began consideration of amendments to H.R. 2330, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2002. Consideration will resume after the 4th of July district work period.

Pursuant to the rule, the amendment printed in H. Rept. 107–118 that strikes Title VII section 740(f) requiring an emergency designation for market loss assistance for apple producers was considered adopted.

Agreed To:

Smith of Michigan amendment no. 22 printed in the Congressional Record of June 27 that includes competitive grants regarding enhancement of the nitrogen-fixing ability and efficiency of plants in cooperative state research, education, and extension service activities;

Clayton amendment that makes available up to $5.9 million from balances of direct loans in the rural housing insurance account for rural rental assistance agreements and allows priority to prospective tenants who are residing in temporary housing provided by FEMA (the amendment was previously offered and then withdrawn without prejudice);

Brown of Ohio amendment that makes available an additional $2.5 million for the Food and Drug Administration Office of Generic Drugs (agreed to by a recorded vote of 324 ayes to 89 noes, Roll No. 208); Pages H3777–79, H3785–86

Brown of Ohio amendment that makes available an additional $5 million to implement the Food and Drug Administration action plan to combat antimicrobial resistance (agreed to by a recorded vote of 271 ayes to 140 noes, Roll No. 209);

Engel amendment that sought to make available $250,000 to the Food and Drug Administration to develop a label for chocolate products that certifies that the cocoa beans were not harvested by child slave labor in the Ivory Coast or other nations (agreed to by a recorded vote of 291 ayes to 115 noes, Roll No. 210); Pages H3781–83, H3786–87

Withdrawn:

Kaptur amendment was offered, but subsequently withdrawn, that sought to make funding available for the Global Food for Education program;

Tierney amendment no. 24 printed in the Congressional Record of June 27 was offered, but subsequently withdrawn, that sought to require a National Academy of Sciences report on genetically engineered foods; and Pages H3765–67

Clayton amendment was offered, but subsequently withdrawn, that sought to make available up to $5.9 million from balances of direct loans in the rural housing insurance account for rural rental assistance agreements and allow priority to prospective tenants who are residing in temporary housing provided by
FEMA (the amendment was withdrawn without prejudice, offered again, and then agreed to); and

Pages H3764–85

Davis of California amendment was offered, but subsequently withdrawn, that sought to disallow the availability of the Armed Forces basic allowance for housing when determining the eligibility for free or reduced-price lunch programs.

Points of Order Sustained:

Against DeLauro amendment that sought to make available as emergency designations $50 million to the Food Safety and Inspection Service and $163 million to the Food and Drug Administration to improve food safety and reduce the incidence of food borne illnesses.

The House agreed to H. Res. 183, the rule that is providing for consideration of the bill by a yea and nay vote of 222 yeas to 194 nays, Roll No. 207.

Pages H3770–72

Further Consideration of Agriculture Appropriations: Agreed that during further consideration of H.R. 2230, Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations, no further amendment be in order except amendments debatable for 10 minutes offered by Representatives Clayton (rental assistance), Traficant (Buy American), Allen (cost of research and development and approvals of new drugs), Kaptur (biofuels), Kaptur (BSE), Kaptur (4–H Program Centennial), Lucas (watershed and flood operations), Mink (Hawaii Agricultural Research Center), Mink (Oceanic Institute of Hawaii), Blumenauer (price supports), Royce (market access program), Smith of Michigan (Food Security Act); Smith of Michigan (Market Transition Act); Smith of Michigan (nitrogen-fixing ability of plants), Baca (Hispanic serving institutions), and Pelosi (HIV); amendments debatable for 20 minutes offered by Representatives Brown of Ohio (applications for the approval of new drugs), Stupak or Boehlert (elderly nutrition), and Clayton (socially disadvantaged farmers); amendments debatable for 30 minutes offered by Representatives Hinchey (American Rivers heritage), Kucinich (transgenic fish), and Gutknecht (drug importation); amendments debatable for 40 minutes offered by Representatives Sanders (drug importation), and Weiner (mohair); and amendment debatable for 60 minutes offered by Representative Olver or Gilcrest (Kyoto).

Page H3784

Presidential Messages: Read the following messages from the President:

Corporation for Public Broadcasting Annual Report: Message wherein he transmitted the Annual Report for the Corporation for Public Broadcasting for Fiscal year 2000 referred to the Committee on Energy and Commerce;

Executive Order 12938: Message wherein he transmitted a report on executive Order 12938—referred to the Committee on International Relations and ordered printed (H. Doc. 107–93); and

Pages H3789


Pages H3789

Committee Election: The House agreed to H. Res. 184, electing Representative Forbes to the Committees on Armed Services and Science.

Pages H3788

Late Reports: The Committee on the Judiciary received permission to have until midnight on Friday, July 6 to file reports on H.R. 2215, 21st Century Department of Justice Appropriations Authorization Act and H.R. 2137, Criminal Law Technical Amendments Act of 2001.

Pages H3788

Resignations—Appointments: Agreed that notwithstanding any adjournment of the House until Tuesday, July 10, the Speaker, Majority Leader, and Minority Leader be authorized to accept resignations and to make appointments authorized by law or by the House.

Pages H3788

Calendar Wednesday: Agreed to dispense with the Calendar Wednesday business of Wednesday, July 11, 2001.

Pages H3788

Speaker Pro Tempore: Read a letter from the Speaker wherein he appointed Representative Tom Davis of Virginia to act as Speaker pro tempore to sign enrolled bills and joint resolutions through July 10.

Pages H3788–89

Senate Messages: Message received from the Senate today appears on page H3787.

Amendments: Amendments ordered printed pursuant to the rule appear on pages H3807–08.

Quorum Calls Votes: Two yea and nay votes and ten recorded votes developed during the proceedings of the House today and appear on pages H3718, H3718–19, H3719–20, H3720, H3721, H3735–36, H3736, H3737–38, H3743–44, H3785, H3786, and H3786–87. There were no quorum calls.

Adjournment: The House met at 9 a.m. pursuant to H. Con. Res. 176, adjourned at 8:19 p.m. until 2 p.m. on Tuesday, July 10.
Committee Meetings

FORESTRY PROGRAMS REVIEW
Committee on Agriculture: Subcommittee on Department Operations, Oversight, Nutrition and Forestry held a hearing to review forestry programs. Testimony was heard from the following officials of the USDA: Michael T. Rains, Deputy Chief, State and Private Forestry, Forest Service; Mark Berkland, Director, Conservation Operations, Natural Resources Conservation Service; and Colien Hefferan, Administrator, Cooperative State Research, Education, and Extension Service; and public witnesses.

FOREIGN TRADE PROGRAMS REVIEW
Committee on Agriculture: Subcommittee on Specialty Crops and Foreign Agriculture Programs held a hearing to review foreign trade programs. Testimony was heard from Representative Boyd; J.B. Penn, Under Secretary, Farm and Foreign Agricultural Services, USDA; and public witnesses.

NATIONAL DEFENSE AUTHORIZATION BUDGET REQUEST
Committee on Armed Services: Held a hearing on the fiscal year 2002 National Defense Authorization budget request. Testimony was heard from the following officials of the Department of Defense: Donald H. Rumsfeld, Secretary; Gen. Henry H. Shelton, USA, Chairman, Joint Chiefs of Staff; and Dov Zakheim (Comptroller).

U.S. MILITARY INSTALLATIONS—FORCE PROTECTION
Committee on Armed Services: Special Oversight Panel on Terrorism held a hearing on force protection at U.S. military installations. Testimony was heard from the following officials of the Department of Defense: Maj. Gen. David F. Bice, USMC, Commanding General, Marine Corps Base Camp Pendleton; Brig. Gen. Thomas P. Kane, USAF, Commander, 60th Air Mobility Wing, Travis Air Force Base; Col. Addison D. Davis, IV, USA, Garrison Commander, 18th Airborne Corps, Fort Bragg; Capt. Joseph F. Bouchard, USN, Commanding Officer, U.S. Naval Station at Norfolk; and Capt. L.R. Hering, USN, Commanding Officer, U.S. Naval Station at San Diego.

INTERNET AND EDUCATION EQUITY ACT

BROWNFIELDS LEGISLATION
Committee on Energy and Commerce: Subcommittee on Environment and Hazardous Materials held a hearing on the following brownfields measures: S. 350, Brownfields Revitalization and Environmental Restoration Act of 2001; the “Gillmor Discussion Draft;” and the “Democratic Discussion Draft.” Testimony was heard from Linda Fisher, Deputy Administrator, EPA; Erin M. Crotty, Commissioner, Department of Environmental Conservation, and Gordon J. Johnson, Deputy Bureau Chief, Environmental Protection Bureau, both with the State of New York; Delegat Leon Billings, State of Maryland; Javier Gonzales, Commissioner, Santa Fe County, State of New Mexico; J. Christian Bollwage, Mayor, Elizabeth, New Jersey; and public witnesses.

PATIENTS FIRST
Committee on Energy and Commerce: Subcommittee on Health and the Subcommittee on Oversight and Investigations held a joint hearing on Patients First: A 21st Century Promise to Ensure Quality and Affordable Health Coverage. Testimony was heard from the following officials of the Department of Health and Human Services: Thomas Scully, Administrator, Health Care Financing Administration; and Michael Mangano, Acting Inspector General; Leslie G. Aronovitz, Director, Health Care Issues, GAO; and public witnesses.

FINANCIAL SERVICES INDUSTRY—ENCOURAGING ELECTRONIC SIGNATURES
Committee on Financial Services: Subcommittee on Domestic Monetary Policy, Technology, and Economic Growth held a hearing entitled “ESIGN-Encouraging the Use of Electronic Signatures in the Financial Services Industry.” Testimony was heard from public witnesses.

DRUG FREE COMMUNITIES ACT REAUTHORIZATION
Committee on Government Reform: Subcommittee on Criminal Justice, Drug Policy and Human Resources held a hearing on the Reauthorization of the Drug Free Communities Act. Testimony was heard from Representatives Portman and Levin; Donald M. Vereen, Jr., Deputy Director, Office of National Drug Control Policy; John J. Wilson, Acting Director, Office of Juvenile Justice and Delinquency Prevention, Department of Justice; and public witnesses.

BEST SERVICES—LOWEST PRICE
Committee on Government Reform: Subcommittee on Technology and Procurement Policy held a hearing on the Best Services at the Lowest Price: Moving Beyond a Black-and-White Discussion of Outsourcing.
Testimony was heard from Representatives Wynn, Gutierrez and Sessions; Barry Holman, Director, Defense Capabilities and Management, GAO; Ray DuBois, Under Secretary, Installations and Environment, Department of Defense; Angela Stiles, Director, Office of Federal Procurement Policy, OMB; and public witnesses.

CAMPAIGN FINANCE REFORM AND CITIZEN PARTICIPATION ACT


The Committee also unfavorably reported H.R. 2356, Bipartisan Campaign Reform Act of 2001.

Prior to this action, the Committee concluded hearings on campaign finance reform. Testimony was heard from Representatives Petri, Bereuter, Shaw, Gonzalez, Barr of Georgia, Calvert and English.

RESOLUTION CONGRATULATING PERU’s RETURN TO DEMOCRACY; ANDEAN INITIATIVE REVIEW

Committee on International Relations: Subcommittee on the Western Hemisphere approved for full Committee action H. Res. 181, congratulating President-elect Alejandro Toledo on his election to the Presidency of Peru, congratulating the people of Peru for the return of democracy to Peru, and expressing sympathy for the victims of the devastating earthquake that struck Peru on June 23, 2001.

The Subcommittee also held a hearing on a Review of the Andean Initiative. Testimony was heard from Representative Gilman; the following officials of the Department of State: James F. Mack, Deputy Assistant Secretary, Bureau of International Narcotics and Law Enforcement Affairs; William R. Brownfield, Deputy Assistant Secretary, Bureau of Western Hemisphere Affairs; and Michael Deal, Acting Assistant Administrator, Bureau for Latin America and the Caribbean, AID.

MISCELLANEOUS MEASURES

Committee on the Judiciary: Ordered reported the following measures, as amended: H. Con. Res. 62, expressing the sense of Congress that the George Washington letter to Tuoro Synagogue in Newport, Rhode Island, which is on display at the B’naï B’rith Klutznick National Jewish Museum in Washington, D.C., is one of the most significant early statements buttressing the nascent American Constitutional guarantee of religious freedom; and H.R. 7, Charitable Choice Act of 2001.

STANDARDS-SETTING AND U.S. COMPETITIVENESS

Committee on Science: Subcommittee on Environment, Technology, and Standards held a hearing on Standards-Setting and United States Competitiveness. Testimony was heard from public witnesses.

CAPITAL INVESTMENT PROGRAM

Committee on Transportation and Infrastructure: Subcommittee on Economic Development, Public Buildings and Emergency Management approved for full Committee action the Fiscal Year 2002 Capital Investment Program.

NATIONAL ACADEMY OF SCIENCE’s NATIONAL RESEARCH COUNCIL REPORT

Committee on Transportation and Infrastructure: Subcommittee on Water Resources and Environment held a hearing on the National Academy of Science’s National Research Council Report on Assessing the Scientific Basis of the Total Maximum Daily Load Approach to Water Pollution Reduction. Testimony was heard from a public witness.

CHILD SUPPORT AND FATHERHOOD PROPOSALS

Committee on Ways and Means: Subcommittee on Human Resources held a hearing on Child Support and Fatherhood Proposals. Testimony was heard from Representatives Johnson of Connecticut, Cox, and Castle; and public witnesses.

SOCIAL SECURITY DISABILITY PROGRAMS’—CHALLENGES AND OPPORTUNITIES

Committee on Ways and Means: Subcommittee on Social Security held a hearing on Social Security Disability Programs’ Challenges and Opportunities. Testimony was heard from Larry G. Massanari, Acting Commissioner of Social Security, SSA; Stanford G. Ross, Chairman, Social Security Advisory Board; and public witnesses.

NIMA

Select Committee on Intelligence: Subcommittee on Technical and Tactical Intelligence met in executive session to hold a hearing on NIMA. Testimony was heard from departmental witnesses.

COMMITTEE MEETINGS FOR FRIDAY, JUNE 29, 2001

Senate

No meetings/hearings scheduled.

House

No Committee meetings are scheduled.
Next Meeting of the SENATE

9 a.m., Friday, June 29

Senate Chamber

Program for Friday: Senate will continue consideration of S. 1052, Patients’ Bill of Rights, with votes to occur on certain amendments thereto.

Next Meeting of the HOUSE OF REPRESENTATIVES

2 p.m., Tuesday, July 10

House Chamber

Program for Tuesday: To be announced.

Extensions of Remarks, as inserted in this issue

HOUSE

Bartlett, Roscoe G., Md., E1241
Gilman, Benjamin A., N.Y., E1239
Oberstar, James L., Minn., E1240
Towns, Edolphus, N.Y., E1239

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