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PROCEEDINGS AND DEBATES OF THE 107th CONGRESS, FIRST SESSION

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House of Representatives

The House met at 10 a.m.

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

Lord God of history and ever-present, Your call to Abram to leave his place and to move to a place You would show him is truly a call of faith.

Lord, You know it is not easy for us to unplug ourselves or for us to deal with the unknown. There is an inner resistance in all of us to change. We find security in the familiar. Contentment seems to breathe an air of blessedness in being where we are, how we are, and who we are. Yet Your call of faith, O Lord, is a call to change and a constant conversion of heart until we are completely one in You and with You.

Be with all the Members of the United States House of Representatives, the President, and all who serve in government.

Help them to be people of faith and true leaders. May they never be afraid to change themselves or to change the course of history as a response to Your holy inspiration. Give them courage to act upon what they believe, to follow their convictions, and lead others in the ways of faith.

O Lord, in a world of constant change, You alone are reliable now and forever. Amen.

THE JOURNAL

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

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

Mr. PENCE. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Speaker's approval of the Journal.

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

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

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

NOTICE

Effective January 1, 2002, the subscription price of the Congressional Record will be $422 per year or $211 for six months. Individual issues may be purchased for $5.00 per copy. The cost for the microfiche edition will remain $141 per year with single copies remaining $1.50 per issue. This price increase is necessary based upon the cost of printing and distribution.

Michael F. DiMario, *Public Printer*

Printed on recycled paper.

The vote was taken by electronic device, and there were—yeas 349, nays 48, answered ''present'' 1, not voting 34, as follows:

[Roll No 459]

YEAS—349

Abercrombie
Ackerman
Akin
Allen
Andrews
Armey
Baca
Bachus
Baker
Baldacci
Baldwin
Ballenger
Barcia
Barr
Barrett
Bartlett
Barton
Bass
Becerra
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop
Blagojevich
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Boswell
Boyd
Brady (TX)
Brown (FL)
Brown (OH)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cantor
Capito
Capps
Cardin
Carson (OK)
Castle
Chabot
Chambliss
Clayton
Clement
Clyburn
Coble
Collins
Combest
Condit
Cox
Cramer
Crenshaw
Crowley
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
Davis, Tom
Deal
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart
Dicks
Dingell
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
English
Eshoo
Evans
Everett
Farr
Fattah
Ferguson
Flake
Fletcher
Foley
Forbes
Frank
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gephardt
Gibbons
Gilchrest
Gilman
Gonzalez
Goodlatte
Gordon
Goss
Graham
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grucci
Gutierrez
Hall (TX)
Hansen
Harman
Hart
Hastings (WA)
Hayes
Hayworth
Herger
Hill
Hilleary
Hobson
Hoeffel
Holden
Holt
Honda
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (IL)
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (RI)
Kerns
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kirk
Kleczka
Knollenberg
Kolbe
LaHood
Lampson
Langevin
Lantos
Largent
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Lynch
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McGovern
McHugh
McInnis
McIntyre
McKeon
McKinney
Meehan
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller, Dan
Miller, Gary
Miller, Jeff
Mink
Mollohan
Moran (VA)
Morella
Murtha
Napolitano
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pascrell
Pastor
Paul
Payne
Pelosi
Pence
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Platts
Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Rangel
Regula
Rehberg
Reynolds
Riley
Rivers
Rodriguez
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Roukema
Roybal-Allard
Royce
Rush
Ryan (WI)
Ryun (KS)
Sanders
Sandlin
Sawyer
Saxton
Schakowsky
Schiff
Schrock
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Spratt
Stark
Stearns
Stenholm
Strickland
Stump
Sununu
Sweeney
Tanner
Tauscher
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Thune
Tiahrt
Tiberi
Tierney
Toomey
Traficant
Turner
Upton
Velazquez
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watson (CA)
Watt (NC)
Watts (OK)
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Wilson
Wolf
Woolsey
Wu
Wynn
Young (FL)

NAYS—48

Aderholt
Baird
Borski
Brady (PA)
Capuano
Costello
Crane
Etheridge
Filner
Gillmor
Gutknecht
Hastings (FL)
Hefley
Hilliard
Hinchey
Hinojosa
Hoekstra
Johnson, E. B.
Kennedy (MN)
Kucinich
Larsen (WA)
LoBiondo
Matheson
McDermott
McNulty
Miller, George
Moore
Moran (KS)
Oberstar
Obey
Olver
Pallone
Peterson (MN)
Ramstad
Sabo
Scott
Slaughter
Stupak
Taylor (MS)
Thompson (CA)
Thompson (MS)
Thurman
Towns
Udall (CO)
Udall (NM)
Visclosky
Weller
Wicker

ANSWERED ''PRESENT''—1

Tancredo

NOT VOTING—34

Bentsen
Boucher
Cannon
Carson (IN)
Clay
Conyers
Cooksey
Coyne
Cubin
Culberson
Cummings
Cunningham
DeFazio
Engel
Ford
Fossella
Goode
Hall (OH)
Hyde
Johnson (CT)
LaFalce
Meek (FL)
Myrick
Nadler
Quinn
Reyes
Rothman
Sanchez
Schaffer
Souder
Waters
Wexler
Whitfield
Young (AK)

□ 1023

So the Journal was approved.

The result of the vote was announced as above recorded.

PLEDGE OF ALLEGIANCE

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

Mr. ISSA led the Pledge of Allegiance as follows:

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

MESSAGE FROM THE SENATE

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

S. 1741. An act to amend title XIX of the Social Security Act to clarify that Indian women with breast or cervical cancer who are eligible for health services provided under a medical care program of the Indian Health Service or of a tribal organization are included in the optional medicaid eligibility category of breast or cervical cancer patients added by the Breast and Cervical Cancer Prevention and Treatment Act of 2000.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

OFFICE OF THE CLERK,
HOUSE OF REPRESENTATIVES,
Washington, DC, November 21, 2001.

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

DEAR MR. SPEAKER: I have the honor to transmit herewith a facsimile copy of a letter received from Ms. Susan K. Inman, Director of Elections, indicating that, according to the unofficial returns of the Special Election held November 20, 2001, the Honorable John Boozman was elected Representative in Congress for the Third Congressional District, State of Arkansas.

With best wishes, I am

Sincerely,

JEFF TRANDAHL,
Clerk.

Attachment.

STATE OF ARKANSAS,
SECRETARY OF STATE,
Little Rock, AR, November 21, 2001.

Hon. JEFF TRANDAHL,
Clerk, House of Representatives, the Capitol, Washington, DC.

DEAR MR. TRANDAHL: This is to advise you that the unofficial results of the Special Election held on Tuesday, November 20, 2001, for Representative in Congress from the Third Congressional District of Arkansas, show that John Boozman received 52,894 or 55.55% of the total number of votes cast for that office.

It would appear from these unofficial results that John Boozman was elected as Representative in Congress from the Third Congressional District of Arkansas.

To the best of our knowledge and belief at this time, there is no contest to this election.

As soon as the official results are certified to this office by all County Boards of Election Commissioners involved, an official Certification of Election will be prepared for transmittal as required by law.

Sincerely,

SUSAN K. INMAN,
Director of Elections,
Arkansas Secretary of State.

PROVIDING FOR SWEARING IN OF MR. JOHN BOOZMAN, OF ARKANSAS, AS A MEMBER OF THE HOUSE

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that the gentleman from Arkansas (Mr. JOHN BOOZMAN) be permitted to take the oath of office today. His certificate of election has not yet arrived, but there is no contest, and no question has been raised with regard to his election.

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

There was no objection.

SWEARING IN OF THE HONORABLE JOHN BOOZMAN, OF ARKANSAS, AS A MEMBER OF THE HOUSE

The SPEAKER. Will the Representative-elect and the Members of the Arkansas delegation present themselves in the well. Will the Representative-elect from Arkansas (Mr. BOOZMAN) come forward and raise his right hand?

Mr. BOOZMAN appeared at the bar of the House and took the oath of office, as follows:

Do you solemnly swear that you will support and defend the Constitution of the United States against all enemies, foreign and domestic; that you will bear true faith and allegiance to the same; that you take this obligation freely, without any mental reservation or purpose of evasion; and that you will well and faithfully discharge the duties of the office on which you are about to enter. So help you God.

The SPEAKER. Congratulations. You are a Member of the 107th Congress.

INTRODUCTION OF REPRESENTATIVE JOHN BOOZMAN

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

Mr. BERRY. Mr. Speaker, I consider it a distinct honor and privilege to be here this morning to present the newest member of the Arkansas delegation to this House. JOHN BOOZMAN has distinguished himself as a son, a husband, a father and a leader. He has meant a great deal to the community he comes from in northwest Arkansas.

He follows a long and distinguished group that have served in that capacity from the Third District of Arkansas, one of those being present this morning, John Paul Hammersmith, and we are pleased to have him.

JOHN BOOZMAN and his family worked together to make northwest Arkansas a better place to live and work and raise a family. He has distinguished himself in many ways and will continue to serve the Third District and do a great job for them.

All of the Arkansas delegation is very pleased today to be able to present to this Congress the gentleman from Arkansas (Mr. BOOZMAN), and I think he represents a quote from one of my favorite books written by a fellow named William Alexander Percy.

□ 1030

In that he talks about a letter that his father who was a United States Senator from Mississippi wrote to a friend and in it he says, ''I guess our job is to make the world a better place in as much as we are able, remembering that the results will be infinitesimal and then attend to our own soul.''

I think those are the values that JOHN BOOZMAN will represent as he serves in this House and as he serves his district, the Third District of Arkansas. And so now let me present to you JOHN BOOZMAN.

EXPRESSING GRATITUDE AND THANKS FOR THE OPPORTUNITY TO SERVE AS REPRESENTATIVE FOR THE THIRD CONGRESSIONAL DISTRICT OF ARKANSAS

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

Mr. BOOZMAN. Mr. Speaker, I am honored to be here. I wish to thank the Members for their courtesy and warm welcome. I wish to take a moment to acknowledge my family, my wife, Cathy, of 29 years; my daughters Shannon, Kristen, and Lauren; and my mother, Marie Boozman; and my mother-in-law, Betty Marley. And then also all of the wonderful family and friends that have accompanied me to show support for me today.

I am also fortunate to be joined by two former Members of this illustrious body, Mr. John Paul Hammerschmidt and the senior Senator from Arkansas, Senator TIM HUTCHINSON.

For 26 years, Congressman Hammerschmidt served the Third District of Arkansas and set a standard of excellence and dedication that the people of the third district have come to expect from all that have succeeded him. I share Congressman Hammerschmidt's immense respect for this institution and for the good people that I have been elected to serve.

Senator HUTCHINSON continued the rich tradition of tireless service to the third district and is doing a wonderful job representing Arkansas in the United States Senate. I look forward to working with him and the rest of the delegation on behalf of our home State.

I also would like to take a moment to thank former Congressman Asa Hutchinson, who recently departed Congress to head the Drug Enforcement Administration. President Bush recognized Asa's talent and selected him to lead the Nation's efforts to eradicate illegal drug use. It is by no means an easy job, but if anyone is up to the task it is Asa Hutchinson.

Mr. Speaker, I am proud to follow in the footsteps of these fine public servants. I am committed to keeping alive the tradition of service and conservative values that the people of the third district have come to expect from their representative in Congress. I look forward to my service in this body and again express my deep appreciation for the welcome I have received. Thank you very much.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SHIMKUS). The Chair will entertain 10 one-minute speeches per side.

HONORING ANN MILLER AND TED MALIARIS

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

Ms. ROS-LEHTINEN. Mr. Speaker, I would like to recognize two patriotic Americans from my congressional district today, Ann S. Miller and Ted Maliaris. They have written and produced ''A Tribute to America—a 21st Century Anthem.''

Ann Miller's song is delivered with love and compassion by her son Ted with the help of their publicist Angel Duke. Theirs is an anthem for all Americans, dedicated to our Armed Forces, to our men and women in uniform, risking their lives every day and for those who need to carry on in this time of crisis.

The lyrics are powerful and uplifting: ''Our tears may fall and our hearts may be shattered, but deep down in our souls we are strong. We are proud. We are bold. We have the strength. We have the power no terrorist could withstand. We will not hide. We will not cower. We will stand up for the rights of our land. We are America. We are America, America, you are grand.''

Please join me in congratulating Ann S. Miller and Ted Maliaris, two proud Americans, proud to be serving our country.

WORLD AIDS DAY

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

Mr. FOLEY. Mr. Speaker, since AIDS was first recognized 20 years ago, 58 million people have been affected; and at the current rate of spread, the total will exceed 100 million by 2001.

According to the Centers for Disease Control, there are currently over 900,000 people infected and living with HIV and AIDS in the United States. There are approximately 40,000 Americans infected each year. Worldwide this year there were 5 million new cases, and of that, 800,000 were under the age of 15.

Worldwide there are over 40 million people currently living with HIV and AIDS; 18 million are women and 3 million are children.

AIDS kills more than 7,000 people in sub-Saharan Africa each day. President Bush this year has committed over $200 million to a global fund to fight HIV and AIDS. I have requested additional money along with other Members of Congress to pursue this very worthy goal.

Today we should reflect on those lost and use their memories to fuel our efforts to eradicate this pandemic.

REMEMBERING WORLD AIDS DAY

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

Ms. KILPATRICK. Mr. Speaker, today I rise to acknowledge and commemorate World AIDS Day, which is

Saturday, December 1. Today, worldwide, AIDS is the fourth largest killer of people. Forty million people, as has been said, are living with AIDS today. As has been said, 900,000 here in America and 13,000 in my own State of Michigan. Half of the infected cases are young adults between 13 and 25.

The cost of treating AIDS is astronomical. Our health system is not able today to carry that cost, and we must invest in our health system from top to bottom so we can treat those who are infected.

It is important because countries around the world, including Africa, Eastern Europe, the U.K., Australia and Japan, are seeing increasing cases of HIV and AIDS. We must educate young people as well as others how to prevent the scourge of AIDS and carry out that responsibility. We must also invest resources so our health care system can treat.

IN APPRECIATION OF U.S. CAPITOL POLICE

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

Mr. PITTS. Mr. Speaker, since September 11 America has been extra security conscious. Congress too has been taking extra precautions to make sure the people who work here are safe and as they do the people's business. We have extra jersey barriers up and a couple of side streets are blocked off to traffic. There is one more measure that I think we need to recognize. The Capitol Police are working overtime, a lot of overtime.

The dedicated officers of the Capitol Police have been working 12-hour shifts with only 1 day off a week. They are doing this to keep all of us safe. They are doing this to protect this building. This building is the symbol of American democracy. It is the symbol of freedom around the world.

So thanks to the men and women of the Capitol Police, the rookies and the veterans alike. Do not think that you are not appreciated. What you are doing is greatly appreciated by all of us.

THE BIG BITE

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

Mr. TRAFICANT. Mr. Speaker, as a former athlete, I thought I saw it all. Great celebrations after grand slams and Hail Marys. But this time it has gone too far.

News reports say after a game-winning goal at a soccer match in Spain, a player celebrated his teammate who scored by biting him on the genitals.

Beam me up.

Now I have heard of high fives, back slaps, butt slaps, but this takes the family jewels.

The team says the player is doing fine, but I suspect he will speak from here on in like a soprano. This is going a little too far. I yield back what has now become known as ''The Big Bite.''

HONORING CHANCE KRETSCHMER

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

Mr. GIBBONS. Mr. Speaker, I come to the well of this great body to recognize the achievements of Chance Kretschmer, a freshman running back for the University of Nevada, Reno, Wolf Pack football team.

Chance Kretschmer broke not only every Nevada football rushing record for number of yards, number of carries and number of touchdowns, but he is also the lead rusher in the NCAA.

Born and raised in a small rural town, Tonopah, Nevada, the young football star joined the Wolf Pack football team as an unknown walk-on freshman. Now, not only are the UNR fans and coaches taking notice, but all of the college sports community is doing so as well.

In his last game, Chance ran for an amazing 327 yards on 45 carries and scored an amazing six touchdowns leading the UNR to victory. And as only a freshman, this Nevada native certainly has an exciting future ahead of him. Congratulations, Chance Kretschmer, on your athletic accomplishments. You have made all of Nevada proud.

SUPPORTING WORLD AIDS DAY

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

Ms. LEE. Mr. Speaker, on December 1, communities across the globe will acknowledge World AIDS Day. The global AIDS pandemic is the greatest humanitarian crisis of our times.

Three years ago in my district, we declared a state of emergency on HIV and AIDS in the African American community. Since then the number of new infections has begun to slowly decrease, but millions of dollars are needed in our urban and rural communities to tackle this pandemic.

AIDS, like many diseases, knows no borders; nor does it discriminate. HIV has infected over 57 million people worldwide. AIDS, TB, and malaria claim over 17,000 lives each day.

We know how to prevent the spread of HIV. We know how to treat AIDS patients, and we know we must continue our work in vaccine development.

United Nations Secretary General Kofi Annan and global AIDS experts estimate that it will take $7 billion to $10 billion annually to launch an effective response. The United States should contribute at least $1 billion to this fund as the wealthiest and most powerful country on Earth. The human family is at stake. We can and we must do more.

□ 1045

A SAD ANNIVERSARY

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

Mr. LoBIONDO. Mr. Speaker, I rise today on a sad anniversary for a family in southern New Jersey. On November 25, 1991, 11-year-old Mark Himebaugh left his Middle Township, New Jersey, home to watch firefighters respond to a brushfire. He was returning as his mom was leaving to run an errand. His mother told him that she would be right back, and Mark replied, ''Okay, Mom.'' Those would be the last words anyone would hear from Mark. Now, 10 years later, Mark sadly is still missing.

This heartbreaking story is just one of so many in our Nation where FBI statistics show that more than 876,000 adults and children were reported as missing during the year 2000. The Congressional Caucus on Missing and Exploited Children, of which I am a member, is working to raise the profile of this issue.

The best way to help find kids like Mark is to look at the photographs of missing children posted at many venues around the Nation and call the National Center for Missing and Exploited Children's toll-free number at 1–800–THE–LOST. At their Web site, www.missingkids.org, you can see pictures of Mark. Please do your part to help out.

DR. GEORGE SIMKINS, JR.

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

Mr. WATT of North Carolina. Mr. Speaker, I rise today to pay tribute to Dr. George Simkins, Jr., a resident of my congressional district, who died on November 21 and is being funeralized today in Greensboro, North Carolina. Dr. Simkins, a former president of the Greensboro NAACP for 25 years, was a civil rights pioneer who helped integrate the Greensboro City Council and open public facilities to African Americans.

Dr. Simkins was a vigilant and constant warrior for equity, equality, and justice. In this role, he paved the way for many of us to achieve successes that would otherwise have been unattainable and then stood shoulder to shoulder with us to continue the fight. Politically, George was a strong supporter, adviser and mentor. Personally, George was my tennis buddy and my true friend.

Greensboro, North Carolina, and our Nation have lost a sturdy warrior whose important work will be remembered for years to come. I offer my condolences to the family of Dr. George Simkins, Jr.

TRADE PROMOTION AUTHORITY

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

Mr. KNOLLENBERG. Mr. Speaker, leadership is only proven through action, and throughout its history the United States has proven itself to be a leader. But as we lead the world in an effort to eradicate terrorism, we risk abdicating our position of leadership in an area that is just as vital to America's well-being and that is international trade.

With more than 130 trade agreements in effect in the world today, it is shocking that in the U.S. we are a party to only three. National security and economic security are not mutually exclusive. Exports strengthen our country by creating jobs and strengthening the economy. The jobs stay here and the exports go overseas. One in 10 Americans work in jobs that depend on exports. One in 10. And those jobs pay between 13 and 18 percent more than the national average.

America must lead in international trade in order to effectively lead the world. Fortunately, 1 week from today, December 6, Congress has a chance to pick up the mantle of leadership by passing trade promotion authority.

I urge all my colleagues to join me in supporting TPA, trade promotion authority.

THE ACCESS AND OPENNESS TO SMALL BUSINESS LENDING ACT

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

Mr. UDALL of New Mexico. Mr. Speaker, we all agree that small business is the engine of economic growth in our Nation. As a member of the Committee on Small Business, I have worked with my colleagues in both parties to ensure that access to capital is there for those who need it, especially women and minority-owned businesses. I am pleased to join today the gentleman from Massachusetts (Mr. MCGOVERN) in introducing legislation that will allow us to determine if financial institutions are responding to the credit needs of minority- and women-owned businesses. From this data, we will be able to determine what is working and what needs fixing.

This legislation is supported by the National Women's Business Council, the Women's Business Development Centers, the National Community Reinvestment Coalition, and the Hispanic Economic Development Corporation, to name a few.

I look forward to working with the gentleman from Massachusetts and all my colleagues to achieve passage of this important legislation.

URGING ACTION ON A FARM BILL

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

Mr. OSBORNE. Mr. Speaker, I am relatively new here, and I am surprised at the pace at which legislation moves at times. I am particularly amazed that legislation critical to the national well-being is not moving in the other body.

Much has been said about inaction on the economic stimulus package and the energy bill. I would like to call attention this morning to a bill that has gone largely unnoticed and that is the farm bill. The agriculture economy has been in dire straits not for just the past 2 or 3 months, but for the last 5 years. We have been losing thousands of farmers each year, almost no young people are going into agriculture, and three-fourths of U.S. farms rely on off-the-farm income. A new farm bill is critical.

The House farm bill passed this body 3 months ago. A farm bill passed this year will, number one, save thousands of farmers; and, number two, will ensure that we have an adequate budget.

The other body needs to act and needs to act now on several pieces of legislation, but particularly on a farm bill.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SHIMKUS). Members are reminded to not urge action or inaction by the other body.

WORLD AIDS DAY

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

Mr. PAYNE. Mr. Speaker, according to UNAIDS, each day 17,000 people die from HIV/AIDS, tuberculosis, and malaria worldwide. While the world's attention is appropriately focused on September 11 and our new war on international terrorism, we cannot ignore this ongoing tragedy. We have a tragedy occurring daily with HIV and AIDS, a tragedy on the scale of the black plague of the Middle Ages. The United States, as has been mentioned earlier, should be putting at least $1 billion in the global fund to fight HIV and AIDS.

In Zimbabwe, for example, AIDS has taken so many lives that agricultural output has decreased by 50 percent in the past 5 years. By 2005 there will be more than 10 million orphan children in Africa. The number of AIDS deaths can be expected to grow within the next 10 years to more than double the number of deaths caused by all other illnesses that we know.

We can do more. We must do more. It is the right thing to do more.

SETTING THE RECORD STRAIGHT

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

Mr. ISSA. Mr. Speaker, I come to the House floor today to make the body aware of what I think is a reprehensible act by the nation of Iran in using its state-run newspaper, the Tehran Times, to falsely state what a delegation of Members of Congress accomplished while in the Middle East. In a delegation that I was proud to lead, we went to the Middle East, to Syria, to Lebanon, to Egypt, to Israel and into the Palestine-occupied territories. On that trip, we had occasion to make an address in Lebanon. That address was covered by the Tehran Times and by the Associated Press, Reuters and others.

The Tehran Times chose to say that we had said that the Hezbollah was not a terrorist organization, when nothing could be further from the truth. It has a long history of terrorism, including its leaders having murdered American Marines in 1982, having blown up our embassy, and those leaders are still sought.

To make the record straight, the Associated Press, and I quote, said: ''The delegation's leader DARRELL ISSA, Republican of California, told reporters that for the United States to remove Hezbollah from its list of terrorist organizations, the Lebanese-based group must renounce terrorism.''

Another title: ''Hezbollah Must Renounce Terrorism, says a U.S. Congressman.'' That was from a French newspaper.

And from Reuters: ''U.S. Congressmen Ask Lebanon to Rein in Hezbollah.''

I hope this has set the record straight.

ON RETIREMENT OF HONORABLE EVA CLAYTON

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

Mr. INSLEE. Mr. Speaker, this morning I learned of the pending retirement from Congress of a great colleague, EVA CLAYTON from North Carolina. I just want to note her tremendous service the last decade of not only in North Carolina but the whole country.

I met EVA when she became president of our freshman class in 1992, and I think it showed the wisdom of our class in 1992 of having elected her to that position, because in the later 10 years, she has really provided great service, always in a very dignified, quiet manner and very successful for her constituents in North Carolina.

I hope during her next 1-minute where she continues her public service talking about our need to deal with the AIDS crisis, we will give her our infinite attention because she has been a great Member for the last decade. I thank Representative CLAYTON for her public service.

WORLD AIDS DAY

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

Mrs. MORELLA. Mr. Speaker, on Saturday, December 1, communities around the world will acknowledge World AIDS Day. This year's World AIDS campaign will address masculine behaviors and attitudes that contribute to the spread of HIV. The new campaign aims to involve men, particularly young men, more fully in the effort against AIDS.

June 5, 1981, marked the first reported case of AIDS. Since then, 5.3 million people worldwide continue to be infected, with roughly 3 million AIDS-related deaths annually. HIV/AIDS has caused over 25 million fatalities, and 40 million are living with the disease worldwide. Eighteen million are women and 3 million are children.

To combat this growing global threat, I along with 62 of my colleagues have most recently called on President Bush to set aside $1 billion in emergency fiscal year 2002 funding to fight the global AIDS pandemic, TB, and malaria. This funding is essential so that additional investments from both public and private sources can be leveraged to meet the cost of effectively combating the global AIDS pandemic.

Money is unquestionably a key component to our global battle to eradicate AIDS; however, equally critical is individual behavior. In spite of the progress we have made in our battle against AIDS, there is still approximately 40,000 new HIV infections a year in the United States, the exact number reported 10 years ago. We must encourage men to adopt positive behaviors and to play a greater role in caring for their partners and families. We all have a role to play.

HONORING CLEARFIELD EMERGENCY MEDICAL SERVICE

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

Mr. SHUSTER. Mr. Speaker, I rise today to honor the outstanding achievements of the Clearfield, Pennsylvania, Emergency Medical Service Company. On August 10, 2001, the Pennsylvania Emergency Health Services Council chose Clearfield EMS from among 1,000 ambulance service companies statewide to receive the rural ambulance service-of-the-year award.

Clearfield EMS garnered such an award not only through exemplary ambulance service but also through their involvement in the community. Free flu shots and participation at county fairs and festivals are just a couple of the many ways that Clearfield EMS has taken the lead in community education and involvement.

I congratulate Clearfield EMS on their exceptional accomplishments and their determination to improve their already stellar service. Clearfield EMS should serve as an example in excellence for other ambulance services nationwide.

□ 1100

TREATING HIV–AIDS AS A THREAT TO GLOBAL SECURITY

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

Ms. WATSON of California. Mr. Speaker, in honor of World AIDS Day, we must remember that it is estimated that by 2010, one-quarter of South Africa's population will be infected by HIV–AIDS. Other African nations are suffering similar rates of infection.

In late August, I traveled to South Africa to examine the HIV–AIDS pandemic firsthand. While there, I visited KwaZulu-Natal, a region with the highest HIV infection in the world. In that region, an estimated 1 in 3 adults tests positive for HIV. The time has come for the United States to treat HIV as the threat to global security that it is.

Let us not forget that Osama bin Laden has exploited the misery of another state where civil society has collapsed, Afghanistan, to serve as a base for his terror network. The United States must act to prevent HIV from destroying an entire generation, not only of Africans, but those in Afghanistan.

I urge my colleagues to remember this day on the 1st of December and ask for a renewed effort to fight against HIV–AIDS in Africa.

TERRORISM RISK PROTECTION ACT

Mr. SESSIONS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 297 ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 297

Resolved, That upon the adoption of this resolution it shall be in order without intervention of any point of order to consider in the House the bill (H.R. 3210) to ensure the continued financial capacity of insurers to provide coverage for risks from terrorism. The bill shall be considered as read for amendment. In lieu of the amendments recommended by the Committee on Financial Services and the Committee on Ways and Means now printed in the bill, an amendment in the nature of a substitute consisting of the text of H.R. 3357 shall be considered as adopted. The previous question shall be considered as ordered on the bill, as amended, and on any further amendment thereto to final passage without intervening motion except: (1) one hour of debate on the bill, as amended, equally divided and controlled by the chairman and ranking minority member of the Committee on Financial Services; (2) the further amendment printed in the report of the Committee on Rules accompanying this resolution, if offered by Representative LaFalce of New York or his designee, which shall be in order without intervention of any point of order, shall be considered as read, and shall be separately debatable for one hour equally divided and controlled by the proponent and an opponent; and (3) one motion to recommit with or without instructions.

The SPEAKER pro tempore (Mr. SHIMKUS). The gentleman from Texas (Mr. SESSIONS) is recognized for 1 hour.

Mr. SESSIONS. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentlewoman from New York (Ms. SLAUGHTER), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, the resolution before us today is a fair, modified rule providing for the consideration of H.R. 3210, the Terrorism Risk Protection Act. The rule provides that in lieu of the amendments recommended by the Committee on Financial Services and the Committee on Ways and Means, an amendment in the nature of a substitute consisting of the text of H.R. 3357 shall be considered as adopted.

The rule waives all points of order against consideration of the bill, as amended, and provides for 1 hour of debate in the House, equally divided and controlled by the chairman and ranking minority member of the Committee on Financial Services. It also provides for consideration of the amendment in the nature of a substitute printed in the Committee on Rules report accompanying the resolution, if offered by the gentleman from New York (Mr. LAFALCE) or his designee.

The bill shall be considered as read and shall be separately debatable for 1 hour, equally divided and controlled by the proponent and opponent. The rule waives all points of order against consideration of the amendment printed in the reported. Finally, the rule provides for one motion to recommit, with or without instructions.

Mr. Speaker, on September 11, the collective memory of Americans was altered forever. The terrorist attacks resulted in an incalculable loss, both in terms of life and the destruction of buildings, property and businesses. In the 2½ months since the attacks, America has begun the painful process of recovery and healing.

Today we are here to consider H.R. 3210, the Terrorism Risk Protection Act. Exposure to terrorism is not only a threat to our national security, but is also a threat to the United States and global economies. The full extent of insured losses from September 11 is not yet known, but current estimates span from the range of $30 billion to $70 billion.

There is no doubt that these terrorist attacks have resulted in the most catastrophic loss in the history of property and casualty insurance. While the insurance industry has indicated that it will be able to cover total losses, and should be commended for its resiliency, we are faced with a new situation that requires an innovative and creative solution.

As our President, President Bush, declared, this Nation is now faced with fighting a different kind of war against a new enemy. Just as our military leaders have had to employ new strategies and tactics to fight the war abroad, we have had to make adjustments in our own homeland.

Prior to September 11, terrorism insurance coverage was generally included in most commercial and personal contracts. However, the prospect of future attacks has set off a dangerous chain reaction.

The reinsurance industry, which insures insurance companies, has indicated its inability to provide terrorism coverage without a short-term Federal backstop. Without reinsurance for the risk of terrorism, insurance companies are forced to specifically exclude it from future policies. Without this terrorism coverage, lenders are unlikely to underwrite loans for major projects. This sequence of events could result in dangerous disruptions to the marketplace and further hurt our economy.

While a few fully understood intricacies of risk assessment and premium pricing are apparent, the effects on our marketplace are already being felt. I would like to highlight just a few of these real live examples.

There is a small construction contractor in Maryland that recently found out that his insurance premium might triple to $150,000 a year.

New York's JFK International Airport terminal cannot secure the $1 billion in insurance coverage it needs, which has led the developer to reconsider shutting the terminal down.

The city of Chicago has received a bill to renew its war on terrorism insurance for next year at a 5,000 percent increase over its 2001 rates.

These snapshots from around the country form a composite picture of a dire circumstance that requires action from Congress.

Since September 11, Congress has moved in a timely fashion to address the needs that have arisen from the bipartisan supplemental appropriations funding, provided just a few days after the attacks, to legislation that addresses the need for increased airline security, to an economic stimulus package. This House has responded to its calling.

Mr. Speaker, we now must step up again to pass this bill that is before us today. Reinsurance policies are generally written on a 1-year basis. Approximately 70 percent of current reinsurance contracts are set to expire at the end of this year, December 31, 2001.

As the year draws to a close, Congress must act quickly to avert a national economic disaster. The Terrorism Risk Protection Act provides a Federal backstop for financial losses in the event of future terrorism attacks. This crucially needed backstop would create a temporary risk-spreading program to ensure the continued availability of commercial property and casualty insurance and reinsurance for terrorism-related risks. Under the House plan, the Federal Government provides the necessary backstop without opening the pocketbooks of taxpayers. Every dollar of Federal assistance will be repaid.

The legislation also contains reasonable legal reforms to ensure that Federal assistance reaches its intended recipient. The 1993 World Trade Center bombing which killed 6 people resulted in 500 lawsuits by 700 individuals, businesses and insurance companies.

Mr. Speaker, it has been 8 years and the cases are only just now getting to the trial stage, and hundreds of plaintiffs have yet to even receive 1 cent of compensation. By providing reasonable reforms, victims of terrorism will more quickly and equitably receive compensation, while also reducing the substantial uncertainty facing the insurance industry when pricing terrorism risk.

Finally, the bill provides for studies that examine the effects on terrorism on various sectors of the insurance industry and ways to establish reserves, and guards against losses for future acts of terrorism.

Yesterday, in his testimony before the Committee on Rules, the gentleman from Ohio (Chairman OXLEY) described insurance as ''the glue which holds our economy together.'' The ranking member, the gentleman from New York (Mr. LAFALCE), also spoke, saying that this bill is not a bailout for the insurance company, and is of critical importance.

While there may be many competing ideas on the best way to address this situation, there is one unanimous agreement: that this legislation is absolutely critical to prevent major disruptions in the marketplace and further harm to our economy.

As the gentleman from Louisiana (Chairman BAKER) stated when he testified yesterday, the only intolerable action at this time is to do nothing.

Mr. Speaker, I urge my colleagues to join me in supporting this rule, a fair rule, and the underlying legislation.

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

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

(Ms. SLAUGHTER asked and was given permission to revise and extend her remarks.)

Ms. SLAUGHTER. Mr. Speaker, I thank my colleague from Texas for yielding me the customary 30 minutes.

Mr. Speaker, I rise in opposition to the rule. I oppose the hubris it embodies and the process it represents. In what is becoming standard procedure, the House is preparing to move forward with an important bill that is not ready for prime time.

No one doubts the critical nature of this bill. The withdrawal of terrorism coverage by reinsurers may force primary insurers to radically increase premiums for policyholders or to withdraw coverage entirely. The consequences could reverberate throughout the entire economy. Virtually nothing could happen in the American economy without insurance, and the vast majority in this body agrees that Congress has a duty to intervene in the reinsurance marketplace to safeguard against a cascading economic crisis.

Unfortunately, the leadership in the body has seized upon the crisis in an attempt to circumvent regular order and move forward with tort reform, a wholly extraneous matter. Tort reform does not belong in this bill, nor was it requested by the reinsurance industry representatives during the many discussions leading up to the legislation.

Even by the standards that are in place here, this is a heavy-handed attempt to curtail victims' rights. The tort reform provision threatens to derail the principal objective of the legislation, which is to revitalize and reestablish a rational and functional reinsurance market.

Yesterday's Committee on Rules hearing on the bill revealed utter confusion among the chairmen and ranking members of the two committees as to what the bill actually contained. The chairmen had not seen the measure, but had a hunch of what might be in it. The ranking members were wholly in the dark. Committee on Rules members were given copies of the comprehensive substitute provisions seconds before the hearing commenced.

Something else became apparent at the hearing as well. All the principals involved in the legislation, the gentleman from Ohio (Chairman OXLEY), the gentleman from New York (Mr. LAFALCE), the gentleman from Pennsylvania (Mr. KANJORSKI) and the gentleman from Louisiana (Mr. BAKER) were firmly convinced of the importance of the legislation and the need to move it forward, and, indeed, all four showed a great willingness to work together with each other to reach a consensus and a good bill which the country sorely needs. They believed that within an additional 24 hours they could have reached that agreement and moved a bill that virtually all of us would have supported.

Now, this is the way a deliberate body should operate, and, indeed, was operating as this bill moved expeditiously through the legislative process. But after the Committee on Financial Services carefully crafted a bipartisan measure, the House leadership seized their work product in order to move a controversial measure they know would not survive the scrutiny of the entire Congress.

□ 1115

Mr. Speaker, this is not leadership; this is petulance. The American people expect more from their leaders in a time of crisis.

We are also being asked to support a rule that blocks any attempt to remedy these extraneous provisions. Indeed, some measures in the committee itself that had passed by a majority

vote to improve the bill were not even included as the bill was written. The gentleman from New York (Mr. LAFALCE) and the gentleman from Michigan (Mr. CONYERS) both offered amendments for the rule that simply strike the sections of the bill that related to tort reform, and the gentleman from Pennsylvania (Mr. KANJORSKI) offered a compromise amendment on tort reform to prohibit the use of Federal assistance to cover punitive damage awards.

The gentleman from New York (Mr. CROWLEY) offered an amendment which would have expanded the legislation to cover not only commercial policyholders, but personal policyholders, like our Nation's homeowners who have been grievously hurt in New York City and other parts of the country. Without this extension, homeowners are going to see their premiums rise dramatically. But none of these amendments were made in order.

What is the leadership's aversion to regular order? Why the single-minded obsession with sabotaging critical legislation unanimously agreed upon at the committee level? And why the unwillingness to show their handiwork to the scrutiny of their colleagues before a Committee on Rules hearing and floor consideration?

Moreover, Mr. Speaker, there are other critical priorities that Congress is ignoring. As we take the time to rush through a measure designed to protect the insurance industry, surely we could utilize that same energy to address the needs of those who have lost their jobs and their health insurance in the wake of September 11.

With this in mind, I will be urging defeat of the previous question so that we can adopt a rule to order an amendment offered by the gentleman from New York (Mr. RANGEL). This amendment would provide relief for unemployed workers in the form of unemployment compensation and the extension of COBRA benefits and Medicaid.

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

Mr. SESSIONS. Mr. Speaker, I yield 5 minutes to the gentleman from Ohio (Mr. OXLEY), the chairman of the Committee on Financial Services, to speak to us supporting this rule.

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

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

Mr. Speaker, first I want to pay tribute to the gentleman from Texas (Mr. SESSIONS), my good friend, for once again helping us craft a very fair and equitable rule to debate this very difficult issue that faces us. Just a few short weeks ago, we faced this terrible attack on America on September 11, and I do not think any one of us could have foreseen the events that have taken place since that time that have drawn this Congress towards addressing some of the most critical issues facing us.

We have done a great job, in my estimation, acting on a bipartisan basis, dealing with things like giving the President the authority to wage a military campaign in Afghanistan, providing the funding necessary to get New York back on its feet and to compensate victims of this terrible tragedy and, ultimately, I think, passing an economic stimulus package.

This legislation that we will be taking up shortly is a direct response to what happened after September 11, and that is almost immediately. The reinsurance market which, for the most part, is offshore and not American, indicated very strongly that they would no longer write reinsurance policies for terrorism. This, of course, had a resounding effect on the American domestic insurance industry, the property and casualty companies, because with the inability to essentially reinsure or to spread the risk through reinsurance, they faced a real conundrum.

This is not about the losses that took place on September 11, and this bill is not a bailout for the insurance companies. The insurance companies stepped up to the plate and are taking care of their obligations that resulted from the September 11 attack. Indeed, it is going to be a $40 billion to $50 billion project for them to make these folks whole.

What it is all about now is what happens next. All of us hope that our efforts today will not be needed in the future because our bill only occurs and only triggers when an event actually occurs of a terrorist nature to be determined by the Secretary of the Treasury. We all hope and pray that our efforts today, while beneficial, will not have to be used. I think all of us share that. But in the event that we have another terrorist attack, we have to be prepared, and the issue is how can the domestic insurance companies provide the kind of coverage, as the gentleman from Texas (Mr. SESSIONS) said yesterday in the Committee on Rules, saying that the glue that holds our economy together truly is insurance.

People have told us, lenders and everybody else, we can no longer provide the kind of insurance coverage necessary. We do not know how to price it. This is a case of first impression, and we need a backstop; not a bailout, but a backstop, so that we can provide some kind of certainty for the insurance industry and, more importantly, for our concern. Because make no mistake about it: this legislation that we are going to be taking up soon is all about keeping our economy strong, not about bailing out insurers, but to actually provide the kind of continuity and certainty in the economic field. I have talked to developers who have development projects literally in the pipeline who are waiting to see what the Congress can do to provide this backstop.

Mr. Speaker, this is a fair rule. It provides the opportunity for the gentleman from New York (Mr. LAFALCE), my good friend and the ranking member, to offer a substitute of his choosing. It also offers the minority the opportunity for a motion to recommit, as is the custom. That basically says that the other side gets two bites of the apple. That is fine. But I also think, Mr. Speaker, that this bill that we will be debating should be a bipartisan effort, just like all the other efforts have been in this House.

Make no mistake about it: this House is going to act. The other body has some real problems. There is some question as to whether they can even get their act together; but today, sometime between 3 and 4 this afternoon, this House will have spoken loudly and clearly that we understand the problem and that we are ready to address the problem in a bipartisan way. This rule gets us towards that effort.

I want to thank the gentleman from Texas (Mr. SESSIONS), and particularly the newly arriving chairman of the Committee on Rules (Mr. DREIER), just newly arrived, not newly arrived to Congress obviously, but newly arrived to the Chamber, for his excellent work in crafting a rule that all of us can support.

Ms. SLAUGHTER. Mr. Speaker, I yield 3 minutes to the gentleman from New York (Mr. LAFALCE).

Mr. LAFALCE. Mr. Speaker, I thank the gentlewoman for yielding me this time.

I rise in opposition to this rule, and I would hope that all of my colleagues would join me in opposition. One of the most important things for us to do is have a fair rule so that we can debate the important issues of the day. It is not simply to get things behind us; it is not simply to create partisan contests. It is to frame important issues and then have discrete votes on those.

Now, the majority has not permitted that. They have said, oh, look, lump every single issue imaginable that we are concerned about into one substitute and put it all together. Well, the problem is, 90-some percent of the time, the only thing we accomplish there is to get a partisan vote with Democrats for the most part for, Republicans for the most part against; and we cannot really focus in on the discrete, but important, issues unless we have individual amendments, which the majority has denied. That is unfortunate, because there are individual issues of great import that do not have partisan considerations that we should debate separately and vote on separately.

For example, should there or should there not be a deductible? Well, I believe strongly that there should be a deductible before the Federal Government comes in, and the bill coming out of the Committee on Rules does not have a deductible. I personally believe, the administration believes, that there should be a deductible. It would prefer at least that portion of our substitute. The administration negotiated with certain Senators a proposal that included a significant deductible. That is

a separate and distinct issue. Let the insurance industry pay first; how much is negotiable, but at least $5 billion, before it is necessary to have a Federal backstop. And they absolutely have the capacity to do that with no difficulty whatsoever, and yet they are denying us the right to vote on that discrete issue.

Another discrete issue is, well, should the Federal Government come in and pay from dollar one? Should the Federal contribution, that is, 90 percent of the damages, come in on the first dollar or should it come in on the first dollar after a deductible? Under the House Republican Committee on Rules bill, that 90 percent Federal payment will come in on dollar one. Ours would come in the first dollar after $5 billion. That is a very important issue, and we should be allowed a discrete vote on that.

Mr. SESSIONS. Mr. Speaker, it is a delight and a pleasure to yield 7 minutes to the gentleman from Wisconsin (Mr. SENSENBRENNER), the chairman of the Committee on the Judiciary. As my colleagues have heard me detail earlier, he is one of three of the brightest minds in the Republican Conference, including the gentleman from Louisiana (Mr. BAKER) and the gentleman from Ohio (Mr. OXLEY).

Mr. SENSENBRENNER. Mr. Speaker, I thank the fourth bright mind of the gentleman from Texas (Mr. SESSIONS) for his compliments, and I rise in support of the rule and in support of H.R. 3210. I wish to compliment the gentleman from Ohio (Mr. OXLEY) for his vigorous work on this difficult issue.

I am particularly supportive of the litigation management provisions in H.R. 3210 which will benefit all people in all industries that fall victim to terrorist attacks of a catastrophic nature. Any bill that fails to limit potentially infinite liability for terrorist-caused litigation would fail to recognize the obvious. Traditional tort rules are designed to address slip-and-fall cases caused by banana peels, not terrorists; and while banana peels may be accidents waiting to happen, terrorists are suicidal killers plotting the deaths of thousands of innocents and the destruction of billions of dollars of property.

Under this legislation, if the Secretary of the Treasury determines that one or more acts of terrorism have occurred, an exclusive Federal cause of action kicks in for lawsuits arising out of, relating to, or resulting from the acts of terrorism; and the lawsuit must be heard by a Federal court or courts selected by the Judicial Panel on Multidistrict Litigation. These claims in Federal court are subject to limits on punitive damages and attorneys' fees. Defendants are only liable for noneconomic damage in direct proportion to their responsibility for the harm, and damage awards to plaintiffs must be offset by any collateral source compensation received by the plaintiff.

By enacting these provisions to cover terrorist-inspired litigation, individuals and businesses will be protected by Congress from potentially limited liability and bankrupting litigation. Also under these provisions, the size of damage awards for which the United States taxpayer will have to provide up-front sums to cover would be reduced, just as the Federal Tort Claims Act's limits on punitive damages and attorneys' fees limit damages and litigation that will result in money taken from the U.S. Treasury.

□ 1130

These provisions protect the American taxpayer. Those opposed to them wish to turn the key to the United States Treasury over to the plaintiffs' bar.

Existing tort rules do not properly apply when the primary cause of injury is a suicidal fanatic motivated by a deep hatred of America. These are not garden variety slip-and-fall or auto accident cases, and this Congress has already recognized this key distinction in passing the liability protection provisions governing lawsuits relating to the September 11 attacks.

As a result of the Aviation Security Act conference report, as well as the Air Transportation Safety and Systems Stabilization Act, September 11-related lawsuits against air carriers, air manufacturers, owners and operators of airports, State port authorities, and persons with property interests in the World Trade Center must be heard in Federal court in New York; and the total damages against these potential defendants, should they be found liable, are capped at the limits of the insurance coverage they had on September 11.

Let this be clear, that what is proposed in the litigation management provisions of this bill the House has already approved in both the Aviation Security Act and in the Air Transportation Safety and Systems Stabilization Act. So Members have already voted for this once and twice.

In addition to these provisions, the Airline Security Act that originally passed the House also limited punitive damages and attorney's fees, and required that damage awards to plaintiffs be offset by any collateral source compensation received by the plaintiffs.

The litigation management provisions of H.R. 3210 would similarly benefit victims of future terrorist attacks. If these same provisions are not extended to private businesses which might be attacked in the future, the mom-and-pop store down the street will have to invest scarce resources to turn itself from a corner shop into a fortified bunker designed to withstand foreign attacks to avoid potentially infinite liability, or pay through the nose in higher insurance premiums because the risks are higher and their exposure is greater.

Furthermore, without the litigation management provisions in H.R. 3210, no limits would be placed on the fees of attorneys bringing terrorist-caused cases against Americans and their businesses, and ultimately against the taxpayers, under this bill.

Reasonable limits on attorney's fees serve the same purpose behind restrictions on permanent damages and joint and several liability. They maximize the funds available to large numbers of victims when there are only limited resources available for compensation. Such protections are more important than ever in the context of the terrorist attacks causing large-scale losses. Again, the litigation management provisions in this bill will spread the wealth out to more victims, rather than having one or two large awards ending up bankrupting the pot of money available.

The 1993 World Trade Center bombing killed six people, yet resulted in 500 lawsuits by 700 individuals, businesses, and insurance companies. Damages claimed amounted to $500 million. Eight years later, these cases are only now just getting to trial, and hundreds of plaintiffs have yet to receive a cent in compensation.

By providing reasonable limits on potentially infinite liability and consolidating all cases in one or a few Federal forums, victims of terrorism will recover more quickly and more equitably because a few enormous awards in one court will not bankrupt a responsible party before another court can consider arguments of others who may have stronger claims against the same party.

I urge all Members to support these vitally important provisions, which ensure equitable compensation to victims while protecting the American economy and the American taxpayer.

Ms. SLAUGHTER. Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania (Mr. KANJORSKI).

Mr. KANJORSKI. Mr. Speaker, I rise in opposition to a rule I consider fundamentally unfair. The previous speaker addressed one of the major issues that I wanted to address in an amendment I had offered and asked the Committee on Rules to make in order, and that is to have some limitation on punitive damages and provide for consolidation of lawsuits, but not to enter into tort revision.

Unfortunately, some of my friends have seen the opportunity to use this as a locomotive today to go to one of their favorite topics, and that is, tort revision in the country. I think that is unfortunate because the history and the process of this legislation was initially handled by the Committee on Financial Services for the sole purpose of trying to bring together the entire Congress with a bipartisan effort to accomplish something that would allow the economy to have terrorist insurance and to have a reinsurance industry that could be vital, and could be kept in the private sector until we straighten out the problems and the new issues created by the terrorist attack on September 11.

I thought we had moved a great deal along that line during the committee operations, but since that time the bill has been taken and fundamentally changed, and made a vehicle to carry everyone else's desire to change fundamental existing law in the United States.

I recognize the fair right of all individuals to disagree with the evolution of tort law responsibility in the United States over the last 200 years, and it may be subjected to change. This body is the place that should consider that issue. It should not consider that issue at this time when we have a very limited period of time to get a comprehensive reinsurance bill passed so the economy can be stabilized for the next year or two, so that American businesses can get the insurance they need against terrorism, and so that the rate can be reasonable.

What we have here is a political response: taking a very highly emotional and disagreeable issue on the two sides of this aisle, and I may say, Members on both sides in different proportions, and inserting it in this bill, which will ultimately say this bill cannot be passed by the Senate, will not be passed by the Senate, and I think puts at risk the fact that we may have reinsurance legislation in this session, and as a result, could materially destabilize the economy of the United States over the next year or two.

That is unfortunate that some of us have given in to our basic weaknesses and have gone to our ideology, rather than to the interests of the people of the United States and the economy of the United States.

I hope my predictions are wrong. I hope we can get terrorist reinsurance put through this Congress before we adjourn. But if we do not, if we do not, it will really be as a result of tort law revision that has been inserted into this bill that prevents the passage of this type of legislation in the waning days of this session.

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

Mr. Speaker, it is obvious we disagree on this. But for someone to stand up in this body and argue that because of what we are going to do here today, it would encumber the Senate and ultimately would mean that this bill could not be passed, I simply disagree with that.

The Senate, the other body, has an opportunity to debate this issue, to bring forth their bill, and then for the conference committee, not the other body to feel like they have been put upon, but for the conference committee to be the body to determine what the final outcome will be. That is what the process should be.

I am proud of what this bill stands for, and I think we are doing the right thing.

Mr. Speaker, I yield 2 minutes to the gentleman from Utah (Mr. CANNON).

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

Mr. CANNON. Mr. Speaker, I thank the gentleman for yielding time to me.

I rise today in support of the rule and the underlying legislation. The rule provides for the continued availability of insurance against terrorism risks, and addresses multiple insurance and liability issues arising out of the September 11 attacks.

This is a good rule that incorporates changes made by the Committee on Financial Services and the Committee on Ways and Means and the Committee on the Judiciary to the original bill. I would like to speak about some of those important provisions that fell within the Committee on the Judiciary jurisdiction.

First, by working with the gentleman from Ohio (Chairman OXLEY) and the gentleman from Wisconsin (Chairman SENSENBRENNER), we were able to expand language in the original bill dealing with the use of frozen terrorist assets to compensate victims of terrorism.

This change to language offered by the gentleman from North Carolina (Mr. WATT) brings the bill into line with an amendment I offered earlier, in earlier legislation, that was accepted by the Committee on the Judiciary this fall. It was also language that was approved by the House on suspension in the 106th Congress.

The provision in the bill today will allow equal access to the frozen assets of terrorists, terrorist organizations, and terrorist sponsor-states for American victims of international terrorism who obtain judgments against those terrorist parties.

In addition, the Committee on the Judiciary added important litigation management provisions to deal with the legal aftermath of a major terrorist attack. This is a commonsense recognition that major terrorist attacks are not garden variety tort cases, and that there is a compelling national interest in setting rules and limits for how lawsuits arising from such attacks proceed. Exposing American citizens and insurers to unlimited liability in multiple judicial forums for the terrible acts of madmen is a recipe for a financial crisis.

This Congress overwhelmingly recognized the same principle when we limited airline liability for the September 11 attacks and set them back on a sound financial footing. We need to do the same today for insurers, and equally important, to the insured.

I would like to thank again the gentleman from Ohio (Chairman OXLEY), the gentleman from Wisconsin (Chairman SENSENBRENNER), the gentleman from New York (Mr. FOSSELLA), and the gentleman from North Carolina (Mr. WATT), for all their efforts on these issues.

I urge my colleagues to support the rule and the bill today. By providing partial Federal coverage for acts of terrorism, setting reasonable limits and procedures for lawsuits arising from such acts, and allowing victims to go directly after the frozen assets of terrorists and their sponsors, we can help our Nation and economy move forward.

Ms. SLAUGHTER. Mr. Speaker, I yield 2 minutes to the gentlewoman from New York (Mrs. MALONEY), a member of the committee.

(Mrs. MALONEY of New York asked and was given permission to revise and extend her remarks.)

Mrs. MALONEY of New York. Mr. Speaker, I thank the gentlewoman for yielding time to me.

Mr. Speaker, I rise in opposition to the rule for the reasons outlined by the gentleman from New York (Mr. LAFALCE) and the gentleman from Pennsylvania (Mr. KANJORSKI) for not allowing substantive amendments and for fundamentally changing the work product of the Committee on Financial Services.

But Mr. Speaker, the issue of terror insurance may affect our national economy more immediately and more drastically than any tax or spending bill that Congress considers in the next decade. Without Federal intervention in the terror insurance market, our economy will face a sudden, massive credit crunch after the first of the year. Nowhere will this impact be more serious than in the district I represent in New York City.

Even if Congress passed a perfect bill, I am sure that insurance rates are going to go up and availability shortages will be a fact of life next year, especially in New York.

The New York State insurance commissioner will have to be especially vigilant next year to make sure that rates remain affordable and products are available. The restrictions on victim rights in the majority bill deserve their own vote as an amendment separate from the substance of this bill. This effort to limit the access to the State courts and restrict individuals' access to the civil courts is simply an act of the majority's long-advocated partisan agenda. This bill is too important to play politics, and these provisions have no place in this debate.

Insurance coverage is vital to our economy. Without a safety net for catastrophe, businesses simply will not do business, they will not employ people, and they will not meet consumer needs.

While the industry should be complimented for quickly moving to cover the $50 billion to $70 billion in losses from the World Trade Center, the reinsurance industry, which buys risk from property and casualty writers, is unable to cover massive future events.

Without reinsurance, we face a domino effect. Property and casualty insurance will be unwilling to write policies. Without property and casualty coverage, banks will refuse to lend money for major capital improvements or real estate projects.

Mr. SESSIONS. Mr. Speaker, I yield 1½ minutes to the gentleman from Columbus, Indiana (Mr. PENCE), of the Committee on the Judiciary.

Mr. PENCE. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, as a member of the Committee on the Judiciary and also as a former trial attorney, I rise in strong support of the rule and the underlying legislation.

Mr. Speaker, in the antiterrorism measures recently passed by Congress, legal reforms were an integral part of shaping bills that provide the President with the necessary means to combat evil. Legal reform is equally important to the measure before us today in this Chamber, terrorism risk protection.

Mr. Speaker, the existing legal system is simply not designed to rectify attempts by international terrorists to murder thousands of innocent Americans or obstruct our economy.

□ 1145

We need look no further than the 1993 bombing at the World Trade Center for proof. In that heinous crime 6 Americans were killed, but 500 lawsuits were filed claiming more than $500 million in damages. These cases are only coming to trial today, over 7 years later, and many plaintiffs have yet to receive a dime in compensation.

Mr. Speaker, our current legal system is inadequate to deal with this very present threat against our people. The current legal system pits victim against victim and encourages overreaching by the colleagues in my former profession and, even worse, could result in putting hundreds of millions of dollars into the deep pockets of attorneys' fees instead of addressing real losses by Americans.

Mr. Speaker, my colleagues can understand the urgent need for legal reform in the matter of risk protection. I applaud the gentleman from Ohio (Mr. OXLEY) and his colleagues for their hard work in creating a pro-consumer, pro-taxpayer solution as read in H.R. 3210, and I urge my colleagues to support the rule and the bill.

Ms. SLAUGHTER. Mr. Speaker, I am pleased to yield 1 minute to the gentleman from Missouri (Mr. GEPHARDT), the minority leader.

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

Mr. GEPHARDT. Mr. Speaker, I rise to ask Members to vote no on the previous question so an amendment can be offered to include worker relief in the base bill. It had been more than 2 months when we passed the bill to help the airlines, since the Speaker promised to bring up a bill soon to address the critical issue of worker relief.

It has been now more than 2 months. We have taken up all kinds of appropriation bills. We have taken up all kinds of other legislation. We have dealt in two instances with the airline industry, all of which we needed to do, and I am not opposed to the basic idea of doing something about insurance and the real estate industry. I understand the problems that the committees tried to deal with, and I am sympathetic with trying to do something about it.

I am opposed to some of the matters that got freighted on to this bill, and so I am going to vote, if this bill survives the process, because of what has been put in it with regard to civil justice system.

The basic idea of dealing with the insurance industry is a sound idea. What I am unwilling to do and I think a lot of us are unwilling to do is to take up one more bill to deal with one more industry without finally dealing with the most important problem that faces us as a country today, and that is the thousands of people that have become unemployed in America who have no income, no health insurance, and no ability to deal with the problems they now face.

I have thought a lot about it. Why are we constantly dealing with other matters before we deal with the most important matter in front of us? I have finally come to the conclusion that it is a result of the fact that we personally are not facing these problems. We intellectually know that people out there are hurting, but I guess we are not hurting. We are all employed. We all have health insurance. We just do not get it.

I was asked recently how the people in St. Louis, who I represent, were dealing with the anthrax attacks here in Washington, and I have talked obviously with my constituents a lot about what was happening here in Washington with anthrax, and they understood it intellectually, but they did not understand it the way I understood it. The analogy I have used is, it is one thing to have your aunt or uncle diagnosed with cancer. It is another thing when you are diagnosed with cancer. It takes on a new meaning.

We have thousands of people in this country who have no unemployment insurance, and they are unemployed. Probably today about 40 percent of the unemployed do not even qualify for unemployment insurance because of the changes that have been made in the laws across the country in the last years. And none of them have the money, even if they get unemployment insurance at 6- or 7- or $500 a month, or $300 a month, none of them can afford their COBRA health insurance, none of them.

Just imagine in your own family, if your income had been wiped out, you were not going to get a check at the end of the month, and you lost your health insurance, what happens to your kids? What if your kids get sick? What are you going to do?

That is the bill we ought to have on the floor today, and we are unwilling to continue taking up bill after bill, as necessary and as important it may be, until we deal with this single most important issue that faces the American people.

Vote no on the previous question. Vote against the rule, and let us come back on this floor today or tomorrow and deal with the most important problem facing this country. We may not understand it because it does not affect us, but I can assure my colleagues it affects thousands of people in districts across this country. Let us come back and do the right thing.

Ms. SLAUGHTER. Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. BENTSEN).

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

Mr. BENTSEN. Mr. Speaker, one of the other speakers on the other side said this was a fair rule and a fair process. There ain't nothing fair about this rule. If my colleagues want to know where the fair process was, it was in the Committee on Financial Services where, under the gentleman from Ohio (Mr. OXLEY) and the gentleman from Louisiana (Mr. BAKER), we debated and crafted a very good bill. In fact, I was one of the original cosponsors, along with the gentleman from North Dakota (Mr. POMEROY) of the underlying bill.

Somewhere from the Committee on Financial Services to the House floor, as often happens around this place, the bill changed greatly in scope.

What I am concerned about is we had a chance to do something that we really need to do the easy way, get a bill passed in a very temporary nature where the government intervenes in the markets and basically gets into the reinsurance business; and instead we have decided to pick the hard way and add what is called legal reform.

This bill is not about reform. This bill is about avoiding defaults on virtually every major development loan that is out in the country today. It is about stopping, or not having new projects being stopped. And here is what is going to happen, because I do have a little experience in this, and I do not think all the Members do. All the lawyers do.

We are worried about the trial lawyers. We have need to be worried about the bank lawyers out there, because what they are going to do when we do not pass this bill, when the other body kills it because we are getting down off a rabbit trail on this thing, is the reinsurance companies are not going to write any new policies. So the bank lawyers are going to go pull down the documents for all the deals for all the buildings that are going to be done. And they are going to go down to the section on insurance and the covenants that are there, and they are going to say, okay, you are in technical default, ACME Development Corp. And ACME Bank is going to call ACME Development Corp. and say, you have 45 days to cure this default and if you do not cure this default, then we are going to put the deal in default and we are either going to call your loan or you will have to renegotiate your loan.

If we go read the Wall Street Journal today, we will read about Enron Corp. which is based in my home city. They

have huge loans out with some of the big money center banks. They are probably not going to get repaid. We have a credit crunch going on in the economy right now, and now we want to have an insurance crunch occur. That is the hard way to do things.

We fixed the problem in the committee. We passed, in a bipartisan vote, the Bentsen amendment that made sure that the taxpayer would not be on the hook for punitive or noneconomic damages. But what we also said was the defendant, the building owner, the airline owner, if they had liability, if they had negligence, even in a terrorist attack, if they had locked the exit door, if they had not had proper exits and there was liability, that they would have that liability if there was negligence; but the taxpayers would not have that liability.

We solved the problem in a temporary nature in what is otherwise I think is a very good bill. But for some reason, as is always the case around here, we decide to do it the hard way rather than the easy way. And someday we will do it the easy way. But what I am worried about is it is going to be January when we are doing it the easy way, and we have caused all this problem by trying to put ideological changes in a bill that has nothing to do with that.

I hope we defeat the previous question, defeat the rule, and let us get a good bill like we started with in a very bipartisan fashion.

Ms. SLAUGHTER. Mr. Speaker, I yield 2 minutes to the gentlewoman from Oregon, (Ms. HOOLEY).

Ms. HOOLEY of Oregon. Mr. Speaker, I thank the gentlewoman for yielding me time.

Mr. Speaker, I rise in opposition to this rule. Earlier this week, the National Bureau of Economic Research announced the U.S. economy had been in recession since last March. This is not really shocking news for Oregon. Over the last year our economy has been battered, and right now we have the highest unemployment rate of any State outside of Alaska.

Yesterday the Feds announced economic growth across the United States is continuing to lag despite our best efforts of slashing taxes and cutting interest rates. Well, in about 7 weeks, about 70 percent of reinsurance contracts will expire. The unavailability of terrorism coverage for commercial businesses could have devastating results for businesses and consumers.

For the past several weeks the Committee on Financial Services worked to bring a bill to the floor that actually stood a chance of passing. In normal times it would take years, if not decades, to find a workable solution to this problem. Yet we were able to negotiate, we were able to pass a bill by voice vote, a bipartisan bill, to get us where we needed to be.

Unfortunately, we find ourselves in a familiar place, a place that mocks our legislative process. Out of the clear blue sky, a half hour before the Committee on Rules met yesterday, a new bill was introduced. No committee hearings, no work sessions, no markups. A new bill. Not only did it shred the bill which came out of the Committee on Financial Services, it comes to the floor of the House loaded with legal reform, something that has no bearing whatsoever on the health of our economy.

Someone once again decided that politics were more important than the good of business, the good of consumers and the good of the Nation. This is no laughing matter and this should not be business as usual.

Even as I speak, primary insurance companies have started filing petitions with State regulators, seeking to exclude terrorism from commercial and personal policies. Do we really expect banks to loan cash to businesses who are not insured against acts of terror?

Mr. Speaker, I stand here able and willing to reach across a political divide to bring a bill to the floor which makes sense, which will have a positive effect on our economy. But until then, I have no other choice than to oppose the rule, the underlying bill, and urge my colleagues to support the LaFalce-Kanjorski substitute.

Ms. SLAUGHTER. Mr. Speaker, I yield 2 minutes to the gentleman from North Dakota (Mr. POMEROY).

Mr. POMEROY. Mr. Speaker, I thank the gentlewoman for yielding me time.

Mr. Speaker, I want to begin by commending the Committee on Financial Services leadership, the gentleman from Ohio (Chairman OXLEY) and the gentleman from Louisiana (Mr. BAKER), the subcommittee chairman, as well as the ranking members, the gentleman from New York (Mr. LAFALCE) and the gentleman from Pennsylvania (Mr. KANJORSKI). This committee has done a very serious effort at trying to address an urgent problem.

We must act. We simply must act. Those are the words of the gentleman from Louisiana (Chairman BAKER) to the Committee on Rules yesterday in describing the urgency of moving this legislation.

Well, what a shame, what an incredible shame that majority leadership would then stomp all over the work product brought out of the Committee on Financial Services to address this issue by drafting onto the bill an unrelated, partisan, highly ideological agenda.

Sometimes we just need to put our partisan roles aside and deal in a bipartisan way to address the concerns of this Nation, especially the urgent needs of this Nation. There was no need to make a political issue out of this. Both sides recognize the need to act, both sides can find an agreement in terms of how to get this terrorism coverage out there through this Federal legislation.

Instead, the majority leadership dramatically complicates this whole effort to address and get enacted legislation in the few remaining weeks.

My friend, the gentleman from Ohio (Chairman OXLEY) has described this as a fair and equitable rule. What is fair and equitable about a rule that prohibits us from offering an amendment that would restore his own work product, the Committee on Financial Services' work product, in place of the new language dropped on the bill by majority leadership? We wanted to get this and get it right.

I used to be an insurance commissioner. I can tell you, this is a very technically demanding, tricky piece of work we are attempting to do here, and to sidetrack the whole discussion by slapping the red herring of tort reform unnecessarily onto this legislation detracts considerably from our efforts and our ability to get this right.

□ 1200

This was a time when the House could have provided leadership to the Senate by passing a bill setting the framework for how this tort reform could have been established. We could improve this today significantly if the rule would allow us to put on the bill the committee's own work products.

Reject this rule. We need to do a better job.

Ms. SLAUGHTER. Mr. Speaker, I yield 3 minutes to the gentleman from Massachusetts (Mr. DELAHUNT).

Mr. DELAHUNT. Mr. Speaker, I thank the gentlewoman for yielding me this time.

Unfortunately, Mr. Speaker, this bill has become an attempt to rewrite the rules of our civil justice system. And I think it is important to note that statements by Members in the majority on the Committee on the Judiciary would suggest, and I know it was not their intention, but would suggest that the Committee on the Judiciary had hearings on this particular bill. Well, I think it is important that everyone in this Chamber and the American people should clearly understand that there were no hearings on this bill before the Committee on the Judiciary.

Now, no one objects to responsible measures that help ensure the availability of insurance against future acts of terrorism. Indeed, given the collapse of the reinsurance market for terrorism coverage, it is incumbent upon us to respond. But the manager's amendment that we are considering today is not a responsible measure. It transfers to the taxpayers the risk of losses, which the insurance industry has said it is willing and able to absorb; and it asks the public to assume this huge contingent liability without imposing any obligation on insurers to provide affordable coverage to those who need it.

But the worst feature of the legislation is one which has nothing whatsoever to do with stabilizing the insurance market. Section 15 of the bill would limit relief of the victims of terrorist attack by immunizing wrongdoers in advance from the consequences of their own wanton and

reckless acts. This sweeping provision would prohibit the courts from awarding punitive damages; it would eliminate joint and several liability for economic damages; require courts to reduce damage awards by the amounts received from life insurance or other collateral sources; and waive prejudgment interests, even in those egregious cases, for example, where private airport security contractors who wantonly, recklessly, or maliciously hire convicted felons, who fail to perform required background checks, or who fail to check for weapons.

Now, nobody wants to hold parties responsible if they bear no blame. But this bill lets them off the hook even if they knowingly engage in conduct that puts Americans at risk.

It is interesting to note, Mr. Speaker, that the bill would also place a cap on attorneys' fees, making it harder for victims to pursue meritorious claims in a court. But the caps apply just to plaintiffs' attorneys. Corporate defendants remain free to hire the most expensive lawyers they can find.

Mr. Speaker, it is hard to see these provisions as anything other than a tax-free gift for corporations and an attempt to rewrite the rules of our civil justice system. I urge defeat of the previous question and the rule.

Ms. SLAUGHTER. Mr. Speaker, I have one speaker remaining. How much time do I have?

The SPEAKER pro tempore (Mr. SHIMKUS). The gentlewoman from New York (Ms. SLAUGHTER) has 6 minutes remaining, and the gentleman from Texas (Mr. SESSIONS) has 6½ minutes remaining.

Ms. SLAUGHTER. Mr. Speaker, I yield 5 minutes to the gentleman from California (Mr. GEORGE MILLER).

(Mr. George Miller of California asked and was given permission to revise and extend his remarks.)

Mr. GEORGE MILLER of California. Mr. Speaker, I thank the gentlewoman for yielding me this time.

Mr. Speaker, I was hoping that we would have a bill today that we could support, because I think the committee, on the underlying bill on insurance protection for the real estate industry and for the insurance companies and others, is on the right track. Yet we find this bill is substantially now loaded down with a whole series of tort reforms, without hearings, as many of my colleagues have alluded to here, and now threatens to delay, if not make impossible, the passage of this legislation.

I also, though, want to raise some questions with respect to the legislation as we continue the consideration. I would refer Members of the House to the Wall Street Journal of November 15, an article on the insurance companies that points out that the market has taken a somewhat different picture of the insurance industry than the insurance industry is presenting to the Congress of the United States. The title of the article is, ''Insurance Companies Benefit From September 11, Still Seek Federal Aid.''

The article talks about raising premiums 100 percent, or 400 percent in some instances. It also makes it very clear that the insurance companies see this as an opportunity. A number of memos sent back and forth in Marsh & McLennan and other large insurance companies have made it clear the time is now to fully exploit the opportunity that was presented by September 11 in terms of creating new companies, creating new entities, and going after new capital.

In an effort to raise a billion dollars in new capital within a few days after September 11, in an insurance industry that is seriously in trouble supposedly, what they are telling us in Washington, they were so oversubscribed they had to turn people away. Other entities then came in, and they raised about $4 billion in new capital. Many of the companies have sold additional stock that have been subscribed to by very, very reputable investors that have decided that this is a good take.

On the date of that article the insurance company stocks were up about 7 percent. What is going on here? They are running in and frightening the banks and frightening the real estate industry, everybody else, raising their premiums; and they know on the other end they are going to get Federal protection. As the article points out, they know they have an ability now to raise premiums up to 400 percent, to limit their liability; and the payouts will be taken on the other end.

That is why I think this committee is on the right track with the suggestion that we are prepared to help them out, but we also think there ought to be some payback. Because, again, the article makes it very clear, and the financing of this industry makes it very clear that even with the huge payouts they will experience from September 11 their reserves are sufficient. Over time, and hope to God we do not have other terrorist activities, those reserves will be built up. The premiums will be raised.

We may have a catastrophic event, we may have to step in, but the nature of the industry is they have the ability to pay the taxpayer back. There are others who want to suggest that $10 billion and the industry is off the hook, or that we pick up all of the cost. I think we have to be very careful about how we approach this and we recognize the real financial capacity of this industry.

They are running around telling people they are not going to rewrite the insurance. That is not what they are telling other people where they know they can extract the dollars. There may be some people that cannot afford this coverage. That is a different issue. But, clearly, this industry is rapidly rebuilding its reserves, rapidly rebuilding its premium base, rapidly rebuilding its revenues and its capital.

That is what is going on on Wall Street, that is what is going on in the American marketplace, and they are running around Washington with a tin cup suggesting, in many instances, that we should pick up all this liability as a result of a terrorist attack.

I think the committee is on the right track. Unfortunately, this bill now has been saddled with a whole series of issues that threaten to bring down its consideration by both bodies.

I would also raise the point raised by the minority leader that, once again, here we are bailing out an industry that obviously is exuding a great market force at this very time; and yet we have hundreds of thousands of families that have lost their livelihood, that have no market force, have no ability to make their mortgage payments; and this Congress is about to leave town, about to adjourn.

In spite of the representations of the President of the United States that he was going to have money, that money was taken away last night for unemployment insurance. That money was taken away from the States that could help pay people's health insurance. That was a Presidential program that was destroyed last night. The Speaker said he was going to work with the minority leader to help people put out of work in the airline industry and elsewhere because of September 11. Nothing has happened on that front.

So what we find here is that the majority party is keeping from us any consideration of help for those people who, as a result of September 11, lost their employment, or those people who lost their employment before September 11 but now see their opportunities greatly diminished. We are going to do nothing for those people. Yet we are here, after the airline industry, and now with the insurance industry. Clearly, this Congress can see its way to help the most unfortunate people in our society and not make them further victims of the attack on September 11.

Mr. Speaker, I submit for the RECORD the full newspaper article I referred to earlier.

[From the Wall Street Journal, Nov. 15, 2001]

INSURANCE COMPANIES BENEFIT FROM SEPT. 11, STILL SEEK FEDERAL AID

(By Christopher Oster)

For Marsh & McLennan Cos., the Sept. 11 attacks have meant two very different things.

One is personal loss. The world's largest insurance brokerage lost 295 employees who worked at the World Trade Center. ''It was very painful for us, agonizing for loved ones and close friends,'' Jeffrey W. Greenberg, Marsh's chairman and chief executive, told employees at a memorial service in St. Patrick's Cathedral in New York on Sept. 28.

But in the days after the attacks, even as the company was sorting out who was safe and who had perished, it quickly became clear that Sept. 11 presented a tremendous business opportunity for Marsh and other strong players in the industry.

Within days of the twin towers' destruction, Mr. Greenberg and top lieutenants began planning to form a new subsidiary to sell insurance to corporate customers at sharply higher rates than were common before Sept. 11. Marsh also accelerated plans to

launch a new consulting unit to capitalize on heightened corporate fears of terrorism. Vice Chairman Charles A. Davis says the company is merely meeting new marketplace demands. ''There is a financial reward for doing that,'' he says.

Unlike airlines, which are reeling as travelers hesitate to fly, insurers have seen improved financial prospects since Sept. 11. Insurers expect to have to pay out $40 billion to $70 billion in claims related to the attacks. That sounds daunting, but in fact, it is manageable for an industry that collectively has $300 billion in capital.

Moreover, in response to Sept. 11, insurers are already raising prices by 100% or more on some lines of commercial and industrial insurance. Nearly all such lines are seeing rate increases of more than 20%. For much of the 1990s, carriers had engaged in a price war, keeping premiums relatively low. The prospect of large payouts related to the attacks gave the industry grounds for demanding substantial increases.

Sept. 11 payouts will hurt insurers' balance sheets for a number of quarters. The higher rats they are introducing are expected to last for years.

Insurance stocks have jumped 7% since the attacks, outpacing the broader market, and the atmosphere in the industry is one of eager anticipation. Marsh set out to raise about $1 billion in outside money to capitalize its new company. Investors volunteered six times that much, and dozens had to be turned away.

Amid these signs of robust health, however, the industry is stressing potential disaster as it pressures Congress for emergency aid. By the end of December, lawmakers are expected to approve legislation under which the government could have to pick up billions of dollars in claims related to future terror assaults in the U.S.

This federal backing would have tremendous financial value to insurers in the event of another disaster. And it would have an immediate impact, too, emboldening the industry to sell new terrorism coverage, for which it will charge higher premiums. Carriers collect their money now, while the government would help pay any claims later.

Even consumer advocates say newly recognized dangers warrant some sort of broader government role in insurance. But these advocates say the changed terror calculus doesn't justify a wave of steep rate increases for policies unrelated to terrorism—especially since the government is taking on the additional risk. ''It's very opportunistic'' of the industry, says Robert Hunter, insurance director for Consumer Federation of America, a Washington, D.C., advocacy group.

In the weeks after Sept. 11, newspapers carried numerous advertisements touting insurers' intent to pay disaster claims promptly. Less well known is how these companies plan to recoup much of the money they will be sending to policyholders.

The decade-long premium price war had been ending before the attacks, as weaker insurers collapsed or retrenched and stronger ones began gradually to charge more. Now, faced with payouts related to Sept. 11, the healthier companies are demanding that their customers share the pain by paying bigger premiums. Some insurance companies are so confident in this strategy that they are expanding operations. Since Sept. 11, at least seven insurers have sold additional shares of stock. An additional six, including Marsh, have formed new companies.

Among the new units is a Bermuda-based carrier put together by American International Group Inc. Chubb Corp, and investment bank Goldman Sachs Group Inc. State Farm Mutual Automoible Insurance Co. and RenaissanceRe Holdings Ltd. are creating another one. Since Sept. 11, insurers have raised a total of about $4 billion in new capital, to which they are adding a modest amount of their own money. Deals valued at another $14 billion are expected to be completed in coming months, according to industry analysis.

Since the attacks, aviation underwriters have raised premiums for airlines by 200% to 400%, according to insurance brokers. At the same time, the underwriters are cancelling parts of airlines' coverage for liability to third parties other than passengers in future terrorist acts.

U.S. airlines don't have to worry about these increases immediately. The airline-bailout bill Congress approved after Sept. 11 included provisions under which the federal government for six months will pay any increases in commercial insurance and cover airlines' potential third-party liability for terrorism. In the not-too-distant future, though, the airlines could collectively face billions of dollars in additional annual premiums.

NEW SURCHARGE

Led by giant AIG, insurers have offered airlines a new, more-expensive package to replace the rescinded terrorism coverage. The new price includes a $3.10-per-passenger surcharge. Lacking the backing of the U.S. government, numerous foreign airlines are buying the new coverage, which is expected to boost insurers' revenue by a total of hundreds of millions of dollars a year.

Owners of New York trophy properties are seeing giant rate increases. Douglas Durst, a developer with large holdings in midtown Manhattan, including the 50-story Conde Nast building, says his insurance broker has told him that he will be lucky if his premiums increase by only 20% at renewal time in April. ''There are [real estate] people who are seeing their rates double,'' Mr. Durst says.

Brookfield Properties Inc., which owns most of the World Financial Center complex adjacent to the World Trade Center, has said that insurers are cutting back on its terrorism coverage. Brookfield said its insurers agreed to cover its liability risk associated with future terrorist attacks but are refusing to reimburse it for property damage or the costs of business interruption. (The Wall Street Journal has offices in Brookfield's World Financial Center property.)

Medium-sized and small corporate policyholders are also seeing premiums jump. One week after the attacks, Industrial Risk Insurers, a unit of General Electric Co.'s Employers Reinsurance unit, told textile manufacturer Johnston Industries Inc. that it wouldn't renew Johnston's property-insurance policies, which expired Oct. 31, Bill Henry, a vice president at the Columbus, Ga., company, says it wound up paying $1 million more to a European carrier for a year's coverage, ending in October 2002—a 150% increase. The limit of the new policy is only $350 million, or half of what Johnston previously received from the GE insurance unit. For a company with annual revenue of about $240 million, ''it's a major blow,'' says Mr. Henry.

Dean Davison, a spokesman for the GE unit, confirms that it has discontinued many of its policies. But he adds that Sept. 11 merely hastened actions that had already been planned for later this year.

GOVERNMENT AID

While aggressively raising premiums, the insurance industry has been busy seeking relief in Washington. Ten days after the attacks, a delegation of chief executives, including AIG's Maurice R. Greenberg, the father of Marsh's Jeffrey Greenberg, descended on the capital to lobby President Bush and lawmakers.

The industry leaders sounded an alarm that reinsurance companies—which spread corporate risk by selling insurance policies to the insurance industry—were moving to cancel terrorism-related reinsurance coverage. The big primary carriers told the politicians they would eliminate almost all terrorism coverage unless the government stepped into the role of the reinsurers.

Without this coverage, many lenders would hesitate to finance everything from factories to new real estate development, the insurance executives warned their Washington hosts. Large areas of the economy could grind to a halt.

The pitch worked. Congress is now expected to approve a mechanism that will guarantee that if there are huge future terrorism liabilities, taxpayers will help pay them. A plan under consideration in the Senate would require the industry to pay the first $10 billion in claims, with the government picking up 90% of any remaining amount. The House Financial Services Committee favors government loans to insurers to help pay future terrorism claims.

''This is not a bailout,'' says Democratic Sen. Christopher Dodd of Connecticut, home to several large carriers. Rather, the government is proposing to serve as a ''backstop'' to encourage underwriters to provide terrorism coverage, he says.

The legislation also gives carriers the confidence to sell some terrorism policies, for which they are charging much higher premiums. ''In the absence of future terrorist attacks, such an approach could create 'windfall' profits for insurers, to the detriment of policyholders,'' says Fitch Inc., which provides investors with financial analysis of the insurance industry.

Marsh & McLennan sees vast opportunity in this fast-changing environment. The company is primarily an insurance broker, not an underwriter. As a result, it has limited exposure to Sept. 11 property and liability claims. It took a $173 million charge for the third quarter, which ended Sept. 30, to cover costs related to the attacks. A big piece of that was for payments to families of its own injured and dead employees.

Marsh's Mr. Greenberg knows well the dangers of appearing opportunistic in the wake of catastrophe. He gained this experience after Hurricane Andrew hit Florida in 1992, which until Sept. 11 was the industry's costliest disaster. Then a vice president at his father's AIG, the younger Mr. Greenberg wrote an internal memo saying that Andrew was ''an opportunity to get price increases now.'' After the memo was leaked to the media, Florida regulators imposed a moratorium on premium-rate increases.

This embarrassment didn't stop Jeffrey Greenberg, now 50 years old, and his subordinates at Marsh from swiftly scouring the post-Sept. 11 business landscape for new opportunities.

The World Trade Center attacks were a devastating blow to the company, which has its headquarters in midtown Manhattan. About 1,900 Marsh employees worked in the twin towers. Within an hour of the attacks, the company had set up a phone bank to assemble information about the missing. Counseling sessions and memorial services were held daily for weeks.

MODEST DISRUPTION

From a business perspective, the disaster caused only modest disruption for Marsh, which has 57,000 employees world-wide. On the evening of Sept. 11, Mr. Davis, Marsh's vice chairman and chief of its MMC Capital arm, sent a fax to Mr. Greenberg's home that accounted for the unit's employees—they were all safe—and suggested the formation of a new subsidiary that would underwrite corporate policies. ''We were absolutely thinking about the impact [of the attacks] and

what the opportunities were in front of us,'' says Mr. Davis, who came to Marsh from Goldman Sachs three years ago.

At a Sept. 18 meeting, 20 executives from Marsh's operating companies discussed the new terrain in their industry. Participants noted the premium increases already being announced and cancellations of terrorism coverage. Policy-holder demands was as strong as ever, meaning prices could only rise.

There was strong support for Mr. Davis's idea for a new company. It wouldn't be the first time Marsh gave birth to an underwriter. In the mid-1980s, it launched Ace Ltd. and Exel Capital, now known as XL. Those moves came in response to some established insurers ceasing to write liability coverage in the wake of huge jury awards for asbestos-related illnesses and big judgments against corporate directors and officers. Both Ace and XL went on to become publicly traded. Marsh retains small stakes in them.

Marsh raised its initial fundraising plan for the new carrier by 50%, to $1.5 billion. But that still wasn't enough to accommodate all of the investors lining up for a piece of the action. GE's GE Asset Management unit and TIAA–CREF, the national teachers' pension-fund manager, were among those allowed to buy stakes. Many others were turned away.

As the investor list was being winnowed, Mr. Greenberg was stirring another pot. He called L. Paul Bremer, a former U.S. ambassador at large for counterterrorism, who had joined Marsh a year earlier. ''Funny you should ask'' Mr. Bremer says he responded to Mr. Greenberg's query about new business opportunities.

Mr. Bremer had been working on a plan for a crisis-consulting practice for several months. ''It was clear to both of us that he should accelerate the introduction of that practice,'' Mr. Greenberg says.

On Oct. 11, Marsh announced the formation of a new consulting unit, with Mr. Bremer at its head. Two weeks later, Marsh unveiled a partnership between its new unit and Versar Inc., a counterterrorism-service provider. The partnership will assess chemical and bio-terrorism risks for corporate clients.

Mr. SESSIONS. Mr. Speaker, I yield 5 minutes to the gentleman from Louisiana (Mr. BAKER), chairman of the Subcommittee on Capital Markets, Insurance and Government Sponsored Enterprises, one of two gentlemen who have worked diligently to see to it that this is a good bill, the other being the chairman of the full Committee on Financial Services, the gentleman from Ohio (Mr. OXLEY).

Mr. BAKER. Mr. Speaker, I thank the gentleman for his courtesy and generosity with the time.

I wish to extend my appreciation and commend the chairman of the Committee on Financial Services, the gentleman from Ohio (Mr. OXLEY), for his perspicacious leadership on this matter; to the chairman of the Committee on the Judiciary, the gentleman from Wisconsin (Mr. SENSENBRENNER), for his visionary legal acumen; and to the gentleman from New York (Mr. LAFALCE) and the gentleman from Pennsylvania (Mr. KANJORSKI) for their critical suggestions at important steps along the way to craft a proposal which, in essence, solves, to a great extent, the potential exposure for further liability as a result of future terrorist attacks.

I cannot, however, today stand without responding to the remarks of the minority leader who said, ''We don't get it.'' I am appalled that in this instance, when faced with legislation of such magnitude, he would suggest that Members of Congress do not know people who are without medical insurance. I have a family member this morning in the hospital without private medical insurance. To suggest that there are those of us in Congress who do not know people who are unemployed, that we do not get it because we do not know the unemployed, I would just advise that in my extended family there have been people on unemployment through no fault of their own.

We are here today to respond to a crisis, a national crisis of proportion this Nation has never seen. The vision of the morning of September 11 will never vanish from our minds, and what are we to do in response to this? To say we should postpone, delay, or otherwise obfuscate the ability to respond to this crisis when it is so clear, I cannot conceive that any Member of this Congress, despite their objections to the elements contained in this legislation, would say no to this process. This is a process. We all know there will be a very difficult conference committee at which all of these issues will be visited at length.

And let us speak to the one point of contention which brings us to this difficult moment, that is of liability reform. This House has adopted the provisions contained in the proposal before us today not once but twice. This House. I would point to the fact that the Price-Anderson Act was renewed by this Congress by a voice vote last week, which contains similar provisions.

Some have said we should not buy this pig in a poke because we do not know what is in it. I would point out this Congress has adopted the Swine Flu Act, which has the same liability provisions that this act contains.

There is no legitimate platform from which a Member can stand on this floor and say we should not act. Member after Member has said the base elements of this legislation are, indeed, acceptable to respond to the crisis we potentially face. But if we do not act, the concerns expressed for those unemployed and uninsured will only be aggravated, to a great extent, because there will be more unemployed and uninsured as economic opportunity is snatched away from the American economy by our failure to act.

Let us make this clear: this is not an insurance bailout. I do not care if an insurance company makes a profit or not. That is not my job. I do not care whether a trial lawyer gets his 30 percent cut off an unfortunate victim as a result of loss. That is not my problem. What I care about is how American taxpayer resources are used to meet a crisis of this magnitude, and to ensure that every penny extended in times of crisis are repaid to the American taxpayer.

That is what this bill does. It is an extraordinary first step. It is to say we will respond timely and appropriately. But when an insurance company is making a $10 or $20 or $30 billion annual profit, they are going to pay us back. Now, what is wrong with that? And my colleagues are going to tell me today that they do not want to act to preclude the possibility of economic calamity because we have a dispute whether the trial lawyers get 20 percent or a third or half?

We will hash that out in conference committee. We will, in all likelihood, have a bill my colleagues can support with enthusiasm. But to say no today is to walk away from our responsibility as a Member of the United States Congress to respond to terrorist assaults on the United States sovereign Nation.

Did the firefighters, responding to the call on September 11, check their employment forms or see what possibility there might be for some liability provision? Did they think about what wage they were going to get paid? No. They responded. They acted. There was a crisis, and they put their lives on the line. We are not even close to considering such a heroic act. We are simply being asked to be stewards of the American taxpayers' resources and to provide for a method of response should, should, some untoward heinous act occur in the future.

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To fail to take this modest step would be a serious disappointment to the American taxpayer. I hope this House can rise above that.

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

Mr. Speaker, I am going to call a vote on the previous question and ask for its defeat; and if it is defeated, I am going to offer an amendment to the rule.

My amendment will make in order an amendment by the gentleman from New York (Mr. RANGEL) or his designee which would provide health and unemployment compensation relief to workers who have lost their jobs.

Mr. Speaker, nearly 3 months have passed since the tragic events of September 11, and since that time thousands and thousands of workers have lost their jobs, and they need relief. Their unemployment benefits will run out, and they have no health care. We passed an airline bailout the week after the terrorist attacks, and promises were made at that time by the Republican leadership that a worker relief package would follow the following the week. Today, weeks later, we are passing legislation that would provide relief to the insurance industry, still leaving no help for the workers. They desperately need our help, they need it now, and I urge a ''no'' vote on the previous question.

Mr. Speaker, I ask unanimous consent that the text of the amendment be printed in the RECORD immediately before the vote on the previous question.

The SPEAKER pro tempore (Mr. SHIMKUS). Is there objection to the request of the gentlewoman from New York?

There was no objection.

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

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

Mr. Speaker, we have heard a vigorous debate today about this issue. We have heard a good number of speakers say that we did it the hard way. They would have done it the easy way. I think they are right; we did do it the hard way. But I would like to be accused of doing it the right way, doing what is in the best interest of not only the taxpayer, but also in the best interest of people who have needs and who need to make sure that their insurance coverage is done right.

Mr. Speaker, Members have heard the debate on this side from some of our best and our brightest. The gentleman from Ohio (Chairman OXLEY), the gentleman from Wisconsin (Chairman SENSENBRENNER), and the gentleman from Louisiana (Chairman BAKER) talk about a very difficult issue, and they have delivered on that issue. They have worked with the White House and President Bush; and President Bush is proud of the work that they have done.

So whether it was done the hard way or the easy way, it did not matter to me and did not matter to us. We have done it the right way.

Mr. Speaker, I can proudly ask my colleagues to support not only this fair rule, but one which has the underlying legislation which is good for all of America and will ensure that the confidence and the stability of this country is held together. I am very proud of what we have done.

Mr. BAKER. Mr. Speaker, I congratulate and thank Mr. SESSIONS, Chairman DREIER and all the members of the Rules Committee for responding to the need to act swiftly on the Terrorism Risk Protection Act by crafting a fair rule that paves the way for our consideration of the Bill on the House floor today. I also wish to thank Chairman OXLEY for his leadership on this issue and to recognize the efforts of Ranking Members LAFALCE and KANJORSKI.

The attacks on New York City and Washington, D.C. on September 11, 2001, resulted in a large number of deaths and injuries, the destruction and damage to buildings, and the interruption of business operations. These consequences of the attacks were not only a human tragedy, they were also a financial disaster. The attacks inflicted possibly the largest losses ever incurred by insurers and reinsurers in a single day. Estimates of losses start at about $40 billion and vary significantly upward from there. Fortunately, the insurance and reinsurance industry have the capital capacity to cover such losses and have committed to pay the losses due to the attacks.

However, with the events of September 11, 2001, there is great uncertainty from an underwriter's perspective. Commercial property and casualty insurance companies have little to no experience in underwriting for the types of terrorist attacks that we experienced in New York City and Washington, D.C. The attacks set a new and very high level for potential severity. Additionally, there is an inability for underwriters to forecast the frequency or nature of future attacks. As a result of this uncertainty, many commercial property and casualty insurers and reinsurers have begun excluding terrorism risk coverage from their policies or providing very limited coverage at high costs.

The potential unavailability of terrorism risk coverage for businesses comes at precisely the time when there is the greatest demand for the insurance. Moreover, insurance coverage is almost universally a requirement of any commercial lending contract. Lenders will simply not provide financing for new or existing construction or other operations without certainty that the properties and businesses that they are funding have adequate insurance to protect the lenders' investment. Thus, the lack of available insurance for terrorism risk has adverse consequences that would spread throughout the entire economy and stifle if not halt its growth.

That is why I come before you today in strong support of H.R. 3210, the Terrorism Risk Protection Act. The temporary risk spreading program established by this Act is a bridge to allow the private market to develop the mechanisms to provide terrorism risk coverage at reasonable cost and sufficient levels, while guaranteeing that any federal assistance from the U.S. taxpayer in the interim is paid back by the insurance industry and those that benefit from the program.

I urge my fellow colleagues to support this rule and to vote yes on the bill to prevent any further slowdown of our dynamic national economy.

Mr. SENNIONS. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The material previously referred to by Ms. SLAUGHTER is as follows:

PREVIOUS QUESTION FOR RULE ON H.R. 3210, TERRORISM RISK INSURANCE ACT

At the end of the resolution add the following new section:

''SEC 2. Notwithstanding any other provision of this resolution, it shall be in order without intervention of any point of order following disposition of the further amendment printed in the report to accompany the resolution to consider the further amendment printed in Section 3 of this resolution if offered by Representative Rangel or his designee. The amendment shall be considered as read; shall be debatable for one hour, equally divided between a proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for a division of the question. The previous question shall be considered as ordered on the amendment.

SEC. 3. The text of the amendment is as follows;

AMENDMENT OFFERED BY MR. RANGEL

Insert at the end the following:

SECTION 1. SHORT TITLE, ETC.

(a) SHORT TITLE.—This Act may be cited as the ''Fiscal Stimulus and Worker Relief Act of 2001''.

TITLE II—WORKER RELIEF

Subtitle A—Temporary Unemployment Compensation

Sec. 201. Short title.
Sec. 202. Federal-State agreements.
Sec. 203. Temporary Supplemental Unemployment Compensation Account.
Sec. 204. Payments to States having agreements under this subtitle.
Sec. 205. Financing provisions.
Sec. 206. Fraud and overpayments.
Sec. 207. Definitions.
Sec. 208. Applicability.

Subtitle B—Premium Assistance for COBRA Continuation Coverage

Sec. 211. Premium assistance for COBRA continuation coverage.

Subtitle C—Additional Assistance for Temporary Health Insurance Coverage

Sec. 221. Optional temporary medicaid coverage for certain uninsured employees.
Sec. 222. Optional temporary coverage for unsubsidized portion of COBRA continuation premiums.

TITLE II—WORKER RELIEF

Subtitle A—Temporary Unemployment Compensation

SEC. 201. SHORT TITLE.

This subtitle may be cited as the ''Temporary Unemployment Compensation Act of 2001''.

SEC. 202. FEDERAL-STATE AGREEMENTS.

(a) IN GENERAL.—Any State which desires to do so may enter into and participate in an agreement under this subtitle with the Secretary of Labor (hereinafter in this subtitle referred to as the ''Secretary''). Any State which is a party to an agreement under this subtitle may, upon providing 30 days' written notice to the Secretary, terminate such agreement.

(b) PROVISIONS OF AGREEMENT.—

(1) IN GENERAL.—Any agreement under subsection (a) shall provide that the State agency of the State will make—

(A) payments of regular compensation to individuals in amounts and to the extent that they would be determined if the State law were applied with the modifications described in paragraph (2), and

(B) payments of temporary supplemental unemployment compensation to individuals who—

(i) have exhausted all rights to regular compensation under the State law,

(ii) do not, with respect to a week, have any rights to compensation (excluding compensation) under the State law of any other State (whether one that has entered into an agreement under this subtitle or otherwise) nor compensation under any other Federal law (other than under the Federal-State Extended Unemployment Compensation Act of 1970), and are not paid or entitled to be paid any additional compensation under any State or Federal law, and

(iii) are not receiving compensation with respect to such week under the unemployment compensation law of Canada.

(2) MODIFICATIONS DESCRIBED.—The modifications described in this paragraph are as follows:

(A) An individual shall be eligible for regular compensation if the individual would be so eligible, determined by applying—

(i) the base period that would otherwise apply under the State law if this subtitle had not been enacted, or

(ii) a base period ending at the close of the calendar quarter most recently completed before the date of the individual's application for benefits.

whichever results in the greater amount.

(B) An individual shall not be denied regular compensation under the State law's provisions relating to availability for work, active search for work, or refusal to accept work, solely by virtue of the fact that such individual is seeking, or available for, only part-time (and not full-time) work.

(C)(i) Subject to clause (ii), the amount of regular compensation (including dependents'

allowances) payable for any week shall be equal to the amount determined under the State law (before the application of this subparagraph), plus an additional—

(I) 25 percent, or

(II) $65,

whichever is greater.

(ii) In no event may the total amount determined under clause (i) with respect to any individual exceed the average weekly insured wages of that individual in that calendar quarter of the base period in which such individual's insured wages were the highest (or one such quarter if his wages were the same for more than one such quarter).

(c) NONREDUCTION RULE.—Under the agreement, subsection (b)(2)(C) shall not apply (or shall cease to apply) with respect to a State upon a determination by the Secretary that the method governing the computation or regular compensation under the State law of that State has been modified in a way such that—

(1) the average weekly amount of regular compensation which will be payable during the period of the agreement (determined disregarding the modifications described in subsection (b)(2)) will be less than

(2) the average weekly amount of regular compensation which would otherwise have been payable during such period under the State law, as in effect on September 11, 2001.

(d) COORDINATION RULES.—

(1) REGULAR COMPENSATION PAYABLE UNDER A FEDERAL LAW.—The modifications described in subsection (b)(2) shall also apply in determining the amount of benefits payable under any Federal law to the extent that those benefits are determined by reference to regular compensation payable under the State law of the State involved.

(2) TSUC TO SERVE AS SECOND-TIER BENEFITS.—Notwithstanding any other provision of law, extended benefits shall not be payable to any individual for any week for which temporary supplemental unemployment compensation is payable to such individual.

(e) EXHAUSTION OF BENEFITS.—For purposes of subsection (b)(1)(B)(i), an individual shall be considered to have exhausted such individual's rights to regular compensation under a State law when—

(1) no payments of regular compensation can be made under such law because such individual has received all regular compensation available to such individual based on employment or wages during such individual's base period, or

(2) such individual's rights to such compensation have been terminated by reason of the expiration of the benefit year with respect to which such rights existed.

(f) WEEKLY BENEFIT AMOUNT, TERMS AND CONDITIONS, ETC. RELATING TO TSUC.—For purposes of any agreement under this subtitle—

(1) the amount of temporary supplemental unemployment compensation which shall be payable to an individual for any week of total unemployment shall be equal to the amount of regular compensation (including dependents' allowances) payable to such individual under the State law for a week for total unemployment during such individual's benefit year,

(2) the terms and conditions of the State law which apply to claims for regular compensation and to the payment thereof shall apply to claims for temporary supplemental unemployment compensation and the payment thereof, except where inconsistent with the provisions of this subtitle or with the regulations or operating instructions of the Secretary promulgated to carry out this subtitle, and

(3) the maximum amount of temporary supplemental unemployment compensation payable to any individual for whom a temporary supplemental unemployment compensation account is established under section 203 shall not exceed the amount established in such account for such individual.

SEC. 203. TEMPORARY SUPPLEMENTAL UNEMPLOYMENT COMPENSATION ACCOUNT.

(a) IN GENERAL.—Any agreement under this subtitle shall provide that the State will establish, for each eligible individual who files an application for temporary supplemental unemployment compensation, a temporary supplemental unemployment compensation account.

(b) AMOUNT IN ACCOUNT.—

(1) IN GENERAL.—The amount established in an account under subsection (a) shall be equal to the product obtained by multiplying an individual's weekly benefit amount by the applicable factor under paragraph (3).

(2) WEEKLEY BENEFIT AMOUNT.—For purposes of this subsection, an individual's weekly benefit amount for any week is the amount of regular compensation (including dependents' allowances) under the State law payable to such individual for a week of total unemployment in such individual's benefit year.

(3) APPLICABLE FACTOR.—

(A) GENERAL RULE.—The applicable factor under this paragraph is 13, unless the individual's benefit year begins or ends during a period of high unemployment within such individual's State, in which case the applicable factor is 26.

(B) PERIOD OF HIGH UNEMPLOYMENT.—For purposes of this paragraph, a period of high unemployment within a State shall begin and end, if at all, in a way (to be set forth in the State's agreement under this subtitle) similar to the way in which an extended benefit period would under section 203 of the Federal-State Extended Unemployment Compensation Act of 1970, subject to the following:

(a) IN GENERAL.—Any State which desires to do so may enter into and participate in an agreement under this subtitle with the Secretary of Labor (hereinafter in this subtitle referred to as the ''Secretary''). Any State which is a party to an agreement under this subtitle may, upon providing 30 days' written notice to the Secretary, terminate such agreement.

(b) PROVISIONS OF AGREEMENT.—

(1) IN GENERAL.—Any agreement under subsection (a) shall provide that the State agency of the State will make—

(A) payments of regular compensation to individuals in amounts and to the extent that they would be determined if the State law were applied with the modifications described in paragraph (2), and

(B) payments of temporary supplemental unemployment compensation to individuals who—

(i) have exhausted all rights to regular compensation under the State law,

(ii) do not, with respect to a week, have any rights to compensation (excluding extended compensation) under the State law of any other State (whether one that has entered into an agreement under this subtitle or otherwise) nor compensation under any other Federal law (other than under the Federal-State Extended Unemployment Compensation Act of 1970), and are not paid or entitled to be paid any additional compensation under any State or Federal law, and

(iii) are not receiving compensation with respect to such week under the unemployment compensation law of Canada.

(2) MODIFICATIONS DESCRIBED.—The modifications described in this paragraph are as follows:

(A) An individual shall be eligible for regular compensation if the individual would be so eligible, determined by applying—

(i) the base period that would otherwise apply under the State law if this subtitle had not been enacted, or

(ii) a base period ending at the close of the calendar quarter most recently completed before the date of the individual's application for benefits,

whichever results in the greater amount.

(B) An individual shall not be denied regular compensation under the State law's provisions relating to availability for work, active search for work, or refusal to accept work, solely by virtue of the fact that such individual is seeking, or available for, only part-time (and not full-time) work.

(C)(i) Subject to clause (ii), the amount of regular compensation (including dependents' allowances) payable for any week shall be equal to the amount determined under the State law (before the application of this subparagraph), plus an additional—

(I) 25 percent, or

(II) $65,

whichever is greater.

(ii) In no event may the total amount determined under clause (i) with respect to any individual exceed the average weekly insured wages of that individual in that calendar quarter of the base period in which such individual's insured wages were the highest (or one such quarter if his wages were the same for more than one such quarter).

(c) NONREDUCTION RULE.—Under the agreement, subsection (b)(2)(C) shall not apply (or shall cease to apply) with respect to a State upon a determination by the Secretary that the method governing the computation of regular compensation under the State law of that State has been modified in a way such that—

(1) the average weekly amount of regular compensation which will be payable during the period of the agreement (determined disregarding the modifications described in subsection (b)(2)) will be less than

(2) the average weekly amount of regular compensation which would otherwise have been payable during such period under the State law, as in effect on September 11, 2001.

(d) COORDINATION RULES.—

(1) REGULAR COMPENSATION PAYABLE UNDER A FEDERAL LAW.—The modifications described in subsection (b)(2) shall also apply in determining the amount of benefits payable under any Federal law to the extent that those benefits are determined by reference to regular compensation payable under the State law of the State involved.

(2) TSUC TO SERVE AS SECOND-TIER BENEFITS.—Notwithstanding any other provision of law, extended benefits shall not be payable to any individual for any week for which temporary supplemental unemployment compensation is payable to such individual.

(e) EXHAUSTION OF BENEFITS.—For purposes of subsection (b)(1)(B)(i), an individual shall be considered to have exhausted such individual's rights to regular compensation under a State law when—

(1) no payments of regular compensation can be made under such law because such individual has received all regular compensation available to such individual based on employment or wages during such individual's base period, or

(2) such individual's rights to such compensation have been terminated by reason of the expiration of the benefit year with respect to which such rights existed.

(f) WEEKLY BENEFIT AMOUNT, TERMS AND CONDITIONS, ETC, RELATING TO TSUC.—For purposes of any agreement under this subtitle—

(1) the amount of temporary supplemental unemployment compensation which shall be payable to an individual for any week of total unemployment shall be equal to the amount of regular compensation (including

dependents' allowances) payable to such individual under the State law for a week for total unemployment during such individual's benefit year,

(2) the term and conditions of the State law which apply to claims for regular compensation and to the payment thereof shall apply to claims for temporary supplemental unemployment compensation and the payment thereof, except where inconsistent with the provisions of this subtitle or with the regulations or operating instructions of the Secretary promulgated to carry out this subtitle, and

(3) the maximum amount of temporary supplemental unemployment compensation payable to any individual for whom a temporary supplemental unemployment compensation account is established under section 203 shall not exceed the amount established in such account for such individual.

SEC. 203. TEMPORARY SUPPLEMENTAL UNEMPLOYMENT COMPENSATION ACCOUNT.

(a) IN GENERAL.—Any agreement under this subtitle shall provide that the State will establish, for each eligible individual who files an application for temporary supplemental unemployment compensation, a temporary supplemental unemployment compensation account.

(b) AMOUNT IN ACCOUNT.—

(1) IN GENERAL.—The amount established in an account under subsection (a) shall be equal to the product obtained by multiplying an individual's weekly benefit amount by the applicable factor under paragraph (3).

(2) WEEKLY BENEFIT AMOUNT.—For purposes of this subsection, an individual's weekly benefit amount for any week is the amount of regular compensation (including dependents' allowances) under the State law payable to such individual for a week of total unemployment in such individual's benefit year.

(3) APPLICABLE FACTORS.—

(A) GENERAL RULE.—The applicable factor under this paragraph is 13, unless the individual's benefit year begins or ends during a period of high unemployment within such individual's State, in which case the applicable factor is 26.

(B) PERIOD OF HIGH UNEMPLOYMENT.—For purposes of this paragraph, a period of high unemployment within a State shall begin and end, if at all, in a way (to be set forth in the State's agreement under this subtitle) similar to the way in which an extended benefit period would under section 203 of the Federal-State Extended Unemployment Compensation Act of 1970, subject to the following:

(i) To determine if there is a State ''on'' or ''off'' indicator, apply section 203(f) of such Act, but—

(I) substitute ''5 percent'' for ''6.5 percent'' in paragraph (1)(A)(i) thereof, and

(II) disregard paragraph (a)(A)(ii) thereof and the last sentence of paragraph (1) thereof.

(ii) To determine the beginning and ending dates of a period of high unemployment within a State, apply section 203(a) and (b) of such Act, except that—

(I) in applying such section 203(a), deem paragraphs (1) and (2) thereof to be amended by striking ''the third week after'', and

(II) in applying such section 203(b), deem paragraph (1)(A) thereof amended by striking ''thirteen'' and inserting ''twenty-six'' and paragraph (1)(B) thereof amended by striking ''fourteenth'' and inserting ''twenty-seventh''.

(4) RULE OF CONSTRUCTION.—For purposes of any computation under paragraph (1) (and any determination of amount under section 202(f)(1)), the modification described in section 202(b)(2)(C) (relating to increased benefits) shall be deemed to have been in effect with respect to the entirety of the benefit year involved.

(c) ELIGIBILITY PERIOD.—An individual whose applicable factor under subsection (b)(3) is 26 shall be eligible for temporary supplemental unemployment compensation for each week of total unemployment in his benefit year which begins in the State's period of high unemployment and, if his benefit year ends within such period, any such weeks thereafter which begin in such period of high unemployment, not to exceed a total of 26 weeks.

SEC. 204. PAYMENTS TO STATES HAVING AGREEMENTS UNDER THIS SUBTITLE.

(a) GENERAL RULE.—There shall be paid to each State which has entered into an agreement under this subtitle an amount equal to—

(1) 100 percent of any regular compensation made payable to individuals by such State by virtue of the modifications which are described in section 202(b)(2) and deemed to be in effect with respect to such State pursuant to section 202(b)(1)(A),

(2) 100 percent of any regular compensation—

(A) which is paid to individuals by such State by reason of the fact that its State law contains provisions comparable to the modifications described in section 202(b)(2)(A)–(B), but only

(B) to the extent that those amounts would, if such amounts were instead payable by virtue of the State law's being deemed to be so modified pursuant to section 202(b)(1)(A), have been reimbursable under paragraph (1), and

(3) 100 percent of the temporary supplemental unemployment compensation paid to individuals by the State pursuant to such agreement.

(b) DETERMINATION OF AMOUNT.—Sums under subsection (a) payable to any State by reason of such State having an agreement under this subtitle shall be payable, either in advance or by way of reimbursement (as may be determined by the Secretary), in such amounts as the Secretary estimates the State will be entitled to receive under this subtitle for each calendar month, reduced or increased, as the case may be, by any amount by which the Secretary finds that the Secretary's estimates for any prior calendar month were greater or less than the amounts which should have been paid to the State. Such estimates may be made on the basis of such statistical, sampling, or other method as may be agreed upon by the Secretary and the State agency of the State involved.

(c) ADMINISTRATIVE EXPENSES, ETC.—There is hereby appropriated out of the employment security administration account of the Unemployment Trust Fund (as established by section 901(a) of the Social Security Act) $500,000,000 to reimburse States for the costs of the administration of agreements under this subtitle (including any improvements in technology in connection therewith) and to provide reemployment services to unemployment compensation claimants in States having agreements under this subtitle. Each State's share of the amount appropriated by the preceding sentence shall be determined by the Secretary according to the factors described in section 302(a) of the Social Security Act and certified by the Secretary to the Secretary of the Treasury.

SEC. 205. FINANCING PROVISIONS.

(a) IN GENERAL.—Funds in the extended unemployment compensation account (as established by section 905(a) of the Social Security Act), and the Federal unemployment account (as established by section 904(g) of the Social Security Act), of the Unemployment Trust Fund shall be used, in accordance with subsection (b), for the making of payments (described in section 204(a)) to States having agreements entered into under this subtitle.

(b) CERTIFICATION.—The Secretary shall from time to time certify to the Secretary of the Treasury for payment to each State the sums described in section 204(a) which are payable to such State under this subtitle. The Secretary of the Treasury, prior to audit or settlement by the General Accounting Office, shall make payments to the State in accordance with such certification by transfers from the extended unemployment compensation account (or, to the extent that there are insufficient funds in that account, from the Federal unemployment account) to the account of such State in the Unemployment Trust Fund.

SEC. 206. FRAUD AND OVERPAYMENTS.

(a) IN GENERAL.—If an individual knowingly has made, or caused to be made by another, a false statement or representation of a material fact, or knowingly has failed, or caused another to fail, to disclose a material fact, and as a result of such false statement or representation or of such nondisclosure such individual has received any regular compensation or temporary supplemental unemployment compensation under this subtitle to which he was not entitled, such individual—

(1) shall be ineligible for any further benefits under this subtitle in accordance with the provisions of the applicable State unemployment compensation law relating to fraud in connection with a claim for unemployment compensation, and

(2) shall be subject to prosecution under section 1001 of title 18, United States Code.

(b) REPAYMENT.—In the case of individuals who have received any regular compensation or temporary supplemental unemployment compensation under this subtitle to which they were not entitled, the State shall require such individuals to repay those benefits to the State agency, except that the State agency may waive such repayment if it determines that—

(1) the payment of such benefits was without fault on the part of any such individual, and

(2) such repayment would be contrary to equity and good conscience.

(c) RECOVERY BY STATE AGENCY.—

(1) IN GENERAL.—The State agency may recover the amount to be repaid, or any part thereof, by deductions from any regular compensation or temporary supplemental unemployment compensation payable to such individual under this subtitle or from any unemployment compensation payable to such individual under any Federal unemployment compensation law administered by the State agency or under any other Federal law administered by the State agency which provides for the payment of any assistance or allowance with respect to any week of unemployment, during the 3-year period after the date such individuals received the payment of the regular compensation or temporary supplemental unemployment compensation to which they were not entitled, except that no single deduction may exceed 50 percent of the weekly benefit amount from which such deduction is made.

(2) OPPORTUNITY FOR HEARING.—No repayment shall be required, and no deduction shall be made, until a determination has been made, notice thereof and an opportunity for a fair hearing has been given to the individual, and the determination has become final.

(d) REVIEW.—Any determination by a State agency under this section shall be subject to review in the same manner and to the same

extent as determinations under the State unemployment compensation law, and only in that manner and to that extent.

SEC. 207. DEFINITIONS.

For purposes of this subtitle:

(1) IN GENERAL.—The terms ''compensation'', ''regular compensation'', ''extended compensation'', ''additional compensation'', ''benefit year'', ''base period'', ''State'', ''State agency'', ''State law'', and ''week'' have the respective meanings given such terms under section 205 of the Federal-State Extended Unemployment Compensation Act of 1970, subject to paragraph (2).

(2) STATE LAW AND REGULAR COMPENSATION.—In the case of a State entering into an agreement under this subtitle—

(A) ''State law'' shall be considered to refer to the State law of such State, applied in conformance with the modifications described in section 202(b)(2), subject to section 202(c), and

(B) ''regular compensation'' shall be considered to refer to such compensation, determined under its State law (applied in the manner described in subparagraph (A)),

except as otherwise provided or where the context clearly indicates otherwise.

SEC. 208. APPLICABILITY.

(a) IN GENERAL.—An agreement entered into under this subtitle shall apply to weeks of unemployment—

(1) beginning after the date on which such agreement is entered into, and

(2) ending before January 1, 2003.

(b) SPECIFIC RULES.—Under such an agreement—

(1) the modification described in section 202(b)(2)(A) (relating to alternative base periods) shall not apply except in the case of initial claims filed after September 11, 2001,

(2) the modifications described in section 202(b)(2) (B)–(C) (relating to part-time employment and increased benefits, respectively) shall apply to weeks of unemployment (described in subsection (a)), irrespective of the date on which an individual's claim for benefits is filed, and

(3) the payments described in section 202(b)(1)(B) (relating to temporary supplemental unemployment compensation) shall not apply except in the case of individuals exhausting their rights to regular compensation (as described in clause (i) thereof) after September 11, 2001.

Subtitle B—Premium Assistance for COBRA Continuation Coverage

SEC. 211. PREMIUM ASSISTANCE FOR COBRA CONTINUATION COVERAGE.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—Not later than 60 days after the date of enactment of this Act, the Secretary of the Treasury, in consultation with the Secretary of Labor, shall establish a program under which premium assistance for COBRA continuation coverage shall be provided for qualified individuals under this section.

(b) DETERMINATION OF AMOUNT.—Sums under subsection (a) payable to any State by reason of such State having an agreement under this subtitle shall be payable, either in advance or by way of reimbursement (as may be determined by the Secretary), in such amounts as the Secretary estimates the State will be entitled to receive under this subtitle for each calendar month, reduced or increased, as the case may be, by any amount by which the Secretary finds that the Secretary's estimates for any prior calendar month were greater or less than the amounts which should have been paid to the State. Such estimates may be made on the basis of such statistical, sampling, or other method as may be agreed upon by the Secretary and the State agency of the State involved.

(c) ADMINISTRATIVE EXPENSES, ETC.—There is hereby appropriated out of the employment security administration account of the Unemployment Trust Fund (as established by section 901(a) of the Social Security Act) $500,000,000 to reimburse States for the costs of the administration of agreements under this subtitle (including any improvements in technology in connection therewith) and to provide reemployment services to unemployment compensation claimants in States having agreements under this subtitle. Each State's share of the amount appropriated by the proceeding sentence shall be determined by the Secretary according to the factors described in section 302(a) of the Social Security Act and certified by the Secretary to the Secretary of the Treasury.

SEC. 205. FINANCING PROVISIONS.

(a) IN GENERAL.—Funds in the extended unemployment compensation account (as established by section 905(a) of the Social Security Act), and the Federal unemployment account (as established by section 904(g) of the Social Security Act), of the Unemployment Trust Fund shall be used, in accordance with subsection (b), for the making of payments (described in section 204(a)) to States having agreements entered into under this subtitle.

(b) CERTIFICATION.—The Secretary shall from time to time certify to the Secretary of the Treasury for payment to each State the sums described in section 204(a) which are payable to such State under this subtitle. The Secretary of the Treasury, prior to audit or settlement by the General Accounting Office, shall make payments to the State in accordance with such certification by transfers from the extended unemployment compensation account (or, to the extent that there are insufficient funds in that account, from the Federal unemployment account) to the account of such State in the Unemployment Trust Fund.

SEC. 206. FRAUD AND OVERPAYMENTS.

(a) IN GENERAL.—If an individual knowingly has made, or caused to be made by another, a false statement or representation of a material fact, or knowingly has failed, or caused another to fail, to disclose a material fact, and as a result of such false statement or representation or of such nondisclosure such individual has received any regular compensation or temporary supplemental unemployment compensation under this subtitle to which he was not entitled, such individual—

(1) shall be ineligible for any further benefits under this subtitle in accordance with the provisions of the applicable State unemployment compensation law relating to fraud in connection with a claim for unemployment compensation, and

(2) shall be subject to prosecution under section 1001 of title 18, United States Code.

(b) REPAYMENT.—In the case of individuals who have received any regular compensation or temporary8 supplemental unemployment compensation under this subtitle to which they were not entitled, the State shall require such individuals to repay those benefits to the State agency, except that the State agency may waive such repayment if it determines that—

(1) the payment of such benefits was without fault on the part of any such individual, and

(2) such repayment would be contrary to equity and good conscience.

(c) RECOVERY BY STATE AGENCY.—

(1) IN GENERAL.—The State agency may recover the amount to be repaid, or any part thereof, by deductions from any regular compensation or temporary supplemental unemployment compensation payable to such individual under this subtitle or from any unemployment compensation payable to such individual under any Federal unemployment compensation law administered by the State agency or under any Federal law administered by the State agency which provides for the payment of any assistance or allowance with respect to any week of unemployment, during the 3-year period after the date such individual received the payment of the regular compensation or temporary supplemental unemployment compensation to which they were not entitled, except that no single deduction may exceed 50 percent of the weekly benefit from which such deduction is made.

(4) OPPORTUNITY FOR HEARING.—No repayment shall be required, and no deduction shall be made, until a determination has been made, notice thereof and an opportunity for a fair hearing has been given to the individual, and the determination has become final.

(d) REVIEW.—Any determination by a State agency under this section shall be subject to review in the same manner and to the same extent as determinations under the State unemployment compensation law, and only in that manner and to that extent.

SEC. 207. DEFINITIONS.

For purposes of this subtitle:

(1) IN GENERAL.—The terms ''compensation'', ''regular compensation'', extended compensation'', ''additional compensation'', benefit year'', base period'', ''State'' ''State agency'', State law'', and ''week'' have the respective meanings given such terms under section 205 of the Federal-State Extended Unemployment Compensation Act of 1970, subject to paragraph (2).

(2) STATE LAW AND REGULAR COMPENSATION.—In the case of a State entering into an agreement under this subtitle—

(A) ''State law'' shall be considered to refer to the State law of such State, applied in conformance with the modifications described in section 202(b)(b), subject to section 202(c), and

(B) ''regular compensation'' shall be considered to refer such compensation, determined under its State law (applied in a manner described in subparagraph (A)),

except as otherwise provided or where the context clearly indicates otherwise.

SEC. 208. APPLICABILITY.

(a) IN GENERAL.—An agreement entered into under this subtitle shall apply to weeks of unemployment—

(1) beginning after the date on which such agreement is entered into, and

(2) ending before January 1, 2003.

(b) SPECIFIED RULES.—Under such an agreement—

(1) the modifications described in section 202(b)(2)(A) (relating to alternative base periods) shall not apply except in the case of initial claims filed after September 11, 2001.

(2) the modifications described in section 202(b)(2)(B)–(C) (relating to part-time employment and increased benefits, respectively) shall apply to weeks of unemployment (described in subsection (a)), irrespective of the date on which an individual's claim for benefits is filed, and

(3) the payments described in section 202(b)(1)(B) (relating to temporary supplemental unemployment compensation) shall not apply except in the case of individuals exhausting their rights to regular compensation (as described in clause (i) thereof) after September 11, 2001.

Subtitle B—Premium Assistance for COBRA Continuation Coverage

SEC. 211. PREMIUM ASSISTANCE FOR COBRA CONTINUATION COVERAGE.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—Not later than 60 days after the date of enactment of this Act, the

Secretary of the Treasury, in consultation with the Secretary of Labor, shall establish a program under which premium assistance for COBRA continuation coverage shall be provided for qualified individuals under this section.

(2) QUALIFIED INDIVIDUALS.—For purposes of this section, a qualified individual is an individual who—

(A) establishes that the individual—

(i) on or after July 1, 2001, and before the end of the 1-year period beginning on the date of the enactment of this Act, became entitled to elect COBRA continuation coverage; and

(ii) has elected such coverage; and

(B) enrolls in the premium assistance program under this section by not later than the end of such 1-year period.

(b) LIMITATION OF PERIOD OF PREMIUM ASSISTANCE.—Premium assistance provided under this subsection shall end with respect to an individual on the earlier of—

(1) the date the individual is no longer covered under COBRA continuation coverage; or

(2) 12 months after the date the individual is first enrolled in the premium assistance program established under this section.

(c) PAYMENT, AND CREDITING OF ASSISTANCE.—

(1) AMOUNT OF ASSISTANCE.—Premium assistance provided under this section shall be equal to 75 percent of the amount of the premium required for the COBRA continuation coverage.

(2) PROVISION OF ASSISTANCE.—Premium assistance provided under this section shall be provided through the establishment of direct payment arrangements with the administrator of the group health plan (or other entity) that provides or administers the COBRA continuation coverage. It shall be a fiduciary duty of such administrator (or other entity) to enter into such arrangements under this section.

(3) PREMIUMS PAYABLE BY QUALIFIED INDIVIDUAL REDUCED BY AMOUNT OF ASSISTANCE.—Premium assistance provided under this section shall be credited by such administrator (or other entity) against the premium otherwise owed by the individual involved for such coverage.

(d) CHANGE IN COBRA NOTICE.—

(1) GENERAL NOTICE.—

(A) IN GENERAL.—In the case of notices provided under section 4980B(f)(6) of the Internal Revenue Code of 1986 with respect to individuals who, on or after July 1, 2001, and before the end of the 1-year period beginning on the date of the enactment of this Act, become entitled to elect COBRA continuation coverage, such notices shall include an additional notification to the recipient of the availability of premium assistance for such coverage under this section.

(B) ALTERNATIVE NOTICE.—In the case of COBRA continuation coverage to which the notice provision under section 4980B(f)(6) of the Internal Revenue Code of 1986 does not apply, the Secretary of the Treasury shall, in coordination with administrators of the group health plans (or other entities) that provide or administer the COBRA continuation coverage involved, assure provision of such notice.

(C) FORM.—The requirement of the additional notification under this paragraph may be met by amendment of existing notice forms or by inclusion of a separate document with the notice otherwise required.

(2) SPECIFIC REQUIREMENTS.—Each additional notification under paragraph (1) shall include—

(A) the forms necessary for establishing eligibility under subsection (a)(2)(A) and enrollment under subsection (a)(2)(B) in connection with the coverage with respect to each covered employee or other qualified beneficiary;

(B) the name, address, and telephone number necessary to contact the plan administrator and any other person maintaining relevant information in connection with the premium assistance; and

(C) the following statement displayed in a prominent manner:

''You may be eligible to receive assistance with payment of 75 percent of your COBRA continuation coverage premiums for a duration of not to exceed 12 months.''.

(3) NOTICE RELATING TO RETROACTIVE COVERAGE.—In the case of such notices previously transmitted before the date of the enactment of this Act in the case of an individual described in paragraph (1) who has elected (or is still eligible to elect) COBRA continuation coverage as of the date of the enactment of this Act, the administrator of the group health plan (or other entity) involved or the Secretary of the Treasury (in the case described in the paragraph (1)(B)) shall provide (within 60 days after the date of the enactment of this Act) for the additional notification required to be provided under paragraph (1).

(4) MODEL NOTICES.—The Secretary shall prescribe models for the additional notification required under this subsection.

(f) OBLIGATION OF FUNDS.—This section constitutes budget authority in advance of appropriations Acts and represents the obligation of the Federal Government to provide for the payment of premium assistance under this section.

(g) PROMPT ISSUANCE OF GUIDANCE.—The Secretary of the Treasury, in consultation with the Secretary of Labor, shall issue guidance under this section not later than 30 days after the date of the enactment of this Act.

(h) DEFINITIONS.—In this section:

(1) ADMINISTRATOR.—The term ''administrator'' has the meaning given such term in section 3(16) of the Employee Retirement Income Security Act of 1974.

(2) COBRA CONTINUATION COVERAGE.—The term ''COBRA continuation coverage'' means continuation coverage provided pursuant to title XXII of the Public Health Service Act, section 4980B of the Internal Revenue Code of 1986 (other than subsection (f)(1) of such section insofar as it relates to pediatric vaccines), part 6 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (other than under section 609), section 8905a of title 5, United States Code, or under a State program that provides continuation coverage comparable to such continuation coverage.

(3) GROUP HEALTH PLAN.—The term ''group health plan'' has the meaning given such term in section 9832(a) of the Internal Revenue Code of 1986.

(4) STATE.—The term ''State'' includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

Subtitle C—Additional Assistance for Temporary Health Insurance Coverage

SEC. 221. OPTIONAL TEMPORARY MEDICAID COVERAGE FOR CERTAIN UNINSURED EMPLOYEES.

(a) IN GENERAL.—Notwithstanding any other provision of law, with respect to any month before the ending month, a State may elect to provide, under its medicaid program under title XIX of the Social Security Act, medical assistance in the case of an individual—

(1)(A) who has become totally or partially separated from employment on or after July 1, 2001, and before the end of such ending month; or

(B) whose hours of employment have been reduced on or after July 1, 2001, and before the end of such ending month;

(2) who is not eligible for COBRA continuation coverage; and

(3) who is uninsured.

(b) LIMITATION OF PERIOD OF COVERAGE.—Assistance under this section shall end with respect to an individual on the earlier of—

(1) the date the individual is no longer uninsured; or

(2) 12 months after the date the individual is first determined to be eligible for medical assistance under this section.

(c) SPECIAL RULES.—In the case of medical assistance provided under this section—

(1) the Federal medical assistance percentage under section 1905(b) of the Social Security Act shall be the enhanced FMAP (as defined in section 2105(b) of such Act);

(2) a State may elect to apply alternative income, asset, and resource limitations and the provisions of section 1916(g) of such Act, except that in no case shall a State cover individuals with higher family income without covering individuals with a lower family income;

(3) such medical assistance shall not be provided for periods before the date the individual becomes uninsured;

(4) a State may elect to make eligible for such assistance a spouse or children of an individual eligible for medical assistance under paragraph (1), if such spouse or children are uninsured;

(5) individuals eligible for medical assistance under this section shall be deemed to be described in the list of individuals described in the matter preceding paragraph (1) of section 1905(a) of such Act; and

(6) the Secretary of Health and Human Services shall not count, for purposes of section 1108(f) of the Social Security Act, such amount of payments under this section as bears a reasonable relationship to the average national proportion of payments made under this section for the 50 States and the District of Columbia to the payments otherwise made under title XIX for such States and District.

(d) DEFINITION.—For purposes of this subtitle:

(1) UNINSURED.—The term ''uninsured'' means, with respect to an individual, that the individual is not covered under—

(A) a group health plan (as defined in section 2791(a) of the Public Health Service Act),

(B) health insurance coverage (as defined in section 2791(b)(1) of the Public Health Service Act), or

(C) a program under title XVIII, XIX, or XXI of the Social Security Act, other than under such title XIX pursuant to this section.

For purposes of this paragraph, such coverage under subparagraph (A) or (B) shall not include coverage consisting solely of coverage of excepted benefits (as defined in section 2791(c) of the Public Health Service Act).

(2) COBRA CONTINUATION COVERAGE.—The term ''COBRA continuation coverage'' means coverage under a group health plan provided by an employer pursuant to title XXII of the Public Health Service Act, section 4980B of the Internal Revenue Code of 1986, part 6 of subtitle B of title I of the Employee Retirement Income Security Act of 1974, or section 8905a of title 5, United States Code.

(3) STATE.—The term ''State'' has the meaning given such term for purposes of title XIX of the Social Security Act.

(4) ENDING MONTH.—The term ''ending month'' means the last month that begins before the date that is 1 year after the date of the enactment of this Act.

(e) EFFECTIVE DATE.—This section shall take effect upon its enactment, whether or not regulations implementing this section are issued.

(B) ALTERNATIVE NOTICE.—In the case of COBRA continuation coverage to which the notice provision under section 4980B(f)(6) of the Internal Revenue Code of 1986 does not apply, the Secretary of the Treasury shall, in coordination with administrators of the group health plans (or other entities) that provide or administer the COBRA continuation coverage involved, assure provision of such notice.

(C) FORM.—The requirement of the additional notification under this paragraph may be met by amendment of existing notice forms or by inclusion of a separate document with the notice otherwise required.

(2) SPECIFIC REQUIREMENTS.—Each additional notification under this paragraph (1) shall include—

(A) the forms necessary for establishing eligibility under subsection (a)(2)(A) and enrollment under subsection (a)(2)(B) in connection with the coverage with respect to each covered employee or other qualified beneficiary;

(B) the name, address, and telephone number necessary to contact the plan administrator and any other person maintaining relevant information in connection with the premium assistance; and

(C) the following statement displayed in a prominent manner:

''You may be eligible to receive assistance with payment of 75 percent of your COBRA continuation coverage premiums for a duration of not to exceed 12 months.''.

(3) NOTICE RELATING TO RETROACTIVE COVERAGE.—In the case of such notices previously transmitted before the date of the enactment of this Act in the case of an individual described in paragraph (1) who has elected (or is still eligible to elect) COBRA continuation coverage as to the date of the enactment of this Act, the administrator of the group health plan (or other entity) involved or the Secretary of the Treasury (in the case described in the paragraph (1)(B)) shall provide (within 60 days after the date of the enactment of this Act) for the additional notification required to be provided under paragraph (1).

(4) MODEL NOTICES.—The Secretary shall prescribe models for the additional notification required under this subsection.

(f) OBLIGATION OF FUNDS.—This section constitutes budget authority in advance of appropriations Acts and represents the obligation of the Federal government to provide for the payment of premium assistance under this section.

(g) PROMPT ISSUANCE OF GUIDANCE.—The Secretary of the Treasury, in consultation with the Secretary of Labor, shall issue guidance under this section not later than 30 days after the date of the enactment of this Act.

(h) DEFINITIONS.—In this section:

(1) ADMINISTRATOR.—The team ''administrator'' has the meaning given such term in section 3(16) of the Employee Retirement Income Security Act of 1974.

(2) COBRA CONTINUATION COVERAGE.— The term ''COBRA continuation coverage'' means continuation coverage provided pursuant to title XXII of the Public Health Service Act, section 4980B of the Internal Revenue Code of 1986 (other than subsection (f)(1) of such section insofar as it relates to pediatric vaccines), part 6 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (other than under section 609), section 8905a of title 5, United States Code, or under a State program that provides continuation coverage comparable to such continuation coverage.

(3) GROUP HEALTH PLAN.—The term ''group health plan'' has the meaning given such term in section 9832(a) of the Internal Revenue Code of 1986.

(4) STATE.—The term ''State'' includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

Subtitle C—Additional Assistance for Temporary Health Insurance Coverage

SEC. 221. OPTIONAL TEMPORARY MEDICAID COVERAGE FOR CERTAIN UNINSURED EMPLOYEES.

(a) IN GENERAL.—Notwithstanding any other provision of law, with respect to any month before the ending month, a State may elect to provide, under its medicaid program under title XIX of the Social Security Act, medical assistance in the case of an individual—

(1)(A) who has become totally or partially separated from employment on or after July 1, 2001, and before the end of such ending month; or

(B) whose hours of employment have been reduced on or after July 1, 2001, and before the end of such ending month;

(2) who is not eligible for COBRA continuation coverage; and

(3) who is uninsured.

(b) LIMITATION OF PERIOD OF COVERAGE.—Assistance under this section shall end with respect to an individual on the earlier of—

(1) the date the individual is no longer uninsured; or

(2) 12 months after the date the individual is first determined to be eligible for medical assistance under this section.

(c) SPECIAL RULES.—In the case of medical assistance provided under this section—

(1) the Federal medical assistance percentage under section 1905(b) of the Social Security Act shall be the enhanced FMAP (as defined in section 2105(b) of such Act);

(2) a State may elect to apply alternative income, asset, and resource limitations and the provisions of section 1916(g) of such Act, except that in no case shall a State cover individuals with higher family income without covering individuals with a lower family income;

(3) such medical assistance shall not be provided for periods before the date the individual becomes uninsured;

(4) a State may elect to make eligible for such assistance a spouse or children of an individual eligible for medical assistance under paragraph (1), if such spouse or children are uninsured;

(5) individuals eligible for medical assistance under this section shall be deemed to be described in the list of individuals described in the matter preceding paragraph (1) of section 1905(a) of such Act; and

(6) the Secretary of Health and Human Services shall not count, for purposes of section 1108(f) of the Social Security Act, such amount of payments under this section as bears a reasonable relationship to the average national proportion of payments made under this section for the 50 States and the District of Columbia to the payments otherwise made under title XIX for such States and District.

(d) DEFINITIONS.—For purposes of this subtitle:

(1) UNINSURED.—The term ''uninsured'' means, with respect to an individual, that the individual is not covered under—

(A) a group health plan (as defined in section 2791(a) of the Public Health Service Act),

(B) health insurance coverage (as defined in section 2791(b)(1) of the Public Health Service Act), or

(C) a program under title XVIII, XIX, or XXI of the Social Security Act, other than under such title XIX pursuant to this section.

For purposes of this paragraph, such coverage under subparagraph (A) or (B) shall not include coverage consisting solely of coverage of excepted benefits (as defined in section 2791(c) of the Public Health Service Act).

(2) COBRA CONTINUATION COVERAGE.—The term ''COBRA continuation coverage'' means coverage under a group health plan provided by an employer pursuant to title XXII of the Public Health Service Act, section 4980B of the Internal Revenue Code of 1986 part 6 of subtitle B of title I of the Employee Retirement Income Security Act of 1974, or section 8905a of title 5, United States Code.

(3) STATE.—The term ''State'' has the meaning given such term for purposes of title XIX of the Social Security Act.

(4) ENDING MONTH.—The term ''ending month'' means the last month that begins before the date that is 1 year after the date of the enactment of this Act.

(e) EFFECTIVE DATE.—This section shall take effect upon its enactment, whether or not regulations implementing this section are issued.

(f) LIMITATION OF ELECTION.—A State may not elect to provide coverage under this section unless the State elects to provide coverage under section 222.

SEC. 222. OPTIONAL TEMPORARY COVERAGE FOR UNSUBSIDIZED PORTION OF COBRA CONTINUATION PREMIUMS.

(a) IN GENERAL.—Notwithstanding any other provision of law, with respect to COBRA continuation coverage provided for any month through the ending month, a State may elect to provide payment of the unsubsidized portion of the premium for COBRA continuation coverage in the case of any individual—

(1)(A) who has become totally or partially separated from employment on or after July 1, 2001, and before the end of the ending month; or

(B) whose hours of employment have been reduced on or after July 1, 2001, and before the end of such ending month; and

(2) who is eligible for, and has elected coverage under, COBRA continuation coverage.

(b) LIMITATION OF PERIOD OF COVERAGE.—Premium assistance under this section shall end with respect to an individual on the earlier of—

(1) the date the individual is no longer covered under COBRA continuation coverage; or

(2) 12 months after the date the individual is first determined to be eligible for premium assistance under this section.

(c) FINANCIAL PAYMENT TO STATES.—A State providing premium assistance under this section shall be entitled to payment under section 1903(a) of the Social Security Act with respect to such assistance (and administrative expenses relating to such assistance) in the same manner as such State is entitled to payment with respect to medical assistance (and such administrative expenses) under such section, except that, for purposes of this subsection, any reference to the Federal medical assistance percentage shall be deemed a reference to the enhanced FMAP (as defined in section 2105(b) of such Act). The provisions of subsection (c)(6) of section 221 shall apply with respect to this section in the same manner as it applies under such section.

(d) UNSUBSIDIZED PORTION OF PREMIUM FOR COBRA CONTINUATIOIN COVERAGE.—For purposes of this section, the term 'unsubsidized portion of premium for COBRA continuation coverage' means that portion of the premium for COBRA continuation coverage for which there is no financial assistance available under 211.

(e) EFFECTIVE DATE.—This section shall take effect upon its enactment, whether or not regulations implementing this section are issued.

(f) LIMITATION ON ELECTION.—A State may not elect to provide coverage under this section unless the State elects to provide coverage under section 221.

The SPEAKER pro tempore. The question is on ordering the previous question.

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

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

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

The Sergeant at Arms will notify absent Members.

Pursuant to clause 9 of rule XX, the Chair will reduce to 5 minutes the minimum time for electronic voting, if ordered, on the question of adoption of the resolution.

The vote was taken by electronic device, and there were—yeas 220, nays 204, not voting 9, as follows:

[Roll No. 460]

YEAS—220

Aderholt
Akin
Armey
Bachus
Baker
Ballenger
Barr
Bartlett
Barton
Bass
Bereuter
Biggert
Bilirakis
Blunt
Boehlert
Boehner
Bonilla
Bono
Boozman
Brady (TX)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Castle
Chabot
Chambliss
Coble
Collins
Combest
Cox
Crane
Crenshaw
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal
DeLay
DeMint
Diaz-Balart
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Everett
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goss
Graham
Granger
Graves
Green (WI)
Greenwood
Grucci
Gutknecht
Hall (TX)
Hansen
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
Kerns
King (NY)
Kingston
Kirk
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
Manzullo
McCrery
McHugh
McInnis
McKeon
Mica
Miller, Dan
Miller, Gary
Miller, Jeff
Moran (KS)
Morella
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Portman
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reynolds
Riley
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schaffer
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Stump
Sununu
Sweeney
Tancredo
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Thune
Tiahrt
Tiberi
Toomey
Traficant
Upton
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson
Wolf
Young (AK)
Young (FL)

NAYS—204

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldacci
Baldwin
Barcia
Barrett
Becerra
Bentsen
Berkley
Berman
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (FL)
Brown (OH)
Capps
Capuano
Cardin
Carson (OK)
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Cramer
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Frank
Gephardt
Gonzalez
Gordon
Green (TX)
Gutierrez
Hall (OH)
Harman
Hastings (FL)
Hill
Hilliard
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
Kleczka
Kucinich
LaFalce
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lucas (KY)
Luther
Lynch
Maloney (CT)
Maloney (NY)
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller, George
Mink
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Phelps
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roemer
Ross
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schakowsky
Schiff
Scott
Serrano
Sherman
Shows
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Thurman
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Velazquez
Visclosky
Waters
Watson (CA)
Watt (NC)
Waxman
Weiner
Woolsey
Wu
Wynn

NOT VOTING—9

Carson (IN)
Cooksey
Cubin
DeFazio
Ford
Frost
Quinn
Rothman
Wexler

□ 1246

Messrs. HONDA, OBEY, BARRETT of Wisconsin, RUSH and WU and Ms. WOOLSEY changed their vote from ''yea'' to ''nay.''

Mr. BACHUS and Mr. TANCREDO changed their vote from ''nay'' to ''yea.''

So the previous question was ordered.

The result of the vote was announced as above recorded.

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

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

RECORDED VOTE

Ms. SLAUGHTER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 216, noes 202, not voting 15, as follows:

[Roll No. 461]

AYES—216

Aderholt
Akin
Armey
Bachus
Baker
Ballenger
Barr
Bartlett
Barton
Bass
Bereuter
Biggert
Bilirakis
Blunt
Boehlert
Boehner
Bonilla
Bono
Boozman
Brady (TX)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Castle
Chabot
Chambliss
Coble
Collins
Combest
Cox
Crane
Crenshaw
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal
DeLay
DeMint
Diaz-Balart
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Everett
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goss
Graham
Granger
Graves
Green (WI)
Greenwood
Grucci
Gutknecht
Hansen
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hilleary
Hobson
Hoekstra
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
Kerns
King (NY)
Kingston
Kirk
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (KY)
Lucas (OK)
Manzullo
McCrery
McHugh
McInnis
McKeon
Mica
Miller, Dan
Miller, Gary
Miller, Jeff
Moran (KS)
Morella
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Portman
Pryce (OH)
Putnam
Ramstad
Regula
Rehberg
Reynolds
Riley
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schaffer
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Stump
Sununu
Sweeney
Tancredo
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Thune
Tiahrt
Tiberi
Toomey
Traficant
Upton
Vitter
Walden
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson
Wolf
Young (AK)
Young (FL)

NOES—202

Abercrombie	Harman	Nadler
Ackerman	Hastings (FL)	Napolitano
Allen	Hill	Neal
Andrews	Hilliard	Oberstar
Baca	Hinchey	Obey
Baird	Hinojosa	Olver
Baldacci	Hoeffel	Ortiz
Baldwin	Holden	Owens
Barcia	Holt	Pallone
Barrett	Honda	Pascrell
Becerra	Hooley	Pastor
Bentsen	Hoyer	Payne
Berkley	Inslee	Pelosi
Berman	Israel	Peterson (MN)
Berry	Istook	Phelps
Bishop	Jackson (IL)	Pomeroy
Blagojevich	Jackson-Lee (TX)	Price (NC)
Blumenauer	Jefferson	Rahall
Bonior	John	Rangel
Borski	Johnson, E. B.	Reyes
Boswell	Jones (OH)	Rivers
Boucher	Kanjorski	Rodriguez
Boyd	Kaptur	Roemer
Brady (PA)	Kennedy (RI)	Ross
Brown (FL)	Kildee	Roybal-Allard
Brown (OH)	Kilpatrick	Rush
Capps	Kind (WI)	Sabo
Capuano	Kucinich	Sanchez
Cardin	LaFalce	Sanders
Carson (OK)	Lampson	Sandlin
Clay	Langevin	Sawyer
Clayton	Larsen (WA)	Schakowsky
Clement	Larson (CT)	Schiff
Clyburn	Lee	Scott
Condit	Levin	Serrano
Conyers	Lewis (GA)	Sherman
Costello	Lipinski	Shows
Coyne	Lofgren	Skelton
Cramer	Lowey	Slaughter
Crowley	Luther	Smith (WA)
Cummings	Lynch	Snyder
Davis (CA)	Maloney (CT)	Solis
Davis (FL)	Maloney (NY)	Spratt
Davis (IL)	Markey	Stark
DeGette	Mascara	Stenholm
Delahunt	Matheson	Strickland
DeLauro	Matsui	Stupak
Deutsch	McCarthy (MO)	Tanner
Dicks	McCarthy (NY)	Tauscher
Doggett	McCollum	Taylor (MS)
Dooley	McDermott	Thompson (CA)
Doyle	McGovern	Thompson (MS)
Edwards	McIntyre	Thurman
Engel	McKinney	Tierney
Eshoo	McNulty	Towns
Etheridge	Meehan	Turner
Evans	Meek (FL)	Udall (CO)
Farr	Meeks (NY)	Udall (NM)
Fattah	Menendez	Velazquez
Filner	Millender-McDonald	Visclosky
Frank	Miller, George	Waters
Gephardt	Mink	Watson (CA)
Gonzalez	Mollohan	Watt (NC)
Gordon	Moore	Waxman
Green (TX)	Moran (VA)	Weiner
Gutierrez	Murtha	Woolsey
Hall (OH)		Wu
Hall (TX)		Wynn

NOT VOTING—15

Carson (IN)	Ford	Quinn
Cooksey	Frost	Radanovich
Cubin	Horn	Rothman
DeFazio	Kleczka	Watkins (OK)
Dingell	Lantos	Wexler

□ 1255

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. OXLEY. Mr. Chairman, pursuant to House Resolution 297, I call up the bill (H.R. 3210) to ensure the continued financial capacity of insurers to provide coverage for risks from terrorism, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to House Resolution 297, the bill is considered read for amendment.

The text of H.R. 3210 is as follows:

H.R. 3210

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

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Terrorism Risk Protection Act''.

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

Sec. 1. Short title and table of contents.
Sec. 2. Congressional findings.
Sec. 3. Designation of Administrators.
Sec. 4. Submission of premium information to Administrator.
Sec. 5. Triggering determination and covered period.
Sec. 6. Federal cost-sharing for commercial insurers.
Sec. 7. Assessments.
Sec. 8. Terrorism loss repayment surcharge.
Sec. 9. Administration of assessments and surcharges.
Sec. 10. Reserve for terrorism coverage under commercial lines of business.
Sec. 11. State preemption.
Sec. 12. Consistent State guidelines for coverage for acts of terrorism.
Sec. 13. Consultation with State insurance regulators and NAIC.
Sec. 14. Sovereign immunity protections.
Sec. 15. Study of potential effects of terrorism on life insurance industry.
Sec. 16. Definitions.
Sec. 17. Extension of program.
Sec. 18. Regulations.

SEC. 2. CONGRESSIONAL FINDINGS.

The Congress finds that—

(1) the terrorist attacks on the World Trade Center and the Pentagon of September 11, 2001, resulted in a large number of deaths and injuries, the destruction and damage to buildings, and interruption of business operations;

(2) the attacks have inflicted possibly the largest losses ever incurred by insurers and reinsurers;

(3) while the insurance and reinsurance industries have committed to pay the losses arising from the September 11 attacks, the resulting disruption has created widespread market uncertainties with regard to the risk of losses arising from possible future terrorist attacks;

(4) such uncertainty threatens the continued availability of United States commercial property casualty insurance for terrorism risk at meaningful coverage levels;

(5) the unavailability of affordable commercial property and casualty insurance for terrorist acts threatens the growth and stability of the United States economy, including impeding the ability of financial services providers to finance commercial property acquisitions and new construction;

(6) in the past, the private insurance markets have shown a remarkable resiliency in adapting to changed circumstances;

(7) given time, the private markets will diversify and develop risk spreading mechanisms to increase capacity and guard against possible future losses incurred by terrorist attacks;

(8) it is necessary to create a temporary industry risk sharing loan program to ensure the continued availability of commercial property and casualty insurance and reinsurance for terrorism-related risks;

(9) such action is necessary to limit immediate market disruptions, encourage economic stabilization, and facilitate a transition to a viable market for private terrorism risk insurance; and

(10) in addition, it is necessary to repeal portions of the tax law which prohibit the insurance market from developing the necessary reserves to handle possible future losses due to acts of terrorism.

SEC. 3. DESIGNATION OF ADMINISTRATORS.

(a) IN GENERAL.—Not later than December 1, 2001, the President shall designate a Federal officer or officers to act as the Administrator or Administrators responsible for carrying out this Act and the responsibilities under this Act to be carried out by each such officer.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that in determining the Administrator responsible for making any determinations, for purposes of this Act, as to whether a loss was caused by an act of terrorism and whether such loss was caused by one or multiple such events, pursuant to section 5(b), the President should consider the appropriate role of the Assistant to the President for Homeland Security.

SEC. 4. SUBMISSION OF PREMIUM INFORMATION TO ADMINISTRATOR.

To the extent such information is not otherwise available to the Administrators, the appropriate Administrator may require each insurer to submit, to the appropriate Administrator or to the NAIC, a statement specifying the aggregate premium amount of coverage written by such insurer for properties and persons in the United States under each line of commercial property and casualty insurance sold by such insurer during such periods as the appropriate Administrator may provide.

SEC. 5. TRIGGERING DETERMINATION AND COVERED PERIOD.

(a) IN GENERAL.—For purposes of this Act, a ''triggering determination'' is a determination by the appropriate Administrator that the insured losses resulting from the event of an act of terrorism occurring during the covered period (as such term is defined in subsection (b)), or the aggregate insured losses resulting from multiple events of acts of terrorism all occurring during the covered period, meet the requirements under either of the following paragraphs:

(1) INDUSTRY-WIDE LOSS TEST.—Such industry-wide losses exceed $1,000,000,000.

(2) CAPITAL SURPLUS AND INDUSTRY AGGREGATE TEST.—Such industry-wide losses exceed $100,000,000 and some portion of such losses for any single commercial insurer exceed—

(A) 10 percent of the capital surplus of such commercial insurer (as such term is defined by the appropriate Administrator); and

(B) 10 percent of the commercial property and casualty premiums written by such commercial insurer;

except that this paragraph shall not apply to any commercial insurer that has been making commercial property and casualty insurance coverage available for less than 4 years as of the date of the determination under this subsection.

(b) COVERED PERIOD.—For purposes of this Act, the ''covered period'' is the period beginning on the date of the enactment of this Act and ending on January 1, 2003.

(c) DETERMINATIONS REGARDING EVENTS.—For purposes of subsection (a), the appropriate Administrator shall have the sole authority for determining whether—

(1) an occurrence or event was caused by an act of terrorism;

(2) insured losses from acts of terrorism were caused by one or multiple events or occurrences; and

(3) whether an act of terrorism occurred during the covered period.

SEC. 6. FEDERAL COST-SHARING FOR COMMERCIAL INSURERS.

(a) IN GENERAL.—Pursuant to a triggering determination, the appropriate Administrator shall provide financial assistance to

commercial insurers in accordance with this section to cover insured losses resulting from acts of terrorism, which shall be repaid in accordance with subsection (e).

(b) AMOUNT.—Subject to subsection (c), with respect to a triggering determination, the amount of financial assistance made available under this section to each commercial insurer shall be equal to 90 percent of the amount of the insured losses of the insurer as a result of the triggering event involved.

(c) AGGREGATE LIMITATION.—The aggregate amount of financial assistance provided pursuant to this section may not exceed $100,000,000,000.

(d) LIMITATIONS.—The appropriate Administrator may establish such limitations as may be necessary to ensure that payments under this section in connection with a triggering determination are made only to commercial insurers that are not in default of any obligation under section 7 to pay assessments or under section 8 to collect surcharges.

(e) REPAYMENT.—Financial assistance made available under this section shall be repaid through assessments under section 7 collected by the appropriate Administrator and surcharges remitted to the appropriate Administrator under section 8. Any such amounts collected or remitted shall be deposited into the general fund of the Treasury.

(f) EMERGENCY DESIGNATION.—Congress designates the amount of new budget authority and outlays in all fiscal years resulting from this section as an emergency requirement pursuant to section 252(e) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(e)). Such amount shall be available only to the extent that a request, that includes designation of such amount as an emergency requirement as defined in such Act, is transmitted by the President to Congress.

SEC. 7. ASSESSMENTS.

(a) IN GENERAL.—In the case of a triggering determination, each commercial insurer shall be subject to assessments under this section for the purpose of repaying financial assistance made available under section 6 in connection with such determination.

(b) AGGREGATE ASSESSMENT.—Pursuant to a triggering determination, the appropriate Administrator shall determine the aggregate amount to be assessed among all commercial insurers, which shall be equal to 90 percent of the lesser of—

(1) the amount of industry-wide losses resulting from the triggering event involved; and

(2) $20,000,000,000.

(c) ALLOCATION OF ASSESSMENT.—

(1) IN GENERAL.—The appropriate Administrator shall allocate the aggregate assessment amount determined under subsection (b) among all commercial insurers. The portion of the aggregate assessment amount that is allocated as an assessment on each commercial insurer shall be based on the percentage, written by that insurer, of the aggregate written premium, for all commercial insurers, for the calendar year preceding the assessment.

(2) PAYMENT REQUIREMENT.—Upon notification by the appropriate Administrator of an assessment under this section, each commercial insurer shall be required to pay to the appropriate Administrator, in the manner provided under section 9 by the appropriate Administrator, the amount equal to the assessment on such commercial insurer (subject to the limitation under paragraph (3)).

(3) ANNUAL LIMITATION ON AMOUNT ALLOCATED TO EACH COMMERCIAL INSURER.—

(A) IN GENERAL.—Of any assessments under this section on a commercial insurer, the portion required to be paid by any commercial insurer during a calendar year shall not exceed the amount that is equal to 3 percent of the aggregate written premium for such insurer for the preceding calendar year.

(B) MULTIPLE PAYMENTS.—If any amounts required to be repaid under this section for a calendar year are limited by operation of subparagraph (A), the appropriate Administrator shall provide that all such remaining amounts shall be reallocated among all commercial insurers (in the manner provided in paragraph (1)) over such immediately succeeding calendar years, and repaid over such years, as may be necessary to provide for full payment of such remaining amounts, except that the limitation under subparagraph (A) shall apply to the amounts paid in any such successive calendar years.

(C) ADMINISTRATIVE FLEXIBILITY.—

(i) TIMING OF ASSESSMENTS.—Assessments under this section in connection with a triggering demonstration shall be made, to the extent that the appropriate Administrator considers practicable and appropriate, at the beginning of the calendar year immediately following the triggering determination.

(ii) ESTIMATES AND CORRECTIONS.—If the appropriate Administrator makes an assessment at a time other than provided under clause (i), the appropriate Administrator may—

(I) require commercial insurers to estimate their aggregate written premiums for the year in which the assessment is made; and

(II) make a subsequent refund or require additional payments to correct such estimation at the end of the calendar year.

(4) DEFERRAL OF CONTRIBUTIONS.—The appropriate Administrator may defer the payment of part or all of the assessment required under paragraph (2) to be paid by a commercial insurer, but only to the extent that the appropriate Administrator determines that such deferral is necessary to avoid the likely insolvency of the commercial insurer.

SEC. 8. TERRORISM LOSS REPAYMENT SURCHARGE.

(a) IMPOSITION AND COLLECTION.—If, pursuant to a triggering determination, the appropriate Administrator determines that the aggregate amount of industry-wide losses resulting from the triggering event involved exceeds $20,000,000,000, the appropriate Administrator shall—

(1) establish and impose a policyholder premium surcharge, as provided under this section, on commercial property and casualty insurance written after such determination, for the purpose of repaying financial assistance made available under section 6 in connection with such triggering determination; and

(2) provide for commercial insurers to collect such surcharge and remit amounts collected to the appropriate Administrator.

(b) AMOUNT AND DURATION.—The surcharge under this section shall be established in such amount, and shall apply to commercial property and casualty insurance written during such period, as the appropriate Administrator determines is necessary to recover the aggregate amount of financial assistance provided under section 6 to cover insured losses resulting from the triggering event that exceed $20,000,000,000.

(c) OTHER TERMS.—The surcharge under this section shall—

(1) be based on a percentage of the amount of commercial property and casualty insurance coverage that a policy provides; and

(2) be imposed with respect to all commercial property and casualty insurance coverage written during the period referred to in subsection (b).

SEC. 9. ADMINISTRATION OF ASSESSMENTS AND SURCHARGES.

(a) MANNER AND METHOD.—The appropriate Administrator shall provide for the manner and method of carrying out assessments under section 7 and surcharges under section 8, including the timing and procedures of making assessments and surcharges, notifying commercial insurers of assessments or surcharge requirements, collecting payments from and surcharges through commercial insurers, and refunding of any excess amounts paid or crediting such amounts against future assessments.

(b) TIMING OF COVERAGES AND ASSESSMENTS.—The appropriate Administrator may adjust the timing of coverages and assessments provided under this Act to provide for equivalent application of the provisions of this Act to commercial insurers and policies that are not based on a calendar year.

(c) APPLICATION TO SELF-INSURANCE ARRANGEMENTS.—The appropriate Administrator may, in consultation with the NAIC, apply the provisions of this Act, as appropriate, to self-insurance arrangements by municipalities and other entities, but only if such application is determined before the occurrence of a triggering event and all of the provisions of this Act are applied uniformly to such entities.

(d) ADJUSTMENT.—The appropriate Administrator may adjust the assessments charged under section 7 or the percentage imposed under the surcharge under section 8 at any time, as the appropriate Administrator considers appropriate to protect the national interest, which may include avoiding unreasonable economic disruption or excessive market instability.

SEC. 10. RESERVE FOR TERRORISM COVERAGE UNDER COMMERCIAL LINES OF BUSINESS.

(a) IN GENERAL.—Section 832 of the Internal Revenue Code of 1986 (relating to insurance company taxable income) is amended by adding at the end the following new subsection:

''(h) TERRORISM RESERVE FOR COMMERCIAL LINES OF BUSINESS.—In the case of an insurance company subject to tax under section 831(a)—

''(1) INCLUSION FOR DECREASES, AND DEDUCTION FOR INCREASES, IN BALANCE OF RESERVE.—

''(A) DECREASE TREATED AS GROSS INCOME.—If for any taxable year—

''(i) the opening balance for the terrorism commercial business reserve exceeds

''(ii) the closing balance for such reserve,

such excess shall be included in gross income under subsection (b)(1)(F).

''(B) INCREASE TREATED AS DEDUCTION.—If for any taxable year—

''(i) the closing balance for the terrorism commercial business reserve exceeds

''(ii) the opening balance for such reserve,

such excess shall be taken into account as a deduction under subsection (c)(14).

''(2) TERRORISM COMMERCIAL BUSINESS RESERVE.—For purposes of this section, the term 'terrorism commercial business reserve' means amounts held in a segregated account (or other separately identifiable arrangement or account) which are set aside exclusively—

''(A) to mature or liquidate, either by payment or reinsurance, future unaccrued claims arising from declared terrorism losses under commercial lines of business, and

''(B) if so directed by the insurance commissioner of any State, to pay other claims as part of a plan of the company to avoid insolvency.

''(3) LIMITATION ON AMOUNT OF RESERVE.—

''(A) IN GENERAL.—If the closing balance of any terrorism commercial business reserve for any taxable year exceeds such reserve's limit for such year—

''(i) such excess shall be included in gross income under subsection (b)(1)(F) for the following taxable year, and

''(ii) if such excess is distributed during such following taxable year, the opening balance of such reserve for such following taxable year shall be determined without regard to such excess.

''(B) RESERVE LIMIT.—

''(i) IN GENERAL.—For purposes of subparagraph (A), a reserve's limit for any taxable year is such reserve's allocable share of the national limit for the calendar year in which such taxable year begins.

''(ii) NATIONAL LIMIT.—The national limit is $40,000,000,000 ($13,340,000,000 for 2002).

''(iii) ALLOCATION OF LIMIT.—

''(I) IN GENERAL.—A reserve's allocable share of the national limit for any calendar year is the amount which bears the same ratio to the national limit for such year as the company's net written premiums for commercial lines of business bears to such net written premiums for all companies for commercial line of business.

''(II) EXCLUSION OF PREMIUMS FOR INSURANCE NOT COVERING DECLARED TERRORISM LOSSES AND FOR REINSURANCE.—Subclause (I) shall be applied without regard to premiums for insurance which does not cover declared terrorism losses and premiums for reinsurance.

''(III) DETERMINATION OF NET WRITTEN PREMIUMS.—Except as otherwise provided in this section, all determinations under this subsection shall be made on the basis of the amounts required to be set forth on the annual statement approved by the National Association of Insurance Commissioners.

''(iv) INFLATION ADJUSTMENT OF LIMIT.—In the case of any calendar year after 2002, the $40,000,000,000 amount in clause (ii) shall be increased by an amount equal to the product of—

''(I) such dollar amount, and

''(II) the cost-of-living adjustment determined under subsection (f)(3) for such calendar year, determined by substituting 'calendar year 2001' for 'calendar year 1992' in subparagraph (B) thereof.

If any amount after adjustment under the preceding sentence is not a multiple of $1,000,000, such amount shall be rounded to the nearest multiple of $1,000,000.

''(4) DECLARED TERRORISM LOSSES.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'declared terrorism losses' means, with respect to a taxable year—

''(i) the amount of losses and loss adjustment expenses incurred in commercial lines of business that are attributable to 1 or more declared terrorism events, plus

''(ii) any nonrecoverable assessments, surcharges, or other liabilities that are borne by the company and are attributable to such events.

''(B) DECLARED TERRORISM EVENT.—The term 'declared terrorism event' means any event declared by the President to be an act of terrorism against the United States for purposes of this section.

''(5) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out this subsection, and shall prescribe such regulations after consultation with the National Association of Insurance Commissioners.''

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 832(b) of such Code is amended by striking ''and'' at the end of subparagraph (D), by striking the period at the end of subparagraph (E) and inserting in lieu thereof '', and'', and by adding at the end the following new subparagraph:

''(F) each net decrease in reserves which is required by paragraph (1) or (3) of subsection (h) to be taken into account under this subparagraph.''

(2) Subsection (c) of section 832 of such Code is amended by striking ''and'' at the end of paragraph (12), by striking the period at the end of paragraph (13) and inserting in lieu thereof ''; and'', and by adding at the end the following new paragraph:

''(14) each net increase in reserves which is required by subsection (h)(1) to be taken into account under this paragraph.''

(c) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning after December 31, 2001.

SEC. 11. STATE PREEMPTION.

(a) COVERED PERILS.—A commercial insurer shall be considered to have complied with any State law that requires or regulates the provision of insurance coverage for acts of terrorism if the insurer provides coverage in accordance with the definitions regarding acts of terrorism under the regulations issued by the Administrators.

(b) RATE LAWS.—If any provision of any State law prevents an insurer from increasing its premium rates in an amount necessary to recover any assessments pursuant to section 7, such provision is preempted only to the extent necessary to provide for such insurer to recover such losses.

(c) FILE AND USE.—With respect only to commercial property and casualty insurance covering acts of terrorism, any provision of State law that requires, as a condition precedent to the effectiveness of rates or policies for such insurance that is made available by an insurer licensed to transact such business in the State, any action (including prior approval by the State insurance regulator for such State) other than filing of such rates and policies and related information with such State insurance regulator is preempted to the extent such law requires such additional actions for such insurance coverage. This subsection shall not be considered to preempt a provision of State law solely because the law provides that rates and policies for such insurance coverage are, upon such filing, subject to subsequent review and action, which may include actions to disapprove or discontinue use of such rates or policies, by the State insurance regulator.

SEC. 12. CONSISTENT STATE GUIDELINES FOR COVERAGE FOR ACTS OF TERRORISM.

(a) SENSE OF CONGRESS REGARDING COVERED PERILS.—It is the sense of the Congress that—

(1) the NAIC, in consultation with the appropriate Administrator, should develop appropriate definitions for acts of terrorism and appropriate standards for making determinations regarding events or occurrences of acts of terrorism;

(2) each State should adopt the definitions and standards developed by the NAIC for purposes of regulating insurance coverage made available in that State;

(3) in consulting with the NAIC, the appropriate Administrator should advocate and promote the development of definitions and standards that are appropriate for purposes of this Act; and

(4) after consultation with the NAIC, the appropriate Administrator should adopt definitions for acts of terrorism and standards for determinations that are appropriate for this Act.

(b) INSURANCE RESERVE GUIDELINES.—

(1) SENSE OF CONGRESS REGARDING ADOPTION BY STATES.—It is the sense of the Congress that—

(A) the NAIC should develop appropriate guidelines for commercial insurers and pools regarding maintenance of reserves against the risks of acts of terrorism; and

(B) each State should adopt such guidelines for purposes of regulating commercial insurers doing business in that State.

(2) CONSIDERATION OF ADOPTION OF NATIONAL GUIDELINES.—Upon the expiration of the 6-month period beginning on the date of the enactment of this Act, the appropriate Administrator shall make a determination of whether the guidelines referred to in paragraph (1) have, by such time, been developed and adopted by nearly all States in a uniform manner. If the appropriate Administrator determines that such guidelines have not been so developed and adopted, the appropriate Administrator shall consider adopting, and may adopt, such guidelines on a national basis in a manner that would supercede any State law regarding maintenance of reserves against such risks.

(c) GUIDELINES REGARDING DISCLOSURE OF PRICING AND TERMS OF COVERAGE.—

(1) SENSE OF CONGRESS.—It is the sense of the Congress that the States should require, by laws or regulations governing the provision of commercial property and casualty insurance that includes coverage for acts of terrorism, that the price of any such terrorism coverage, including the costs of any terrorism related assessments or surcharges under this Act, be separately disclosed.

(2) ADOPTION OF NATIONAL GUIDELINES.—If the appropriate Administrator determines that the States have not enacted laws or adopted regulations adequately providing for the disclosures described in paragraph (1) within a reasonable period of time after the date of the enactment of this Act, the appropriate Administrator shall, after consultation with the NAIC, adopt guidelines on a national basis requiring such disclosure in a manner that supercedes any State law regarding such disclosure.

SEC. 13. CONSULTATION WITH STATE INSURANCE REGULATORS AND NAIC.

The Administrators shall consult with the State insurance regulators and the NAIC in carrying out this Act. The Administrators may take such actions, including entering into such agreements and providing such technical and organizational assistance to insurers and State insurance regulators, as may be necessary to provide for the distribution of financial assistance under section 6 and the collection of assessments under section 7 and surcharges under section 8.

SEC. 14. SOVEREIGN IMMUNITY PROTECTIONS.

(a) FEDERAL CAUSE OF ACTION FOR DAMAGES FROM TERRORIST ACTS RESULTING IN TRIGGERING DETERMINATION.—

(1) IN GENERAL.—If a triggering determination occurs requiring an assessment under section 7 or a surcharge under section 8, there shall exist a Federal cause of action, which shall be the exclusive remedy, for damages claimed pursuant to, or in connection with, any acts of terrorism that caused the insured losses resulting in such triggering determination.

(2) SUBSTANTIVE LAW.—The substantive law for decision in any such action shall be derived from the law, including choice of law principles, of the State in which such act of terrorism occurred, unless such law is inconsistent with or preempted by Federal law.

(3) JURISDICTION.—Pursuant to each triggering determination, the Judicial Panel on Multidistrict Litigation shall designate one or more district courts of the United States which shall have original and exclusive jurisdiction over all actions brought pursuant to this subsection that arise out of the triggering event involved.

(4) OFFSET FOR RELIEF PAYMENTS.—Any recovery by a plaintiff in an action under this subsection shall be offset by the amount, if any, received by the plaintiff from the United States pursuant to any emergency or disaster relief program, or from any other collateral source, for compensation of losses related to the act of terrorism involved.

(b) DAMAGES IN ACTIONS REGARDING INSURANCE CLAIMS.—In an action brought under this section for damages claimed by an insured pursuant to, or in connection with, any commercial property and casualty insurance providing coverage for acts of terrorism that resulted in a triggering determination:

(1) PROHIBITION OF PUNITIVE DAMAGES.—No punitive damages intended to punish or deter may be awarded.

(2) NONECONOMIC DAMAGES.—

(A) IN GENERAL.—Each defendant in such an action shall be liable only for the amount of noneconomic damages allocated to the defendant in direct proportion to the percentage of responsibility of the defendant for the harm to the claimant.

(B) DEFINITION.—For purposes of subparagraph (A), the term ''noneconomic damages'' means damages for losses for physical and emotional pain, suffering, inconvenience, physical impairment, mental anguish, disfigurement, loss of enjoyment of life, loss of society and companionship, loss of consortium, hedonic damages, injury to reputation, and any other nonpecuniary losses of any kind or nature.

(c) RIGHT OF SUBROGATION.—The United States shall have the right of subrogation with respect to any claim paid by the United States under this Act.

(d) PROTECTIVE ORDERS.—The United States or any appropriate Administrator carrying out responsibilities under this Act may seek protective orders or assert privileges ordinarily available to the United States to protect against the disclosure of classified information, including the invocation of the military and State secrets privilege

SEC. 15. STUDY OF POTENTIAL EFFECTS OF TERRORISM ON LIFE INSURANCE INDUSTRY.

(a) ESTABLISHMENT.—Not later than 30 days after the date of enactment of this Act, the President shall establish a commission (in this section referred to as the ''Commission'') to study and report on the potential effects of an act or acts of terrorism on the life insurance industry in the United States and the markets served by such industry.

(b) MEMBERSHIP AND OPERATIONS.—

(1) APPOINTMENT.—The Commission shall consist of 5 members, as follows:

(A) The appropriate Administrator, as designated by the President.

(C) 4 members appointed by the President, who shall be—

(i) a representative of direct underwriters of life insurance within the United States;

(ii) a representative of reinsurers of life insurance within the United States;

(iii) an officer of the NAIC; and

(iv) a representative of insurance agents for life underwriters.

(2) OPERATIONS.—The chairperson of the Commission shall determine the manner in which the Commission shall operate, including funding, staffing, and coordination with other governmental entities.

(c) STUDY.—The Commission shall conduct a study of the life insurance industry in the United States, which shall identify and make recommendations regarding—

(1) possible actions to encourage, facilitate, and sustain provision by the life insurance industry in the United States of coverage for losses due to death or disability resulting from an act or acts of terrorism, including in the face of threats of such acts; and

(2) possible actions or mechanisms to sustain or supplement the ability of the life insurance industry in the United States to cover losses due to death or disability resulting from an act or acts of terrorism in the event that—

(A) such acts significantly affect mortality experience of the population of the United States over any period of time;

(B) such loses jeopardize the capital and surplus of the life insurance industry in the United States as a whole; or

(C) other consequences from such acts occur, as determined by the Commission, that may significantly affect the ability of the life insurance industry in the United States to independently cover such losses.

(d) RECOMMENDATIONS.—The Commission may make a recommendation pursuant to subsection (c) only upon the concurrence of a majority of the members of the Commission.

(e) REPORT.—Not later than 120 days after the date of enactment of this Act, the Commission shall submit to the House of Representatives and the Senate a report describing the results of the study and any recommendations developed under subsection (c).

(f) TERMINATION.—The Commission shall terminate 60 days after submission of the report as provided for in subsection (e).

SEC. 16. DEFINITIONS.

For purposes of this Act, the following definitions shall apply:

(1) ACT OF TERRORISM.—

(A) IN GENERAL.—The term ''act of terrorism'' means any act that the appropriate Administrator determines meets the requirements under subparagraph (B), as such requirements are further defined and specified by the appropriate Administrator in consultation with the NAIC.

(B) REQUIREMENTS.—An act meets the requirements of this subparagraph if the act—

(i) is unlawful;

(ii) causes harm to a person, property, or entity, in the United States;

(iii) is committed by a group of persons or associations who—

(I) are not a government of a foreign country or the de facto government of a foreign country; and

(II) are recognized by the Department of State or the appropriate Administrator as a terrorist group or have conspired with such a group or the group's agents or surrogates; and

(iv) has as its purpose to overthrow or destabilize the government of any country or to influence the policy or affect the conduct of the government of the United States by coercion.

(2) APPROPRIATE ADMINISTRATORS.—The term ''appropriate Administrator'' means, with respect to any function or responsibility of the Federal Government under this Act, the Federal officer designated by the President pursuant to section 3 as responsible for carrying out such function or responsibility.

(3) AFFILIATE.—The term ''affiliate'' means, with respect to an insurer, any company that controls, is controlled by, or is under common control with the insurer.

(4) AGGREGATE WRITTEN PREMIUM.—The term ''aggregate written premium'' means, with respect to a year, the aggregate premium amount of all commercial property and casualty insurance coverage written during such year for persons or properties in the United States under all lines of commercial property and casualty insurance.

(5) COMMERCIAL INSURANCE.—The term ''commercial insurance'' means property and casualty insurance that is not insurance for homeowners, tenants, private passenger nonfleet automobiles, mobile homes, or other insurance for personal, family, or household needs.

(6) COMMERCIAL INSURER.—The term ''commercial insurer'' means any corporation, association, society, order, firm, company, mutual, partnership, individual, aggregation of individuals, or any other legal entity that is engaged in the business of providing commercial property and casualty insurance for persons or properties in the United States. Such term includes any affiliates of a commercial insurer.

(7) COMMERCIAL PROPERTY AND CASUALTY INSURANCE.—The term ''commercial property and casualty insurance'' means property and casualty insurance that is commercial insurance.

(8) CONTROL.—A company has control over another company if—

(A) the company directly or indirectly or acting through one or more other persons owns, controls, or has power to vote 25 percent or more of any class of voting securities of the other company;

(B) the company controls in any manner the election of a majority of the directors or trustees of the other company; or

(C) the appropriate Administrator determines, after notice and opportunity for hearing, that the company directly or indirectly exercises a controlling influence over the management or policies of the other company.

(9) COVERED PERIOD.—The term ''covered period'' has the meaning given such term in section 5(b).

(10) INDUSTRY-WIDE LOSSES.—The term ''industry-wide losses'' means the aggregate insured losses sustained by all insurers, from coverage written for persons or properties in the United States, under all lines of commercial property and casualty insurance.

(11) INSURED LOSS.—The term ''insured loss'' means any loss in the United States covered by commercial property and casualty insurance.

(12) INSURER.—The term ''insurer'' means any corporation, association, society, order, firm, company, mutual, partnership, individual, aggregation of individuals, or any other legal entity that is engaged in the business of providing property and casualty insurance for persons or properties in the United States. Such term includes any affiliates of an insurer.

(13) NAIC.—The term ''NAIC'' means the National Association of Insurance Commissioners.

(14) PROPERTY AND CASUALTY INSURANCE.—The term ''property and casualty insurance'' means insurance against—

(A) loss of or damage to property;

(B) loss of income or extra expense incurred because of loss of or damage to property; and

(C) third party liability claims caused by negligence or imposed by statute or contract.

Such term does not include health or life insurance.

(15) STATE.—The term ''State'' means the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, and any other territory or possession of the United States.

(16) STATE INSURANCE REGULATOR.—The term ''State insurance regulator'' means, with respect to a State, the principal insurance regulatory authority of the State.

(17) TRIGGERING DETERMINATION.—The term ''triggering determination'' has the meaning given such term in section 5(a).

(18) TRIGGERING EVENT.—The term ''triggering event'' means, with respect to a triggering determination, the event of an act of terrorism, or the events of such acts, that caused the insured losses resulting in such triggering determination.

(19) UNITED STATES.—The term ''United States'' means, collectively, the States (as such term is defined in this section).

SEC. 17. EXTENSION OF PROGRAM.

(a) AUTHORITY.—If the appropriate Administrator determines that action under this

section is necessary to ensure the adequate availability in the United States of commercial property and casualty insurance coverage for acts of terrorism, the appropriate Administrator may provide that the provisions of this Act shall continue to apply with respect to a period or periods, as established by the Administrator, that begin after the expiration of the covered period specified in section 5(b) and end before January 1, 2005.

(b) COVERED PERIOD.—If the appropriate Administrator exercises the authority under subsection (a), notwithstanding section 5(b) and section 16(9), the period or periods established by the appropriate Administrator shall be considered to be the covered period for purposes of this Act.

SEC. 18. REGULATIONS.

The appropriate Administrators shall issue any regulations necessary to carry out this Act.

The SPEAKER pro tempore. In lieu of the amendments recommended by the Committee on Financial Services and the Committee on Ways and Means printed in the bill, an amendment in the nature of a substitute consisting of the text of H.R. 3357 is adopted.

The text of the bill as amended pursuant to House Resolution 297 is as follows:

H.R. 3357

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

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Terrorism Risk Protection Act''.

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

Sec. 1. Short title and table of contents.
Sec. 2. Congressional findings.
Sec. 3. Authority of Secretary of the Treasury.
Sec. 4. Submission of premium information to Secretary.
Sec. 5. Initial and subsequent triggering determinations.
Sec. 6. Federal cost-sharing for commercial insurers.
Sec. 7. Assessments.
Sec. 8. Terrorism loss repayment surcharge.
Sec. 9. Administration of assessments and surcharges.
Sec. 10. Application to self-insurance arrangements and offshore insurers and reinsurers.
Sec. 11. Study of reserves for property and casualty insurance for terrorist or other catastrophic events.
Sec. 12. State preemption.
Sec. 13. Consistent State guidelines for coverage for acts of terrorism.
Sec. 14. Consultation with State insurance regulators and NAIC.
Sec. 15. Litigation management.
Sec. 16. Study of potential effects of terrorism on life insurance industry.
Sec. 17. Railroad and trucking insurance study.
Sec. 18. Study of reinsurance pool system for future acts of terrorism.
Sec. 19. Definitions.
Sec. 20. Covered period and extension of program.
Sec. 21. Regulations.

SEC. 2. CONGRESSIONAL FINDINGS.

The Congress finds that—

(1) the terrorist attacks on the World Trade Center and the Pentagon of September 11, 2001, resulted in a large number of deaths and injuries, the destruction and damage to buildings, and interruption of business operations;

(2) the attacks have inflicted possibly the largest losses ever incurred by insurers and reinsurers in a single day;

(3) while the insurance and reinsurance industries have committed to pay the losses arising from the September 11 attacks, the resulting disruption has created widespread market uncertainties with regard to the risk of losses arising from possible future terrorist attacks;

(4) such uncertainty threatens the continued availability of United States commercial property and casualty insurance for terrorism risk at meaningful coverage levels;

(5) the unavailability of affordable commercial property and casualty insurance for terrorist acts threatens the growth and stability of the United States economy, including impeding the ability of financial services providers to finance commercial property acquisitions and new construction;

(6) in the past, the private insurance and reinsurance markets have shown a remarkable resiliency in adapting to changed circumstances;

(7) given time, the private markets will diversify and develop risk spreading mechanisms to increase capacity and guard against possible future losses incurred by terrorist attacks;

(8) it is necessary to create a temporary industry risk sharing program to ensure the continued availability of commercial property and casualty insurance and reinsurance for terrorism-related risks;

(9) such action is necessary to limit immediate market disruptions, encourage economic stabilization, and facilitate a transition to a viable market for private terrorism risk insurance;

(10) in addition, it is necessary promptly to conduct a study of whether there is a need for reserves for property and casualty insurance for terrorist or other catastrophic events; and

(11) terrorism insurance plays an important role in the efficient functioning of the economy and the financing of commercial property acquisitions and new construction and, therefore, the Congress intends to continue to monitor, review, and evaluate the private terrorism insurance and reinsurance marketplace to determine whether additional action is necessary to maintain the long-term stability of the real estate and capital markets.

SEC. 3. AUTHORITY OF SECRETARY OF THE TREASURY.

The Secretary of the Treasury shall be responsible for carrying out a program for financial assistance for commercial property and casualty insurers, as provided in this Act.

SEC. 4. SUBMISSION OF PREMIUM INFORMATION TO SECRETARY.

To the extent such information is not otherwise available to the Secretary, the Secretary may require each insurer to submit, to the Secretary or to the NAIC, a statement specifying the net premium amount of coverage written by such insurer under each line of commercial property and casualty insurance sold by such insurer during such periods as the Secretary may provide.

SEC. 5. INITIAL AND SUBSEQUENT TRIGGERING DETERMINATIONS.

(a) IN GENERAL.—For purposes of this Act, a ''triggering determination'' is a determination by the Secretary that an act of terrorism has occurred during the covered period and that the aggregate insured losses resulting from such occurrence or from multiple occurrences of acts of terrorism all occurring during the covered period, meet the requirements under either of the following paragraphs:

(1) INDUSTRY-WIDE TRIGGER.—Such industry-wide losses exceed $1,000,000,000.

(2) INDIVIDUAL INSURER TRIGGER.—Such industry-wide losses exceed $100,000,000 and some portion of such losses for any single commercial insurer exceed—

(A) 10 percent of the capital surplus of such commercial insurer (as such term is defined by the Secretary); and

(B) 10 percent of the net premium written by such commercial insurer that is in force at the time the insured losses occurred;

except that this paragraph shall not apply to any commercial insurer that was not providing commercial property and casualty insurance coverage prior to September 11, 2001, unless such insurer incurs such losses under commercial property and casualty insurance providing coverage for acts of terrorism through a pool of reserves for terrorism risks that is not under the control of any commercial insurer.

(b) DETERMINATIONS REGARDING OCCURRENCES.—The Secretary, after consultation with the Attorney General of the United States and the Secretary of State, shall have the sole authority which may not be delegated or designated to any other officer, employee, or position, for determining whether—

(1) an occurrence was caused by an act of terrorism; and

(2) an act of terrorism occurred during the covered period.

SEC. 6. FEDERAL COST-SHARING FOR COMMERCIAL INSURERS.

(a) IN GENERAL.—Pursuant to a triggering determination, the Secretary shall provide financial assistance to commercial insurers in accordance with this section to cover insured losses resulting from acts of terrorism, which shall be repaid in accordance with subsection (e).

(b) AMOUNT.—

(1) INDUSTRY-WIDE TRIGGER.—Subject to subsections (c) and (d), with respect to a triggering determination under section 5(a)(1), financial assistance shall be made available under this section to each commercial insurer in an amount equal to the difference between—

(A) 90 percent of the amount of the insured losses of the insurer as a result of the triggering event involved; and

(B) $5,000,000.

(2) INDIVIDUAL INSURER TRIGGER.—Subject to subsections (c) and (d), with respect to a triggering determination under section 5(a)(2), financial assistance shall be made available under this section, to each commercial insurer incurring insured losses as a result of the triggering event involved that exceed the amounts under subparagraphs (A) and (B) of such section, in an amount equal to the difference between—

(A) 90 percent of the amount of the insured losses of the insurer as a result of such triggering event; and

(B) the amount under subparagraph (B) of section 5(a)(2).

(3) ADDITIONAL AMOUNTS.—Subject to subsection (c), if the Secretary has provided financial assistance to a commercial insurer pursuant to paragraph (2) of this subsection and subsequently makes a triggering determination pursuant to section 5(a)(1), the Secretary shall provide financial assistance to such insurer in connection with such subsequent triggering determination (in addition to the amount of financial assistance provided to such insurer pursuant to paragraph (1) of this subsection) in the amount under section 5(a)(2)(B).

(c) AGGREGATE LIMITATION.—

(1) IN GENERAL.—The aggregate amount of financial assistance provided pursuant to this section may not exceed $100,000,000,000.

(2) SENSE OF CONGRESS REGARDING SEVERE LOSSES.—It is the sense of the Congress that acts of terrorism resulting in insured losses

greater than $100,000,000,000 would necessitate further action by the Congress to address such additional losses.

(d) LIMITATIONS.—The Secretary may establish such limitations as may be necessary to ensure that payments under this section in connection with a triggering determination are made only to commercial insurers that are not in default of any obligation under section 7 to pay assessments or under section 8 to collect surcharges.

(e) REPAYMENT.—Financial assistance made available under this section shall be repaid through assessments under section 7 collected by the Secretary and surcharges remitted to the Secretary under section 8. Any such amounts collected or remitted shall be deposited into the general fund of the Treasury.

(f) EMERGENCY DESIGNATION.—Congress designates the amount of new budget authority and outlays in all fiscal years resulting from this section as an emergency requirement pursuant to section 252(e) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(e)). Such amount shall be available only to the extent that a request, that includes designation of such amount as an emergency requirement as defined in such Act, is transmitted by the President to Congress.

SEC. 7. ASSESSMENTS.

(a) IN GENERAL.—In the case of a triggering determination, each commercial insurer shall be subject to assessments under this section for the purpose of repaying a portion of the financial assistance made available under section 6 in connection with such determination.

(b) AGGREGATE ASSESSMENT.—Pursuant to a triggering determination, the Secretary shall determine the aggregate amount to be assessed under this section among all commercial insurers, which shall be equal to the lesser of—

(1) $20,000,000,000; and

(2) the amount of financial assistance paid under section 6 in connection with the triggering determination.

The aggregate assessment amount under this subsection shall be assessed to commercial insurers through an industry obligation assessment under subsection (c) and, if necessary, the remainder shall be assessed through one or more financing assessments under subsection (d).

(c) INDUSTRY OBLIGATION ASSESSMENTS.—

(1) IN GENERAL.—Immediately upon the occurrence of a triggering determination, the Secretary shall impose an industry obligation assessment under this subsection on all commercial insurers, subject to paragraph (3).

(2) AMOUNT.—The aggregate amount of an industry obligation assessment in connection with a triggering determination shall be equal to—

(A) in the case of a triggering determination occurring during the covered period specified in section 20(a), the lesser of—

(i) the difference between (I) $5,000,000,000, and (II) the aggregate amount of any assessments made by the Secretary pursuant to this section during the portion of such covered period preceding the triggering determination; and

(ii) the amount of financial assistance made available under section 6 in connection with the triggering determination; or

(B) such other aggregate industry obligation amount as may apply pursuant to subsection (g).

(3) TIMING OF MULTIPLE ASSESSMENTS.—

(A) DELAYED IMPOSITION AND AGGREGATION OF ASSESSMENTS.—In the case of any triggering determination occurring within 12 months of the occurrence of a previous triggering determination, any industry obligation assessments under this subsection resulting from such subsequent determination shall be imposed upon the conclusion of the quarterly assessment period under subparagraph (B) during which such determination occurs.

(B) QUARTERLY ASSESSMENT PERIOD.—With respect to a subsequent triggering determination referred to in subparagraph (A), the quarterly assessment periods under this subparagraph are—

(i) the 3-month period that begins upon the imposition of the industry obligation assessment resulting from the triggering determination that—

(I) occurred most recently before such subsequent triggering determination; and

(II) did not occur within 12 months of the occurrence of any previous triggering determination; and

(ii) each successive 3-month period thereafter that begins during the covered period.

(d) FINANCING ASSESSMENTS.—

(1) IN GENERAL.—If the aggregate assessment amount in connection with a triggering determination exceeds the aggregate amount of the industry obligation assessment under subsection (c) in connection with the determination, the remaining amount shall be assessed through one or more, as may be necessary pursuant to paragraph (3), financing assessments under this subsection.

(2) TIMING.—A financing assessment under this subsection in connection with a triggering determination shall be imposed only upon the expiration of any 12-month period beginning after such determination during which no assessments under this section have been imposed.

(3) LIMITATION.—The aggregate amount of any financing assessments imposed under this subsection on any single commercial insurer during any 12-month period shall not exceed the amount that is equal to 3 percent of the net premium for such insurer for such period.

(e) ALLOCATION OF ASSESSMENT.—The portion of the aggregate amount of any industry obligation assessment or financing assessment under this section that is allocated to each commercial insurer shall be based on the ratio that the net premium written by such commercial insurer during the year during which the assessment is imposed bears to the aggregate written premium for such year, subject to section 9 and the limitation under subsection (d)(3) of this section.

(f) NOTICE AND OBLIGATION TO PAY.—

(1) NOTICE.—As soon as practicable after any triggering determination, the Secretary shall notify each commercial insurer in writing of an assessment under this section, which notice shall include the amount of the assessment allocated to such insurer.

(2) EFFECT OF NOTICE.—Upon notice to a commercial insurer, the commercial insurer shall be obligated to pay to the Secretary, not later than 60 days after receipt of such notice, the amount of the assessment on such commercial insurer.

(3) FAILURE TO MAKE TIMELY PAYMENT.—If any commercial insurer fails to pay an assessment under this section before the deadline established under paragraph (2) for the assessment, the Secretary may take either or both of the following actions:

(A) CIVIL MONETARY PENALTY.—Assess a civil monetary penalty pursuant to section 9(d) upon such insurer.

(B) INTEREST.—Require such insurer to pay interest, at such rate as the Secretary considers appropriate, on the amount of the assessment that was not paid before the deadline established under paragraph (2).

(g) AGGREGATE INDUSTRY OBLIGATION AMOUNT FOR PROGRAM EXTENSION YEARS.—If the Secretary exercises the authority under section 20(b) to extend the covered period, the aggregate industry obligation amount for purposes of subsection (c)(2)(B) shall, in the case of a triggering determination occurring during the portion of the covered period beginning on the date referred to in section 20(a), be equal to the lesser of—

(1) the difference between (A) $10,000,000,000, and (B) the aggregate amount of any assessments made by the Secretary pursuant to this section during the 12-month period preceding the triggering determination; and

(2) the amount of financial assistance made available under section 6 in connection with the triggering determination.

(h) ADMINISTRATIVE FLEXIBILITY.—

(1) ADJUSTMENT OF ASSESSMENTS.—The Secretary may provide for or require estimations of amounts under this section and may provide for subsequent refunds or require additional payments to correct such estimations, as appropriate.

(2) DEFERRAL OF CONTRIBUTIONS.—The Secretary may defer the payment of part or all of an assessment required under this section to be paid by a commercial insurer, but only to the extent that the Secretary determines that such deferral is necessary to avoid the likely insolvency of the commercial insurer.

(3) TIMING OF ASSESSMENTS.—The Secretary shall make adjustments regarding the timing and imposition of assessments (including the calculation of net premiums and aggregate written premium) as appropriate for commercial insurers that provide commercial property and casualty insurance on a non-calendar year basis.

SEC. 8. TERRORISM LOSS REPAYMENT SURCHARGE.

(a) DETERMINATION OF IMPOSITION AND COLLECTION.—

(1) IN GENERAL.—If, pursuant to a triggering determination, the Secretary determines that the aggregate amount of financial assistance provided pursuant to section 6 exceeds $20,000,000,000, the Secretary shall consider and weigh the factors under paragraph (2) to determine the extent to which a surcharge under this section should be established.

(2) FACTORS.—The factors under this paragraph are—

(A) the ultimate costs to taxpayers if a surcharge under this section is not established;

(B) the economic conditions in the commercial marketplace;

(C) the affordability of commercial insurance for small- and medium-sized business; and

(D) such other factors as the Secretary considers appropriate.

(3) POLICYHOLDER PREMIUM.—The amount established by the Secretary as a surcharge under this section shall be established and imposed as a policyholder premium surcharge on commercial property and casualty insurance written after such determination, for the purpose of repaying financial assistance made available under section 6 in connection with such triggering determination.

(4) COLLECTION.—The Secretary shall provide for commercial insurers to collect surcharge amounts established under this section and remit such amounts collected to the Secretary.

(b) AMOUNT AND DURATION.—Subject to subsection (c), the surcharge under this section shall be established in such amount, and shall apply to commercial property and casualty insurance written during such period, as the Secretary determines is necessary to recover the aggregate amount of financial assistance provided under section 6 in connection with the triggering determination that exceeds $20,000,000,000.

(c) PERCENTAGE LIMITATION.—The surcharge under this section applicable to commercial property and casualty insurance coverage may not exceed, on an annual basis, the amount equal to 3 percent of the premium charged for such coverage.

(d) OTHER TERMS.—The surcharge under this section shall—

(1) be based on a percentage of the premium amount charged for commercial property and casualty insurance coverage that a policy provides; and

(2) be imposed with respect to all commercial property and casualty insurance coverage written during the period referred to in subsection (b).

(e) EXCLUSIONS.—For purposes of this section, commercial property and casualty insurance does not include any reinsurance provided to primary insurance companies.

SEC. 9. ADMINISTRATION OF ASSESSMENTS AND SURCHARGES.

(a) MANNER AND METHOD.—

(1) IN GENERAL.—Except to the extent specified in such sections, the Secretary shall provide for the manner and method of carrying out assessments under section 7 and surcharges under section 8, including the timing and procedures of making assessments and surcharges, notifying commercial insurers of assessments and surcharge requirements, collecting payments from and surcharges through commercial insurers, and refunding of any excess amounts paid or crediting such amounts against future assessments.

(2) EFFECT OF ASSESSMENTS AND SURCHARGES ON URBAN AND SMALLER COMMERCIAL AND RURAL AREAS AND DIFFERENT LINES OF INSURANCE.—In determining the method and manner of imposing assessments under section 7 and surcharges under section 8, including the amount of such assessments and surcharges, the Secretary shall take into consideration—

(A) the economic impact of any such assessments and surcharges on commercial centers of urban areas, including the effect on commercial rents and commercial insurance premiums, particularly rents and premiums charged to small businesses, and the availability of lease space and commercial insurance within urban areas;

(B) the risk factors related to rural areas and smaller commercial centers, including the potential exposure to loss and the likely magnitude of such loss, as well as any resulting cross-subsidization that might result; and

(C) the various exposures to terrorism risk for different lines of commercial property and casualty insurance.

(b) TIMING OF COVERAGES AND ASSESSMENTS.—The Secretary may adjust the timing of coverages and assessments provided under this Act to provide for equivalent application of the provisions of this Act to commercial insurers and policies that are not based on a calendar year.

(c) ADJUSTMENT.—The Secretary may adjust the assessments charged under section 7 or the percentage imposed under the surcharge under section 8 at any time, as the Secretary considers appropriate to protect the national interest, which may include avoiding unreasonable economic disruption or excessive market instability and avoiding undue burdens on small businesses.

(d) CIVIL MONETARY PENALTY.—

(1) IN GENERAL.—The Secretary may assess a civil monetary penalty in an amount not exceeding the amount under paragraph (2) against any commercial insurer that the Secretary determines, on the record after opportunity for a hearing—

(A) has failed to pay an assessment under section 7 in accordance with the requirements of, or regulations issued, under this Act;

(B) has failed to charge, collect, or remit surcharges under section 8 in accordance with the requirements of, or regulations issued under, this Act;

(C) has intentionally provided to the Secretary erroneous information regarding premium or loss amounts; or

(D) has otherwise failed to comply with the provisions of, or the regulations issued under, this Act.

(2) AMOUNT.—The amount under this paragraph is the greater of $1,000,000 and, in the case of any failure to pay, charge, collect, or remit amounts in accordance with this Act or the regulations issued under this Act, such amount in dispute.

SEC. 10. APPLICATION TO SELF-INSURANCE ARRANGEMENTS AND OFFSHORE INSURERS AND REINSURERS.

(a) SELF-INSURANCE ARRANGEMENTS.—The Secretary may, in consultation with the NAIC, apply the provisions of this Act, as appropriate, to self-insurance arrangements by municipalities and other entities, but only if such application is determined before the occurrence of a triggering event and all of the provisions of this Act are applied uniformly to such entities.

(b) OFFSHORE INSURERS AND REINSURERS.—The Secretary shall ensure that the provisions of this Act are applied as appropriate to any offshore or non-admitted entities that provide commercial property and casualty insurance.

SEC. 11. STUDY OF RESERVES FOR PROPERTY AND CASUALTY INSURANCE FOR TERRORIST OR OTHER CATASTROPHIC EVENTS.

(a) IN GENERAL.—The Secretary of the Treasury shall conduct a study of issues relating to permitting property and casualty insurance companies to establish deductible reserves against losses for future acts of terrorism, including—

(1) whether such tax-favored reserves would promote (A) insurance coverage of risks of terrorism, and (B) the accumulation of additional resources needed to satisfy potential claims resulting from such risks,

(2) the lines of business for which such reserves would be appropriate, including whether such reserves should be applied to personal or commercial lines of business,

(3) how the amount of such reserves would be determined,

(4) how such reserves would be administered,

(5) a comparison of the Federal tax treatment of such reserves with other insurance reserves permitted under Federal tax laws,

(6) an analysis of the use of tax-favored reserves for catastrophic events, including acts of terrorism, under the tax laws of foreign countries, and

(7) whether it would be appropriate to permit similar reserves for other future catastrophic events, such as natural disasters, taking into account the factors under the preceding paragraphs.

(b) REPORT.—Not later than 4 months after the date of the enactment of this Act, the Secretary of the Treasury shall submit a report to Congress on the results of the study under subsection (a), together with recommendations for amending the Internal Revenue Code of 1986 or other appropriate action.

SEC. 12. STATE PREEMPTION.

(a) COVERED PERILS.—A commercial insurer shall be considered to have complied with any State law that requires or regulates the provision of insurance coverage for acts of terrorism if the insurer provides coverage in accordance with the definitions regarding acts of terrorism under this Act or under any regulations issued by the Secretary.

(b) RATE LAWS.—If any provision of any State law prevents an insurer from increasing its premium rates in an amount necessary to recover any assessments pursuant to section 7, such provision is preempted only to the extent necessary to provide for such insurer to recover such losses.

(c) FILE AND USE.—

(1) IN GENERAL.—With respect only to commercial property and casualty insurance covering acts of terrorism, any provision of State law that requires, as a condition precedent to the effectiveness of rates or policies for such insurance that is made available by an insurer licensed to transact such business in the State, any action (including prior approval by the State insurance regulator for such State) other than filing of such rates and policies and related information with such State insurance regulator is preempted to the extent such law requires such additional actions for such insurance coverage.

(2) SUBSEQUENT REVIEW AUTHORITY.—Paragraph (1) shall not be considered to preempt a provision of State law solely because the law provides that rates and policies for such insurance coverage are, upon such filing, subject to subsequent review and action, which may include actions to disapprove or discontinue use of such rates or policies, by the State insurance regulator.

(3) TREATMENT OF PRIOR REVIEW PROVISIONS.—Any authority for prior review and action by a State regulator preempted under paragraph (1) shall be deemed to be authority to conduct a subsequent review and action on such filings.

SEC. 13. CONSISTENT STATE GUIDELINES FOR COVERAGE FOR ACTS OF TERRORISM.

(a) SENSE OF CONGRESS REGARDING COVERED PERILS.—It is the sense of the Congress that—

(1) the NAIC, in consultation with the Secretary, should develop appropriate definitions for acts of terrorism that are consistent with this Act and appropriate standards for making determinations regarding occurrences of acts of terrorism;

(2) each State should adopt the definitions and standards developed by the NAIC for purposes of regulating insurance coverage made available in that State;

(3) in consulting with the NAIC, the Secretary should advocate and promote the development of definitions and standards that are appropriate for purposes of this Act; and

(4) after consultation with the NAIC, the Secretary should adopt further definitions for acts of terrorism and standards for determinations that are appropriate for this Act.

(b) INSURANCE RESERVE GUIDELINES.—

(1) SENSE OF CONGRESS REGARDING ADOPTION BY STATES.—It is the sense of the Congress that—

(A) the NAIC should develop appropriate guidelines for commercial insurers and pools regarding maintenance of reserves against the risks of acts of terrorism; and

(B) each State should adopt such guidelines for purposes of regulating commercial insurers doing business in that State.

(2) CONSIDERATION OF ADOPTION OF NATIONAL GUIDELINES.—Upon the expiration of the 6-month period beginning on the date of the enactment of this Act, the Secretary shall make a determination of whether the guidelines referred to in paragraph (1) have, by such time, been developed and adopted by nearly all States in a uniform manner. If the Secretary determines that such guidelines have not been so developed and adopted, the Secretary shall consider adopting, and may adopt, such guidelines on a national basis in a manner that supersedes any State law regarding maintenance of reserves against such risks.

(c) GUIDELINES REGARDING DISCLOSURE OF PRICING AND TERMS OF COVERAGE.—

(1) SENSE OF CONGRESS.—It is the sense of the Congress that the States should require, by laws or regulations governing the provision of commercial property and casualty insurance that includes coverage for acts of terrorism, that the price of any such terrorism coverage, including the costs of any terrorism related assessments or surcharges under this Act, be separately disclosed.

(2) ADOPTION OF NATIONAL GUIDELINES.—If the Secretary determines that the States have not enacted laws or adopted regulations adequately providing for the disclosures described in paragraph (1) within a reasonable period of time after the date of the enactment of this Act, the Secretary shall, after consultation with the NAIC, adopt guidelines on a national basis requiring such disclosure in a manner that supersedes any State law regarding such disclosure.

SEC. 14. CONSULTATION WITH STATE INSURANCE REGULATORS AND NAIC.

(a) IN GENERAL.—The Secretary shall consult with the State insurance regulators and the NAIC in carrying out this Act.

(b) FINANCIAL ASSISTANCE, ASSESSMENTS, AND SURCHARGES.—The Secretary may take such actions, including entering into such agreements and providing such technical and organizational assistance to insurers and State insurance regulators, as may be necessary to provide for the distribution of financial assistance under section 6 and the collection of assessments under section 7 and surcharges under section 8.

(c) INVESTIGATING AND AUDITING CLAIMS.—The Secretary may, in consultation with the State insurance regulators and the NAIC, investigate and audit claims of insured losses by commercial insurers and otherwise require verification of amounts of premiums or losses, as appropriate.

SEC. 15. LITIGATION MANAGEMENT.

(a) FEDERAL CAUSE OF ACTION FOR CLAIMS RELATING TO TERRORIST ACTS.—

(1) IN GENERAL.—Subject to paragraph (2), if the Secretary makes a determination pursuant to section 5(b) that one or more acts of terrorism occurred, there shall exist a Federal cause of action, which, except as provided in subsection (b), shall be the exclusive remedy for claims arising out of, relating to, or resulting from such acts of terrorism.

(2) EFFECT OF DETERMINATION.—A determination referred to in paragraph (1)—

(A) shall not be subject to judicial review;

(B) shall take effect upon its publication in the Federal Register; and

(C) shall be subject to such changes as the Secretary may provide in one or more later determinations made in accordance with the provisions of this paragraph.

(3) SUBSTANTIVE LAW.—The substantive law for decision in any such action shall be derived from the law, including choice of law principles, of the State in which such acts of terrorism occurred, unless such law is inconsistent with or preempted by Federal law.

(4) JURISDICTION.—For each determination under paragraph (1), the Judicial Panel on Multidistrict Litigation shall designate one or more district courts of the United States which shall have original and exclusive jurisdiction over all actions for any claim (including any claim for loss of property, personal injury, or death) brought pursuant to this subsection. The Judicial Panel on Multidistrict Litigation shall select and assign the district court or courts based on the convenience of the parties and the just and efficient conduct of the proceedings. For purposes of personal jurisdiction, the district court or courts designated by the Judicial Panel on Multidistrict Litigation shall be deemed to sit in all judicial districts in the United States.

(5) LIMITS ON DAMAGES.—In an action brought under this subsection for damages:

(A) No punitive damages intended to punish or deter, exemplary damages, or other damages not intended to compensate a plaintiff for actual losses may be awarded, nor shall any party be liable for interest prior to the judgment.

(B)(i) Each defendant in such an action shall be liable only for the amount of noneconomic damages allocated to the defendant in direct proportion to the percentage of responsibility of the defendant for the harm to the plaintiff, and no plaintiff may recover noneconomic damages unless the plaintiff suffered physical harm.

(ii) For purposes of clause (i), the term ''noneconomic damages'' means damages for losses for physical and emotional pain, suffering, inconvenience, physical impairment, mental anguish, disfigurement, loss of enjoyment of life, loss of society and companionship, loss of consortium, hedonic damages, injury to reputation, and any other nonpecuniary losses.

(6) COLLATERAL SOURCES.—Any recovery by a plaintiff in an action under this subsection shall be reduced by the amount of collateral source compensation, if any, that the plaintiff has received or is entitled to receive as a result of the acts of terrorism with respect to which the determination under paragraph (1) was made.

(7) ATTORNEY FEES.—Reasonable attorneys fees for work performed shall be subject to the discretion of the court, but in no event shall any attorney charge, demand, receive, or collect for services rendered, fees or compensation in an amount in excess of 20 percent of the damages ordered by the court to be paid pursuant to this section, or in excess of 20 percent of any court-approved settlement made of any claim cognizable under this section. Any attorney who charges, demands, receives, or collects for services rendered in connection with such claim any amount in excess of that allowed under this section, if recovery be had, shall be fined not more than $2,000 or imprisoned not more than 1 year, or both.

(b) EXCLUSION.—Nothing in this section shall in any way limit the liability of any person who—

(1) attempts to commit, knowingly participates in, aids and abets, or commits any act of terrorism with respect to which a determination under subsection (a)(1) was made, or any criminal act related to or resulting from such act of terrorism; or

(2) participates in a conspiracy to commit any such act of terrorism or any such criminal act.

(c) RIGHT OF SUBROGATION.—The United States shall have the right of subrogation with respect to any claim paid by the United States under this Act.

(d) RELATIONSHIP TO OTHER LAW.—Nothing in this section shall be construed to affect—

(1) any party's contractual right to arbitrate a dispute; or

(2) any provision of the Air Transportation Safety and System Stabilization Act (Public Law 107–42; 49 U.S.C. 40101 note).

(e) SATISFACTION OF JUDGMENTS FROM FROZEN ASSETS OF TERRORISTS, TERRORIST ORGANIZATIONS, AND STATE SPONSORS OF TERRORISM.—

(1) IN GENERAL.—Except as provided in paragraph (2), in every case in which a person obtains a judgment against a terrorist party on a claim for compensatory damages for an act of terrorism, or a claim for money damages brought pursuant to section 1605(a)(7) of title 28, United States Code, the frozen assets of that terrorist party, or any agency or instrumentality of that terrorist party, shall be available for satisfaction of the judgment, to the extent of any compensatory damages awarded in the judgment for which the terrorist party is liable.

(2) PRESIDENTIAL WAIVER.—

(A) Subject to subparagraph (B), upon determining on an asset-by-asset basis that a waiver is necessary in the national security interest, the President may waive the requirements of this subsection in connection with (and prior to the enforcement of) any judicial order directing attachment in aid of execution or execution against any property subject to the Vienna Convention on Diplomatic Relations or the Vienna Convention on Consular Relations.

(B) A waiver under this paragraph shall not apply to—

(i) property subject to the Vienna Convention on Diplomatic Relations or the Vienna Convention on Consular Relations that has been used for any nondiplomatic purpose (including use as rental property), the proceeds of such use; or

(ii) any asset subject to the Vienna Convention on Diplomatic Relations or the Vienna Convention on Consular Relations that is sold or otherwise transferred for value to a third party, the proceeds of such sale or transfer.

(3) DEFINITIONS.—In this subsection:

(A) The term ''terrorist party'' means a terrorist, a terrorist organization, or a foreign state designated as a state sponsor of terrorism under section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)) or section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371).

(B) The term ''frozen assets'' means assets seized or frozen by the United States in accordance with law.

(C) The term ''property subject to the Vienna Convention on Diplomatic Relations or the Vienna Convention on Consular Relations'' and the term ''asset subject to the Vienna Convention on Diplomatic Relations or the Vienna Convention on Consular Relations'' mean any property or asset, respectively, the attachment in aid of execution or execution of which would result in a violation of an obligation of the United States under the Vienna Convention on Diplomatic Relations or the Vienna Convention on Consular Relations, as the case may be.

SEC. 16. STUDY OF POTENTIAL EFFECTS OF TERRORISM ON LIFE INSURANCE INDUSTRY.

(a) ESTABLISHMENT.—Not later than 30 days after the date of enactment of this Act, the President shall establish a commission (in this section referred to as the ''Commission'') to study and report on the potential effects of an act or acts of terrorism on the life insurance industry in the United States and the markets served by such industry.

(b) MEMBERSHIP AND OPERATIONS.—

(1) APPOINTMENT.—The Commission shall consist of 7 members, as follows:

(A) The Secretary of the Treasury or the designee of the Secretary.

(B) The Chairman of the Board of Governors of the Federal Reserve System or the designee of the Chairman.

(C) The Assistant to the President for Homeland Security.

(D) 4 members appointed by the President, who shall be—

(i) a representative of direct underwriters of life insurance within the United States;

(ii) a representative of reinsurers of life insurance within the United States;

(iii) an officer of the NAIC; and

(iv) a representative of insurance agents for life underwriters.

(2) OPERATIONS.—The chairperson of the Commission shall determine the manner in which the Commission shall operate, including funding, staffing, and coordination with other governmental entities.

(c) STUDY.—The Commission shall conduct a study of the life insurance industry in the

United States, which shall identify and make recommendations regarding—

(1) possible actions to encourage, facilitate, and sustain the provision, by the life insurance industry in the United States, of coverage for losses due to death or disability resulting from an act or acts of terrorism, including in the face of threats of such acts; and

(2) possible actions or mechanisms to sustain or supplement the ability of the life insurance industry in the United States to cover losses due to death or disability resulting from an act or acts of terrorism in the event that—

(A) such acts significantly affect mortality experience of the population of the United States over any period of time;

(B) such losses jeopardize the capital and surplus of the life insurance industry in the United States as a whole; or

(C) other consequences from such acts occur, as determined by the Commission, that may significantly affect the ability of the life insurance industry in the United States to independently cover such losses.

(d) RECOMMENDATIONS.—The Commission may make a recommendation pursuant to subsection (c) only upon the concurrence of a majority of the members of the Commission.

(e) REPORT.—Not later than 120 days after the date of enactment of this Act, the Commission shall submit to the House of Representatives and the Senate a report describing the results of the study and any recommendations developed under subsection (c).

(f) TERMINATION.—The Commission shall terminate 60 days after submission of the report pursuant to subsection (e).

SEC. 17. RAILROAD AND TRUCKING INSURANCE STUDY.

The Secretary of the Treasury shall conduct a study to determine how the Federal Government can address a possible crisis in the availability and affordability of railroad and trucking insurance by making such insurance for acts of terrorism available on commercially reasonable terms. Not later than 120 days after the date of the enactment of this Act the Secretary shall submit to the Congress a report regarding the results and conclusions of the study.

SEC. 18. STUDY OF REINSURANCE POOL SYSTEM FOR FUTURE ACTS OF TERRORISM.

(a) STUDY.—The Secretary, the Board of Governors of the Federal Reserve System, and the Comptroller General of the United States shall jointly conduct a study on the advisability and effectiveness of establishing a reinsurance pool system relating to future acts of terrorism to replace the program provided for under this Act.

(b) CONSULTATION.—In conducting the study under subsection (a), the Secretary, the Board of Governors of the Federal Reserve System, and the Comptroller General shall consult with (1) academic experts, (2) the United Nations Secretariat for Trade and Development, (3) representatives from the property and casualty insurance industry, (4) representatives from the reinsurance industry, (5) the NAIC, and (6) such consumer organizations as the Secretary considers appropriate.

(c) REPORT.—Not later than 6 months after the date of the enactment of this Act, the Secretary, the Board of Governors of the Federal Reserve System, and the Comptroller General shall jointly submit a report to the Congress on the results of the study under subsection (a).

SEC. 19. DEFINITIONS.

For purposes of this Act, the following definitions shall apply:

(1) ACT OF TERRORISM.—

(A) IN GENERAL.—The term ''act of terrorism'' means any act that the Secretary determines meets the requirements under subparagraph (B), as such requirements are further defined and specified by the Secretary in consultation with the NAIC.

(B) REQUIREMENTS.—An act meets the requirements of this subparagraph if the act—

(i) is unlawful;

(ii) causes harm to a person, property, or entity, in the United States, or in the case of a domestic United States air carrier or a United States flag vessel (or a vessel based principally in the United States on which United States income tax is paid and whose insurance coverage is subject to regulation in the United States), in or outside the United States;

(iii) is committed by a person or group of persons or associations who are recognized, either before or after such act, by the Department of State or the Secretary as an international terrorist group or have conspired with such a group or the group's agents or surrogates;

(iv) has as its purpose to overthrow or destabilize the government of any country, or to influence the policy or affect the conduct of the government of the United States or any segment of the economy of United States, by coercion; and

(v) is not considered an act of war, except that this clause shall not apply with respect to any coverage for workers compensation.

(2) AFFILIATE.—The term ''affiliate'' means, with respect to an insurer, any company that controls, is controlled by, or is under common control with the insurer.

(3) AGGREGATE WRITTEN PREMIUM.—The term ''aggregate written premium'' means, with respect to a year, the aggregate premium amount of all commercial property and casualty insurance coverage written during such year under all lines of commercial property and casualty insurance.

(4) COMMERCIAL INSURER.—The term ''commercial insurer'' means any corporation, association, society, order, firm, company, mutual, partnership, individual, aggregation of individuals, or any other legal entity that provides commercial property and casualty insurance. Such term includes any affiliates of a commercial insurer.

(5) COMMERCIAL PROPERTY AND CASUALTY INSURANCE.—

(A) IN GENERAL.—The term ''commercial property and casualty insurance'' means insurance or reinsurance, or retrocessional reinsurance, for persons or properties in the United States against—

(i) loss of or damage to property;

(ii) loss of income or extra expense incurred because of loss of or damage to property;

(iii) third party liability claims caused by negligence or imposed by statute or contract, including workers compensation; or

(iv) loss resulting from debt or default of another.

(B) EXCLUSIONS.—Such term does not include—

(i) insurance for homeowners, tenants, private passenger nonfleet automobiles, mobile homes, or other insurance for personal, family, or household needs;

(ii) insurance for professional liability, including medical malpractice, errors and omissions, or directors' and officers' liability; or

(iii) health or life insurance.

(6) CONTROL.—A company has control over another company if—

(A) the company directly or indirectly or acting through one or more other persons owns, controls, or has power to vote 25 percent or more of any class of voting securities of the other company;

(B) the company controls in any manner the election of a majority of the directors or trustees of the other company; or

(C) the Secretary determines, after notice and opportunity for hearing, that the company directly or indirectly exercises a controlling influence over the management or policies of the other company.

(7) COVERED PERIOD.—The term ''covered period'' has the meaning given such term in section 20.

(8) INDUSTRY-WIDE LOSSES.—The term ''industry-wide losses'' means the aggregate insured losses sustained by all insurers from coverage written under all lines of commercial property and casualty insurance.

(9) INSURED LOSS.—The term ''insured loss'' means any loss, net of reinsurance and retrocessional reinsurance, covered by commercial property and casualty insurance.

(10) NAIC.—The term ''NAIC'' means the National Association of Insurance Commissioners.

(11) NET PREMIUM.—The term ''net premium'' means, with respect a commercial insurer and a year, the aggregate premium amount collected by such commercial insurer for all commercial property and casualty insurance coverage written during such year under all lines of commercial property and casualty insurance by such commercial insurer, less any premium paid by such commercial insurer to other commercial insurers to insure or reinsure those risks.

(12) SECRETARY.—The term ''Secretary'' means the Secretary of the Treasury.

(13) STATE.—The term ''State'' means the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, and any other territory or possession of the United States.

(14) STATE INSURANCE REGULATOR.—The term ''State insurance regulator'' means, with respect to a State, the principal insurance regulatory authority of the State.

(15) TRIGGERING DETERMINATION.—The term ''triggering determination'' has the meaning given such term in section 5(a).

(16) TRIGGERING EVENT.—The term ''triggering event'' means, with respect to a triggering determination, the occurrence of an act of terrorism, or the occurrence of such acts, that caused the insured losses resulting in such triggering determination.

(17) UNITED STATES.—The term ''United States'' means, collectively, the States (as such term is defined in this section).

SEC. 20. COVERED PERIOD AND EXTENSION OF PROGRAM.

(a) COVERED PERIOD.—Except to the extent provided otherwise under subsection (b), for purposes of this Act, the term ''covered period'' means the period beginning on the date of the enactment of this Act and ending on January 1, 2003.

(b) EXTENSION OF PROGRAM.—If the Secretary determines that extending the covered period is necessary to ensure the adequate availability in the United States of commercial property and casualty insurance coverage for acts of terrorism, the Secretary may, subject to subsection (c), extend the covered period by not more than two years.

(c) REPORT.—The Secretary may exercise the authority under subsection (b) to extend the covered period only if the Secretary submits a report to the Congress providing notice of and setting forth the reasons for such extension.

SEC. 21. REGULATIONS.

The Secretary shall issue any regulations necessary to carry out this Act.

The SPEAKER pro tempore. After 1 hour of debate on the bill, as amended,

it shall be in order to consider a further amendment printed in House Report 107–304, if offered by the gentleman from New York (Mr. LAFALCE), or his designee, which shall be considered read and shall be debatable for 1 hour, equally divided and controlled by the proponent and an opponent.

The gentleman from Ohio (Mr. OXLEY) and the gentleman from New York (Mr. LAFALCE) each will control 30 minutes of debate on the bill.

The Chair recognizes the gentleman from Ohio (Mr. OXLEY).

GENERAL LEAVE

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

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

There was no objection.

Mr. OXLEY. Mr. Speaker, I yield such time as she may consume to the gentlewoman from New Jersey (Mrs. ROUKEMA).

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

Mrs. ROUKEMA. Mr. Speaker, I congratulate the chairman for his leadership on this issue, and strongly support the legislation.

Mr. Speaker, I rise in strong support of H.R. 3210, the Terrorism Risk Protection Act and want to commend Chairman OXLEY for his leadership on this important issue. The legislation that we are considering here today represents a balanced approach to a difficult problem. It not only will allow the industry to move forward in providing continued terrorist coverage but it will protect the American taxpayer.

While the industry is able to pay the $40–$50 billion in claims resulting from the September 11 attack, it will need our help to protect against future acts of terrorism. The insurance industry is a business of estimating risks on events that cannot be predicted with any certainty such as earthquakes, fires, hurricanes and floods. These types of events are priced according to history of catastrophic events over time. But the World Trade terrorist disaster has no precedents. There is no possible way to price for the likelihood of another occurrence or the size of the potential loss.

Consequently, it stands to reason that any future incident of like size could threaten the stability of the property/casualty market. In these uncertain times and given the magnitude of the September 11 event, reinsurance companies are skittish about providing terrorist coverage. If the reinsurance industry excludes terrorist coverage from its policies, the primary insurers will find it difficult to provide coverage without risking the financial health of their companies.

The lack of coverage has become an immediate issue for many companies that are subject to short-term cancellation provisions (including many aviation businesses) or that had October 1, 2001, renewal dates. It has the potential to become a nationwide crisis January 1, 2002, when most commercial policies are up for renewal. Companies may find terrorism insurance impossible to buy. This could have a serious ripple effect on the mortgage and real estate industries.

Congress must head off this danger. The industry needs the certainty of this legislation to renegotiate their contracts prior to the January 2002 deadline.

The key elements of this bill includes provisions that are modeled after existing State risk-sharing insurance programs. The bill sets a trigger at $100 million for small insurers and $1 billion as an industry wide aggregate and provides a 90 percent Federal share with 10 percent individual company retention. Companies would be required to payback the first $20 billion in losses through assessments and allowed to recoup subsequent losses through commercial policyholder surcharges.

Finally, this bill provides important liability reforms for private businesses that could be affected by future terrorist attacks. We need only look at the 1993 World Trade Center bombing to understand the need for these important reforms. The 1993 World Trade Center bombing resulted in 500 lawsuits by 700 individuals, businesses and insurance companies. Damages claimed amounted to $550 million, and those cases are just now getting started. It is unthinkable that we would not provide innocent businesses protection against terrorist-inspired litigation. Businesses and property owners simply cannot guard against terrorist attacks seeking to cause mass destruction. This bill includes common sense reforms that will assure the continued availability of affordable insurance.

Let me remind my colleagues that provisions to limit punitive damages and attorneys fees were included in the Airline Security Act that originally passed the House with one distinct difference—H.R. 3210 does not cap damage awards. The litigation management provisions in H.R. 3210 would also benefit victims of future terrorist attacks.

H.R. 3210 represents a balanced approach that will give the insurance industry the short-term assistance they need and will protect the taxpaying consumer by asking that every dollar of assistance be repaid.

Mr. OXLEY. Mr. Speaker, I yield myself 5½ minutes.

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

Mr. OXLEY. Mr. Speaker, on September 11, the al Qaeda network began a war of terrorism against our Nation. The insidious attack was planned not only to kill Americans, but to disrupt our Nation's financial center. The September 11 attack caused greater insured losses than most of the recent top disasters combined, and, unfortunately, since that attack, the foreign reinsurance market has refused to provide further coverage for terrorism.

Without reinsurance for terrorism, primary insurers are not able to responsibly insure high level risks. In fact, they have been filing new policy forms to exclude terrorism coverage in almost every State of this Nation. Without insurance, many creditors will not lend for new projects, and many new businesses, projects, and buildings will simply never happen.

We cannot afford this significant economic disruption at a time of economic sluggishness. I am confident that the private insurance sector will eventually adapt to the challenges of the new world, they always do. But 70 percent of commercial insurance policies will be renewed over the next 35 days, and if this Congress does not pass this legislation, many of those policies will not be renewed and our economy will be further injured. This is exactly the result that the terrorists were hoping for, and this is why it is absolutely imperative that the House act today to pass this bill.

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We crafted legislation in our committee to address this problem. Mr. Speaker, H.R. 3210 creates a temporary risk-spreading program which creates the strongest incentives for consumers to be able to obtain coverage with significant solvency protections to maintain a stable market. We created certainty in terrorist exposure for companies by spreading any terrorism risk across the industry with temporary Federal assistance. But the role of the Federal Government is limited to a helping hand up, not a hand out. Any assistance provided must be repaid by the industry over time.

We also based our bill on systems being used successfully in almost every single State today: the State insurance guarantee funds. These programs provide immediate liquidity up front to ensure that policyholders are paid, and then the costs are collected back from the industry as a whole. It is simple, it works, and we have the programs in place today we can build on.

This is not the approach favored by many in the industry that want free taxpayer money, but it is an approach supported by consumer and taxpayer groups as diverse as the Consumer Federation of America, Americans for Tax Reform, and Citizens Against Government Waste; and it is critical for the House to pass this legislation today to make a clear statement that we are going to protect the economy and we are going to do it in a way that will not put the American taxpayer on the hook or require future tax increases.

We need to get this legislation done today. Time is running out. We passed H.R. 3210 out of committee with 35 bipartisan cosponsors on a nearly unanimous voice vote. Since then, the only significant changes our committee has made were in response to our good-faith commitment to continue working to address Members' concerns, primarily to speed up the assessments and create more flexibility for rural areas and small towns.

The text made in order by the rule includes additional liability reforms placing limitations on punitive damages and trial lawyer fees for terrorist events. We have been working with Members' staffs in both parties and will continue to make improvements to the insurance provisions. But the minority is being given two opportunities to amend this bill; and once the

House works its will, we cannot allow a disagreement on lawyers' fees to sabotage what would otherwise be a bipartisan bill that is critical to our economy.

Mr. Speaker, I support limits on legal fees and other liability reforms to ensure that a future terrorist attack does not create a rush to the courthouse. I supported more limited reforms in the Committee on Financial Services. I will back the bill with or without the strengthened provisions. But we cannot let the fight over the trial lawyers undermine our critical responsibility to hold together our Nation's financial foundations. This bill is critical, and it must be sent to the President this year.

Mr. Speaker, H.R. 3210 is pro-consumer, pro-taxpayer, and pro-business. Regardless of whether Members choose to side with the trial lawyers or the liability reforms, we cannot let the terrorists win by disrupting our economy because we failed to do our job in passing this legislation.

I must point out the contributions of the gentleman from Louisiana (Mr. BAKER) to this bill which reflects many of his ideas and much of his energy as well. He, of course, chairs the appropriate subcommittee of our Committee on Financial Services. The gentleman from Alabama (Mr. BACHUS), the gentleman from Texas (Mr. BENTSEN), and many others on the Committee on Financial Services also deserve thanks for a great job on this bill. The gentleman from Connecticut (Mr. SHAYS), the gentleman from North Dakota (Mr. POMEROY), the gentleman from New York (Mr. FOSSELLA), and the gentleman from New York (Mr. GRUCCI) were early and enthusiastic supporters of our commonsense, pay-back-the-taxpayer approach.

Today it is time to put away egos and forget partisan blustering and special interest politics. It is time to help those Americans who are working to create jobs: the guy who is trying to buy a business, expand a manufacturing plant, or construct a new building.

The 9–11 attack is over, but the economic terrorism goes on and on unless we act. I strongly urge support for this important legislation.

Mr. Speaker, I also want to thank the Chairman of the Budget Committee, Mr. NUSSLE, for his assistance in moving this legislation to the floor quickly. I am inserting for the RECORD an exchange of letters regarding his committee's jurisdictional interest in this legislation.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE BUDGET,
Washington, DC, November 26, 2001.

Hon. MICHAEL G. OXLEY,
Chairman, Committee on Financial Services, Rayburn House Office Building, Washington, DC.

DEAR CHAIRMAN OXLEY: I am writing regarding H.R. 3210, the ''Terrorism Risk Protection Act'' which was recently ordered reported by the Committee on Financial Services. As you know, the legislation includes provisions addressing the budgetary treatment of certain spending, a matter which falls within the jurisdiction of the Committee on the Budget pursuant to rule X of the Rules of the House of Representatives.

Because of your ongoing willingness to work with the Committee on the Budget on this matter, and the need to move this legislation expeditiously, I will waive consideration of the bill by the Budget Committee. By agreeing to waive its consideration of the bill, the Budget Committee does not waive its jurisdiction over H.R. 3210. In addition, the Committee on the Budget reserves its authority to seek conferees on any provisions of the bill that are within its jurisdiction during any House-Senate conference that may be convened on this legislation. I ask your commitment to support any request by the Committee on the Budget for conferees on H.R. 3210 or related legislation.

I request that you include this letter and your response as part of your committee's report on the bill. Thank you for your assistance in this matter.

Sincerely,

JIM NUSSLE,
Chairman.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON FINANCIAL SERVICES,
Washington, DC, November 26, 2001.

Hon. JIM NUSSLE,
Chairman, Committee on the Budget, Cannon House Office Building, Washington, DC.

DEAR CHAIRMAN NUSSLE: Thank you for your letter regarding your Committee's jurisdictional interest in H.R. 3210, the Terrorism Risk Protection Act.

I acknowledge your committee's jurisdictional interest in the provisions addressing the budgetary treatment of certain spending under the bill and appreciate your cooperation in moving the bill to the House floor expeditiously. I agree that your decision to forego further action on the bill will not prejudice the Committee on the Budget with respect to its jurisdictional prerogatives on this or similar legislation and will support your request for conferees on those provisions. I will include a copy of your letter and this response in the Committee's report on the bill and the Congressional Record when the legislation is considered by the House.

Thank you again for your cooperation.

Sincerely,

MICHAEL G. OXLEY,
Chairman.

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

Mr. LAFALCE. Mr. Speaker, I yield myself 5 minutes.

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

Mr. LAFALCE. Mr. Speaker, unfortunately the Republicans are snatching defeat from the jaws of victory. When we worked together, we produced a financial services modernization bill that had not been pulled off in 60 years, but it took true bipartisanship. Just a short time ago, a month or so ago, we worked together in a bipartisan manner. With total bipartisanship, we passed major anti money-laundering legislation, and we stood together with President Bush at the White House signing when he signed and gave the gentleman from Ohio (Mr. OXLEY) and myself pens, the pens he used to sign the PATRIOT bill. We could have done the same thing on terrorism insurance. I desperately wanted to. I tried to. We were rebuffed. They snatched defeat from the jaws of victory.

Why so? If the Republicans are victorious today, it is going to be a Pyrrhic victory, but there were certain things that were more important than a good victory. What was more important? Well, they had to include extraneous material within the bill, either because they were told to, or because it is part of a theological belief. And what is that? That we must restrict victims' rights. Forget all lawyers. We are talking about victims.

We are talking about the rights of victims to be able to obtain the redress that they have been able to pursue from 1776 to now, from the beginning of the Republic to the present. And those rights have evolved over 200-plus years in the several States where they have become the common law of the land, they have been codified in State law; and in one fell swoop we say, we eliminate all State causes of actions and there shall be one exclusive Federal cause of action, one exclusive Federal cause of action.

Now, we will look to State law for a little bit of guidance, but certainly not on the issue of damages. On damages, we will eviscerate their rights for economic damages, we will eviscerate their rights for noneconomic damages, we will eviscerate their rights, we will prohibit their rights, for punitive damages.

That is going to kill this bill, and that is going to greatly, greatly worsen our economy.

Mr. Speaker, they could take one of two approaches. They could say, let us take the best bill we could fashion in a bipartisan manner that might pass muster with the Senate and negotiate differences, send it to the President, or they could say, oh, my gosh, we have a majority of one Democrat in the Senate; therefore, the only approach we can take is to come up with the worst possible bill imaginable, pass that, because that will increase our negotiating leverage with the Senate. The worse our bill, the better our negotiating stance. That is what they have done.

This is not about passing a bill. They are not arguing the merits of this bill because they want to see it become the law of the land. They know it never will be. They just want to posture themselves, leverage, to get better leverage in negotiating with Senator DASCHLE, Senator DODD, Senator LEAHY, Senator HOLLINGS, et cetera.

In doing this, they are playing Russian roulette. Because what they are doing is they are permitting that Damoclean sword that is hanging over the economy, producing a chilling effect right now on the provision of credit to businessmen across America. They are permitting that Damoclean sword to fall come January 1, 2002. It is Russian roulette and it need not be.

We could pass a bill; we could pass the substitute that would go to the Senate and, with minor changes, be signed by President Bush next week and eliminate that Damoclean sword

that is hanging over the head of our economy.

Mr. Speaker, our Nation is faced with numerous economic dislocations as a result of the September 11 attacks. A case in point is the legitimate concern that the reinsurance market for terrorism coverage is evaporating and will force primary insurers to increase prices or withdraw coverage. This is not an industry problem. If industry cannot reinsure the risk of further terrorist attacks, it will either not offer terrorism coverage or price it out of the reach of most consumers. The consequences of such action for our economy and for consumers would be devastating, particularly given our current recession.

We must recognize that the crisis is only weeks away, as most policies are coming up for renewal on January 1, 2002. If businesses are forced to go without coverage, lenders will not lend because they require proof of insurance as part of the prudential credit decisions they make. Congress does not have the luxury of time to debate extraneous and controversial issues such as restrictions on victims' compensation while the health of our fragile economy hangs in the balance.

Since the markup of H.R. 3210 last month, I have repeatedly expressed my willingness to work with Mr. OXLEY and Mr. BAKER on devising a plan that I could support. The goal was to create a short-term solution that will keep terrorism insurance coverage against any future attacks available and affordable, until Congress can revisit the issue. The approach Mr. OXLEY devised was, in large part, reasonable and I could have supported it. However, because this bill is laden with extraneous provisions that limit victims rights and does not address some of the core issues that I believe are essential, I cannot embrace this legislation in its current form. It did not have to be this way.

First, H.R. 3210 does not impose an industry deductible. Instead, it creates a program under which the Federal Government finances industry losses from the first dollar and calls for those funds to be recouped over time through industry assessments and policy surcharges. Second, the bill does not require, by its terms, that property and casualty coverage be part of commercial property and casualty coverage, as it normally is now. Third, it egregiously limits victims rights by eliminating punitive damages, limits noneconomic damages, caps attorneys fees and creates a Federal cause of action. These provisions are extraneous, represent a wish list for those who have long wished to restrict the rights of victims in our civil justice system, alienate most Democrats and many Republicans here and in the Senate, and, therefore, imperils this legislation's ultimate enactment.

The advocates of radical tort reform in the White House and in the Republican leadership are using this terrorism risk bill to promote an aggressive antivictim agenda. Section 15 of the Armey bill, entitled ''Litigation Management'' may constitute the most radical and one-sided liability limitations ever. Even worse, the provision bears little relationship to the issue of insurance and is not even limited to cases involving insurance coverage.

The Republican bill diminishes the protections that Americans enjoy under state law by restricting the availability of noneconomic damages and by eliminating punitive damages. These limitations on damages apply not only to insurance companies, but also to the wrongdoer, as well. Adoption of these provisions rewards wrongdoers at the expense of innocent victims of terrorist attacks. If an airport screening firm hires a known terrorist who allows a weapon to slip on board a plane, this bill would protect that company.

Punitive damages are rare and only awarded in the most egregious cases where a defendant willfully or intentionally disregards the safety of the American public. The elimination of punitive damages takes away incentives for businesses to do everything they can reasonably do to protect the American public.

Noneconomic damages are real damages. The loss of a limb, eyesight, constant pain and loss of a loved one are real life-altering events. Limiting their recovery harms the most severely injured victims and discriminates against children, the elderly, and homemakers, who do not receive much in the way of economic damages.

The Republican bill tries to limit victims' access to the civil justice system by capping the fees available to pay the victims' attorneys and threatens their attorneys with criminal sanctions for violations of the cap. This particular provision reveals the real motives of the proponents because the provisions does not impose any cap on the fees paid to defendants.

It bill takes away all judicial review relating to the issue of whether terrorism caused the injury, an unprecedented and very likely unconstitutional limitation on victim rights. It eliminates prejudgment interest, which takes away any incentive for negligent parties to reach settlements. It mandates collateral source, which forces victims to choose between seeking money from charities and pursuing a grossly negligent party in court, and permits wrongdoers to take advantage of life and health insurance policies purchased by the victim or the victim's employer.

The Republicans claim that the provisions are needed to protect the taxpayers from paying for excessive damages through the reinsurance mechanism. But, under the Republican bill every penny of assistance is recouped through assessments on the industry. If they were really concerned with limiting taxpayer exposure rather an aggressive and radical tort reform agenda, why is there no limitation on property damages under the bill? Does making a family whole means less to my colleagues than making a corporation whole for the loss of a luxurious building?

While I firmly believe these victim compensation restrictions have no place in this bill, we on our side sought to find some common ground on this tort reform issue, so we could report out a bill that is vitally important for the economic recovery of this Nation. We presented to the Rules Committee three amendments to modify the provision. But the Republican leadership was unwilling to give the House an opportunity to refine these provisions and reach a compromise on an issue that also has the Senate tied up in knots. Instead they insist on pursuing a radical, partisan agenda to limit the compensation needed to make the victims of terrorist attacks whole.

Later in this debate, Ranking Member KANJORSKI and I will offer a substitute which cures many of the defects of the Republican bill and presents this body with a clean piece of legislation that Members on both sides of the aisle can support.

First, my bill would require a real up-front deductible. The insurance industry would pay the first $5 billion of insured losses in the first year, increasing to $10 billion in the second and third years. Individual company liability would be capped at 7 percent of premiums. The insurance industry has made clear that it can afford a deductible of this magnitude and they were prepared to embrace it when it was under consideration in the Senate. The administration, too, supports such a deductible. It is a sensible mechanism that protects taxpayers and imposes underwriting discipline. It is a necessary part of any legislation that we ultimately send to the President.

At the same time, my bill maintains the sensible assessment provisions of the Oxley bill for losses in excess of the deductible, and imposes a discretionary surcharge on policyholders for losses above $20 billion. I believe these provisions fairly protect the American taxpayer while not overly burdening industry.

Second, to prevent insurance companies from cherry-picking the safest properties and leaving sites which present greater risk uncovered, our substitute, unlike the Republican bill, would require that terrorism coverage be part of property and casualty coverage. This is essential to avoid a situation where insurers would only insure ''good risks'' and leave large portions of the economy uncovered. This provision would also eliminate any incentive for small businesses to opt out of insurance coverage.

Finally, my bill does not limit victims rights by denying them the legal redress that they deserve.

Although I cannot support the bill in its present form, I hope we can engage in a bipartisan, collaborative process going forward.

Despite our present differences, I do see common ground and I do see how we could meld our approaches. But if we are to get there, it will take respectful bipartisan dialog, not the gratuitous and unnecessary pushing of ideological agendas. We have little time, and a serious responsibility which we must meet quickly to protect our economy.

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

Mr. OXLEY. Mr. Speaker, I am pleased to yield 5 minutes to the gentleman from Louisiana (Mr. BAKER), who has done extraordinary work in this regard.

Mr. BAKER. Mr. Speaker, I thank the gentleman for his leadership and his courtesy.

I think it appropriate at this point in our debate to talk simply about what is it that this bill does and on what issues are there agreement. It is very clear that through the extensive hearings and work of the committee that much agreement was reached. First, that if there is another unfortunate terrorist attack on this great Nation, that we should not let the secondary effect of that attack to bring terror to our national economy, and that we must respond quickly.

Some have criticized, for example, the concept of first-dollar participation at the moment the event occurs. There are other views that we should wait

until perhaps some $5 billion of damages have been paid out by the industry before getting government involvement. In other words, after the terrorist event has occurred, let us make sure the economy suffers for a while before we respond. This bill takes a different approach and says, we should get that assistance immediately, not 6 months, not 60 days, but immediately upon validation that there has been an event for which there have been losses that can be substantiated.

Secondly, since we are providing this immediate assistance, there should be some guarantee that this is not viewed or, in practice, turns out to be a bailout of the insurance industry. So this bill provides for repayment. Yes, we have a crisis. Yes, there are people who are suffering. So we say, insurance company, go help the insureds. Make sure they get the funds necessary to repair those businesses, to get the economy going again, to make sure we do not have the unemployed or we do not have those who are without medical insurance because their company doors are closed. But when you are profitable and when you are making money, we expect you to give the taxpayers their money back. That is what this bill provides for. It is a new approach. We will help, but we expect you to be responsible when you are profitable.

We give the Secretary of the Treasury large discretion in how to implement the requirements of this legislation. If we find ourselves in the very unfortunate event after a terrorist attack that our general economic condition is poor, the Secretary of the Treasury may use his judgment as to when and how to recoup repayment to the taxpayer. But there is a guarantee that there will be a repayment to the taxpayer.

So first and foremost, there is bipartisan agreement that this legislation is not an industry bailout. It is necessary, an absolutely necessary step to maintenance of our economic survival.

Secondly, it is not going to be a gift, that this money will not go out the door of the United States Treasury never to be seen again.

Third, we act to help not only the big insurance companies; this proposal's effect is to help all insurance companies. It is true that the top 25 percent of all insurance companies out there write 94.6 percent of all property and casualty premiums in this country. There are very large companies providing the bulk of coverage in this country, but there are an extraordinarily large number of very small corporations that could not withstand $5 billion industry-wide loss without going insolvent themselves. The bill provides immediate assistance for small companies. It provides immediate assistance for small businesses by not requiring terrorism insurance to be part of the property and casualty coverage. Why is that important?

Our bill provides that one can stipulate what the cost of the terrorism component is separate from the underlying property and casualty bill. So if one is a business owner today who wants to make sure his property and casualty insurance premiums have not been jacked through the ceiling by some irresponsible insurance executive, one can look at what they paid last year and look at what they are asking to be paid this year, and then out over to one column to the side will be a little line that says ''terrorism risk premium'' and you can identify it. If you happen to be in Wyoming or on the great Gulf Coast of Mississippi or somewhere where you make the judgment that you do not wish to pay that terrorism premium, you do not have to. We do not believe we should dictate to every business owner in America, you must buy terrorism insurance regardless of what the cost may be, or what the risk may be to you. So we provide market opportunity. You can buy the property and casualty, you can buy the terrorism component from company A, you can buy property and casualty from company B, and the terrorism component from company C. It is free market at its best. It is a responsible solution to the problems we face.

Mr. Speaker, I urge the adoption of this proposal.

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Mr. LAFALCE. Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania (Mr. KANJORSKI), the distinguished ranking member of the subcommittee with jurisdiction on this issue.

Mr. KANJORSKI. Mr. Speaker, I thank the chairman for yielding time to me, and I will take a moment to congratulate the chairman of the committee, the gentleman from Ohio (Mr. OXLEY), and the chairman of the subcommittee, the gentleman from Louisiana (Mr. BAKER), for what I thought was a job well performed as far as moving a bill that could gain bipartisan support through the Committee on Financial Services.

Unfortunately, with heavy heart, the product that we are about to vote on on the floor today does not meet the standard that it met as it came out of the Committee on Financial Services. It has had added to it something called tort revision, tort reform, some sort of change.

To most people watching this debate today, they are going to say, what is all this thing about liability? We are in an emergency.

What it means, to say it simply, is there is an attempt here today with these new additions to change the history of responding to liability claims and civil procedures to settle those claims, and change significantly the history of the United States for 200 years by passing this legislation.

It is unnecessary. It is not only unnecessary, it is something the industry did not ask for. As a matter of fact, in discussions with the industry, they did not even ask for support down to dollar one lost from terrorist events. They had represented themselves that they were perfectly able to handle as much as a $10 billion terrorist attack on the United States without consequences.

What they asked us to do in the interim of a 2- to 3-year period would be to provide a mechanism that if a terrorist attack of the magnitude of September 11 occurred, there would be a mechanism in place that they could move quickly to resolve the problem and put the money back into the marketplace.

As a result of not having that mechanism, they are unable to sell policies now with terrorist insurance as part of the policy face and are asking the right to not write terrorism policy in this country. The reinsurance industry will not touch this until the experience table is established as to what rates they can set for terrorist insurance.

So what did the Committee on Financial Services start with? What did the White House request? What did the industry request? That we put together a stopgap measure to allow normal commerce to go on in the United States and have terrorist protection insurance in place over the next 3- to 5-year period so we would not stultify or have a disadvantageous result to the economy as a whole. I call it an economic stabilization bill, that is all it is, to show that the United States government, at a time of extreme need and under dangerous circumstances, can put the taxpayers of the United States in a supportive situation to a free market institution, but not interfering with the free market, encouraging the free market to come back and handle the insurance as it has in the past and will in the future, but for a period of 1 to 3 or 5 years, that the United States Government is in there to create a position that would help the insurance industry, the real estate industry, the financial services industry, but most of all, the economy of the United States.

That has not happened. The one major reason it has not happened, in spite of some of the changes, is the new additions on tort reform or tort revision are so onerous, so extreme, that we are asking the American people and this Congress to forget victims' rights, rights of plaintiffs, rights of complainants, and rights of injured people, and only taking care of the 25 largest companies in the United States who write 94 percent of the insurance.

If I wanted to be a demagogue, I could easily say it is a bailout of the insurance industry. But in my heart and mind, I know it is not that; and it is not intended to be that. If we could have passed the underlying bill, we would have had a very strong, bipartisan support to do that; and it could not have been categorized as a bailout of the insurance industry.

But it can clearly be labeled a locomotive for tort reform at the wrong time, at the wrong place, in the wrong bill.

I urge my colleagues to vote down the existing bill, unfortunately, taking some time to come back and work out another bill so we can go to conference and pass this important legislation.

Mr. OXLEY. Mr. Speaker, I am pleased to yield 2 minutes to the gentlewoman from New York (Mrs. KELLY).

Mrs. KELLY. Mr. Speaker, I thank the gentleman from Ohio for yielding me the time.

Mr. Speaker, I rise today in strong support of the Terrorism Risk Protection Act. This legislation is essential to not just the insurance industry, but to the entire economy.

Businesses in America face a crisis this year, and they will face a crisis next year if we are unable to obtain commercial insurance coverage, which includes insurance against terrorism losses. Without this insurance coverage, businesses will be unable to obtain financing for new building projects, and an already weak economy will be served another harsh blow.

With the cowardly acts of September 11, our insurance industry faces a new reality which must be addressed as soon as possible. This is a reality in which an act of terrorism is a risk which requires insurance, the cost of which is impossible to predict, and hence, impossible for an insurance company to price.

Because of this, insurance companies are currently unable to offer coverage for impossible future terrorist acts. To prevent this crisis, TRPA would spread the risk for possible future acts out across the insurance industry, giving the industry time to develop their own mechanisms to cover risk for the future. TRPA is designed to provide only the necessary temporary stability to the insurance market and sunset shortly thereafter.

Unlike like some of the solutions put forward, TRPA does not put taxpayers' money at risk. All loans made under the act must be repaid. In addition, the triggers in the bill are low enough to ensure that small insurance companies remain competitive.

Finally, I want to assure my colleagues that the Committee on Financial Services' work on the issue only begins with this legislation. As the chairwoman of the oversight subcommittee, we will be vigorous in our follow-up on this crisis. We must ensure that we do all in our power to provide stability to the industry while we give the private market time to innovate and quickly establish a new market to cover potential terrorism loss.

TRPA is an excellent solution to this crisis and deserves our full support. I ask my colleagues on both sides of the aisle to join me in the strong support of this bill.

Mr. Speaker, obviously, I am pleased that the Financial Services Committee and this House have acted expeditiously on the terrorism reinsurance crisis, and that this legislation is being considered today. Today in this chamber, we are appropriately engaging in a fierce debate over various aspects of how to make this legislation work for insurance consumers. We are debating federal backstops, mandates for coverage, tort reform, and all trying to do the best thing for the American economy—in the hope that this very complex and difficult issue can be resolved by the time Congress recesses for the year.

But I would appreciate the opportunity, Mr. Speaker, to take just one step back from this debate, and remind us all again why we are here. One of the persons who would have been intimately involved in the creation of a federal terrorism reinsurance program was Charlie McCrann. Charlie was a senior vice president at Marsh and McLennan, the world's largest commercial insurance brokerage firm, and his responsibilities included advocacy at both the state and federal levels. Charlie was a pivotal player on many of the issues surrounding insurance regulation over the years—from the product liability crisis of the 1980s, to the Dingell insurance solvency legislation in the 1990s, to our debates on agent/broker licensing reform as a part of Gramm-Leach-Bliley two years ago. As he spoke on behalf of the firm that sells more business insurance (and reinsurance) than any other firm in the world, this terrorism insurance coverage legislation would have been right down Charlie's alley. As always, he would have done everything in his power to make sure that we craft a bill that restores and calms the marketplace without overreaching.

On September 11, Charlie had arrived early to his office on the 100th floor of 1 World Trade Center. Like 294 of his colleagues at Marsh, he perished.

As a profile in the New York Times recently said of him, Charles Austin McCrann was a levelheaded, respected executive, devoted to his wife, Michelle, and children, Derek and Maxine. He was also a splendid attorney and representative of the insurance industry, through his earlier work at the New York Assembly's Insurance Committee, and at the law firm of LeBoeuf, Greene & McRae. At Marsh, where he served since 1979, in addition to his advocacy, he was a regulatory compliance officer, and was responsible for interpreting industry regulations and providing guidance on these regulations to Marsh's brokers throughout the country. He represented the National Association of Insurance Brokers and its successor organization, the Council of Insurance Agents and Brokers, before the National Association of Insurance Commissioners.

I could go on and on.

As a subcommittee chair on the Financial Services Committee, I mourn the fact that Charlie is not in this chamber today witnessing our spirited debate and our actions designed to assist the commercial insurance marketplace. And I hope that as this legislation continues to move through the legislative process, we will be mindful of the 500 employees of the world's two largest commercial insurance brokerages—Marsh and Aon—who lost their lives on that horrible day.

Mr. LAFALCE. Mr. Speaker, I yield 3 minutes to the gentlewoman from California (Ms. WATERS), the distinguished ranking member of the subcommittee on Financial Institutions and Consumer Credit of the Committee on Financial Services.

Ms. WATERS. Mr. Speaker, I serve on the Committee on the Judiciary and the Committee on Financial Services, both of which have worked very hard in a bipartisan manner to legislate cooperatively in the wake of the events of September 11.

Last month, the Committee on the Judiciary reported out the PATRIOT Act, the antiterrorism bill. The committee product was a true bipartisan effort and was reported out unanimously. That product was then abandoned in the Committee on Rules for a partisan, inferior product.

Similarly, this bill, H.R. 3210, the Terrorism Risk Protection Act, was reported out of the Committee on Financial Services by voice vote. The bill we are debating today is not the product of that committee's good work. It is, instead, a bill that does not contain a deductible for the insurance industry before government steps up to the plate; and even more disturbing, this necessary piece of legislation has become a vehicle for broad-based tort reform.

The Armey substitute creates an exclusive Federal cause of action for lawsuits arising out of acts of terrorism, prohibits punitive damages, prohibits joint and several liability, limits attorney fees, and requires that any victim compensation shall be reduced by any amount the victim receives from other sources.

These tort reform provisions are broad and far-reaching. These provisions are an appalling attempt by anti-consumer legislators to use this bill to further their own agenda by changing the laws on victim compensation. They would never get away with this under normal circumstances, but these are not normal circumstances.

We have to respond quickly to the events of September 11, and we should do so in a bipartisan manner. I find it utterly shameful that certain Members see fit to exploit this terrible tragedy by using necessary legislation as a vehicle for special interest items.

Unfortunately, this crass opportunism is becoming the hallmark of this House. So far, we have seen attempts to load up bills that respond to this tragedy with all sorts of tax breaks and Christmas presents for corporate America, while we still have not taken care of the unemployed.

Mr. Speaker, this bill has been corrupted with these harsh limitations on victim compensation. These limitations are unrelated to the issue at hand and have no place in this bill. I urge my colleagues to oppose this legislation and support the LaFalce substitute, which contains no limitations on tort actions or recoveries.

Mr. OXLEY. Mr. Speaker, I am pleased to yield 3 minutes to the gentlewoman from Illinois (Mrs. BIGGERT), a valued member of our committee.

Mrs. BIGGERT. Mr. Speaker, I thank the chairman for yielding me the time.

Mr. Speaker, the insured losses from September 11 attacks are expected to total more than $70 billion, the largest insured catastrophic loss in history.

The good news is that the insurance industry is paying these claims and has stated that all claims will be paid expeditiously.

The bad news is that the insurance industry cannot withstand multiple events of this magnitude without harming all consumers. This is uncharted territory, and it will take some time for an efficient market for terrorism insurance to develop. That is why passage of H.R. 3210 is so important at this critical time.

For those who think that this bill applies only to the market for commercial insurance, they should think again. Right now there are more than 140 public self-insured risk pools operating in 41 States; and they, too, will be covered by this bill.

What are public, self-insured risk pools? They are the entities that provide coverage for those most often at the greatest risk: our firefighters and police officers, our children in schools, teachers, city workers, and many others.

In short, public self-insured risk pools provide an enormous cost saving to State and local taxpayers. When private insurance premiums are prohibitively expensive, these pools absorb the risk across their membership base. Failure to include public risk pools in this bill would have resulted in a dramatic increase in insurance premiums for those providing critical public service and, ultimately, for taxpayers.

I appreciate the strong support this provision received in the committee, especially from the gentleman from Ohio (Chairman OXLEY) and the subcommittee chairman, the gentleman from Louisiana (Mr. BAKER). I look forward to working closely with them to see that this provision is retained in the conference.

Finally, Mr. Speaker, I want to thank the leadership members of the Committee on Financial Services for including key litigation management provisions in this bill. Let us face it, there is no reasonable way for even the most responsible property owner or business to prepare for every conceivable attack by a terrorist. Yet under current law, they would be on the hook for 100 percent of such damages, facing total financial ruin.

This bill limits the potential liability by barring punitive damages and providing other protections if and when the Secretary of the Treasury determines that an act of terrorism has occurred.

Mr. Speaker, H.R. 3210 is a responsible approach to a very difficult situation. By demanding that every tax dollar is repaid, we will provide a helping hand, not a handout, to the insurance industry.

I urge my colleagues to support this legislation.

Mr. LAFALCE. Mr. Speaker, I yield 2 minutes to the gentleman from North Carolina (Mr. WATT), a member of both the Committee on Financial Services and the Committee on the Judiciary.

Mr. WATT of North Carolina. Mr. Speaker, several days after the events of September 11, some of my insurance company representatives who are based in my district approached me and described what would become a very, very serious problem.

Essentially, they said that most of the reinsurance in this country, a lot of it is being done by off-shore reinsurers, and that those people were not going to reinsure against terrorism after the events of September 11.

It became obvious that there was a serious problem that would need to be addressed, and I committed to work to try to address that problem, both in the Committee on Financial Services and in the Committee on the Judiciary, both of which I am a member of.

We did that in the Committee on Financial Services. We reported out a bill that received virtual unanimous support. Unfortunately, just like the PATRIOT bill, the antiterrorism bill that the Committee on the Judiciary had reported out unanimously, the leadership got its hands on the product of our committee and rewrote the bill. They inserted provisions that had little, or nothing, I would submit, to do with the problem that the insurance companies had described to me in that initial meeting, the one dealing with reinsurance and the necessity for reinsurance.

□ 1330

This bill has been hijacked, unfortunately, the same way that the so-called PATRIOT bill was hijacked by the leadership, and provisions have been placed in this bill which actually just make it unsupportable.

We are going to have a serious problem if we do not get to a final product on this bill very soon. Insurance policies that are expiring and are having to be renewed will need terrorism coverage, and it is that kind of brinksmanship that I am concerned about; because as the ranking member has indicated, we have taken a situation which could have been resolved easily through bipartisan cooperation, that had been resolved through bipartisan cooperation on our Committee on Financial Services, and the leadership has decided that it would rather play political brinksmanship with this bill.

If a product is not delivered that is satisfactory before the end of this year, I hope that the American people will hold the people who are responsible for this brinksmanship responsible for their conduct, and I encourage my colleagues to vote against this bill today.

Mr. OXLEY. Mr. Speaker, I am pleased to yield 2 minutes to the gentlewoman from Connecticut (Mrs. JOHNSON).

Mrs. JOHNSON of Connecticut. Mr. Speaker, I thank the gentleman from Ohio (Mr. OXLEY) for his hard work and leadership on this difficult issue.

Congress simply must act, before we adjourn, to avert an insurance coverage crisis caused by the increased risk of terrorism against the citizens and businesses of this country. I think that statement is absolutely true. I am proud of the insurance industry and the way it has stood up to what is going to be a $40 billion loss, but there is no question that they cannot do this again tomorrow.

Furthermore, we in our Nation need to figure out how we are going to share this new risk, because if we do not, the cities of America are going to be the victims. It is not going to be Torrington, Connecticut. It is not going to be Rutland, Vermont. It is going to be New York, Chicago, San Francisco, Los Angeles, Houston. Who in their right mind is going to pay the high premiums that will be charged of those who locate in New York? Every one of the big cities will be seen as the likely target for the next terrorist act, and so the premiums for businesses in our cities are going to skyrocket if we do not legislate now, do it right and follow it through over the next few years.

It is hard enough for the cities to attract businesses to them, because cities have so many burdens that often their taxes are high, their police problems are great, and so on and so forth. Now we are going to add to that the highest possible insurance premiums for those companies that are willing to headquarter in New York, Chicago, Los Angeles, and other big cities of America.

We would not do it intentionally, but that is going to be the unintended consequence of not handling this issue correctly. It will be the cities that hurt; not the towns, not the little cities, not all of America. We will put a death knell over economic activity in the big cities of our country.

So I urge support of this legislation.

Mr. LAFALCE. Mr. Speaker, I yield 3 minutes to the gentlewoman from New York (Mrs. MALONEY), a member of the committee.

(Mrs. MALONEY of New York asked and was given permission to revise and extend her remarks.)

Mrs. MALONEY of New York. Mr. Speaker, I thank the gentleman from New York (Mr. LAFALCE), the ranking member, for yielding me the time and for his leadership and hard work on this issue.

Our work today is not bailout of the insurance industry. We are simply working to keep our economy on track with a short-term program that addresses the new terrorist threat.

I believe the gentleman from New York's (Mr. LAFALCE) bill recognizes the importance of this potential insurance crisis to our country and the time-sensitive nature of the problem. With 70 percent of reinsurance contracts expiring at the end of the year, we have a limited time to act before the end of the year.

In the Committee on Financial Services, the gentleman from Ohio (Mr. OXLEY), the gentleman from Louisiana (Mr. BAKER), the gentleman from New York (Mr. LAFALCE) and the gentleman from Pennsylvania (Mr. KANJORSKI) understand the importance of this issue

and they have worked tirelessly to move the process forward.

I was particularly concerned with surcharges placed on future policyholders in the bill that the gentleman from Ohio (Mr. OXLEY) and the gentleman from Louisiana (Mr. BAKER) originally introduced. It is my belief that this language would have placed an undue burden on future policyholders just as they are trying to recover from the attack. Working together, we have reached a compromise on this issue, limiting future surcharges to 3 percent of premiums.

While we have reached agreement on many issues, I believe the approach taken in the Democratic substitute is superior to the bill that is the underlying one today. The goal of any bill should be to restore the availability and affordability of property and casualty insurance. Limiting the rights of potential plaintiffs is a peripheral issue. We are dealing with a crisis, and partisan legal reform issues have no role in protecting the viability of insurance markets.

We do not know where the next attack will be, but we can be pretty sure that right now terrorists are planning to strike again. Hopefully our increased security will thwart any attack, but now is not the time to prospectively limit the rights of individuals to make themselves whole if they are victims of a future attack.

To quote a letter from the Consumer Union, ''Although individuals in businesses may be unable to prevent future terrorist attacks and are not directly responsible for those acts, they should be expected to take reasonable and measured actions to promote public safety.''

I believe the legal limitations and the majority bill discourage such conduct. Furthermore, the LaFalce substitute is more taxpayer friendly by requiring the insurance industry to cover a deductible of $5 billion in the first year and $10 billion in the second. This industry is capable of covering this deductible and does not oppose this provision.

Every Member of this House owns an insurance policy and we all face deductibles. This bill to prevent an insurance crisis should not be any different.

Mr. Speaker, I rise in strong support of the LaFalce substitute.

Mr. Speaker, viewers of this debate should be clear.

Our work today is not a bailout of the insurance industry—we are simply working to keep our economy on track with a short-term program that address the new terrorist threat.

I believe Ranking Member LAFALCE's bill recognizes the importance of this potential insurance crisis to our country and the time sensitive nature of the problem.

With 70 percent of reinsurance contracts expiring at the end of the year we have a limited time to act before the end of the year and we have to get this right.

In the Financial Services Committee Chairmen OXLEY and BAKER and Ranking Members LAFALCE and KANJORSKI understand the importance of this issue and have worked tirelessly to move the process forward.

I was particularly concerned with surcharges placed on future policy holders in the bill that Mr. OXLEY and BAKER originally introduced.

It is my belief that this language would have placed an undue burden on future policyholders just as they are trying to recover from an attack.

Working together—we have reached a compromise on this issue—limiting future surcharges to 3 percent of premiums.

While we have reached agreement on many issues, I believe the approach taken in the Democratic Substitute is superior to the bill that we are considering today.

The goal of any bill should be to restore the availability and affordability of property and casualty insurance.

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Hopefully our increased security will thwart any attack—but now is not the time to prospectively limit the rights of individuals to make themselves whole if they are victims of a future attack.

To quote a letter that Consumers Union which was sent to Members yesterday. ''Although individuals and businesses may be unable to prevent future terrorist attacks and are not directly responsible for those acts, they should be expected to take reasonable and measured actions to promote public safety.''

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Every Member of this House owns an insurance policy and we all face deductibles. This bill to prevent an insurance crisis should not be any different.

Unfortunately, I am fairly certain that businesses will pay billions more for insurance in New York in next year—even with Congressional intervention. As I have said, this increase could amount to a tax of billions of dollars on New York business.

I urge my colleagues not to tie outside issues to this legislation. It is too important. Support the clean LaFalce substitute.

Mr. OXLEY. Mr. Speaker, I yield 3 minutes to the gentleman from Connecticut (Mr. SHAYS), a very valuable member of our committee.

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

Mr. Speaker, I rise in strong support of the Terrorism Risk Protection Act. This bill creates a temporary industry risk-spreading program to provide a financial backstop for insurers in the event of losses from future terrorist attacks. It is not a bailout, and taxpayers will recoup every penny of assistance insurance companies receive.

It is critical for the Nation that terrorism insurance legislation be enacted before January 1. This legislation is particularly critical for insurance companies and financial services. The impact of not enacting this legislation will significantly damage these vital industries and will have dire consequences as well for the real estate, energy, construction and transportation industries.

It is also clear our Nation's cities and metropolitan areas will be impacted the most for failing to act on this legislation. Time is quickly running out. The market for new commercial insurance contracts and renewals is already undergoing serious and potentially severe disruptions. Almost 70 percent of reinsurance policies expire on December 31, and virtually all reinsurers have said they will no longer provide terrorism insurance after that date.

This will create a chain reaction that will affect our entire economy. Without insurance, lenders will not lend and investors will not invest. The economic effects of inaction simply cannot be overstated.

To me, this is the true stimulus bill. We need to enact this bill. None of us can be sure when and where another terrorist act will occur, but it will occur. And we have the opportunity today to offer businesses, employers, and other economic activities across the country much needed protection.

Mr. Speaker, I urge my colleagues to vote for this legislation and help avoid an otherwise inevitable market dislocation and subsequent economic crisis. We need to enact this bill. I thank my chairman, the gentleman from Ohio (Mr. OXLEY) for acting so quickly to see that we will do that.

Mr. LAFALCE. Mr. Speaker, I yield 3 minutes to the gentlewoman from California (Ms. LEE), a distinguished member of the Committee on Financial Services.

Ms. LEE. Mr. Speaker, I want to thank the ranking member, the gentleman from New York (Mr. LAFALCE) for yielding me time.

Mr. Speaker, I am very disappointed in the process and also the content of this bill. Many important amendments, including those on tort reform and my consumer amendment on data disclosure, were not even allowed to be offered. At a time when thousands of men and women are losing their jobs and their health insurance, it is really a shame that we are again putting corporate interests before the interests of our workers.

Unemployment and health insurance benefits for those people who have lost their jobs should be our first priority.

On the content of this bill, the egregious tort reform provisions are reason enough to oppose it. Companies that do not take appropriate safety steps or do not act responsibly in the face of credible threats should not receive protection for their actions. If the owner of a building locks the emergency exit doors and a terrorist attack occurs there, that building owner must be held responsible for their negligent actions. This is just common sense.

Under the Republican bill, they could not be held responsible. Under the LaFalce substitute they would.

In terms of the process of this bill, I have tried to offer an amendment to require insurers to provide the same data, the same data, mind you, that banks currently provide on the race, ethnicity, gender and location of their policyholders to ensure that they are not discriminating against minority, women or low-income individuals. However, this very modest amendment was not even allowed by the Committee on Rules.

If we are to give billions of dollars to the insurance industry, we should at least have basic data to know if they are using those Federal dollars to engage in discriminatory practices. This is only fair.

It is time that this Congress really gets its priorities straight and supports the working men and women in our Nation. The tragic events of September 11 should not be used as an opportunity for corporate tax cuts and bailouts. Let us put first things first and make sure that our enhanced national security ensures economic security for those who so desperately need our assistance.

Mr. OXLEY. Mr. Speaker, I yield 2 minutes to the gentlewoman from Pennsylvania (Ms. HART), a valuable member of our committee.

Ms. HART. Mr. Speaker, I thank the chairman for yielding me time.

Mr. Speaker, I serve both on the Committee on Financial Services and on the Committee on the Judiciary and have certainly, like many Members who have spoken, spent some time on this issue and certainly understand the gravity of what we are doing here today, because in January, a little more than 30 days from now, 70 percent of the commercial insurance policies will be up for renewal.

Not only has the Committee on Financial Services received quite a bit of testimony that without legislation, commercial insurers will be unwilling to provide significant terrorism coverage, newspapers have been full of stories about companies finding terrorism coverage impossible to buy.

If businesses are unable to obtain insurance to cover their losses caused by future acts of terror, they will not only potentially be liable for significant damages any terrorist could cause, but they would also face significantly higher financing and other costs. This has the potential to wipe out any beneficial impact of an economic stimulus package that we hope will be passed and signed by the President.

In order to attract capital, companies have to convince investors that their money will not be wiped out. We take steps through this legislation to make sure that that is the case. This is not a bailout. This is a backstop. This is legislation that will give confidence back in your economy, confidence to investors.

It allows for exact pricing so that in the event of another terrorist attack, the government would not only collect the amount of money it needs in accordance with this law, it prevents the creation of another mammoth government agency. In other words, we help finance money temporarily.

This is not giving money away. This is assistance to our economy. It is very important. Limiting the legal liability of these insurers by restricting punitive damages is a big part of it. It is very important. Terrorism is not the fault of insurers, it is the fault of the terrorists. It is important that we take into consideration the realities here.

Mr. Speaker, I appreciate the support of my colleagues, both the gentleman from Ohio (Mr. OXLEY) and the gentleman from Wisconsin (Mr. SENSENBRENNER). I urge support of the bill as it is, H.R. 3210.

□ 1345

Mr. LAFALCE. Mr. Speaker, I yield 3 minutes to the gentleman from Washington (Mr. INSLEE), a distinguished member of the committee.

Mr. INSLEE. Mr. Speaker, I speak vigorously against this bill because it is radically callous toward reform provisions, and let me explain how radical they are.

It seems to me that we have given a lot of at least lip service to the value of marriage on this floor in a lot of different debates, but look what this bill does. Take a situation where a wife lost her husband, firefighter in New York City. She has had the destruction of her relationship with her husband, she is a widow, and let us say this bill becomes law. If this bill becomes law, it says that the only value of that husband to that widow was the value of his paycheck.

This bill would destroy the ability that is now the case in 50 States in this country that when a widow loses her husband she would be entitled under American law to noneconomic damages. That is a sound policy, because many of us believe that a husband has a value to a wife that is greater than his paycheck. But the Republican proposal here is based on the proposition that the only meaningful value of a husband to a wife is what he brings home at the end of the month, and that the value of the relationship between a husband and wife is zero under the Republican bill. That is wrong. That is wrong.

The value of a relationship between a husband and wife is worthy of the respect of us individually and worthy of the respect of the American judicial system. This bill is wrong in eliminating that civil right. I think it is a sad day when terrorists get to destroy the civil right of an American to recognize the value of their spouse, which under the Republican bill my colleagues are doing. Frankly, I do not know if my colleagues intended to do it, but this bill accomplishes that end, and it is wrong.

But there is a second reason I speak against this bill, Mr. Speaker. If we pass this bill, it will have been after we passed the airline bailout bill, or airline bill, whatever we want to call it, and did not give a dime to the workers, over 100,000 workers who have been laid off. Yet we now pass a bill to help the insurance industry, which I think is necessary, some bill, to help the insurance industry, but still without helping laid-off workers with a dime or a nickel.

I now have in the Puget Sound, or will have, 30,000 laid-off workers from the Boeing company alone as a result of this terrorist activity. And what has the Congress done? Nothing. Why do the big dogs always eat first in Congress? It is time to take care of working people. Defeat this bill.

Mr. OXLEY. Mr. Speaker, I yield 2½ minutes to the gentleman from New York (Mr. GRUCCI), another valuable member of our committee.

Mr. GRUCCI. Mr. Speaker, I rise today to express my strong support for H.R. 3210, the Terrorist Risk Protection Act.

First, I would like to thank the gentleman from Ohio (Mr. OXLEY), the chairman of the Committee on Financial Services, and the gentleman from Louisiana (Mr. BAKER), chairman of the Subcommittee on Capital Markets, Insurance and Government Sponsored Enterprises, the Republican leadership, and my colleagues on the Committee on Financial Services for their tireless efforts to negotiate a comprehensive package to prevent the disruption and destabilization of America's markets via the collapse of our insurance industry.

The horrifying events of September 11 have touched each and everyone's lives in so many ways. Our Nation will never again be the same. These events have introduced new problems for industries and small businesses, because reinsurers have been telling primary insurers that they will exclude terrorist coverage from their policies. Now, without the ability to insure properties against future terrorist attacks, financial institutions will be unable to provide loans, New York will be unable to rebuild, and everyday business transactions will be disrupted. If we permit this to happen, we let the terrorists win.

Time is running out. On December 31, 2001, 70 percent of these reinsurance policies will expire. New policies are currently being negotiated without these necessary legislative changes. We should have passed this critical legislation in time for these companies to provide 45-day notices. Well, we missed that deadline; and now we have only 32 calendar days, leaving us only 16 business days until the Christmas holiday. Speaking as a former small businessman, I can tell my colleagues that does not provide much time for effective business decision-making, particularly in light of our Nation's current economic conditions.

H.R. 3210 creates a temporary industry risk-spreading program to ensure

the continued availability of commercial property and casualty insurance and reinsurance for American consumers. The post-event assessment system provides an incentive to provide coverage, spreads out risk, prevents guessing at costs, and does not take money out of the economy. This requires that all of the Federal funds used to boost liquidity are paid back by the commercial industry/policyholders over time.

This is sound, effective, and timely legislation; and I urge my colleagues to join me in supporting this critical measure and in supporting the economic stabilization of our country.

Mr. LAFALCE. Mr. Speaker, I yield 5 minutes to the gentleman from North Dakota (Mr. POMEROY), a former insurance commissioner for that great State.

Mr. POMEROY. Mr. Speaker, I thank the gentleman for yielding me this time, and I commend him and the rest of the leadership of the committee, including Chairman OXLEY, ranking member LAFALCE, Subcommittee Chairman BAKER, and ranking member KANJORSKI for their really terrific work on this matter. This should be the finest hour for the Committee on Financial Services.

We have an issue where there is broad bipartisan agreement. We need to act. We need to act now. Because without enactment before we go home, there will be significant capacity consequences in the availability of coverage for terrorism. The ripple effect of that through the economy will be significant. And that is why we have to act.

Now, under these circumstances, committee leadership undertook this difficult assignment of creating some kind of public mechanism to wrap around the private insurance capacity to continue to insure this risk, a risk that has grown infinitely more grave and significant. Out of this long, rather intense legislative process came a bill that, after committee markup, passed by voice vote, virtually capturing all of the members of the committee.

Now, it was recognized by committee leadership not to be the perfect bill, that more work would be required; but it was the legislative format for the congressional response that, I believe, would have provided direction to the Senate and would have been the principal way in the end we enact this legislation. Well, what happened? This work product was taken away from the committee. It was ripped up and rewritten. It was wrecked and brought forward.

And the irony of ironies is that now the chairman of the Committee on Financial Services has to lead the debate for its enactment. I believe the committee leadership deserved better than this in light of the fair-minded effort they made to get a solution created.

There are two reasons to oppose this bill: substance and process. And the argument as to substance, I believe, has been very well advanced by previous speakers; and I will not reiterate that part. But I do want to speak a bit on process.

This is one of the most technically difficult assignments this body has undertaken, and to do it in a tight time frame makes it particularly difficult. There are lots of ways that have been advanced in terms of how we construct this assistance to keep terrorism coverage available. The administration took a whack at it. They had one approach. A bipartisan effort between Senator DODD and Senator GRAMM in the Senate took another approach. Chairman BAKER worked with Chairman OXLEY to construct an approach that, in the end, was quite a bit like the approach taken by ranking members LAFALCE and KANJORSKI.

Out of all these approaches, none of them have the offending provisions slapped on in a kind of a haphazard, almost cavalier way by House majority leadership in bringing this form. What they have done is thrown a red herring into this whole debate as to how we construct the package.

I believe passage of this bill does not advance completion of the terrorism insurance assignment; I think it makes it even more difficult. Because rather than focusing on the technically demanding issues before us, we are also going to be debating unrelated, ideological points of agenda that really have no place, especially when considering the dwindling hours we have to get this bill into place.

I believe that, in the end, we have to act; but we can best act by rejecting the flawed proposal that has been put before us and going back to the committee, bring their bill forward to get this on the track that we need to go.

Mr. OXLEY. Mr. Speaker, I yield 2 minutes to the gentleman from Virginia (Mr. CANTOR), a new member of our committee.

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

Mr. CANTOR. Mr. Speaker, I commend the gentleman from Ohio (Mr. OXLEY), chairman of the full committee; the gentleman from Louisiana (Mr. BAKER), chairman of the subcommittee; and the gentleman from New York (Mr. LAFALCE), ranking minority member, for bringing this most critical, critical bill to the floor.

As has been said before, on September 11, thousands of innocent Americans were killed in a savage terrorist attack that no one could ever have imagined. This catastrophe, though, also has left the American economy and American businesses with an insurance crisis. Seventy percent of insurance contracts in this country expire at year's end. As a small businessperson, I know that there are millions of individuals out there now receiving expiration notices not knowing what to do come year-end.

If we look at it, if there is no insurance, business owners across America, both small and large, may all be in default of loan covenants which require collateral to be insured against terrorist strikes. Without this bill, there will be no such insurance.

Some individuals may fear the worst and close or put a halt to expansion plans. We can forget about growth in our cities and towns. What bank will loan money to build a shopping center or an office building without insurance to protect their investments in such a project? And then where will the jobs be without those projects?

H.R. 3210 addresses this impending crisis not by an industry bailout but by extending credit to cover claims associated with terrorist strikes akin to those on 9–11. Such loans will be repaid through industry assessments so that American taxpayers will remain whole. Mr. Speaker, I also commend both Chairman OXLEY and Chairman BAKER on the very innovative way that this bill tries to provide a resolution to this impending crisis. It does provide a fix.

And I would say we ought to support this bill because of the substance. There are no mandates on terrorism coverage, so, therefore, if there is a small business owner, let us say in Orange, Virginia, who has a small ice cream shop and chooses not to pay for that particular coverage because of the cost, that business owner ought not be made to do so. Yet the bill also provides for protection against those who may seek compensation in lawsuits against a terrorist strike.

Let us not put the bill on the American people; let us put the bill on the terrorists. It is the terrorists who were responsible for the strikes on 9–11 and will be responsible if it occurs in the future.

Mr. Speaker, I urge passage of the bill.

Mr. LAFALCE. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. SHERMAN), a distinguished member of the Committee on Financial Services.

Mr. SHERMAN. Mr. Speaker, I am sure you have visited Rayburn 2128, the room in which the Committee on Financial Services meets. It is a large and beautiful room, and I would propose that we make that room available to provide housing for the homeless. Because what went on in that room in crafting this bill has nothing to do with the bill that reaches the floor.

□ 1400

Mr. Speaker, if all of our financial services bills are to be written in the Committee on Rules on the third floor of this building, why must people sleep out in the cold when they could be provided housing in room 2128?

In fact, we are presented this bill on very short notice, basically 24 hours' notice, and it has so many changes from the bill that left our committee. One of the flaws in this bill is that it provides first dollar coverage with no deductible. What does this mean? It means that if there is a terrorist event

that causes a billion dollars in damage, less one penny, comes within 1 cent of causing a billion dollars of damage, the Federal Government does nothing.

But if instead the damage is a billion dollars, plus one penny, then the taxpayers come forward with $900 million. Never has 1 cent mattered so much, and that is clearly absurd.

We need instead a bill that says that the first billion dollars is absorbed by the insurance and reinsurance industry, and only then should taxpayer dollars be involved. What, after all, is the insurance industry if it cannot absorb in total, with all of its companies and all of the reinsurance companies, a billion dollars in risk? If insurance companies cannot take the first billion of risk, then why do they exist? They are, after all, in the risk-sharing and risk-absorption business.

We need a bill. Many speakers who have come forward have explained why it is so important that we pass a bill so that those who own businesses are able to get terrorism insurance; or, rather, continue to get the kind of insurance that they have now without an exception for terrorist damage. That is why it is so important that those who want a bill vote for the Democratic substitute, because that is a bill that could be passed by both Houses, that is a bill that could be signed into law before we adjourn. That is serious economic policy.

Instead, we have a bill with loathsome, absurd, highly partisan, quote, tort-reform provisions; provisions which everyone knows cannot be passed on a bipartisan basis. I would point out that they deprive those that lose a child of any recourse at all, not one penny, to the parents who lose their child to terrorism.

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

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

Mr. Speaker, this is important legislation. It is legislation that I want to see enacted into law before we adjourn this year. But the substance of the bill before us and the procedure that we have used to get here is atrocious. It is not necessary to take away victims' rights. This bill does that. It does it in a very heavy-handed manner.

There ought to be a deductible. That is, the insurance industry should be paying the first dollar up to a certain amount and the Federal reimbursement payment should come in only after that. Their bill is grossly deficient in that respect.

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

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

Mr. Speaker, this legislation is absolutely necessary. That is why this committee is charged by the Speaker to produce a bill, and produced it in virtually record time. That is why during a day-long markup, it culminated in a voice vote for the legislation. And that is why, frankly, the substitute that is going to be offered by the gentleman from New York (Mr. LAFALCE) contains 85–90 percent of the bill that came out of our committee.

Let us understand that most of this debate today, at least on the other side, has been about legal reforms, liability reforms, and not about the specific areas that were negotiated and worked on and I think is an excellent work product; and, in fact, solves the problem that all of us want to solve, and that is the availability of insurance to make certain that our economy continues to move forward. That is what all of us have as a goal.

As we pass this bill on to the other body, it is important that the House send a strong signal that we are prepared to meet that challenge. This legislation, this underlying legislation, is exactly what the patient needs to provide the kind of stability in the insurance market that all of us desire.

Make no mistake about it, this Congress will pass this legislation, this type of legislation, before we return home. We have no other choice, it seems to me. If we do not, we face political peril, should the economy start to unravel, with the unavailability of credit in this dynamic marketplace.

Mr. Speaker, my hat is off to all of those who participated in this great endeavor.

Mr. PAUL. Mr. Speaker, no one doubts that the government has a role to play in compensating American citizens who are victimized by terrorist attacks. However, Congress should not lose sight of fundamental economic and constitutional principles when considering how best to provide the victims of terrorist attacks just compensation. I am afraid that H.R. 3210, the Terrorism Risk Protection Act, violates several of those principles and therefore passage of this bill is not in the best interests of the American people.

Under H.R. 3210, taxpayers are responsible for paying 90 percent of the costs of a terrorist incident when the total cost of that incident exceeds a certain threshold. While insurance companies technically are responsible under the bill for paying back monies received from the Treasury, the administrator of this program may defer repayment of the majority of the subsidy in order to "avoid the likely insolvency of the commercial insurer," or avoid "unreasonable economic disruption and market instability." This language may cause administrators to defer indefinitely the repayment of the loans, thus causing taxpayers to permanently bear the loss. This scenario is especially likely when one considers that "avoid . . . likely insolvency, unreasonable economic disruption, and market instability" are highly subjective standards, and that any administrator who attempts to enforce a strict repayment schedule likely will come under heavy political pressure to be more "flexible" in collecting debts owed to the taxpayers.

The drafters of H.R. 3210 claim that this creates a "temporary" government program. However, Mr. Speaker, what happens in three years if industry lobbyists come to Capitol Hill to explain that there is still a need for this program because of the continuing threat of terrorist attacks. Does anyone seriously believe that Congress will refuse to reauthorize this "temporary" insurance program or provide some other form of taxpayer help to the insurance industry? I would like to remind my colleagues that the federal budget is full of expenditures for long-lasting programs that were originally intended to be "temporary."

H.R. 3210 compounds the danger to taxpayers because of what economists call the "moral hazard" problem. A moral hazard is created when individuals have the costs incurred from a risky action subsidized by a third party. In such a case individuals may engage in unnecessary risks or fail to take steps to minimize their risks. After all, if a third party will bear the costs of negative consequences of risky behavior, why should individuals invest their resources in avoiding or minimizing risk?

While no one can plan for terrorist attacks, individuals and businesses can take steps to enhance security. For example, I think we would all agree that industrial plants in the United States enjoy reasonably good security. They are protected not by the local police, but by owners putting up barbed wire fences, hiring guards with guns, and requiring identification cards to enter. One reason private firms put these security measures in place is because insurance companies provide them with incentives, in the form of lower premiums, to adopt security measures. H.R. 3210 contains no incentives for this private activity. The bill does not even recognize the important role insurance plays in providing incentives to minimize risks. By removing an incentive for private parties to avoid or at least mitigate the damage from a future terrorist attack, the government inadvertently increases the damage that will be inflicted by future attacks.

Instead of forcing taxpayers to subsidize the costs of terrorism insurance, Congress should consider creating a tax credit or deduction for premiums paid for terrorism insurance, as well as a deduction for claims and other costs borne by the insurance industry connected with offering terrorism insurance. A tax credit approach reduces government's control over the insurance market. Furthermore, since a tax credit approach encourages people to devote more of their own resources to terrorism insurance, the moral hazard problems associated with federally funded insurance is avoided.

The version of H.R. 3210 passed by the Financial Services committee took a good first step in this direction by repealing the tax penalty which prevents insurance companies from properly reserving funds for human-created catastrophes. I am disappointed that this sensible provision was removed from the final bill. Instead, H.R. 3210 instructs the Treasury Department to study the benefits of allowing insurers to establish tax-free reserves to cover losses from terrorist events. The perceived need to study the wisdom of cutting taxes while expanding the Federal Government without hesitation demonstrates much that is wrong with Washington.

In conclusion, Mr. Speaker, H.R. 3210 may reduce the risk to insurance companies from future losses, but it increases the costs incurred by American taxpayers. More significantly, by ignoring the moral hazard problem this bill may have the unintended consequence of increasing the losses suffered in any future terrorist attacks. Therefore, passage of this bill is not in the long-term interests of the American people.

Mr. GILMAN. Mr. Speaker, I rise today in strong support of H.R. 3210, the Terrorism Risk Protection Act.

This legislation addresses a critical need of the insurance industry, that has so far been overlooked by Congress in the wake of the events of September 11.

It is a common practice for companies that serve as primary insurers in the property and casualty field to take out secondary policies with other companies in order to cover themselves against the possibility of having to make large payouts on future claims.

In the wake of September 11, virtually all of the secondary insurers have announced that they will no longer cover acts of terrorism when the policies they have sold come up for renewal, effective January 1, 2002. The insurance industry estimates that approximately 70 percent of the secondary policies will expire at the end of the current year.

Unless Congress takes immediate action, primary insurers will not be able to offer coverage against terrorism in their property and casualty accounts. Under these circumstances any future successful terrorist attack would have a devastating impact on both the national economy and the local economy where the attack occurs.

This legislation enlists the Federal Government to serve as a stabilizing force in the insurance market, as well as a safety net to cushion the economic effects of future acts of terrorism. Under this bill, insurers would help create a pool from which funds could be drawn to help meet future payout contingencies.

In the case where an event causes payouts to exceed $100 million, the Federal Government would step in and assume 90 percent of the burden with the remaining 10 percent coming from the industry. A similar program would be put in place for large companies for an event that exceeds $20 billion in payout costs.

Mr. Speaker, it is imperative that Congress address this immediate need to head off what would be a catastrophic blow to the insurance industry. American businesses need to be reassured that the insurance industry is both financially sound and able to meet their coverage obligations in the new terror-prone world, since September 11.

Our country was in the midst of a recession when those barbaric acts of September 11 took place. We have all witnessed the resulting shock waves that were sent through the economy. Recent evidence suggests that we may finally be on the road to economic recovery. The resulting damage from a future act of terrorism against an uninsured business sector is too awful to contemplate.

Fortunately, this scenario is easily preventable and we in Congress must take the necessary steps to ensure that this future does not come to pass. Our swift passage of H.R. 3210 will serve that purpose.

I therefore strongly urge my colleagues to lend support to this vital measure.

Mr. BEREUTER. Mr. Speaker, this Member rises today to express his support for H.R. 3210, the Terrorism Risk Protection Act. This legislation will help ensure that businesses are able to acquire property and casualty insurance while still providing full taxpayer protection against terrorist losses.

This Member would like to thank the distinguished Chairman of the House Financial Services Committee from Ohio (Mr. OXLEY) for both introducing this legislation and for his efforts in moving this legislation. Additional appreciation is expressed to the distinguished gentleman from Louisiana (Mr. BAKER) who played a crucial role in drafting this legislation. On most crucial parts of this legislation there was bipartisan cooperation and assistance led by the ranking minority member of the Committee, the distinguished gentleman from New York (Mr. LAFALCE).

The uncertainty caused by the terrorist events on September 11 have resulted in our attention to the possibility of severe future problems for the insurance industry and the insured, even a crisis, from additional severe terrorist attacks. To illustrate this, reinsurance companies provide insurance against massive losses for insurance companies. Many commercial reinsurance policies need to be renewed by a December 31 deadline of this year. Since this terrorist attack, many primary insurance companies, because they cannot receive reinsurance, have sent notice cancellations to businesses indicating that they will not receive coverage for losses caused by terrorist activities. If both small and large businesses are unable to receive insurance coverage for acts of terrorism by the end of the year, it will contribute to the further instability of the American economy. Insurance provides a very important element of the stability needed by businesses to continue functioning and investing, and for bankers to continue lending to businesses.

As a member of the House Financial Services Committee, which has jurisdiction over the important elements of the limited Federal role in commercial insurance, this Member supports this legislation for the following two reasons. First, obviously it helps ensure that commercial insurance continues to be available for businesses—and available at affordable costs. Second, it provides necessary taxpayer protections against possible severe terrorist losses to businesses.

Under this legislation, Federal assistance will be provided to those commercial insurers which have suffered a significant terrorist loss over a specific dollar threshold. The Secretary of the Treasury will determine if there has been an industry-wide loss to the commercial property and casualty insurance industry exceeding $1 billion due to a terrorist act. In addition, the Secretary of the Treasury can also make a company-specific triggering determination if industry-wide losses exceed $100 million and the portion of those losses for the insurer exceed both 10 percent of the company's capital surplus and net premiums.

If one of these thresholds is reached, the Federal Government will provide to each relevant insurance company 90 percent of the amount of insured terrorism losses minus $5 million. This Federal cost-sharing is capped at $100 billion.

Unlike the different Senate approaches which are being proposed, the House legislation requires the Federal assistance to be paid back in full by the insurance companies who suffered the terrorist loss. Under H.R. 3210, the relevant insurance companies will be required to pay assessments back to the Federal Government for up to $20 billion of Federal assistance over a three year time period. Above this $20 billion threshold, up to $100 billion, in order to recoup the level of Federal assistance, the Secretary of the Treasury will impose a commercial policyholder surcharge.

Since the insurance companies are required to pay back the Federal Government for the exact level of Federal assistance through both assessments on the industry and/or commercial policyholder surcharges, this legislation ensures that taxpayers are not liable for the Federal cost-sharing. Therefore, this legislation is not an insurance company bailout; it protects the American taxpayer against a big hit while continuing to maintain insurability against terrorist attacks.

This legislation also protects taxpayers from punitive damages against insurance companies for terrorist loses in Federal court. Since the Federal Government is providing assistance to insurance companies in cases of significant terrorist losses, punitive damages against insurance companies could result in taxpayer liability. This legislation does not limit a plaintiff's right to hold a primary tortfeasor liable for a terrorist act. For my Nebraska constituents, it is important to note that punitive damages are not allowed under Nebraska state law in Nebraska state courts.

In conclusion, since this legislation balances the need of businesses to continue to receive commercial insurance against terrorist acts at affordable costs, with taxpayer liability protection, this Member urges his colleagues to support H.R. 3210.

Ms. HARMAN. Mr. Speaker, I rise in reluctant opposition to the Terrorism Risk Protection Act.

I do not disagree that the business of commercial insurance underwriting faces difficult times ahead as we confront the threat of terrorism against our homeland. But we have our priorities backward.

Insurance underwriters are not the only ones facing difficult times. Since September 11, hundreds of thousands of workers have lost their jobs because of the attacks and subsequent accelerated economic slowdown. Indeed, I have met on several occasions with hundreds of workers in California's 36th District whose livelihoods and futures were suspended when they were laid off following the attacks.

Many of these workers were directly employed in the aviation industry, which took a tremendous hit on September 11. Many thousands more were employed at Los Angeles International Airport and in the associated hospitality industry, which relies on business travelers and tourists. Hundreds more were affected as the consequences of September 11 rippled through the local economy.

Mr. Speaker, these individuals and their families are my top priorities. Last month I introduced legislation to give first preference to qualified laid-off aviation workers for the new airport security positions created by the Aviation Security Act. Regrettably, that bill languishes in the Transportation and Infrastructure Committee, though 44 of my colleagues recently joined me in writing Transportation Secretary Norm Mineta requesting that he incorporate this initiative in the regulations he issues to implement the new Airline Security Act.

Aiding unemployed workers can no longer take a back seat. Indeed, the House is still waiting for the Speaker of the House to fulfill the promise he made at the time of the Airline Bailout Bill to bring to the floor legislation providing relief to these individuals.

Until Congress and the Administration act to aid these unemployed workers, I cannot in

good conscience support a bill that addresses one more industry, however meritorious their claim.

Ms. SCHAKOWSKY. Mr. Speaker, I rise today in strong opposition to H.R. 3210, the Terrorism Risk Protection Act, and in support of the LaFalce substitute to that bill.

Once again, the House is being asked to consider legislation that purports to address a legitimate public need but which is cloaked in special interest giveaways that do harm to the public interest.

First, we acted to provide a $15 billion airline bailout that did nothing to help laid-off airline workers, improve safety or even guarantee that funds would be reinvested in improving American airlines. Airline workers are still waiting for unemployment insurance compensation and health care benefits. The need to help airlines and their employees after the tragedies of September 11 was legitimate, but the legislation we passed was a special interest giveaway that failed to meet that need.

Second, we passed a so-called economic stimulus bill that will do little to stimulate the economy but instead includes tax breaks for the wealthy and for giant corporations, including refunds for taxes paid back to 1986 and incentives to invest overseas. And, again, the needs of laid-off workers and their families are ignored. We need to enact economic recovery measures, but the House-passed bill is largely a package of long-demanded tax breaks that will bring little, if any, benefit to the vast majority of American families and small businesses.

Today, we are being asked to pass the legislation that not only provides an unwarranted bailout to the insurance industry but actually takes away consumer protections by making it extremely difficult for those injured to seek full compensation. Again, there is a legitimate concern. Although no one denies that the insurance industry has sufficient revenues to meet its current obligations, there is a need to address the decision of reinsurance companies to stop providing terrorism risk coverage in the future. This problem would seem to demand a narrow, well-considered approach. But this vehicle has served as a magnet for companies that are trying to avoid responsibility by limiting their payout liabilities and by preventing injured consumers from getting their fair day in court.

As the Washington Post reported today, ''The insurance industry's lobbying campaign for federal help covering future terrorism claims was in full swing last month when a group representing Lloyd's of London investors published a newsletter highlighting the 'historic opportunity' for insurers to make money after the September 11 attacks.'' This is not the history that we want to write here today.

In the event of future terrorist attacks, H.R. 3210 requires that U.S. taxpayers pay for 90 percent of all claims, including first dollar losses. It is simply outrageous that, as unemployed workers and their families are waiting for federal assistance, our first priority should be to bail out an insurance industry that is sitting on major reserves. The LaFalce substitute, unlike the underlying bill, would require that the industry pay a deductible of at least $5 to $10 billion annually. The LaFalce substitute not only protects U.S. taxpayers, it ensures that insurance companies will still have incentives to press their policyholders to act to improve safety and security. That is why groups like Consumer Federation of America, the National Taxpayers Union, and Consumers Union oppose H.R. 3210 and support the LaFalce substitute.

Even more disturbing to me than the size of the potential bailout in H.R. 3210 is the assault on the rights of victims. There is no justification for taking away the rights of injured consumers or their families to seek redress through our civil justice system. There is no justification for immunizing companies from dangerous behavior. Yet, H.R. 3210 would do just that.

H.R. 3210 would prevent future juries from awarding punitive damages. These damages are extremely rare and used only where injuries are caused by recklessly dangerous and irresponsible conduct. Under H.R. 3210, a security firm that hires felons, a building owner who refuses to put in fire escapes, a construction firm that doesn't meet building codes, or a company that fails to provide escape procedures for persons with disabilities would be immunized from punitive damages.

H.R. 3210 also limits a jury's or judge's discretion to award non-economic damages. If we agree to this provision, we are saying that the loss of a child or husband and the inability to walk or have children are injuries that are not worthy of full compensation.

Finally, H.R. 3210 provides a one-sided and unfair limitation on victims by limiting attorney's fees. Defendants would, of course, be free to pay their attorneys whatever they wish. But plaintiffs, who usually rely on a contingency fee system because they lack the funds to pay up front lawyers' fees, are hampered. As a result, victims may find it difficult to find qualified attorneys to take what may be complicated and costly cases to prepare.

Unlike H.R. 3210, the LaFalce substitute leaves our civil justice system intact. It does not assault the rights of victims. And it leaves in place the potential for damages that will encourage firms to be as careful as possible in improving security and contingency plans.

We pray that we will not suffer from future terrorist attacks. But, as we mourn the victims of September 11, we must not take away the rights of any future victims or their families. Nor should we reduce the incentives on the insurance industry and other companies to do everything possible to prevent terrorist attacks or prepare safety measures in case they occur. By limiting insurance industry liability, shielding wrongdoers from liability, and reducing the ability of victims to recover for their losses, H.R. 3210 would do far more harm than good. It should be defeated.

Mr. CHAMBLISS. Mr. Speaker, I support H.R. 3210, the Terrorism Risk Protection Act. We worked hard to make sure that the taxpayers' money is protected and that we have taken care of the victims of terrorism.

The Terrorism Risk Protection Act is essential to America's economic security. Right now, we have a problem: small insurers can be overwhelmed by the cost of a terrorist attack; a major of insurance contracts will expire at the end of the year, destabilizing our economy if nothing is done; and currently, insurers have no incentive to ''write in'' terrorism coverage in their policies.

As Members of both parties have repeatedly pointed out, this bill protects every sector of the economy—every noninsurance worker and employer—by providing a temporary legislative backstop that will make it possible for American companies to gain the insurance they need to continue operating in the post-September 11 environment where threats of terrorism still exist.

The Terrorism Risk Protection Act is a very pro-taxpayer, pro-consumer proposal, which provides significant benefits to both commercial industry and policyholders, while requiring relatively little regulation.

By passing the Terrorism Risk Protection Act, today we greatly increase the capacity of insurers to offer terrorism coverage; we protect small and large policyholders insurers, while retaining incentives for risk management and efficient claims processing.

However, I do have reservations on expanding the scope of the punitive damages ban beyond simply the use of government funds by attaching tort reform language to this legislation. Instead of limiting punitive damages we should ensure that the wrongdoer bear the financial burden, not an insurance company or the taxpayer. I am concerned that the inclusion of punitive damage language would limit victims' rights by protecting companies that fail to implement appropriate safety measures or do not act responsibly in the face of credible threats. My preference would have been to pass a bill without attaching the tort reform measure.

We have worked hard over the past few days and weeks to avoid the possibility of any economic disruption that could result from a lack of available, affordable terrorism insurance. Today, I am proud to say that we have worked to help provide commercial insurance for terrorism and strengthen our economy by passing the Terrorism Risk Protection Act.

Mr. MENENDEZ. Mr. Speaker, we could have and should have a much stronger bill on the floor, both to protect our economy, and to protect the victims of terrorist attacks.

Given the extraordinary circumstances, it is reasonable to provide a Federal ''backstop'' to the insurance industry for terrorist attacks. Developers, builders, and the people they employ need to know that insurance is available—otherwise, important projects may come to a halt, American commerce will be hurt, and jobs will be lost. The problem is while the Republican bill provides a guarantee to the insurance industry, it does not in turn require that the industry provides the insurance when it is needed; the Democratic substitute does.

We also need to make sure that in the event of an attack, victims can go after any negligent parties. But the Republican bill severely limits victims' rights—even in cases where the negligence was willful. That is not, in my view, a defensible position.

Finally, while we are undertaking this important effort, we should also be doing much more for the many American workers who have already lost their jobs.

I support guaranteeing insurance against terrorism is readily available.

I support full victims' rights.

And it is because of my belief in those principles that I must oppose final passage, with the hope and trust that these deficiencies can be fixed in conference.

Mr. MALONEY of Connecticut. Mr. Speaker, I want to urge my colleagues to support final passage of this important legislation. I want to thank Ranking Member LAFALCE and Congressman KANJORSKI for all their hard work in bringing an economically vital issue to the top of Congress' agenda.

Finding a solution to the impending insurance crisis is vital to our long-term economic security. Unfortunately, the events of September 11 have made a substantial impact on the marketplace and we now face contracting insurance and reinsurance markets. This tightening could have a devastating effect on the economy, particularly with regard to real estate markets, small business lending, and urban development activities. Without insurance, banks will not lend money to developers, businesses will be unable to get financing for new projects, and credit will be scarce as investors will be unwilling to take on the additional risk of not having insurance. Providing a Federal backstop is critical to guaranteeing that insurance remains available.

Unfortunately, the bill before us today contains some very troubling provisions that would weaken our legal system of mutual responsibility. I want to make it clear that I will continue working to remove these overly broad and extreme provisions from this legislation. However, as insurance is the linchpin of our Nation's economic stability, we must act on this important issue. Our economy depends on it.

I look forward to working with my colleagues through conference as this bill moves forward. I am committed to developing a final legislative product that will provide our economy with the stability that insurance guarantees, without weakening our legal system of mutual responsibility.

Mr. BLUMENAUER. Mr. Speaker, I rise in opposition to this bill. I commend the Financial Services Committee on their hard work to reach a compromise on this important issue. To maintain stability within the insurance industry and the economy as a whole, it is essential that the Federal Government provide a backstop for losses due to potential acts of terrorism. It is too bad the Republican leadership and their Rules Committee are undercutting this work.

I will not vote for a bill in which the democratic process has once again been subverted in favor of a partisan maneuver. It risks needlessly delaying important relief that we could approve and have on the President's desk in a matter of hours. In fact, this is a continuation of a pattern that's moving beyond partisanship to a point where it is reckless. These bills have been twisted beyond recognition of any solution reached by the original bill. First it was the Airline Bailout, then the PATRIOT Act which passed out of the Judiciary Committee unanimously only to be substituted with a Republican alternative. The pattern continued with the Economic Stimulus package and the Airline Security bill. It is unconscionable that the Republican leadership continue to act in such a partisan manner to delay this legislation when it is critical that Congress act quickly and in a united fashion to stabilize our insurance industry and assure help to those in dire need.

H.R. 3210, as amended in the Rules Committee, attempts to force adoption of extraordinarily controversial changes in legal procedures that have nothing to do with preserving a market for terrorism insurance coverage. The end result is that the rights of victims and their families to recover fair compensation would be greatly limited in any future terrorist related incidents.

For instance, the bill seeks to ban punitive damages, which would shield all defendants, not just insurers, even those who had been criminally negligent. As an example, this bill would protect a building owner from paying punitive damages who, despite numerous citations and warnings, refused to install emergency lighting and escape routes in his building. Residents and families of residents injured or killed during a terrorist attack as a result of the owner's disregard for State or local safety codes should be allowed to pursue their claims to the full extent of the law. The bill also limits the ability of victims to receive awards for noneconomic damages. These issues have no place in this urgent terrorism insurance bill. Because the Republican leadership will not allow a vote on a clean bill, I have no choice but to vote no. I will not support the continued actions of the Republican leadership to undercut the committee process that is essential to effective solutions.

Mr. BAKER. Mr. Speaker, as chairman of the House Subcommittee on Capital Markets, Insurance, and Government-Sponsored Enterprises, I rise in strong support of the bipartisan Terrorism Risk Protection Act. I also wish to thank Financial Services committee Chairman OXLEY for his leadership on this issue and to recognize the efforts of committee and subcommittee Ranking Members LAFALCE and KANJORKSI.

While economic uncertainty can lead to stock market volatility and wide fluctuations in value—a phenomenon we are now witnessing daily—uncertainty in the operation of a business can be downright halting or fatal. This is why insurance plays such a vital role in our economy, providing security in calamity and the promise of liquidity necessary for the smooth functioning of the wheels of commerce.

Fortunately, property-and-casualty insurers were able to cover obligations for the estimated $40 billion in damages related to September 11. But that may not be the case should any subsequent and comparably costly events take place. Worse still, the availability and affordability of terrorism insurance itself will become increasingly less likely. The primary cause for the terrorism coverage crunch is the fact that reinsurance companies, which back up the insurers by helping them spread risk, say they will not renew terrorism-related coverage by December 31, when some 70 percent of policies expire.

Insurers and reinsurers cannot underwrite infinite risks with finite capital. Without the ability to spread risk through reinsurers, insurance companies face constraints against covering businesses against acts of terrorism. Here's the result, as one magazine recently put it: ''With no coverage, lenders won't lend, builders won't build, and business will grind to a halt.''

With an already weakened economy, many in Congress understand that, like it or not, the Federal Government must take action quickly to avert such a systemic catastrophe. But there have been differences over the scope and form of this government intervention in the marketplace, and, it now appears, over just how urgently action is needed.

The Financial Services Committee overwhelmingly passed the House's legislative response, H.R. 3210. Today I come before you to impress upon you the need for passage of this important bill and why, on three points in particular, it will be important for us to maintain the integrity of the bill.

Time is of the essence. Commercial property and casualty insurance is usually written on a 1- or 2-year basis, with approximately 70 percent of reinsurance contracts up for renewal on January 1, 2002. The potential unavailability of terrorism risk coverage for businesses comes at precisely the time of greatest demand for the insurance. Moreover, insurance coverage is almost universally a requirement of any commercial lending contract. Lenders will simply not provide financing for new or existing construction without certainty that the properties and businesses that they are funding have adequate insurance to protect the lenders' investment. Thus, the lack of available insurance for terrorism risk has adverse consequences that would spread throughout the entire economy and stifle its growth. There is a high probability that the economy as a whole would suffer tremendously without meaningful and affordable terrorism coverage.

To say that these policies expire on December 31 is not to say that we, as policymakers, have until that time to take decisive action. In fact, in many cases we have already crossed the threshold into that time when businesses begin their search and make their arrangements to secure coverage for next year. Even under normal circumstances this process, in itself, takes time, typically a month or even more. We have worked closely with the Financial Services Committee Democrats to address many of their concerns regarding the insurance mechanism established by the bill. Furthermore, we have cooperated with the other committees of jurisdiction, specifically, the Judiciary and Ways and Means Committees to ensure that this legislation represents the best efforts of this body as a whole. I believe that the Armey bill introduced today reflects this bipartisan achievement.

Unfortunately, the other Chamber of Congress has not even begun serious consideration of this issue. Already, with each passing day of congressional inactivity in providing assistance for the affordability and availability of terrorism insurance, we run the risk of being held accountable, and deservedly so, for fiddling while Rome burned.

We must limit government exposure to actual losses and provide timely and efficient adjudication of claims. Acts of terrorism give rise to very unique sets of facts and a complexity of interested parties that is uncommon in tort law. It is essential that the administration of the program established by this legislation is performed in a consistent and timely manner. Additionally, the exposure of the Federal Government as an insurer for anything other than actual losses should be avoided.

To these ends this bill creates an exclusive Federal cause of action and limits the venues in which claims can be brought. We do not want to see a situation like the 1993 World Trade Center bombing where cases are just now going to trial.

H.R. 3210 also prohibits claims for punitive damages arising out of terrorist acts and does not allow joint and several liability for noneconomic damages caused by terrorist acts.

The sovereign immunity provisions of this bill will help ensure the fair and prompt distribution of the enormous public and private resources that would be needed to respond to terrorist acts of any magnitude.

We must maintain provisions of repayment of taxpayer dollars. Unlike all other proposals,

H.R. 3210 protects taxpayers, requiring insurers, when they're again able to stand on their own two feet, to pay back over time whatever taxpayer dollars they received during their short-term time of need. Without this I personally don't see how any proposal could be called anything but a bailout—an open checkbook, drawn out of taxpayer pockets.

Paying back government assistance is neither a liberal nor a conservative concept. Or more precisely, it's both liberal and conservative, because it values common sense and, above all, our common concerns of fairness for both consumers and taxpayers—two groups rarely, if ever, afforded the opportunity to skip out on their bills. Not surprisingly, both the Consumer Federation of America and the Citizens Against Government Waste, two prominent grass-roots advocacy groups, have come out in support of the ''loan-based'' over the ''giveaway'' approach to the insurance industry.

Changes in the Tax Code are our only mechanism to provide an exit strategy for taxpayers. Again, unlike other proposals, our bill points toward how—not just when—the Federal Government can end its market intervention. It includes a study of tax-free reserving of insurance funds for terrorism risk to assist the private market that, at the end of the day, will be made healthier, stronger, and more independent than it was when we began.

The reason we're in this bind to begin with, remember, is that reinsurance companies, mostly located offshore in Europe, will no longer make their pool of resources available for backing terrorism insurers. In the long run, the strongest answer to the reinsurance vacuum, and the surest way to avoid having the government serving that function indefinitely, is to take away the barriers that keep American insurers from filling it themselves. We can accomplish this quite easily by simply deferring taxation on reserves that insurance companies can set aside and build up exclusively for protection against future terrorist attacks.

Hardly a ''tax break'' for insurance companies, which wouldn't be able to use the money for any other purpose, it would serve as a catalyst and incentive for an industry to end its own dependence on government. What we certainly don't need is a situation in which taxpayers unendingly subsidize an industry while it continues posting very healthy profits.

And, if we have a plan that provides market stability without simply giving away the taxpayers' money—one that temporarily backs insurers without indefinitely bailing them out—what else, really, do we need?

Mr. KNOLLENBERG. Mr. Speaker, I would like to commend Chairman OXLEY and Subcommittee Chairman RICHARD BAKER for their hard work on this legislation.

As a former insurance agent and counselor, I understand the challenges the insurance industry faces after the tragic events of September 11. I believe this bill moves us in the right direction to reach a solution before the end of the year when most of the current policies expire.

Let's be clear—we are not bailing out the insurance industry. But we must be equally clear that, without action, companies and individuals will face skyrocketing premiums or have to buy policies that do not cover terrorist events. No action risks further harm to our economy.

This bill provides a federal risk-sharing loan program to ensure the liquidity to the industry. The federal government will pay 90 percent of insurance claims once triggered by a terrorist event costing over $100 million. However, it also provides flexibility to help smaller companies who take a significant loss but do not reach that trigger amount. These loans will be repaid over time by the industry, providing assistance but not a bailout. The loan program sunsets after 1 year so that Congress can revisit any unforeseen consequences of this bill and make further changes.

I think this bill is a good starting point, and we must get started. I urge my colleagues to pass this legislation and settle our differences with the Senate in Conference quickly so we can get something to the President before the end of the year.

Mr. ENGEL. Mr. Speaker, I rise today in support of the effort to provide the insurance industry a helping hand in the aftermath of the September 11th attacks. The insurance industry estimates that it will have approximately $60 billion in claims as a direct result of these events. And though the industry has the available capital to cover these claims now, payment on future claims are in grave doubt. In fact, many insurance companies are considering dropping this product altogether. The damage to our Nation's economy if that were to happen would be grievous. Construction companies and building owners would not be able to get adequate insurance, which in turn would prevent them from being able to get access to bonds to build and renovate their structures.

Yet, what does the Majority bring to the floor today? Is it a bill that helps the insurance industry? Somewhat. What else does it do? The Republican majority is using this as a vehicle to advance one of its long held goals—tort reform. But, instead of having a full and just debate on tort reform, they are slipping provisions into a necessary and important bill.

And what do they do with these provisions? They once again tell the American people that the majority party believes people with lots of money are more important that the average American. This bill prevents non-economic damages from being awarded. If someone loses a spouse in a terrorist attack, all one can expect is remuneration for lost wages. But what about the other losses—such as companionship, emotional support, and parenting? Sorry, the majority says, you are out of luck there.

The insurance industry came to Congress with a sensible idea. It asked us to adopt a system similar to that of Britain by creating a terrorism reinsurance pool under which insurers voluntarily buy reinsurance coverage from the government, with pooled premiums being used to cover terrorism claims. Sounds pretty sensible to me. Instead, this bill creates a loan program—which might help, but certainly isn't the easiest or cleanest solution. If we can provide millions each year for the National Flood Insurance program, why can't we do the same for a terrorism reinsurance program.

Finally, my colleagues, I would like to take this opportunity to mention one thing that has come to my attention regarding the clean up of ground zero. The construction companies doing the clean up and removal presently have no indemnity for their work. In fact, they are still working without a written contract. Their workers are being exposed to an extremely hazardous working environment. If we are to provide liability protections to the airline industry and the building owners, I urge my colleagues to move immediately to provide indemnity protections to the construction companies. If we don't, these companies are in danger of financial ruin and future incidents of terrorism will have a very different response from such companies.

So, my colleagues, let's get serious about solving these problems. Vote no on this bill and support real reinsurance reform.

Mrs. CHRISTENSEN. Mr. Speaker, I rise in support of the beleaguered workers of this country who have been doubly affected by both the recession that the experts now say that we have been in since last spring and the ripple effects of September 11.

According to the Department of Labor, 415,000 Americans lost their jobs in the month of October. Eight hundred people in my very small district of the U.S. Virgin Islands have lost their jobs in our tourism dependent district—an increase of over 150 percent over last year. Travel agents, airline workers, taxi drivers, chefs and hotel service employees will now face the holidays without jobs, without health and other benefits in an economy that will be slow to absorb them any where else.

Mr. Speaker, we were right to provide relief for the airlines, but we will be remiss if we do not see the individual lives that are affected by the loss of jobs in the downturn of our once thriving economy. It is also right that we provide assistance to the insurance industry in the wake of the September 11th attack. I oppose the Republican Leadership terrorism insurance relief bill, though because it added unnecessary and unrelated provisions to advance their partisan agenda on tort reform. I support the LaFalce Democratic substitute, which avoids dramatic premium increases for businesses and consumers but also insures that industry assumes their appropriate financial responsibility.

Mr. Speaker, let's do right by the working men and women of our country. Let's provide relief that will help them weather this storm until our economy rebounds.

Mr. SCOTT. Mr. Speaker, I rise in opposition to H.R. 3210.

H.R. 3210, in its present form, contains a litany of tort reform provisions that are necessary to achieve the basic purpose of this bill. This bill began as a bipartisan effort to provide a mechanism for addressing the insurance risk in connection with terrorist acts, but has ended up as yet another vehicle to enact a one-sided, tort reform agenda, which has failed every time it has been subjected to the regular, deliberative legislative process.

Under this bill, all victims of a future terrorist act will be required to bring their action in federal court. Once the Secretary of the Treasury makes a determination that a ''terrorist act'' occurred, then all claims with any relation to that terrorist act must be brought in federal court. There would be no opportunity for a victim to choose to bring an action in state court, even though the state court may otherwise have jurisdiction over the matter and even though the state court may be more convenient or more efficient. This process will cause unnecessary complications related to the statute of limitations, if suit is filed in the wrong court, and will present unnecessary questions related to what ''related to terrorism'' means in those cases in which terrorism might have a vague connection to the cause of action. For example, are cases involving failure to perform

in a contract dispute ''related to terrorism'' if the airline disruption after September 11 is alleged to be a factor? And if a questionable ''related to terrorism'' defense is offered, must the case be remanded to federal court?

Worse, this bill contains radical liability limitations that are not even limited to cases involving insurance coverage and includes other provisions that bear little relationship to the issue of insurance. For example, future victims of terrorism would be precluded from collecting punitive damages—even in cases where it can be shown that the most outrageous acts of gross negligence or intentional misconduct contributed to the act of terrorism.

This bill would also severely limit the ability of the victims of terrorism to collect non-economic damages. Non-economic damages include physical impairment, disfigurement and mental anguish, and these will be denied, whether insurance is available or not.

Further, this bill puts extreme and unprecedented limits on plaintiff's attorney's fees. In the bill which purports to assist insurance companies, it is important to note that insurance companies do not pay plaintiff's attorney's fees; those fees are paid by the plaintiff out of the recovery. Therefore, the amount the insurance company pays is not effected by the size of the attorney's fee. The only effect this provision might have on the insurance company is to deny some plaintiffs the ability to hire an attorney to bring a meritorious claim. Only meritorious claims will be effected, because most attorneys get nothing, if there is no recovery. It is also important to note that the bill does not limit defense attorney's fees—which the insurance companies do pay.

There is no good reason for including these extreme tort reform provisions that will limit the rights of victims in a bill which is supposed to be designed to address the capacity of insurers to provide coverage for risks from terrorism. I therefore urge my colleagues to vote against H.R. 3210 in its current form.

Mr. BENTSEN. Mr. Speaker, regrettably I rise today in opposition to H.R. 3210, the Terrorism Risk Protection Act. I am very concerned about tort provisions that were added to the bill by the House Rules Committee. As an original cosponsor of H.R. 3210, I am disappointed that the House Rules Committee acted to rewrite this bill.

I strongly believe that we must act to ensure that terrorism insurance is available for our nation's property owners. Without such coverage, we endanger our nation's economy. With the current recession which we are experiencing, I do not believe that we should jeopardize our economy. Today, many property owners are receiving property insurance renewal notices which specifically exclude terrorism coverage. For many property owners, failure to purchase terrorism insurance may jeopardize their credit and result in devastating actions by their creditors.

I am disappointed that the underlying bill includes tort reform provisions which are fatally flawed. As a sponsor of an amendment to the liability provisions in this bill, I am concerned that the new liability provisions will hurt victims of terrorism and are not necessary for this bill. The underlying bill was introduced at the last minute with many onerous provisions which are not reasonable and fair. First, the liability section will preclude spouses of victims from seeking non-economic damages when a spouse is lost to a terrorism attack. I do not believe that the House of Representatives should be limiting spouses of victims to collect only lost wages and no other reparations. This is an unprecedented effort to cause economic hardships for victims of terrorism.

I am disappointed that the House of Representatives will have to vote today on the underlying bill which has been rewritten since it was reported from the House Financial Services Committee. As a senior member of the House Financial Services Committee, I offered a critically important amendment to the liability section of this bill. The Bentsen amendment would have protected the taxpayers by ensuring that the government nor the insurance policy could be held liable for either punitive damages or non-economic damages related to this coverage. I believe it is proper to provide this protection for the taxpayers. In order to protect consumers, my amendment ensures that consumers can seek both punitive and non-economic damages from parties who have committed a gross negligent act related to terrorist attacks. I believe that the Bentsen amendment is fair and reasonable. For example, an airline security firm should be responsible for its employees who allow a terrorist to knowingly pass through a security check. I also want to highlight that my amendment on tort reform was approved on a bipartisan basis and represented the consensus of our committee on this issue. I am disappointed that the House Rules Committee acted to eviscerate my language.

I also want to express my support for the underlying loan structure in the underlying bill. In fact, as an original cosponsor of H.R. 3210, I cosponsored this bill in part because of the loan structure included in it. I also strongly supported efforts to keep this program as a temporary program. During consideration of this bill, I offered an amendment that requires that this program can only be renewed on a yearly basis. In addition, my amendment requires the Administration to provide a report to Congress detailing why this program has been renewed. I believe that these accountability provisions are necessary to ensure that this program is established for a short time period. I believe that the reinsurance market for terrorism coverage will recover and we should act prudently.

Ms. ROYBAL-ALLARD. Mr. Speaker, I rise in opposition to H.R. 3210, the Terrorism Risk Protection Act.

It is true that certain key industries, including insurance companies, have been negatively impacted by the tragic events of September 11 and legitimately deserve assistance from the American public.

While the bill before us today provides some genuinely needed relief for the insurance industry, unfortunately it fails in other important ways.

First, instead of keeping the bill focused on providing a federal ''safety net'' for insurance companies in the wake of the September 11th attacks, the Republican leadership has included provisions that limit the rights of victims to pursue legal action as a result of any future terrorist attacks. These last-minute tort reform provisions include a complete ban on punitive damages, limits on non-economic damages, and caps on attorney's fees. These restrictions are not only unwarranted and unrelated to this bill, but they will severely limit the ability of victims to obtain any reimbursement they are due as a result of negligence. These provisions were not included in the bi-partisan bill approved by the Financial Services Committee and are completely unnecessary and unrelated to the insurance relief provided by the bill.

Next, I believe that in granting government assistance to any sector, Congress must take positive steps to ensure that these companies follow responsible and fair business practices by providing affordable, quality services to the American taxpayer.

In the case of the insurance industry, companies have a responsibility to make insurance coverage available at affordable rates to those who need it. History indicates that it is common for insurers to increase the cost of policies after major catastrophes, whether these are weather-related, riot-related or other events. Therefore it is conceivable that insurers may use the tragic events of September 11 to raise rates, withdraw from some markets, and try to shift risk onto the government.

As data from the California Department of Insurance shows, lack of affordable insurance is a serious problem for many communities, especially low and moderate-income communities and communities of color, such as in my Los Angeles-based Congressional District. When uninsured or under-insured buildings suffer damage in these communities, oftentimes they are not repaired or replaced. As a result, the property owner suffer financial losses and the community is exposed to social and economic instability. Homeowners, renters and business owners are all at risk.

Since the taxpayers are assuming the risk to prop up the insurance industry, Congress must put into place protections to insure that Americans have access to affordable, high quality insurance coverage for their homes and businesses.

Establishing requirements for insurance companies to publicly report the availability and affordability of their policies is a key component of these protections. Such public disclosure will inform Congress and the American people about the fairness of various insurance policies.

In addition, the insurance industry should be required to invest in low-income neighborhoods and minority communities. Because of the Community Reinvestment Act, banks have been required to invest in low-income neighborhoods and have found significantly financial opportunities in these communities. Investments such as these are particularly critical to struggling communities in the current difficult economically times. However, as the data from the California Department of Insurance and the California Reinvestment Committee shows, insurers have essentially balked at making significant contributions and investments in these communities. I am submitting this data for inclusion in the RECORD.

Mr. Speaker, as I have stated, the bill before us is fatally flawed. It insures that the insurance industry is protected while leaving too many Americans with little or no assurance of either affordable, quality insurance coverage or corporate investment in their communities.

I urge my colleagues to reject this flawed bill and pass a measure that insures protection for the American public not just the insurance industry.

CALIFORNIA REINVESTMENT COMMITTEE—INSURANCE INVESTMENT ISSUES

In 1999, Californians paid $81 billion in insurance premiums. Of those premiums, $36

billion were for property and casualty insurance coverage.

According to the 1998 California Insurance Commissioner's Report on Underserved Communities, only 6.43 percent of 1997 California property and casualty insurance policies were in the 138 underserved zip codes identified by the Department which represent 15 percent of the state's population. (This is the most recent report available.)

In 2000, the California Organized Investment Network (COIN), an investment unit of the California Department of Insurance designed by insurers, had only $108 million in investments, which represent 0.13 percent of 1999 insurance premiums paid by Californians.

In 2000, COIN had less than $5 million in insurance investments, which represent 0.01 percent of California insurance premiums.

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

The SPEAKER pro tempore (Mr. NETHERCUTT). All time for general debate on the bill has expired.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. LAFALCE

Mr. LAFALCE. Mr. Chairman, I offer an amendment in the nature of a substitute.

The CHAIRMAN. The Clerk will designate the amendment in the nature of a substitute.

The text of the amendment in the nature of a substitute is as follows:

Amendment in the nature of a substitute offered by Mr. LAFALCE:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Terrorism Risk Protection Act''.

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

Sec. 1. Short title and table of contents.
Sec. 2. Congressional findings.
Sec. 3. Authority of Secretary of the Treasury.
Sec. 4. Submission of premium information to Secretary.
Sec. 5. Initial and subsequent triggering determinations.
Sec. 6. Federal cost-sharing for commercial insurers.
Sec. 7. Assessments.
Sec. 8. Terrorism loss repayment surcharge.
Sec. 9. Administration of assessments and surcharges.
Sec. 10. Application to self-insurance arrangements and offshore insurers and reinsurers.
Sec. 11. Requirement to provide terrorism coverage.
Sec. 12. State preemption.
Sec. 13. Consistent State guidelines for coverage for acts of terrorism.
Sec. 14. Consultation with State insurance regulators and NAIC.
Sec. 15. Study of potential effects of terrorism on life insurance industry.
Sec. 16. Railroad and trucking insurance study.
Sec. 17. Study of reinsurance pool system for future acts of terrorism.
Sec. 18. Definitions.
Sec. 19. Covered period and extension of program.
Sec. 20. Regulations.

SEC. 2. CONGRESSIONAL FINDINGS.

The Congress finds that—

(1) the terrorist attacks on the World Trade Center and the Pentagon of September 11, 2001, resulted in a large number of deaths and injuries, the destruction and damage to buildings, and interruption of business operations;

(2) the attacks have inflicted possibly the largest losses ever incurred by insurers and reinsurers in a single day;

(3) while the insurance and reinsurance industries have committed to pay the losses arising from the September 11 attacks, the resulting disruption has created widespread market uncertainties with regard to the risk of losses arising from possible future terrorist attacks;

(4) such uncertainty threatens the continued availability of United States commercial property and casualty insurance for terrorism risk at meaningful coverage levels;

(5) the unavailability of affordable commercial property and casualty insurance for terrorist acts threatens the growth and stability of the United States economy, including impeding the ability of financial services providers to finance commercial property acquisitions and new construction;

(6) in the past, the private insurance and reinsurance markets have shown a remarkable resiliency in adapting to changed circumstances;

(7) given time, the private markets will diversify and develop risk spreading mechanisms to increase capacity and guard against possible future losses incurred by terrorist attacks;

(8) it is necessary to create a temporary industry risk sharing program to ensure the continued availability of commercial property and casualty insurance and reinsurance for terrorism-related risks;

(9) such action is necessary to limit immediate market disruptions, encourage economic stabilization, and facilitate a transition to a viable market for private terrorism risk insurance; and

(10) terrorism insurance plays an important role in the efficient functioning of the economy and the financing of commercial property acquisitions and new construction and, therefore, the Congress intends to continue to monitor, review, and evaluate the private terrorism insurance and reinsurance marketplace to determine whether additional action is necessary to maintain the long-term stability of the real estate and capital markets.

SEC. 3. AUTHORITY OF SECRETARY OF THE TREASURY.

The Secretary of the Treasury shall be responsible for carrying out a program for financial assistance for commercial property and casualty insurers, as provided in this Act.

SEC. 4. SUBMISSION OF PREMIUM INFORMATION TO SECRETARY.

To the extent such information is not otherwise available to the Secretary, the Secretary may require each insurer to submit, to the Secretary or to the NAIC, a statement specifying the net premium amount of coverage written by such insurer under each line of commercial property and casualty insurance sold by such insurer during such periods as the Secretary may provide.

SEC. 5. INITIAL AND SUBSEQUENT TRIGGERING DETERMINATIONS.

(a) IN GENERAL.—For purposes of this Act, a ''triggering determination'' is a determination by the Secretary that—

(1) an act of terrorism has occurred during the covered period; and

(2) the industry-wide losses resulting from such occurrence or from multiple occurrences of acts of terrorism all occurring during the covered period, exceed $100,000,000.

(b) DETERMINATIONS REGARDING OCCURRENCES.—The Secretary, after consultation with the Attorney General of the United States and the Secretary of State, shall have the sole authority which may not be delegated or designated to any other officer, employee, or position, for determining whether—

(1) an occurrence was caused by an act of terrorism; and

(2) an act of terrorism occurred during the covered period.

SEC. 6. FEDERAL COST-SHARING FOR COMMERCIAL INSURERS.

(a) IN GENERAL.—Pursuant to a triggering determination, the Secretary shall provide financial assistance to commercial insurers in accordance with this section to the extent provided under this section to cover eligible insured losses resulting from acts of terrorism, which shall be repaid in accordance with subsection (g).

(b) INDUSTRY OBLIGATION AMOUNT.—For purposes of this section, the industry obligation amount in connection with a triggering determination is the following amount:

(1) INITIAL COVERED PERIOD.—In the case of a triggering determination occurring during the covered period specified in section 19(a), the difference between—

(A) $5,000,000,000; and

(B) the aggregate amount of industry-wide losses resulting from the triggering events involved in any triggering determinations preceding such triggering determination.

(2) EXTENDED COVERED PERIOD.—If the Secretary exercises the authority under section 19(b) to extend the covered period, in the case of a triggering determination occurring during the portion of the covered period consisting of such extension, the difference between—

(A) $10,000,000,000; and

(B) the aggregate amount of industry-wide losses resulting from the triggering events involved in any triggering determinations preceding such triggering determination.

(c) ELIGIBLE INSURED LOSSES.—For purposes of this section, the term ''eligible insured losses'' means, with respect to a triggering determination, any insured losses resulting from the triggering event involved that are in excess of the industry obligation amount for such triggering determination.

(d) AMOUNT OF FINANCIAL ASSISTANCE.—Subject to subsection (e), with respect to a triggering determination, financial assistance shall be made available under this section to each commercial insurer in an amount equal to 90 percent of the amount of the eligible insured losses of the insurer as a result of the triggering event involved.

(e) LIMITATIONS.—

(1) AGGREGATE LIMITATION.—The aggregate amount of financial assistance provided pursuant to this section may not exceed $100,000,000,000.

(2) NOTICE TO CONGRESS.—The Secretary shall notify the Congress if the amount of financial assistance provided pursuant to this section reaches $100,000,000,000 and the Congress shall determine the procedures for, and the source of, any additional payments of financial assistance to cover such additional insured losses.

(3) DEFAULT ON ASSESSMENTS AND SURCHARGES.—The Secretary may establish such limitations as may be necessary to ensure that payments under this section in connection with a triggering determination are made only to commercial insurers that are not in default of any obligation under this section or section 7 to pay assessments or under section 8 to collect surcharges.

(f) ANNUAL LIMIT ON INDIVIDUAL INSURER LIABILITY.—

(1) DEFINITIONS.—For purposes of this subsection, the following definitions shall apply:

(A) ANNUAL INSURER LIMIT.—The term ''annual insurer limit'' means, with respect to a commercial insurer and a program year, the amount equal to 7 percent of the aggregate

premium amount of all commercial property and casualty insurance coverage, written by such insurer during the calendar year preceding such program year, under all lines of commercial property and casualty insurance.

(B) LIMITABLE LOSSES.—The term ''limitable losses'' means, for any program year, the industry-wide losses in such program year that do not exceed the dollar amount specified in subsection (b)(1)(A) or (b)(2)(A), as applicable to the program year.

(C) PROGRAM YEAR.—The term ''program year'' means the period beginning on the date of the enactment of this Act and ending on January 1, 2003. If the Secretary extends the covered period pursuant to section 20(b), each calendar year (or portion thereof) covered by such extension shall be a program year for purposes of this subsection.

(2) TRIGGERING OF INDUSTRY ASSESSMENTS.—If, for any program year, the amount of the limitable losses for such program year that are incurred by any single commercial insurer exceed the annual insurer limit for the commercial insurer for such program year, the Secretary shall apportion the amount of such excess limitable losses pursuant to assessments under paragraph (3).

(3) INDUSTRY ASSESSMENTS TO COVER LOSSES EXCEEDING LOSS LIMIT.—For each program year, the Secretary shall, as soon as practicable, determine the aggregate amount of excess limitable losses described in paragraph (2), for all commercial insurers. Subject to paragraph (4), the Secretary shall assess, to each commercial insurer not described in paragraph (2), a portion of such aggregate limitable losses based on the proportion, written by each such commercial insurer, of the aggregate written premium for the calendar year preceding such program year.

(4) OPERATION OF ANNUAL INSURER LIMIT TO ASSESSMENTS.—The sum of the amount of limitable losses incurred by a commercial insurer in a program year and the aggregate amount of an assessment under this subsection to such insurer may not in any case exceed the annual insurer limit for the insurer.

(5) NOTICE.—Upon determining the amount of the assessments under this subsection for a program year, the Secretary shall, as soon as practicable, provide written notice to each commercial insurer that is subject to an assessment of the amount of the assessment and the deadline pursuant to paragraph (6) for payment of the assessment.

(6) PAYMENT.—Each commercial insurer that is subject to an assessment under this subsection shall pay to the Secretary the amount of the assessment not later than 60 days after the Secretary provides notice of the assessment under paragraph (5).

(7) DISTRIBUTION OF ASSESSMENT AMOUNTS.—Upon receiving payment of assessments under this subsection, the Secretary shall promptly distribute all such amounts among commercial insurers described in paragraph (2), based on limitable losses incurred in excess of the annual insurer limits for such insurers. The Secretary may take such actions, including making such adjustments and reimbursements, as may be necessary to carry out the purposes of this subsection.

(g) REPAYMENT.—Financial assistance made available under this section shall be repaid through assessments under section 7 collected by the Secretary and surcharges remitted to the Secretary under section 8. Any such amounts collected or remitted shall be deposited into the general fund of the Treasury.

(h) FINAL NETTING.—The Secretary shall have sole discretion to determine the time at which claims relating to any insured loss or act of terrorism shall become final.

(i) FINALITY OF DETERMINATIONS.—Any determination of the Secretary under this section shall be final, and shall not be subject to judicial review.

(j) EMERGENCY DESIGNATION.—Congress designates the amount of new budget authority and outlays in all fiscal years resulting from this section as an emergency requirement pursuant to section 252(e) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(e)). Such amount shall be available only to the extent that a request, that includes designation of such amount as an emergency requirement as defined in such Act, is transmitted by the President to Congress.

SEC. 7. ASSESSMENTS.

(a) IN GENERAL.—In the case of a triggering determination, each commercial insurer shall be subject to assessments under this section for the purpose of repaying a portion of the financial assistance made available under section 6 in connection with such determination.

(b) AGGREGATE ASSESSMENT.—Pursuant to a triggering determination, the Secretary shall determine the aggregate amount (if any) to be assesseed under this section among all commercial insurers, which shall be equal to the lesser of—

(1) the difference between—

(A) $20,000,000,000; and

(B) the dollar amount specified in paragraph (1)(A) or (2)(A) of section 6(b), as applicable for such triggering determination; and

(2) the amount of financial assistance paid under section 6 in connection with the triggering determination.

(c) METHOD AND TIMING.—

(1) IN GENERAL.—The aggregate assessment amount in connection with a triggering determination shall be assessed through one or more, as may be necessary pursuant to paragraph (3), assessments under this section.

(2) TIMING.—An assessment under this section in connection with a triggering determination shall be imposed only upon the expiration of any 12-month period beginning after such determination during which no other assessments under this section have been imposed.

(3) LIMITATION.—The aggregate amount of any assessments imposed under this section on any single commercial insurer during any 12-month period shall not exceed the amount that is equal to 3 percent of the net premium for such insurer for such period.

(d) ALLOCATION.—The portion of the aggregate amount of any assessment under this section that is allocated to each commercial insurer shall be based on the ratio that the net premium written by such commercial insurer during the year during which the assessment is imposed bears to the aggregate written premium for such year, subject to section 9 and the limitation under subsection (c)(3) of this section.

(e) NOTICE AND OBLIGATION TO PAY.—

(1) NOTICE.—As soon as practicable after any triggering determination, the Secretary shall notify each commercial insurer in writing of an assessment under this section, which notice shall include the amount of the assessment allocated to such insurer.

(2) EFFECT OF NOTICE.—Upon notice to a commercial insurer, the commercial insurer shall be obligated to pay to the Secretary, not later than 60 days after receipt of such notice, the amount of the assessment on such commercial insurer.

(3) FAILURE TO MAKE TIMELY PAYMENT.—If any commercial insurer fails to pay an assessment under this section before the deadline established under paragraph (2) for the assessment, the Secretary may take either or both of the following actions:

(A) CIVIL MONETARY PENALTY.—Assess a civil monetary penalty pursuant to section 9(d) upon such insurer.

(B) INTEREST.—Require such insurer to pay interest, at such rate as the Secretary considers appropriate, on the amount of the assessment that was not paid before the deadline established under paragraph (2).

(f) ADMINISTRATIVE FLEXIBILITY.—

(1) ADJUSTMENT OF ASSESSMENTS.—The Secretary may provide for or require estimations of amounts under this section and may provide for subsequent refunds or require additional payments to correct such estimations, as appropriate.

(2) DEFERRAL OF CONTRIBUTIONS.—The Secretary may defer the payment of part or all of an assessment required under this section to be paid by a commercial insurer, but only to the extent that the Secretary determines that such deferral is necessary to avoid the likely insolvency of the commercial insurer.

(3) TIMING OF ASSESSMENTS.—The Secretary shall make adjustments regarding the timing and imposition of assessments (including the calculation of net premiums and aggregate written premium) as appropriate for commercial insurers that provide commercial property and casualty insurance on a non-calendar year basis.

SEC. 8. TERRORISM LOSS REPAYMENT SURCHARGE.

(a) DETERMINATION OF IMPOSITION AND COLLECTION.—

(1) IN GENERAL.—If, pursuant to a triggering determination, the Secretary determines that the aggregate amount of financial assistance provided pursuant to section 6 exceeds the amount determined pursuant to section 7(b)(1), the Secretary shall consider and weigh the factors under paragraph (2) to determine the extent to which a surcharge under this section should be established.

(2) FACTORS.—The factors under this paragraph are—

(A) the ultimate costs to taxpayers if a surcharge under this section is not established;

(B) the economic conditions in the commercial marketplace;

(C) the affordability of commercial insurance for small- and medium-sized business; and

(D) such other factors as the Secretary considers appropriate.

(3) POLICYHOLDER PREMIUM.—Any amount established by the Secretary as a surcharge under this section shall be established and imposed as a policyholder premium surcharge on commercial property and casualty insurance written after such determination, for the purpose of repaying financial assistance made available under section 6 in connection with such triggering determination.

(4) COLLECTION.—The Secretary shall provide for commercial insurers to collect surcharge amounts established under this section and remit such amounts collected to the Secretary.

(b) AMOUNT AND DURATION.—Subject to subsection (c), the surcharge under this section shall be established in such amount, and shall apply to commercial property and casualty insurance written during such period, as the Secretary determines is necessary to recover the aggregate amount of financial assistance provided under section 6 in connection with the triggering determination that exceeds the amount determined pursuant to section 7(b)(1).

(c) PERCENTAGE LIMITATION.—The surcharge under this section applicable to commercial property and casualty insurance coverage may not exceed, on an annual basis, the amount equal to 3 percent of the premium charged for such coverage.

(d) OTHER TERMS.—The surcharge under this section shall—

(1) be based on a percentage of the premium amount charged for commercial property and casualty insurance coverage that a policy provides; and

(2) be imposed with respect to all commercial property and casualty insurance coverage written during the period referred to in subsection (b).

(e) EXCLUSIONS.—For purposes of this section, commercial property and casualty insurance does not include any reinsurance provided to primary insurance companies.

SEC. 9. ADMINISTRATION OF ASSESSMENTS AND SURCHARGES.

(a) MANNER AND METHOD.—

(1) IN GENERAL.—Except to the extent specified in such sections, the Secretary shall provide for the manner and method of carrying out assessments under section 7 and surcharges under section 8, including the timing and procedures of making assessments and surcharges, notifying commercial insurers of assessments and surcharge requirements, collecting payments from and surcharges through commercial insurers, and refunding of any excess amounts paid or crediting such amounts against future assessments.

(2) EFFECT OF ASSESSMENTS AND SURCHARGES ON URBAN AND SMALLER COMMERCIAL AND RURAL AREAS AND DIFFERENT LINES OF INSURANCE.—In determining the method and manner of imposing assessments under section 7 and surcharges under section 8, including the amount of such assessments and surcharges, the Secretary shall take into consideration—

(A) the economic impact of any such assessments and surcharges on commercial centers of urban areas, including the effect on commercial rents and commercial insurance premiums, particularly rents and premiums charged to small businesses, and the availability of lease space and commercial insurance within urban areas;

(B) the risk factors related to rural areas and smaller commercial centers, including the potential exposure to loss and the likely magnitude of such loss, as well as any resulting cross-subsidization that might result; and

(C) the various exposures to terrorism risk for different lines of commercial property and casualty insurance.

(b) TIMING OF COVERAGES AND ASSESSMENTS.—The Secretary may adjust the timing of coverages and assessments provided under this Act to provide for equivalent application of the provisions of this Act to commercial insurers and policies that are not based on a calendar year.

(c) ADJUSTMENT.—The Secretary may adjust the assessments charged under section 7 or the percentage imposed under the surcharge under section 8 at any time, as the Secretary considers appropriate to protect the national interest, which may include avoiding unreasonable economic disruption or excessive market instability and avoiding undue burdens on small businesses.

(d) CIVIL MONETARY PENALTY.—

(1) IN GENERAL.—The Secretary may assess a civil monetary penalty in an amount not exceeding the amount under paragraph (2) against any commercial insurer that the Secretary determines, on the record after opportunity for a hearing—

(A) has failed to pay an assessment under section 7 in accordance with the requirements of, or regulations issued, under this Act;

(B) has failed to charge, collect, or remit surcharges under section 8 in accordance with the requirements of, or regulations issued under, this Act;

(C) has intentionally provided to the Secretary erroneous information regarding premium or loss amounts; or

(D) has otherwise failed to comply with the provisions of, or the regulations issued under, this Act.

(2) AMOUNT.—The amount under this paragraph is the greater of $1,000,000 and, in the case of any failure to pay, charge, collect, or remit amounts in accordance with this Act or the regulations issued under this Act, such amount in dispute.

SEC. 10. APPLICATION TO SELF-INSURANCE ARRANGEMENTS AND OFFSHORE INSURERS AND REINSURERS.

(a) SELF-INSURANCE ARRANGEMENTS.—The Secretary may, in consultation with the NAIC, apply the provisions of this Act, as appropriate, to self-insurance arrangements by municipalities and other entities, but only if such application is determined before the occurrence of a triggering event and all of the provisions of this Act are applied uniformly to such entities.

(b) OFFSHORE INSURERS AND REINSURERS.—The Secretary shall ensure that the provisions of this Act are applied as appropriate to any offshore or non-admitted entities that provide commercial property and casualty insurance.

SEC. 11. REQUIREMENT TO PROVIDE TERRORISM COVERAGE.

The Secretary shall require each commercial insurer to include, in each policy for commercial property and casualty insurance coverage made available, sold, or otherwise provided by such insurer, coverage for insured losses resulting from the occurrence of an act of terrorism that—

(1) does not differ materially from the terms, amounts, and other coverage limitations applicable to losses arising from events other than acts of terrorism;

(2) may not be eliminated, waived, or excluded, by mutual agreement, request or consent of the policyholder, or otherwise; and

(3) that meets any other criteria that the Secretary may reasonably prescribe.

SEC. 12. STATE PREEMPTION.

(a) COVERED PERILS.—A commercial insurer shall be considered to have complied with any State law that requires or regulates the provision of insurance coverage for acts of terrorism if the insurer provides coverage in accordance with the definitions regarding acts of terrorism under this Act or under any regulations issued by the Secretary.

(b) RATE LAWS.—If any provision of any State law prevents an insurer from increasing its premium rates in an amount necessary to recover any assessments pursuant to section 7, such provision is preempted only to the extent necessary to provide for such insurer to recover such losses.

(c) FILE AND USE.—

(1) IN GENERAL.—With respect only to commercial property and casualty insurance covering acts of terrorism, any provision of State law that requires, as a condition precedent to the effectiveness of rates or policies for such insurance that is made available by an insurer licensed to transact such business in the State, any action (including prior approval by the State insurance regulator for such State) other than filing of such rates and policies and related information with such State insurance regulator is preempted to the extent such law requires such additional actions for such insurance coverage.

(2) SUBSEQUENT REVIEW AUTHORITY.—Paragraph (1) shall not be considered to preempt a provision of State law solely because the law provides that rates and policies for such insurance coverage are, upon such filing, subject to subsequent review and action, which may include actions to disapprove or discontinue use of such rates or policies, by the State insurance regulator.

(3) TREATMENT OF PRIOR REVIEW PROVISIONS.—Any authority for prior review and action by a State regulator preempted under paragraph (1) shall be deemed to be authority to conduct a subsequent review and action on such filings.

SEC. 13. CONSISTENT STATE GUIDELINES FOR COVERAGE FOR ACTS OF TERRORISM.

(a) SENSE OF CONGRESS REGARDING COVERED PERILS.—It is the sense of the Congress that—

(1) the NAIC, in consultation with the Secretary, should develop appropriate definitions for acts of terrorism that are consistent with this Act and appropriate standards for making determinations regarding occurrences of acts of terrorism;

(2) each State should adopt the definitions and standards developed by the NAIC for purposes of regulating insurance coverage made available in that State;

(3) in consulting with the NAIC, the Secretary should advocate and promote the development of definitions and standards that are appropriate for purposes of this Act; and

(4) after consultation with the NAIC, the Secretary should adopt further definitions for acts of terrorism and standards for determinations that are appropriate for this Act.

(b) INSURANCE RESERVE GUIDELINES.—

(1) SENSE OF CONGRESS REGARDING ADOPTION BY STATES.—It is the sense of the Congress that—

(A) the NAIC should develop appropriate guidelines for commercial insurers and pools regarding maintenance of reserves against the risks of acts of terrorism; and

(B) each State should adopt such guidelines for purposes of regulating commercial insurers doing business in that State.

(2) CONSIDERATION OF ADOPTION OF NATIONAL GUIDELINES.—Upon the expiration of the 6-month period beginning on the date of the enactment of this Act, the Secretary shall make a determination of whether the guidelines referred to in paragraph (1) have, by such time, been developed and adopted by nearly all States in a uniform manner. If the Secretary determines that such guidelines have not been so developed and adopted, the Secretary shall consider adopting, and may adopt, such guidelines on a national basis in a manner that supercedes any State law regarding maintenance of reserves against such risks.

(c) GUIDELINES REGARDING DISCLOSURE OF PRICING AND TERMS OF COVERAGE.—

(1) SENSE OF CONGRESS.—It is the sense of the Congress that the States should require, by laws or regulations governing the provision of commercial property and casualty insurance that includes coverage for acts of terrorism, that the price of any such terrorism coverage, including the costs of any terrorism related assessments or surcharges under this Act, be separately disclosed.

(2) ADOPTION OF NATIONAL GUIDELINES.—If the Secretary determines that the States have not enacted laws or adopted regulations adequately providing for the disclosures described in paragraph (1) within a reasonable period of time after the date of the enactment of this Act, the Secretary shall, after consultation with the NAIC, adopt guidelines on a national basis requiring such disclosure in a manner that supercedes any State law regarding such disclosure.

SEC. 14. CONSULTATION WITH STATE INSURANCE REGULATORS AND NAIC.

(a) IN GENERAL.—The Secretary shall consult with the State insurance regulators and the NAIC in carrying out this Act.

(b) FINANCIAL ASSISTANCE, ASSESSMENTS, AND SURCHARGES.—The Secretary may take

such actions, including entering into such agreements and providing such technical and organizational assistance to insurers and State insurance regulators, as may be necessary to provide for the distribution of financial assistance under section 6 and the collection of assessments under section 7 and surcharges under section 8.

(c) INVESTIGATING AND AUDITING CLAIMS.—The Secretary may, in consultation with the State insurance regulators and the NAIC, investigate and audit claims of insured losses by commercial insurers and otherwise require verification of amounts of premiums or losses, as appropriate.

SEC. 15. STUDY OF POTENTIAL EFFECTS OF TERRORISM ON LIFE INSURANCE INDUSTRY.

(a) ESTABLISHMENT.—Not later than 30 days after the date of enactment of this Act, the President shall establish a commission (in this section referred to as the ''Commission'') to study and report on the potential effects of an act or acts of terrorism on the life insurance industry in the United States and the markets served by such industry.

(b) MEMBERSHIP AND OPERATIONS.—

(1) APPOINTMENT.—The Commission shall consist of 7 members, as follows:

(A) The Secretary of the Treasury or the designee of the Secretary.

(B) The Chairman of the Board of Governors of the Federal Reserve System or the designee of the Chairman.

(C) The Assistant to the President for Homeland Security.

(D) 4 members appointed by the President, who shall be—

(i) a representative of direct underwriters of life insurance within the United States;

(ii) a representative of reinsurers of life insurance within the United States;

(iii) an officer of the NAIC; and

(iv) a representative of insurance agents for life underwriters.

(2) OPERATIONS.—The chairperson of the Commission shall determine the manner in which the Commission shall operate, including funding, staffing, and coordination with other governmental entities.

(c) STUDY.—The Commission shall conduct a study of the life insurance industry in the United States, which shall identify and make recommendations regarding—

(1) possible actions to encourage, facilitate, and sustain the provision, by the life insurance industry in the United States, of coverage for losses due to death or disability resulting from an act or acts of terrorism, including in the face of threats of such acts; and

(2) possible actions or mechanisms to sustain or supplement the ability of the life insurance industry in the United States to cover losses due to death or disability resulting from an act or acts of terrorism in the event that—

(A) such acts significantly affect mortality experience of the population of the United States over any period of time;

(B) such losses jeopardize the capital and surplus of the life insurance industry in the United States as a whole; or

(C) other consequences from such acts occur, as determined by the Commission, that may significantly affect the ability of the life insurance industry in the United States to independently cover such losses.

(d) RECOMMENDATIONS.—The Commission may make a recommendation pursuant to subsection (c) only upon the concurrence of a majority of the members of the Commission.

(e) REPORT.—Not later than 120 days after the date of enactment of this Act, the Commission shall submit to the House of Representatives and the Senate a report describing the results of the study and any recommendations developed under subsection (c).

(f) TERMINATION.—The Commission shall terminate 60 days after submission of the report pursuant to subsection (e).

SEC. 16. RAILROAD AND TRUCKING INSURANCE STUDY.

The Secretary of the Treasury shall conduct a study to determine how the Federal Government can address a possible crisis in the availability and affordability of railroad and trucking insurance by making such insurance for acts of terrorism available on commercially reasonable terms. Not later than 120 days after the date of the enactment of this Act the Secretary shall submit to the Congress a report regarding the results and conclusions of the study.

SEC. 17. STUDY OF REINSURANCE POOL SYSTEM FOR FUTURE ACTS OF TERRORISM.

(a) STUDY.—The Secretary, the Board of Governors of the Federal Reserve System, and the Comptroller General of the United States shall jointly conduct a study on the advisability and effectiveness of establishing a reinsurance pool system relating to future acts of terrorism to replace the program provided for under this Act.

(b) CONSULTATION.—In conducting the study under subsection (a), the Secretary, the Board of Governors of the Federal Reserve System, and the Comptroller General shall consult with (1) academic experts, (2) the United Nations Secretariat for Trade and Development, (3) representatives from the property and casualty insurance industry, (4) representatives from the reinsurance industry, (5) the NAIC, and (6) such consumer organizations as the Secretary considers appropriate.

(c) REPORT.—Not later than 6 months after the date of the enactment of this Act, the Secretary, the Board of Governors of the Federal Reserve System, and the Comptroller General shall jointly submit a report to the Congress on the results of the study under subsection (a).

SEC. 18. DEFINITIONS.

For purposes of this Act, the following definitions shall apply:

(1) ACT OF TERRORISM.—

(A) IN GENERAL.—The term ''act of terrorism'' means any act that the Secretary determines meets the requirements under subparagraph (B), as such requirements are further defined and specified by the Secretary in consultation with the NAIC.

(B) REQUIREMENTS.—An act meets the requirements of this subparagraph if the act—

(i) is unlawful;

(ii) causes harm to a person, property, or entity, in the United States, or in the case of a domestic United States air carrier or a United States flag vessel (or a vessel based principally in the United States on which United States income tax is paid and whose insurance coverage is subject to regulation in the United States), in or outside the United States;

(iii) is committed by a person or group of persons or associations who are recognized, either before or after such act, by the Department of State or the Secretary as an international terrorist group or have conspired with such a group or the group's agents or surrogates;

(iv) has as its purpose to overthrow or destabilize the government of any country, or to influence the policy or affect the conduct of the government of the United States or any segment of the economy of United States, by coercion; and

(v) is not considered an act of war, except that this clause shall not apply with respect to any coverage for workers compensation.

(2) AFFILIATE.—The term ''affiliate'' means, with respect to an insurer, any company that controls, is controlled by, or is under common control with the insurer.

(3) AGGREGATE WRITTEN PREMIUM.—The term ''aggregate written premium'' means, with respect to a year, the aggregate premium amount of all commercial property and casualty insurance coverage written during such year under all lines of commercial property and casualty insurance.

(4) COMMERCIAL INSURER.—The term ''commercial insurer'' means any corporation, association, society, order, firm, company, mutual, partnership, individual, aggregation of individuals, or any other legal entity that provides commercial property and casualty insurance. Such term includes any affiliates of a commercial insurer.

(5) COMMERCIAL PROPERTY AND CASUALTY INSURANCE.—

(A) IN GENERAL.—The term ''commercial property and casualty insurance'' means insurance or reinsurance, or retrocessional reinsurance, for persons or properties in the United States against—

(i) loss of or damage to property;

(ii) loss of income or extra expense incurred because of loss of or damage to property;

(iii) third party liability claims caused by negligence or imposed by statute or contract, including workers compensation; or

(iv) loss resulting from debt or default of another.

(B) EXCLUSIONS.—Such term does not include—

(i) insurance for homeowners, tenants, private passenger nonfleet automobiles, mobile homes, or other insurance for personal, family, or household needs;

(ii) insurance for professional liability, including medical malpractice, errors and omissions, or directors' and officers' liability; or

(iii) health or life insurance.

(6) CONTROL.—A company has control over another company if—

(A) the company directly or indirectly or acting through one or more other persons owns, controls, or has power to vote 25 percent or more of any class of voting securities of the other company;

(B) the company controls in any manner the election of a majority of the directors or trustees of the other company; or

(C) the Secretary determines, after notice and opportunity for hearing, that the company directly or indirectly exercises a controlling influence over the management or policies of the other company.

(7) COVERED PERIOD.—The term ''covered period'' has the meaning given such term in section 19.

(8) INDUSTRY-WIDE LOSSES.—The term ''industry-wide losses'' means the aggregate insured losses sustained by all insurers from coverage written under all lines of commercial property and casualty insurance.

(9) INSURED LOSS.—The term ''insured loss'' means any loss, net of reinsurance and retrocessional reinsurance, covered by commercial property and casualty insurance.

(10) NAIC.—The term ''NAIC'' means the National Association of Insurance Commissioners.

(11) NET PREMIUM.—The term ''net premium'' means, with respect a commercial insurer and a year, the aggregate premium amount collected by such commercial insurer for all commercial property and casualty insurance coverage written during such year under all lines of commercial property and casualty insurance by such commercial insurer, less any premium paid by such commercial insurer to other commercial insurers to insure or reinsure those risks.

(12) SECRETARY.—The term ''Secretary'' means the Secretary of the Treasury.

(13) STATE.—The term ''State'' means the States of the United States, the District of

Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, and any other territory or possession of the United States.

(14) STATE INSURANCE REGULATOR.—The term ''State insurance regulator'' means, with respect to a State, the principal insurance regulatory authority of the State.

(15) TRIGGERING DETERMINATION.—The term ''triggering determination'' has the meaning given such term in section 5(a).

(16) TRIGGERING EVENT.—The term ''triggering event'' means, with respect to a triggering determination, the occurrence of an act of terrorism, or the occurrence of such acts, that caused the insured losses resulting in such triggering determination.

(17) UNITED STATES.—The term ''United States'' means, collectively, the States (as such term is defined in this section).

SEC. 19. COVERED PERIOD AND EXTENSION OF PROGRAM.

(a) COVERED PERIOD.—Except to the extent provided otherwise under subsection (b), for purposes of this Act, the term ''covered period'' means the period beginning on the date of the enactment of this Act and ending on January 1, 2003.

(b) EXTENSION OF PROGRAM.—If the Secretary determines that extending the covered period is necessary to ensure the adequate availability in the United States of commercial property and casualty insurance coverage for acts of terrorism, the Secretary may, subject to subsection (c), extend the covered period by not more than two years.

(c) REPORT.—The Secretary may exercise the authority under subsection (b) to extend the covered period only if the Secretary submits a report to the Congress providing notice of and setting forth the reasons for such extension.

SEC. 20. REGULATIONS.

The Secretary shall issue any regulations necessary to carry out this Act.

The SPEAKER pro tempore. Pursuant to House Resolution 297, the gentleman from New York (Mr. LAFALCE) and a Member opposed each will control 30 minutes.

The Chair recognizes the gentleman from New York (Mr. LAFALCE).

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

Mr. Speaker, I rise to offer a substitute that I believe would greatly improve the bill before us. The substitute in large part reflects the structure of the bill before us, but it makes improvements to the bill in three very crucial areas.

First of all, it requires the individual insurers to retain a more significant share of initial losses, providing for a real, up-front deductible.

Second, it requires that terrorism coverage be included with all property and casualty insurance, eliminating the ability of insurers to cherry-pick safer properties, while placing coverage out of the reach of others.

Third, it eliminates the extraneous limitations on victims' recovery rights that are not necessary to address this problem and have no place in this bill or any bill. There will be no bill that contains these provisions.

Let me address each of these in turn. The deductible included in my substitute would require the insurance industry to pay the first $5 billion of insured losses in the first year, increasing to $10 billion in the second and third years. Interestingly, the insurance industry, the Senate, and administration negotiators said they could accept a bill with a $10 billion deductible in the first year. My substitute has a $5 billion deductible. The bill before us has no deductible. There should be a deductible.

The deductible would be met in the first instance by individual insurers who would be responsible for 100 percent of the losses suffered by their policyholders up to a cap of 7 percent of the insurer's premium income. This first dollar of loss retention is critical to the maintenance of sound underwriting practices by the insurance industry, and it will make it much easier for a private reinsurance market to reemerge. It will also make it less likely that the Federal Government will need to step in to cover losses. Some events could be covered entirely by the deductible. It would keep the Federal Government out unless it were absolutely imperative that the Federal Government enter.

This kind of deductible has the support of a broad and diverse coalition of taxpayer, consumer, and environmental groups, each of which believe it is important that insurers should pay some level of initial loss in its entirety. And the concept of a deductible of up to $10 billion in the first year was agreed to by the Treasury Department of the Bush administration in their conversations with the Senate. Again, the main bill before us has no deductible. The substitute does. We should have a deductible.

Second, to avoid the cherry-picking, my substitute, unlike the Republican bill, would mandate terrorist coverage. This will prevent insurers from providing terrorism coverage only on properties that are perceived as low risk while leaving large portions of the economy uncovered. This provision would help to ensure that terrorism coverage is affordable by spreading the risk across the broadest possible base. By ensuring that this coverage would be included in all property and casualty policies, as it is today, it would help to cushion the effects on businesses of any further terrorist attacks by eliminating the temptation for commercial property holders and businesses to ''opt out'' of terrorism coverage. Do not forget, property and casualty properties today include terrorism coverage.

Finally, my bill does not limit victims' rights by denying them the legal redress that they deserve. For reasons completely extraneous to the current insurance crisis, the White House and the Republican leadership are pursuing, by means of this legislation, long-sought restrictions going back 20–30 years on the rights of victims. They seek to minimize the compensation needed to make the victims of terrorism whole. These restrictions on victims' rights will create disincentives for businesses to do all that they reasonably can to prevent another terrorist attack and make America safer.

I urge Members' support for this substitute. It is basically the House bill, with those changes I have articulated. In the short amount of time that we have left to address the serious threat to our economy, I believe the substitute represents a much-improved response to meeting our responsibilities.

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

Mr. BACHUS. Mr. Speaker, I claim the time in opposition to the amendment in the nature of a substitute.

The SPEAKER pro tempore. The gentleman from Alabama (Mr. BACHUS) is recognized for 30 minutes.

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

Mr. Speaker, there are several problems that the membership ought to have with this amendment, things that I hope that the gentleman from New York (Mr. LAFALCE) will respond to, concerns which we have.

My first concern is that we are mandating that anyone who takes out commercial insurance must also take out coverage for terrorism. Now, in the towns and the cities and rural areas that I represent, there are a lot of small businessmen who do not think that they need insurance to ensure against terrorism.

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Actually, I have farmers in my district. They have chicken houses, I would say to the gentleman from New York. Those farmers do not feel like those chicken houses and those chickens need insurance against terrorism. They do not believe that there is much of a possibility of a terrorist planting a bomb in one of those chicken houses. I have a lot of repair shops in my district that repair used automobiles. The people that own those businesses and that pay liability insurance and take out coverage on those businesses, they do not believe that they need to be paying for insurance to cover that auto body shop or that beauty shop. I have a lot of beauticians, I would say to the gentleman from New York. I have a lot of beauticians in my district. They have a lot of beauty shops. They really do not believe that they ought to be compelled by the Federal Government to take out insurance to insure against terrorists. In fact, they may not be able to afford it.

But what this substitute does, it requires anyone that takes out a commercial policy on any business, whether it is a beauty shop, a barber shop, an auto mechanic store, a chicken house, a small grocery store, it requires you to take out and insure against a terrorist act. I have a lot of businesses in my district that quite simply are having trouble paying for the insurance that they have. There is no opt-out. I can insure against theft, I can insure against fire, I can insure against vandalism; but I may not want to insure against terrorism. I may own a small

business. I may get a quote of $12,000 a year for basic coverage and another $1,000 or $1,500 a year to insure against terrorism. I may say, I don't want terrorism covered.

I would say to the gentleman from New York, it is my understanding that his amendment, and correct me if I am wrong, but it is my understanding that his amendment requires anyone who takes out a commercial policy to protect their place of business, that they must also insure against terrorism. I would stop right there and I would reserve the balance of my time and ask the gentleman so we can have a coherent discussion of this, is in fact he mandating that every American that takes out insurance coverage on their place of business, that they must insure against terrorism no matter what the cost of that premium?

Mr. Speaker, I will reserve the balance of my time and let the gentleman address that question.

Mr. LAFALCE. Mr. Speaker, I could have a colloquy with the gentleman on his time, but I do not have time. If the gentleman wants to do it on his time, I would be glad to have a colloquy.

Mr. BACHUS. I would say this to the gentleman. I will answer the question and he can correct me if I am wrong. Section 11 of his amendment, a requirement to provide terrorism coverage, and it says that this coverage may not be eliminated, waived or excluded by mutual agreement, request or consent of the policyholder or otherwise. That is what it says. It says you cannot exclude coverage for that. It may not be eliminated, may not be waived, may not be excluded from a commercial policy even by mutual agreement or by request or consent of the policyholder. That is what it says. It is the plain wording.

I would hope the gentleman did not intend to say that to every American who has an insurance policy on a piece of property. There is an option. The option is that you just do not get insurance. But I think the gentleman from New York is saying if you do get insurance, you will have to have terrorist coverage and you will have to pay for that coverage.

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

Mr. LAFALCE. Mr. Speaker, I yield 3 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

(Ms. JACKSON-LEE of Texas asked and was given permission to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, quite the contrary to the distinguished gentleman from Alabama, the LaFalce substitute spreads the risk. What it simply does is it says that if you are a small business, a chicken farmer, you need to make sure that insurance companies around the world or in this Nation have the obligation to insure you and protect you. That is what we are arguing about today. That is why I rise today to support the LaFalce substitute and also to say I would have liked to have supported a clean underlying bill. I believe it is important to provide this kind of reinsurance for our insurance companies, not for the institutions but for the people of America.

I would also say to my colleagues, I wish I was debating resources for those who are unemployed, particularly as we face some 500,000 individuals in the State of Texas. Additionally in my own congressional district we have a company that is now teetering on the brink. I may see tomorrow 3, 4, 6,000 people laid off. This House has failed in its duty to provide unemployment insurance for those who are laid off. But let us speak about the underlying bill and why the LaFalce substitute is the right direction to go.

First of all, the bill that is before us denies victims' rights. It in fact denies noneconomic damages, economic damages and punitive damages. It indicates that if you are a plaintiff and you are impacted by a terrorist act, you could not go into court and receive any benefits or receive any coverage from your insurance company if you were not physically injured. That means all the wives and husbands who lost loved ones, who lost their husbands or wives on September 11 in that heinous terrorist act could not recover for the pain and suffering, for the loss of consortium. I believe that we have a better direction to go. And in fact I am delighted that the LaFalce bill does not have the tax provisions in it. I believe it is extremely important that we find a way to engage the insurance companies but not give away money.

The underlying bill provides assistance, Federal dollars, one dollar past a billion dollars. In fact, the insurance companies said, We're willing to pay $5 billion in losses. The LaFalce bill has $5 billion in 1 year and I think $10 billion after the 1 year. We are giving away money in the underlying bill.

The substitute is a clean bill that directs its attention and its energies toward the problem. What is the problem? We want to be able to ensure that insurance companies will be able to insure Americans, businesses, citizens of the United States in light of terrorist attacks. And we want to do it fairly, and we want to do it forthrightly. We do not want to deny individuals their access to the courts where they cannot go in and secure recovery for those who have maliciously not done their duty and therefore caused an enhanced injury to someone such as, for example, a baggage handling company that did not do the proper security so that something dangerous happened on the airline.

I support the LaFalce bill because it is a straight-up answer to the insurance problem, and it also provides for insurance for all Americans.

Mr. Speaker, the September 11 terrorist attacks have devastated many industries and sectors of the American economy, including the insurance industry.

The legislation before us today, H.R. 3210, has been rushed to the House floor because the insurance industry has stated that, while it will be able to cover the estimated $40 billion in claims resulting from the Sept. 11 terrorist attacks, any new and renewed policies will not cover terrorist-inflicted damage unless the government helps cover that unknown liability. This is an issue of great concern to Congress and to the Nation.

While I cannot support this bill as it currently stands, I would like to state, at the outset, that I join my colleagues in calling for swift passage of a terrorism reinsurance bill. Such legislation is greatly needed and Congress can make a great difference here, as we have done in the past.

As we all know, Congress acted swiftly and deliberately in the recent Airlines bailout plan in the amount of $15 billion to save this important industry which was so severely devastated by the September 11 attacks. We can act with similar diligence and bi-partisan sensibility to help this important sector of our economy as well.

This is not just an insurance industry problem. Rather, it is a national issue because if the insurance industry cannot reinsure the risk of further terrorist attacks, it will either increase premiums to the detriment of consumers, or simply stop offering terrorism coverage altogether. Furthermore, without adequate insurance coverage, lenders will not be able to lend and new investments will not be made, creating a credit crunch that could have devastating consequences for our economy.

I applaud my colleagues on the Ways and Means Committee in striking provisions that would have provided preferential tax treatment on insurance industry reserves, and instead called for a greatly needed study of the issue. However, I am disappointed in the partisan fiasco in the Rules Committee which turned this once bipartisan effort to protect the insurance industry from terrorism claims into a partisan ''tort reform'' Trojan horse.

I join my colleagues on the Judiciary Committee and those on the Financial Services Committee who object to the inclusion of Section 15, a tort reform provision, which would effectively ban punitive damages in terrorism-related cases. This is absolutely unnecessary.

Additionally, it is unclear whether the bill applies to actions brought against the insured and the insurer, or just the insurer. I stand with those who support the position that such legislation limits tort actions against the insurer, but not the insured.

We must also ensure that terrorism coverage is available and affordable for all consumers and businesses, and avoid ''cherry picking'' where companies insure ''good risks'' and leave other segments of economy uncovered. To this end we can and should avoid that problem by ensuring that terrorism coverage is required as part of basic property and casualty coverage.

Finally, there is no need or justification for the tax provisions in the bill, which unnecessarily provides the industry with a long-term tax subsidy which could well exceed what it pays under the bill.

Instead, I lend my support to the LaFalce substitute. It includes, for example, an industry deductible and requires each company to meet its deductible before receiving federal assistance. It also requires terrorism coverage as part of commercial property and casualty insurance. It also does not limit tort actions or recoveries, and does not contain the offensive tax provisions as does the underlying bill.

Also, it requires the Secretary of the Treasure, in determining whether to establish a surcharge on policyholders, to consider the cost to the taxpayer, economic conditions, affordability of insurance, and other factors. And it includes studies on the impact of terrorism on the life insurance industry and on the advisability of establishing a terrorism reinsurance pool.

Congress can and must act to protect the most vulnerable sectors of our economy, and those who most need assistance. The underlying bill once held the promise of protecting the insurance industry and the millions of Americans dependent on it. However, the version of the bill before us today contains offensive provisions that I simply cannot in good conscience support. As such, I urge my colleagues to vote against the bill and to support the LaFalce substitute.

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

Mr. Speaker, I think we received the answer to our question, and that is that this amendment attempts to require all Americans who own businesses to take out terrorist coverage and to pay for that coverage. In other words, if you have got a beauty shop, the gentleman from New York, his amendment if it passes, you will be required to take out terrorist insurance. If you have got a restaurant, you will be required to take it out and to pay for it.

So I think we have our answer there. As the gentlewoman from Texas says, we want to spread the risk to people that even may not have any risk, may not choose to need insurance. What we are basically telling them is, Not only do you need it, but you'll pay for it, whether you want it or not.

Mr. Speaker, I ask unanimous consent that the gentleman from Ohio (Mr. OXLEY) be permitted to control the remainder of my time for consideration of this amendment.

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

There was no objection.

Mr. OXLEY. Mr. Speaker, I am pleased to yield 3 minutes to the gentleman from Pennsylvania (Mr. TOOMEY).

Mr. TOOMEY. Mr. Speaker, there are several problems that I have with the substitute that is offered by my distinguished colleague from New York, but I want to touch on two of them in particular. One is the fact that the substitute clearly removes from the committee bill several vital tort reform measures which are in the base bill; and they are in the base bill for a simple reason, for a variety of reasons, but mainly to ensure that in the event that harm is done in a terrorist attack, we want to see a greater share of the payment to the victims actually go to the victims and not a huge windfall going to trial lawyers. That is a big part of what this is about.

That is a serious flaw, but there is another one that I think may be even a bigger flaw in this bill and that is the issue that was raised by my colleague, the distinguished gentleman from Alabama. There is no question, it is very clear, the substitute does impose a new Federal mandate on business, large and small business, every business, specifically by requiring that every commercial insurance policy carry this terrorism provision whether or not the insured wants to buy this provision. It is true that it only applies to commercial policies. You could choose not to buy a commercial policy; but as we all know as a practical matter, you cannot be in business in America today without having a commercial insurance policy. So it really is a universal mandate in that sense.

Think about this. At a time when thousands of businesses are losing money, forced to lay off literally hundreds of thousands of workers in the last several months, layoffs that are continuing today, this substitute, if it were adopted, would force potentially unlimited increases in costs in doing business for every business in America. It says you have got to go out and buy terrorism insurance coverage regardless of what kind of business you are in, regardless of where you are located, regardless of whether or not you perceive yourself to have any risks, and regardless of what it costs. This can only result in more job losses.

I do not know how many folks here have actually gone through the experience of taking their entire life savings, remortgaging their house, borrowing money from family and friends and risking it all to pursue the dream of owning their own business, whether that is a little coffee shop on Tilghman Street in Allentown or a dry cleaner on Chestnut Street in Emmaus or a bookstore in downtown Bethlehem, but I know what that is all about. I have been through that. I think we all know people who have been through that.

These are the people, the people who are willing to take that huge risk to risk everything they have to launch that small business. These are the people and their employees that I am concerned about, and I am concerned about the adverse effect that this provision will have on them. These are the people that are keeping our economy going. These small businesses are the ones that are creating the few new jobs we are creating in our economy. They are creating so many opportunities for so many people. The cards are stacked already against the entrepreneur starting a new business. It is the nature of a new business to have a very risky period.

We have still a crushing tax burden on Americans. We have too much regulation. My argument is let us not stack the deck further against the people who are creating new businesses, running small businesses, creating opportunity. Let us not impose this new costly mandate on them.

Reject the substitute and support the underlying bill.

Mr. LAFALCE. Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. BENTSEN).

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

Mr. BENTSEN. Mr. Speaker, I had not intended to support the substitute because we wrote a very good bill in the House. Again, I want to commend the chairman and the chairman of the subcommittee as well for the work they did. We worked very hard all day long to put out a good bill; and I thought the approach was the right approach to take in terms of the model, in terms of the deductible, in terms of the way it worked. It combined the pooled premium structure, it protected the taxpayers, it combined the deductible aspect that the administration wanted, and it even had some liability reform, a collateral offset that I was not particularly comfortable with but I thought was the balance we needed because this was also a temporary measure that we were passing, and in fact we made it as temporary as possible. Because I am not very comfortable with us entering the marketplace right now, but I do think it is necessary to get us into the next year so policies can be rewritten, so we do not have the calamity that I discussed that I think other Members are aware of. I know the gentleman from California (Mr. COX) was a securities lawyer before he was here, and he understands how this works and the problems that can occur if we do not do this.

But on the way to the floor, this bill was rewritten and I am left with no choice but to support a substitute that otherwise quite frankly, with all due respect to the gentleman from New York, I would not support because I would support the underlying bill as it was originally written.

I look at the litigation management section in this, and I see a couple of problems. The first problem I see is the question on noneconomic damages that are in here and there is no liability for the defendant if the defendant actually has liability. What if you have a spouse who does not work and is in a building that gets hit by a plane? There are no damages that can be brought. That spouse's worth under the court's eyes is zero dollars. I do not think any Member, whether you are for liability reform or not, thinks that is a particularly good idea.

□ 1430

But the other problem in the haste to write this bill, if you read the section on legal fees the way I read it, it applies to all attorneys. So if defense counsel does their job and wins the case, they can get no more than 20 percent of damages, and if damages are zero, 20 percent of zero, the last time I checked, was still zero. So if the PNC company pays their counsel, which most counsel I know like to get paid, they are not going to be able to pay them anything, or they are going to be

subject to fines or imprisonment. So there is a flaw in the bill. I am sure somewhere down the line it will get worked out.

But the bigger concern I have is about this is the bill we ought to pass for the good of the economy, and what this is going to do in the name of ''legal reform,'' which is not what this bill started out about, is it is going to get shot down in the other body and we are either going to be here on December 23 trying to hammer this thing out, or December 24th, or December 25th, maybe we will take the 25th off, the 26th, 27th, trying to work this out, when we had a very good bill in the first place, a bill that made it explicitly clear that the taxpayers would not be on the hook for punitive damages or non-economic damages. But if the defendant, the building owner, the airline owner, was liable in any way for gross negligence, they had to step up to the plate for that liability. That is what we should be doing.

As a result, I am going to have to defy my chairman and support the substitute, because we are left with no other choice. I hope somewhere rationale will prevail and we can get a real bill done.

Mr. OXLEY. Mr. Speaker, I yield 2 minutes to my good friend, the gentleman from Staten Island, New York (Mr. FOSSELLA).

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

Mr. FOSSELLA. Mr. Speaker, I thank the chairman for yielding me time.

Mr. Speaker, I happen to believe that sometimes when we are confronted with an issue, it is best for Congress to do nothing at times. This is not one of those times. I think we are playing with fire if Congress does not act on passing this legislation this year as soon as possible.

The underlying bill as presented by the chairman is the right vehicle to proceed with. Every day that passes creates more uncertainty, thus more risk and more instability in our economy. It is not just the insurance companies or the reinsurers; it is the very foundation of our Nation.

For example, right now in midtown Manhattan, there is an office project, a major one, being contemplated. It means jobs, it means livelihoods, it means a better quality of life for so many people.

These developers right now are having discussions with their insurance agents. Insurance agents say, we cannot give you this insurance because of the risk associated with a potential terrorist attack. If that does not occur, there may not be and very likely will not be this development project in midtown Manhattan. Hundreds of millions of dollars will stop. That is going to take place across New York and across the country, unless something is done.

I would urge everybody in this Chamber and the other body to come to closure on this as soon as possible, without raising the cost of insurance unnecessarily to small and big business owners across the country, to work cooperatively to do what is right for the American people; not to put the taxpayer on the hook, but to play the vital role that government should play in this capacity, and that is to protect against any potential terrorist attack which, by definition, is random and terrorist in nature. Put it aside, support the underlying bill, and let us move forward.

Mr. LAFALCE. Mr. Speaker, I yield 4 minutes to the gentleman from Pennsylvania (Mr. KANJORSKI), the distinguished ranking member of the Subcommittee on Capital Markets, Insurance and Government Sponsored Enterprises.

Mr. KANJORSKI. Mr. Speaker, I speak in favor of the substitute, and it is for a very simple reason. There are three key elements developed in the substitute that I think are important but, more so than being important, I think they make the bill viable so we can get something done.

The previous speaker just indicated that it is important to get something done, and it is. We had something that could have been done, and suddenly some of our friends have lobbed on things called tort reform, or revision, as I call it, changing the whole civil procedure and rights of victims in this country, and I think it caused unfairness.

As my friend the gentleman from Texas (Mr. BENTSEN) pointed out, it seems to me to strip out any benefit or any recovery for non-economic damages and leaves a major part of the victims of this country without coverage.

Now, we are fighting here to make sure real estate can go on, insurance can be sold, business can conclude; and we are going to take care of large entities, big investments, because they are the targets for terrorism. But the small victims, the individual citizens who do not measure into the definition providing the limitations in this bill for victims' recovery, they get nothing or are restricted in their recovery. That is nonsensical.

First of all, it is not going to go anywhere. I plead with the other side. This bill is not going to be the bill. The Senate and White House are in the process of writing another bill which is going to be sent over here, and we are either going to take it or not take it in the waning days of this session.

We have an opportunity, by adopting the substitute that the gentleman from New York (Mr. LAFALCE) has presented, to handle the three key issues. We do provide something the White House and the Senate has indicated they want at all times, deductibility, and the insurance industry did not say that was bad. As a matter of fact, they were in favor of it, $5 billion or $10 billion deductibility.

Two, doing nothing with these victims' rights or tort reform, it does not belong here. We can have another vehicle, another debate, another day, on that issue.

Finally, to provide insurance coverage for everyone, I am led to understand the White House is in favor of that too, because we do not want cherry-picking, we do not want favoritism, and we do not want to lessen the base of those people who are going to stand behind the premiums to pay for the terrorist occasion that occurs before it gets to the taxpayers.

I say that we have a reasonable substitute here that, if we pass it today, can be moved to the Senate very quickly and become the real vehicle for reinsurance protection for terrorism in the United States. Other than that, this is an academic, a political exercise, that will absolutely go nowhere, and we are going to end up, if we do want legislation, and I think it is vitally important, adopting the Senate provisions when they are finally passed.

Mr. OXLEY. Mr. Speaker, I yield myself 30 seconds. I appreciate the gentleman's remarks.

Let everyone understand something. The Senate and the White House apparently have been at this for quite some time and, literally, as we speak, they still have not got their act together. The House of Representatives is on the floor with legislation ready to pass in the next hour, so we have done our job.

So you can talk all you want about what the Senate and White House are doing. We are getting the job done for the people of this country to make certain we have insurance coverage. I think we all should be very, very proud of that.

Mr. Speaker I yield 3½ minutes to the gentleman from California (Mr. COX), a valuable member of our committee.

Mr. COX. Mr. Speaker, I thank the chairman for yielding me time. I particularly wish to thank the gentleman form Ohio (Chairman OXLEY), the gentleman from Louisiana (Chairman BAKER) and the gentleman from Wisconsin (Chairman SENSENBRENNER) for putting together such an important bill for us to move quickly in response to the events of September 11.

This legislation will ensure that victims are compensated after a terrorist loss if another terrorist attack or round of terrorist attacks should occur, quickly, fairly and fully. It will continue, we hope, the opportunity for people throughout our country to have insurance against terrorist risks by using the resources of the Federal Government, of the U.S. taxpayer, as a backstop. But the bill is carefully drafted so that it will not injure taxpayers in the process.

It asks a great deal from the industry. Indeed, it asks the insurance industry to pay the money back, so that taxpayers will not be treated as if they are Osama bin Laden, as if they are culpable for the next round of terrorist attacks.

The substitute, unfortunately, unravels these taxpayer protections. It

asks far less of insurance companies than does the bill for which it would be substituting. It asks much more of taxpayers and much less of trial lawyers.

The bill that was so carefully crafted in our committee established a Federal cause of action, to make sure that injured parties could quickly get to court, just as we have already done in this Congress with the victims of September 11, so they could get their money and not have to go through an endless legal process. The substitute simply repeals that protection so that the same-old-same-old will obtain, as it has for the victims of the 1993 World Trade Center bombing. Hundreds of plaintiffs have received, 8 years later, not one penny.

It puts the burden on the consumer in another way. It mandates that consumers buy terrorist risk insurance, rather than offering consumers a choice of high-quality coverage at a reasonable cost. Once the Federal Government mandates that I must buy insurance, if I am the insurer and I know the customer has to buy it, I can offer a lousy product at a high price.

We want to put the consumers in the driver's seat. The whole point is to make sure consumers are protected, and this substitute would repeal that consumer protection.

It would also repeal the fair share rule that is in the bill, and that is the protection for the innocent. If you are innocent, if you are not a terrorist, you should not be treated as if you are one. Yet under the legislation that would be passed in the name of the substitute, the fair share rule would be repealed; and if you are named in a complaint, along with Osama bin Laden who is not before the court, then a jury in any State can say you pay the whole thing, even though you might be only one-half of 1 percent responsible.

President Bush strongly supports the base legislation. His Secretary of the Treasury came to the Hill and asked that we include the litigation management provisions. It is our obligation and our responsibility to pass the bill that was produced by the Committee on Financial Services and by the Committee on the Judiciary staff, who helped us with the litigation management procedures.

I urge strongly that we reject the substitute and its repeal of consumer protections, and I urge us rather rapidly to put this bill into law, the Oxley-Baker-Sensenbrenner base bill.

Mr. LAFALCE. Mr. Speaker, I yield myself such time as I may consume to answer a few of the issues that have come up so far.

First of all, what does the administration support or not support? I do not really think they support the basic thrust of the bill that was reported out of committee and is before us right now. Would they sign it? Yes, because it is not an unreasonable approach. And that is why I was willing to go forward with it, and that is why I am not offering an alternative with respect to the underlying approach.

But it is not the best approach we could take. The administration, in their statement of administration policy, points that out. They really think that it could be an administrative nightmare. They do not like this concept of coming up with what is basically a loan that will then have to be paid back from dollar one. They do not like that at all.

The insurance industry does not like it. In Monday's paper there was an op-ed piece by the chairman of the board of American International Group, and they really denounced this concept. In that op-ed piece they said we could handle a $10 billion deductible. That is what the chairman of AIG said in an op-ed piece in the Wall Street Journal on Monday. And you have no deductible.

We make it easy. We just have a $5 billion deductible for the first year, going to a $10 billion the second year, which the insurance industry has said we could accept and we can handle. For the life of me, I do not know why you do not have that deductible provision.

With respect to the restrictions on victims' compensation, now, yes, the administration does support that, and it supports it strongly. But that is like throwing red meat at them. They have wanted to limit victims' rights wherever and whenever they could. They want to do it with respect to a Patients' Bill of Rights, they want to do it with respect to product liability, they want to do it wherever and whenever they can. And it is unnecessary here and it is wrong and it is harmful.

You come up with a euphemism. Your euphemism is case management. That is nonsense. This has nothing to do with case management. This has everything to do with denying victims their rights that they have been entitled to under the laws of the several States from the time that we created the Union to the present. You want to change it.

There is something else, too. The insurance scheme we come up with, that is temporary. That is going to be for 1, 2 or 3 years. This restriction or elimination of victims' rights, that, you have made permanent.

□ 1445

So we have a temporary insurance scheme. But as I understand the Sensenbrenner approach, that goes in and it is independent of the duration of time of the insurance scheme and it effectively takes away victims' rights.

Now, with respect to mandatory coverage, reasonable people can differ on that issue. Let me be the first to admit that. But the fact of the matter is, right now virtually every property and casualty policy on a commercial line that I am aware of includes terrorism coverage. So we are not talking about something new. We are talking about basically, at least in 99 percent of the cases, continuing the status quo so that we can spread the cost so we would minimize it for the little guy, for the small businessperson.

What small businessperson might need it? Well, since P and C includes business interruption insurance, the ice cream parlor at an airport might need it. The pizza store on Pine Avenue in Niagra Falls got the first economic injury disaster loan in the Nation. It was $10,000. But that business had closed its doors because of the terrorist attack in New York City, and that business could have used terrorism coverage immediately, et cetera.

If we do not mandate it, in my judgment, and I could be wrong; this is a negotiable item. I understand that reasonable people can differ on this. But I think that if we do not include this, what we are saying is, if you are rich, if you are a big corporation, if you are a Fortune 500, if you are a big real estate developer of a $1 billion building, you will be able to afford it and buy it and pass the cost along; but if you are a little businessman, a small businessman, a mom and pop businessman, you will just go without coverage; and the fact that your business in Pennsylvania was never expected to be impaired, that will have to go without coverage.

Now, I would inquire of the chairman of the Committee on the Judiciary, did I make a mistake on the permanency of the gentleman's coverage?

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

Mr. LAFALCE. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Absolutely, the gentleman made a mistake.

Mr. LAFALCE. Okay. So it is contemporaneous.

Mr. SENSENBRENNER. Mr. Speaker, it is contemporaneous with the bill. It is not here forever, but that is not the gentleman's only mistake; and I will ask the gentleman from Ohio for a little time to talk about those.

Mr. LAFALCE. Mr. Speaker, I thank the gentleman, and I stand corrected on that issue.

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

Mr. OXLEY. Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin (Mr. SENSENBRENNER), the distinguished chairman of the Committee on the Judiciary.

Mr. SENSENBRENNER. Mr. Speaker, let me blow away the smoke screen from the litigation management provisions of this bill.

Number one, it does not take away anybody's right to sue or anybody's right to get compensation. If there is a cause of action and the Secretary triggers the provisions in this legislation, suits would have to be in one court, and that would prevent a race to courthouses all around the country to see which judge could have the trial quicker and whoever gets the quickest trial will end up exhausting all of the money that is available; and in courts where things move a little bit slower, if the money is exhausted, then the plaintiff would be out of luck.

Now, secondly, what the bill does is it prohibits punitive damages, and this

is exactly the way the Federal Tort Claims Act is. We are talking about giving a limited key to the United States Treasury, and we give the same protection to the taxpayer in this bill that we do when there is a tort claim against the Federal Government. We also limit attorneys' fees, also done in the Federal Tort Claims Act. So this is existing law for claims against the Federal Government. Since the Federal Government will be the ultimate reinsurer during this period of time, we provide the taxpayers the same protections and the plaintiffs the same limitations as we would if somebody got run over by a postal service van or ended up falling out the window of a Federal building because of a defect in construction there.

Now, it seems to me that when we are dealing with terrorism, we have to look at the fact that people who buy terrorism insurance pay a premium that is based upon the risk that the insurance company is underwriting; and if they have unlimited liability when there is a terrorist act, then those premiums are going to be so sky high as to make that coverage either unaffordable or less affordable, particularly to small business operators.

So, Mr. Speaker, these litigation management provisions protect the taxpayers, protect the ratepayers of people who have to buy terrorism coverage, and do not significantly limit the recovery that plaintiffs could get.

Mr. LAFALCE. Mr. Speaker, I yield myself 3 minutes.

A couple of issues were addressed by the distinguished chairman of the Committee on the Judiciary. First of all, he spoke about the consolidation of the claims into one court. That is something that is not unreasonable. As a matter of fact, it might be desirable to do something like that. But then the question is, would you obliterate portions of the laws of the many States?

What the gentleman does in his bill is he says that there should be a Federal cause of action that shall be exclusive; and thereby he obliterates the laws of the States, with this exception: he says in applying the Federal cause of action, we shall look to the Federal cause of actions in the States, but not the law of the States with respect to damages. There, we shall just totally obliterate whatever the laws of those States are with respect to damages and impose our own. That is where we run into difficulties. Not that one cannot go into court, but we just severely eliminate or restrict.

Now, we have proportionate liability as opposed to joint and several liability. There we are obliterating the laws of the about half of the States. We use the collateral damages as an offset; and, again, the States are split on that; but, again, that goes to the issue of how much economic damages an individual is able to collect. So it restricts their rights there.

Now, with respect to punitive damages, the gentleman made the argument, and I think it has some resonance, that the Federal taxpayer ought not to pay for punitive damages. I can accept that. The gentleman made an analogy to the Federal Tort Claims Act where one cannot bring punitive damages against the Federal Government. Well, if the gentleman would have retained within the bill the Bentsen amendment, which would have precluded taxpayer money, that is, insurance under this scheme, then the gentleman's argument would be true. But it is incorrect because what the gentleman does is not just eliminate the ability to collect damages against the Federal Government under any scheme, but against anybody.

The gentleman eliminates the basic cause of action or possibility of punitive damages, not just the insurance coverage for it. If the gentleman is willing to talk about that, we might be able to come to terms. If the gentleman's bill would do what the gentleman says it purports to do or wishes to do, we might be able to come to agreement.

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

Mr. OXLEY. Mr. Speaker, I am pleased to yield 2 minutes to the gentlewoman from New York (Mrs. KELLY).

Mrs. KELLY. Mr. Speaker, I thank the gentleman from Ohio for yielding me this time.

The gentleman from New York has offered a well thought-out substitute. However, I believe we simply have different beliefs as to how the market should operate. I believe that we should allow the market to work out problems as much as possible.

We are here today because the reality of a war on terrorism has knocked out the commercial property and casualty insurance industry and put them in a crisis. To stabilize that industry, we have drafted TRPA.

Unfortunately, the Democratic substitute goes farther than I think we should on a number of points. I want to focus on the provision in the substitute that would mandate that property and casualty companies provide terrorism coverage. ''Mandate.'' That is the operative word.

It is our responsibility to ensure consumers have the options to choose from, not mandate that they are forced to comply with. Terrorism coverage will be more expensive to all businesses, but every business should be able to make the choice of whether they should pay for it and take the risk.

Let us consider the cost of this mandate for things like museums, like schools, like hospitals. A hospital in California, a hospital in New York, most hospitals in this Nation operate on a very thin operating edge. They are on the very edge of solvency. A sudden increase in premiums could plunge them into oceans of red, resulting in closure. Schools. A flower shop in Buffalo, New York, ought to have the ability to make that choice to take that risk if they choose, not be mandated. A museum in Katonah, New York, should have the ability to choose. Only these entities know what their risk is. Only these entities know what their need is. These entities ought to not be mandated to share a risk they do not feel they have.

Small business is the strongest bulldozer pushing our economy and its growth. We all know the margins between profitability and failure are razor thin with most small businesses. The cost of mandated coverage could mean the difference between more or less employment or helping these people keep their jobs. I urge that people defeat this Democratic substitute.

This is just one of the many reasons the Democratic substitute should be defeated. There are others.

Give our schools, hospitals and small business the choice and join with me in voting against the Democratic substitute.

Mr. LAFALCE. Mr. Chairman, I yield 5 minutes to the gentleman from Pennsylvania (Mr. KANJORSKI).

Mr. KANJORSKI. Mr. Speaker, I almost hesitate rising. I know the gentlewoman that has just spoken is a fine member of our committee and, of course, she does not want to burden the homeowners and all of these small business people and everything.

When we really stand back and analyze the argument, the argument is, there is a free lunch. Now, we are talking about insurance. There is no free lunch here. Insurance companies do not create money or assets. They merely gather premiums, analyze what the proportionate risk will be, the premiums cover that risk, and then they put out the money. If we reduce the number of premium payers, we reduce the base and for the remaining payers we accelerate the rates. It is as simple as that. It is so simple that most States in this Union require terrorism insurance as part of the main policy. We are not putting an extra burden on people here. I will tell my colleagues what burden we are putting on: if we do not have this premium base that spreads across the country for terrorism insurance, we are going to have a 1,000 percent increase in insurance in New York City and Los Angeles, the symbols of the country where terrorism would attack.

Secondly, that is partially what the argument was originally in the committee and the Secretary of the Treasury made and the White House made when we started to put this bill together. They said, terrorism is something that attacks America's symbols, and it is unusual and impossible to identify liability; and maybe that is why the Federal Government should stand in the place of that risk so that premiums do not go crazy.

But I hope our friends from the other side are not sending a message out to the American people that this substitute resolution is going to increase premiums. Quite the contrary. We are

not going to have any effect on premiums, and premiums in this country on liability insurance all over are going to go up and go up precipitously. And they already have, for two reasons: not only September 11, but because the stock market has gone down precipitously, and the earnings generated and the income generated is no longer there, and now they have to increase the premiums to effect a pool to pay the risk liability.

Mr. Speaker, sometimes we treat the American people when we talk on the floor like they are idiots, and I refer now back to the gentleman from California who made the point that they are really worried about the victims of the 1993 bombing because, gee, their cases are still in litigation.

□ 1500

It is unfortunate that it takes sometimes 7 or 8 years to get to litigation in this country. There is a solution: do away with the right of suing and collecting damages. From day one, they would not have had a cause of action under this piece of legislation. So yes, we would not tie up the courts or waste 7 or 8 years. The victim would not have a cause of action.

I know that is not the intention the Members have. I know something more than that. I know the Republican party historically has understood the free market system and the basis of our civil process in this country.

I cannot understand. Just after September 11, we are asking America, and I do not have yet a position, but we are asking to throw away the criminal code of the country, the protections of evidence, due process, and go to military tribunals in the criminal sense.

Maybe I could justify in some areas that happening. Well, that tears up 200 years of precedent and procedure in this country in the criminal law area. Now they come on the floor and civilly they want to rip up 200 years of precedent and history because we had this one attack, when in reality the insurance industry only came to the Congress and said, look, we do not know how to set the rates for liability insurance. They came to us and said, we do not know how to set the premium to create the pool that is necessary to cover potential disasters like this. We have no question that we can handle a $10 billion disaster without any problem, but we would like to have something between there and $100 billion that we could not have a dysfunctional economy for a number of years; and after that, we can solve the problem.

Everybody concedes that if the disaster is over $100 billion, the United States is going to be there, just as it has been for every other disaster in the country. I hope we do not let this argument fall to the level that we are misspeaking or misrepresenting what the facts are and what the true information is.

Neither this side of the aisle nor that side of the aisle wants to see an increase in insurance premiums. That has already happened; it has happened because of the economy, the stock market, and September 11.

All we are trying to do is provide a vehicle that this Congress can pass within the next 10 days to provide a stability for the American economy to help come out of the recession and not go further into recession.

Everybody recognizes, all the free marketeers of the insurance industry, that there is a role of government to be played here. We are trying to provide that role with the least interference to the private sector.

Mr. OXLEY. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Florida (Mr. WELDON).

Mr. WELDON of Florida. Mr. Speaker, I thank the chairman for yielding time to me and commend him on the skill he used in bringing this very complex issue to the floor. As I understand it, the other body is deeply mired in controversy and struggling on this.

I also want to compliment the subcommittee chairman, the gentleman from Louisiana (Mr. BAKER), for his work, and particularly the staff.

Mr. Speaker, this is an extremely important issue, and it is very, very important that we pass this bill. The economic implications if we do not get a bill signed into law before the first of the year could be huge.

I want to just address the issue of the substitute which is at hand right now. I certainly commend the gentleman from New York (Mr. LAFALCE) for his thoughtful attempt to work on this. It has, obviously, some of the same features we have in our underlying bill.

However, the way it is currently drafted, I think it could force some small businesses to pay higher premiums. It could erode the current State regulation system. Very importantly, I think it would potentially discourage insurance companies from using reinsurance, and I think that would be a very bad feature of the substitute.

Mr. Speaker, I believe the sentiments expressed by the chairman of the Committee on the Judiciary, the gentleman from Wisconsin (Mr. SENSENBRENNER), are very, very well taken. I think it really does have the potential to encourage, in the event of another disaster, a rush to the courthouse; that there could be winners and losers, whereas I think the underlying bill clearly avoids that sort of thing.

I just want to underscore, if people want to sue Osama bin Laden, there are no limits. People can go after Osama bin Laden and his assets and take him to the cleaners, and the attorneys could walk away with 50 or 60 percent of the settlement, if that is in the contingency fee agreement they have reached.

This is about, what are the U.S. taxpayers going to pay? I think this is a very well thought-out bill. Vote no on the substitute and yes on the underlying bill.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. NETHERCUTT). Several remarks by Members during the course of this debate have prompted the Chair to remind Members that it is not in order in a debate to characterize Senate action or inaction. This prohibition includes debate that specifically urges the Senate to take certain action.

PARLIAMENTARY INQUIRY

Mr. WELDON of Florida. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his inquiry.

Mr. WELDON of Florida. Mr. Speaker, is it correct that no matter how much inaction there is in the other body, we still cannot talk about it?

The SPEAKER pro tempore. The gentleman fails to state a parliamentary inquiry.

Mr. OXLEY. Mr. Speaker, I yield 4 minutes to the gentleman from Louisiana (Mr. BAKER), the chairman of the subcommittee.

Mr. BAKER. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I think it is important at the close of debate on this important substitute to go through quickly the elements that are of concern to those of us looking for appropriate resolution on the question of terrorism insurance.

First, mandatory coverage. Think about it for a moment. The property and casualty premium will now include an undisclosed terrorism premium.

How do we know how that pricing was done? How will we make a judgment as to whether or not it is appropriate, given the risk we think we perceive to our business interests from a terrorist attack?

Under H.R. 3210, we have a separate pricing of the terrorism premium so we can see it off to the side, as against the property and casualty premium, which we can compare with last year's. And so we clearly identify; we do not mandate. They can shop, the taxpayer can make the decision, the consumer can make the decision, Where do I go, and further, Do I really need terrorism insurance?

Second, with regard to the first $5 billion worth of loss, there has been some suggestion that there is no deductible, no payment by the industry under our approach, and that their approach, having a $5 billion deductible is somehow going to fix that problem.

There is no mechanism in the bill for distributing that $5 billion worth of loss across the industry. So if there are two, three, four, five big companies who take the $5 billion hit, they absorb that hit unfairly against all other companies. There is no mechanism to distribute the loss across all companies. Translation: small businesses get hit.

They attempt to spread the risk, however, by having a complicated process that equals 7 percent of gross premium collected. When we read through it and understand what they are trying to do here, they do not recognize that

a direct insurance company who insures our business turns around and lays off part of that risk to the reinsurance industry. When we lay off that risk, we have to give them the premium. But we are going to set the criteria by which they get taxpayer assistance on 7 percent of the total premium.

To translate that: small business gets nailed. This is not a good approach. It is not a sound approach. Under H.R. 3210, taxpayers are protected first, small businesses are protected second. We help the claimants by making sure that liquidity is provided to the insurance company to help the victims of a heinous act in a timely and prompt manner. It is the only way in which we should proceed.

Finally, with regard to the contentious issue of liability reform, it really is very simple: we are using taxpayer money to help avert an economic calamity as the result of an act of terrorism. The modest reforms contained in this bill limit the amount of money that will go to the trial lawyer.

If we are trying to help people in times of real duress and crisis, is that an unreasonable thing to do? Should we not make sure that taxpayer dollars get to the pocket to which they were intended? I think it highly appropriate to do so.

If Members want a bill that says that we are going to respond to a crisis without creating unnecessary bureaucracy; we are going to do it quickly; we are going to make sure if we extend the credit of taxpayer dollars, that they get the money back; we are going to give the Secretary of the Treasury the ability to administer the program to make sure we do not disrupt a fragile economy by saying, If this does not make sense, Secretary of the Treasury, you have the right to administer to the best economic interests of the citizens of this country and collect the repayment later, but collect it you must.

Now, if Members want a bill that will ensure that big insurance companies, as opposed to small, get helped; that trial lawyers get more money out of the taxpayer; and that there is no guarantee of taxpayer repayment, the substitute is the plan.

But if Members want to help victims of heinous acts of violence in a timely, prompt, professional, accountable manner in which taxpayer resources will be repaid, in which only those who need it receive the assistance, the underlying H.R. 3210 is a piece of work that is not perfect, but it is good. We will be back next year to change it. I am sure the market will tell us the changes we need to make. But failing to act today is the most irresponsible act one could engage in.

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

Mr. Speaker, let me just make a few points. First of all, I very much want a bill. I think it is important. I have attempted to work in good faith with the members of the opposition, with the administration, to come up with a good bill. I look forward to working in good faith in the days ahead. I hope it will be the days ahead, rather than the weeks ahead, that we will be able to come to an accord.

Secondly, I do think that there should be a deductible, and there is not one in the gentleman's bill; there is in mine. I think the gentleman from Louisiana (Mr. BAKER) inadvertently made a mistake. We do have an assessment mechanism. No company would have to pay a deductible above 7 percent of net premiums, and we use basically the same mechanism that they use. That certainly is our intent.

With respect to the mandatory coverage, maybe I made a political mistake in offering that, but I think that substantively I am right. Why? Because I cannot get over the 8 years that I chaired the Committee on Small Business. I cannot get over the 4 to 6 years that I was chairman of a small business subcommittee, when I had countless hearings on the problems that small business had with insurance.

Take product liability insurance. We had not an unavailability problem; we had an unaffordability problem. There were periods when product liability insurance was so unaffordable that it was tantamount to unavailable. Therefore, the only way we can ensure that terrorism insurance would not become so unconscionably, astronomically unaffordable for the small business men and women of America is to make sure that we continue in the future what we have experienced in the past, that is, that terrorism coverage has been part of all P&C policies. That is the way the world has worked historically; we simply want to continue that. So I think that substantively we ought to wind up there.

On the issue of victims' compensation, we have to resolve this. There will be no bill if we go forward with the gentleman's provisions. But there is a case for consolidation. There is a case to be made that the taxpayers should not pay for punitive damages. If we could come to an accord there, we can do what is necessary. We can remove that Damoclean sword that is hanging over the head of the economy.

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

The SPEAKER pro tempore. The gentleman is recognized for the remaining 3½ minutes.

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

Mr. OXLEY. Mr. Speaker, this has been a very good debate, and first of all, let me thank members of our committee on both sides of the aisle and their respective staffs for what I think will turn out to be a historic legislative product that we have been able to put together.

The chairman of the subcommittee, the gentleman from Louisiana (Mr. BAKER), has done yeoman's work in this area and deserves a great deal of credit. My friend, the gentleman from New York (Mr. LAFALCE), as well as his ranking member, Mr. KANJORSKI, have also performed admirably.

Mr. Speaker, this is a historic moment for a new committee. We have faced issues like anti-money laundering and attended a bill-signing ceremony at the White House just 3 weeks ago. Now we come to this difficult issue, the reinsurance issue, something we did not ask for, something that happened to America after September 11; but this committee stepped up. We were asked by the Speaker to produce legislation, and I am very proud of the product that we put together over a difficult issue, and it is complicated.

□ 1515

I am particularly pleased that the substitute that the gentleman from New York (Mr. LAFALCE) offered has so much in common with the underlying bill. The post-event assessment and surcharge systems are largely the same. Both bills have a $100 million lower trigger, and the idea to protect the taxpayers is clearly inherent in both pieces of legislation.

I would, however, disagree with my friend from New York in regard to the statement he made on the deductible. The summary of the substitute provided to the Committee on Rules says that this 7 percent per company deductible is based on net premiums. That is simply not true. The substitute language actually bases the 7 percent deductible on aggregate premiums. This, of course, penalizes insurers for using reinsurance.

We do not need to be in the business of penalizing insurance companies to provide reinsurance. That is how the system works. As a matter of fact, if my colleagues can imagine a world on September 11 where domestic insurance companies did have not the ability to reinsure, imagine what kind of losses the industry would have taken and imagine what that would have brought to us today.

Indeed, this bill ultimately, when passed, will encourage the growth of reinsurance, and it may be early on that these companies, these domestic companies, will essentially have to reinsure themselves. They cannot go offshore, but I guarantee my colleagues that it will not be long before the reinsurance market offshore, the reinsurers offshore, have to go into the largest market in the world. They cannot afford to stay on the sidelines.

It is one thing on September 12 to announce that they are not going to provide reinsurance coverage for terrorism, but my guess is the American economy, the American people, the American insurance companies, will find a way to provide the kind of coverage for their consumers and their customers and their insurers. When they do that, the reinsurance folks will be running back to try to get back in this game, and that is what this bill is all about.

This is a temporary bill. This is not forever. Even the legal reforms are not forever. They are part of this legislation. So let us defeat the substitute, let us vote for final passage, and let us go on forward to get legislation for the American people.

Mr. CONYERS. Mr. Speaker, I rise in strong support of the substitute and in opposition to the base bill. I do so because the legislation was hijacked by the Rules Committee, which turned a bipartisan insurance relief bill into yet another vehicle to enact a one-sided ''tort reform'' agenda.

First and foremost, the base text totally eliminates punitive damages. If this passes, Congress would be saying to the future victims of terrorism that the most outrageous acts of gross negligence or intentional misconduct that lead to an act of terrorism are totally immune from punitive damages. Thus, if a baggage screening firm hires a known terrorist who allows a weapon to slip on board a plane, this bill would protect that company from liability.

The base bill also federalizes each and every action involving terrorism, throwing more than 200 years of respect for federalism out the window. Even worse, the liability provisions bear little relationship to the issue of insurance. As a matter of fact, they would apply to cases where the negligent party may have no insurance coverage whatsoever. The bill even takes away all judicial review relating to the bureaucratic decision as to whether terrorism caused the injury, an unprecedented and very likely unconstitutional limitation on victims' rights.

The underlying bill also would limit the ability of the victims of terrorism to collect non-economic damages. This says to innocent victims that damages from loss of consortium can be ignored and damages for victims who lose a limb or are forced to bear excruciating pain for the remainder of their lives are not as important as lost wages. Why Congress would want to prevent a grieving wife from obtaining monetary relief is beyond me, but that is exactly what this bill does.

The bill goes on and on—comprising a veritable wish list of liability limitations. It mandates collateral source offsets, forcing victims to choose between seeking money from charities and pursuing a grossly negligent party in court. It caps attorneys' fees without providing any comparable limitation on defendant's fees. Amazingly, the legislation would criminalize the fee cap, subjecting lawyers to jail time. The bill also eliminates pre-judgment interest, which takes away any incentive for negligent parties to reach pre-trial settlements. All of these harmful provisions are being proposed in the complete absence of hearings or any committee consideration.

If enacted, the tort provisions would constitute the most radical and one-sided liability limitations ever. I urge the Members to vote ''yes'' on the substitute, and ''no'' on final passage.

LIABILITY LIMITATION PROVISIONS IN H.R. 3210, THE ''TERRORISM RISK PROTECTION ACT''

(Prepared by the Democratic Staff of the House Judiciary Committee)

Section 15 of H.R. 3210, the ''Terrorism Risk Protection Act,'' proposes new and unnecessary tort reforms that would be harmful to victims of terrorism. Specifically, the bill federalizes all terrorism liability cases, prohibits judicial review of decisions to federalize such cases, eliminates punitive damages, limits the amount of non-economic damages for which defendants (not just insurers or reinsurers) are liable, mandates collateral source offsets, and imposes caps on attorneys' fees. The following is a section-by-section of H.R. 3210, Section 15.

Section 15. Litigation Management.

Subsection (a). Federal Cause of Action for Claims Relating to Terrorist Acts.

Section 15(a)(1)—In General: provides that, if the Secretary of the Treasury decides there has been one or more acts of terrorism, ''there shall exist a Federal cause of action, which, except as provided in subsection (b), shall be the exclusive remedy for claims arising out of, relating to, or resulting from such acts of terrorism.'' This is a broadly-written provision that would limit victims' rights in every conceivable civil action—state or Federal—involving terrorism, even if the insurer is not a party to the action. In addition, the critical term ''act of terrorism'' is undefined within the text of the legislation and thus grants too much latitude to the Secretary to deem an event an ''act of terrorism'' and allow wrongdoers to benefit from this section.

Section 15(a)(2)—Effect of Determination: provides that the Secretary's determinations under section 15(a)(1) shall not be subject to judicial review and shall take effect upon publication in the Federal Register. This provision raises two significant concerns. First, it is likely unconstitutional because the Constitution has been held to provide for judicial review of actions by the Executive. Second, denying judicial review of the Secretary's decisions would grant the Secretary wide latitude to make determinations about what events would constitute ''acts of terrorism,'' such that—as before—a hoax or practical joke could be designated an ''act of terrorism.''

Section 15(a)(3)—Substantive Law: states that an action under this section is governed by the law and choice of law principles of the state in which the terrorism occurred.

Section 15(a)(4)—Jurisdiction: provides that the Judicial Panel on Multi-district Litigation will designate one court and that court will have exclusive jurisdiction on all cases arising out of a particular terrorist event.

Section 15(a)(5)—Limits on Damages: provides a number of limits on damages in actions brought for damages in connection with any type of civil action related to terrorism, not just those pertaining to commercial property and casualty insurance. These limitations on their face apply in every conceivable action—state or Federal—involving terrorism. In fact, the current version of the bill is worse than that reported by the Financial Services Committee because the earlier bill limited damages only in cases involving commercial property or casualty insurance; the current bill applies to any action related to terrorism, regardless of whether an insurance claim is involved.

Section 15(a)(5)(A): would prohibit punitive damages and pre-judgment interest. Punitive damages are monetary damages awarded to plaintiffs in civil actions when a defendant's conduct has been found to flagrantly violate a plaintiff's rights. The standard for awarding punitive damages is set at the state level, but they are generally allowed only in cases of wanton, willful, reckless or malicious conduct. These damages are used to deter and punish particularly egregious conduct. Eliminating punitive damages totally undermines the deterrent and punishment function of the tort law. The threat of meaningful punitive damages is a major deterrent to wrongdoing, and eliminating punitive damages would severely undercut their deterrent value since reckless or malicious defendants could find it more cost effective to continue their callous behavior and risk paying small punitive damage awards. This means baggage screening firms would be protected from liability if they hired incompetent employees or deliberately failed to check for weapons and a terrorist act resulted.

Pre-judgment interest liability is an added incentive to move the judicial process along because a delay would result in a penalty of added interest to the judgment. Without the threat of added interest payments, attorneys for defendants may be prone to delay proceedings because the real dollar value of a judgment amount would be reduced, making the judgment the same no matter how long the process. Limiting interest would unfairly affect the judgment award collected by the victims and leave them vulnerable to a delayed judicial process.

Section 15(a)(5)(B): provides that a defendant will only be liable for non-economic damages in direct proportion to the percentage of the defendant's responsibility for the victim's harm and prohibits plaintiffs from recovering such non-economic damages unless the plaintiff suffered physical harm. This would alter common law rule of joint and several liability between defendants. Under the traditional rule, where more than one defendant is found liable, each defendant is held liable for the full amount of the damages. The justification for this is that it is better that a wrongdoer who can afford to do so pay more than its share, rather than an innocent victim obtain less than full recovery. Also, a defendant who pays more than its share of damages can seek contribution from the other defendants. By holding each defendant responsible only for its percentage of responsibility, this section would supersede state law by eliminating joint and several liability for non-economic damages in these actions. Also, the prohibition on non-economic damages unless physical harm is suffered raises significant concerns. Essentially, a spouse who suffers loss of consortium could not recover any non-economic damages. This is an unprecedented limitation on victims' rights.

In addition, this provision would shift non-economic costs from wrongdoers to victims and discriminate against groups less likely to establish significant economic damages, such as women, children, minorities, seniors, and the poor. It is unconscionable to put more value on the loss of a job than on the loss of a limb, loss of the ability to have children, disfigurement, or other forms of non-economic harms. Also, eliminating joint and several liability for non-economic harms would discourage settlements and thus increase case loads and litigation costs.

Section 15(a)(6)—Collateral Sources: requires that, for compensation of loss related to terrorism, a plaintiff's recovery must be offset by any funds received pursuant to any emergency or disaster relief program or any other collateral source. There are two problems with this provision. First, a reduction of a victim's award due to collateral source compensation would result in wrongdoers escaping their responsibility. This legislation subtracts any other potential sources of recovery the victim may have from any damages the wrongdoer should pay. Losses caused by negligence or wrongdoing would be shifted from liable defendants to the government, private insurers, or disaster relief organizations who made the ''collateral source'' payment. Second, the provision is too overreaching. The effect would be to require any funding given to the plaintiff, whether it be from health insurance payment or funds from a voluntary organization, be used to offset relief payments made

by culpable defendants. Under this provision, funds received by a victim from the Red Cross must be used to offset relief payments and reduce a wrongdoer's liability.

Section 15(a)(7)—Attorney Fees: provides that attorneys' fees shall be limited to twenty percent of either the damages ordered by a court or any court-approved settlement under this section. Any attorney who charges or receives fees in excess of twenty percent shall be fined not more than $2,000, imprisoned not more than on year, or both. Fee caps, which apply only to victims, result in less access to justice for lower-income populations. A payment ceiling or fee cap limits the economic incentive for attorneys to take on complex or difficult-to-prove claims under the contingency fee system; in turn, this would make it much more difficult for lower-income populations to secure good representation. Moreover, the threat of imprisonment is without precedent and could deter attorneys from providing assistance.

Section 15(b)—Exclusion: provides that nothing in section 15 shall limit the liability of a person who attempts to commit, commits, participates, or is engaged in a conspiracy to commit an act of terrorism.

Section 15(c)—Right of Subrogation: provides that the United States has the right of subrogation with respect to any claim it paid under this section.

Section 15(d)—Relationship to Other Laws: states that nothing in section 15 shall affect either any party's contractual right to arbitrate a dispute, or any provision of the Air Transportation Safety and System Stabilization Act of 2001 (Pub. L. No. 107–42).

Section 15(e)—Satisfaction of Judgments from Frozen Assets of Terrorists, Terrorist Organizations, and State Sponsors of Terrorism

Section 15(e)(1)—In General: provides that, in any case in which a person obtains a judgment against a terrorist party, the frozen assets of that terrorist party or of any agency or instrumentality of that party shall be available for satisfaction of the judgment. This provision removes foreign sovereign immunity and is designed to ensure that victims of terrorism receive the compensation they are owed, even if the defendant is a foreign state.

Section 15(e)(2)—Presidential Waiver: states that the President, on an asset-by-asset basis, can waive the requirements of subsection 15(e)(1) for any property subject to the Vienna Convention on Diplomatic Relations or the Vienna Convention on Consular Relations. This waiver authority vitiates the protections for victims of state-sponsored terrorism provided for in subsection 15(e)(1). If the President can waive unilaterally any judgment for a victim, then victims could easily receive no compensation for their claims.

Mr. BAKER. Mr. Speaker, let me begin by aligning myself with the statement of Chairman OXLEY regarding the LaFalce substitute. The LaFalce substitute has many of the same components of H.R. 3210 because H.R. 3210 represents, in large part, the cooperative efforts of Chairman OXLEY, Ranking Member LAFALCE, Mr. KANJORSKI and me. However, the differences in the substitute from H.R. 3210 demonstrate exactly where Chairman OXLEY and I diverge from our Democratic colleagues. The LaFalce substitute includes provisions that we simply would not agree to, which is why I urge my colleagues to vote ''no.''

First, the amendment is anti-consumer in that it mandates commercial property and casualty insurers to include terrorism risk coverage on all policies on the same terms and amounts as their other commercial coverage. This precludes businesses from creating risk management solutions that meet their particular needs. For instance, many small businesses may not feel that their size, location or exposure merits the additional cost of terrorism insurance—but they would have to pay for it regardless under the LaFalce proposal. By further example, the LaFalce plan would not permit a business to buy only standard commercial property and casualty coverage from one insurer and terrorism coverage from another if there is a pricing advantage in doing so. The plan also denies the insured the ability to self-insure for a certain amount of terrorism risk or to purchase multiple layers of terrorism coverage.

In addition to the problems that mandated coverage creates for consumers, it also unnecessarily preempts state law on form regulation by having the Federal government mandate the terms and conditions of coverage. The certainty provided by the exposure limits in our Bill and the assessment system in our Bill provides the proper incentives for commercial property and casualty insurers to provide terrorism risk coverage.

Another problem with the LaFalce substitute is that the insurance mechanism that it creates does not effectively spread risk, prevent gaming, provide adequate protections to small insurers, or encourage the spreading of risk through reinsurance. While both Bills require that industry pay the first $5 billion in losses due to terrorism in the first year and the first $10 billion in subsequent years, the LaFalce plan does not effectively spread this risk throughout the industry. By having a $5 billion deductible with no provision of how these losses are calculated or paid, his plan competitively disadvantages small insurance companies who would not be able to absorb the tremendous losses that would be incurred by those small insurers before the industry assistance kicks in.

To try to respond to the small insurer disadvantage, the LaFalce plan has an individual insurance company exposure limit of 7 percent of gross premium—not net premium as stated in his summary. This is a very important point in that gross premium numbers do not give credit to the insurer for the reinsurance that it has purchased. Thus, before federal assistance kicks in, the insurer would have to suffer losses equaling over 7 percent of its gross premium even though it has already spread much of the risk that it cannot cover to reinsurers. The result: insurers are not able to write as much insurance and assistance will not kick in for them until they have already been put into financial duress.

Additionally, the LaFalce plan encourages gaming of the system. Insurers will delay claims and loss reports for months or years so that they occur after the industry deductible is reached. That way, they avoid having to absorb any of the losses themselves. Our plan does provide first dollar coverage once the triggers are met to prevent such gaming; and while the LaFalce plan does not require the industry to retain any losses after his proposal starts to provide assistance, our Bill always requires that the insurer absorb at least 10 percent of the losses at all times, regardless of federal assistance.

Finally, the LaFalce substitute strips out the sovereign immunity provisions of H.R. 3210. Acts of terrorism give rise to very unique sets of facts and a complexity of interested parties that is uncommon in tort law. In the administration of the program established by this Act, it is essential that there is consistency and timely response. Multiple state forums awarding immense damage awards underwritten by federally supported insurance companies would result in a patchwork of inconsistent state court decisions all over the country that would impede the effective and fair implementation of this program. The lack of limited federal forums for claims would result in the kinds of tragic delays in the prompt compensation of victims as we have seen in other mass tort cases, such as the 1993 WTC bombing where cases are just now coming to trial.

Equally as important are the prohibitions on punitive damage awards and joint and several liability for losses caused by terrorist attacks. Acts of terrorism differ fundamentally from other losses that the tort system is designed to deal with in that the overwhelmingly culpable party, the terrorists, will either not be before the court or their assets will be limited or unreachable. To subject effected parties of a terrorism attack and the United States taxpayer to punitive damage awards for the acts of suicidal and maniacal terrorists is a poor allocation of limited resources and simply unfair to the group of victims as a whole. Furthermore, to suggest that an effected party that is found to be 1 percent at fault for a negligent omission of some minor sort could be held responsible for 100 percent of damages due to a terrorist attack is beyond reason.

I strongly urge a ''no'' vote on this amendment.

The SPEAKER pro tempore (Mr. NETHERCUTT). All time for debate on the amendment in the nature of a substitute has expired.

Pursuant to House Resolution 297, the previous question is ordered on the bill, as amended, and on the amendment offered by the gentleman from New York (Mr. LAFALCE).

The question is on the amendment in the nature of a substitute offered by the gentleman from New York (Mr. LAFALCE).

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

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

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

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 197, nays 222, not voting 14, as follows:

[Roll No. 462]

YEAS—197

Abercrombie	Berry	Carson (OK)
Ackerman	Bishop	Clay
Allen	Blagojevich	Clayton
Andrews	Blumenauer	Clement
Baca	Bonior	Clyburn
Baird	Borski	Condit
Baldacci	Boswell	Conyers
Baldwin	Boucher	Coyne
Barcia	Brady (PA)	Crowley
Barrett	Brown (FL)	Cummings
Becerra	Brown (OH)	Davis (CA)
Bentsen	Capps	Davis (FL)
Berkley	Capuano	Davis (IL)
Berman	Cardin	DeGette

Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Frank
Gephardt
Gilman
Gonzalez
Gordon
Graham
Green (TX)
Gutierrez
Hall (OH)
Hastings (FL)
Hill
Hilliard
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (IL)
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
Kucinich
LaFalce
Lampson
Langevin
Lantos
Larsen (WA)
LaTourette
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Lynch
Maloney (CT)
Maloney (NY)
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Mink
Mollohan
Moore
Morella
Murtha
Nadler
Napolitano
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Phelps
Pomeroy
Price (NC)
Rahall
Reyes
Rivers
Rodriguez
Roemer
Ross
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schakowsky
Schiff
Scott
Serrano
Sherman
Shows
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Terry
Thompson (CA)
Thompson (MS)
Thurman
Tierney
Towns
Traficant
Turner
Udall (CO)
Udall (NM)
Velazquez
Visclosky
Waters
Watson (CA)
Watt (NC)
Waxman
Weiner
Woolsey
Wu
Wynn

NAYS—222

Aderholt
Akin
Armey
Bachus
Baker
Ballenger
Barr
Bartlett
Barton
Bass
Bereuter
Biggert
Bilirakis
Blunt
Boehlert
Boehner
Bonilla
Bono
Boozman
Boyd
Brady (TX)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Castle
Chabot
Coble
Collins
Combest
Costello
Cox
Cramer
Crane
Crenshaw
Culberson
Cunningham
Davis, Jo Ann
Deal
DeLay
DeMint
Diaz-Balart
Dooley
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Everett
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Goode
Goodlatte
Goss
Granger
Graves
Green (WI)
Greenwood
Grucci
Gutknecht
Hall (TX)
Hansen
Harman
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Jenkins
John
Johnson (CT)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
Kerns
King (NY)
Kingston
Kirk
Kleczka
Knollenberg
Kolbe
LaHood
Largent
Larson (CT)
Latham
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (KY)
Lucas (OK)
Manzullo
McCrery
McHugh
McInnis
McKeon
Mica
Miller, Dan
Miller, Gary
Miller, Jeff
Moran (KS)
Moran (VA)
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Portman
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reynolds
Riley
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schaffer
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stark
Stearns
Stenholm
Stump
Sununu
Sweeney
Tancredo
Tauzin
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Tiberi
Toomey
Upton
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson
Young (AK)
Young (FL)

NOT VOTING—14

Carson (IN)
Chambliss
Cooksey
Cubin
Davis, Tom
DeFazio
Ford
Frost
Miller, George
Quinn
Rangel
Rothman
Wexler
Wolf

□ 1541

Messrs. SIMMONS, THOMAS, SMITH of Texas, GUTKNECHT, and Ms. HARMAN changed their vote from ''yea'' to ''nay.''

Messrs. BERRY, OWENS, and PHELPS changed their vote from ''nay'' to ''yea.''

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

Mr. TOM DAVIS of Virginia. Mr. Speaker, I would like the record to show that I was right at the door when the vote closed. My colleague, the gentleman from Virginia (Mr. WOLF), and I were in a meeting with the Director of OMB in the Cannon office building. Had I been present, I would have voted no.

Mr. WOLF. Mr. Speaker, I too was in the meeting with the Director of OMB. Had I been present, I would have voted no.

The SPEAKER pro tempore (Mr. NETHERCUTT). The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. LAFALCE

Mr. LAFALCE. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. LAFALCE. Yes, I am opposed, and the National Taxpayers Union is opposed to the bill in its current form.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. LAFALCE moves to recommit the bill H.R. 3210 to the Committee on Financial Service with instructions to report the same back to the House forthwith with the following amendments:

Strike section 15 of the bill (relating to litigation management).

At the end of section 6 of the bill (relating to federal cost-sharing for commercial insurers), add the following new subsection:

(g) REQUIREMENT.—Notwithstanding any other provision of this Act, the Secretary may not provide financial assistance under this section to any commercial insurer unless the commercial insurer provides to the Secretary such assurances, as the Secretary shall by regulation require, that such insurance company will comply with the regulations issued pursuant to section 7(i).

At the end of section 7 of the bill (relating to assessments), add the following new subsection:

(i) PROHIBITION OF PASS-THROUGH.—The Secretary shall, by regulation, prohibit any commercial insurer from including in any premiums or other charges for property and casualty insurance coverage any amounts to cover any costs attributable to any assessment under this section (including the payment of any such assessment and costs of financing such payment).

□ 1545

Mr. LAFALCE (during the reading). Mr. Speaker, I ask unanimous consent that the motion to recommit be considered as read and printed in the RECORD.

The SPEAKER pro tempore (Mr. NETHERCUTT). Is there objection to the request of the gentleman from New York?

There was no objection.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York (Mr. LAFALCE) is recognized for 5 minutes in support of his motion to recommit.

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

Mr. Speaker, let me make the following points. The National Taxpayers Union not only requests a ''no'' vote on final passage of the bill, they will be scoring final passage of the bill as it stands. I just want to make Members aware of that.

Second, what is in the motion to recommit takes the House bill as it is right now, two changes, one, a deletion. It deletes all of the tort provisions. Number two, an addition. It would prevent the insurance industry from passing through the costs of repaying the Federal assistance granted under the bill to its customers. Those are the only two changes. We cut out the tort provisions, and we prevent the pass-through of costs.

Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts (Mr. DELAHUNT) to speak to these issues.

Mr. DELAHUNT. Mr. Speaker, the provision that was added by the Committee on Rules last night which would limit relief for the victims of terrorist attacks by immunizing wrongdoers in advance from the consequences of their own negligence and reckless conduct, has nothing whatsoever to do with stabilizing the insurance market, nothing to do with ensuring that people would be able to secure insurance against future acts of terrorism. It does not belong in the bill. The motion to recommit, as the ranking member alluded to, would delete it; and it would leave us basically with the bill reported out with strong bipartisan support from the Committee on Financial Services.

If we are genuinely concerned about preventing an insurance crisis, we should agree to this motion and pass a clean bill. Let us not try to rewrite the fundamental rules of the civil justice system late at night without thoughtful and considerate debate. Note that the Committee on Rules' provision would prohibit the courts from awarding punitive damages in cases arising out of terrorist incidents no matter how outrageous the underlying conduct.

For example, even for private airport security contractors who wantonly, recklessly, maliciously hired convicted felons, failed to perform background checks, there would be no punitive damages. Even for landlords who deliberately ignore safety codes and fail to install escape routes in their buildings, there would be no punitive damages. Nobody wants to hold parties responsible if they bear no blame, but this provision lets them off the hook, even if they knowingly engage in conduct that puts our fellow citizens at risk.

Mr. Speaker, I would hope that the motion to recommit would prevail, and I urge support for the motion.

Mr. LAFALCE. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania (Mr. KANJORSKI), a member of the Subcommittee on Capital Markets, Insurance and Government Sponsored Enterprises.

Mr. KANJORSKI. Mr. Speaker, I support the motion to recommit because it is certainly in the first provision cleaning up the tort reform provisions, which would go a long way in moving the process along to a final conclusion.

A second provision in the bill allows, of course, for restrictions to pass through. As I understand the concept, rather than allowing insurance companies to keep their profit scales and just pass a rate increase on to the customers, even though they have profits that could afford the cost of those losses, they first would have to look at their profits before there is a pass-through.

The purpose of this motion to recommit is to put a bill together that is more tenable for action in the Senate and eventually to pass this House. I urge my colleagues on both sides to reexamine their conscience and put the real issue at stake, the need for reinsurance in this country, a good underlying bill that was structured to accomplish that, and to do it in a bipartisan way.

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

Mr. OXLEY. Mr. Speaker, I rise in opposition to the motion to recommit.

The SPEAKER pro tempore. The gentleman from Ohio (Mr. OXLEY) is recognized for 5 minutes in opposition to the motion to recommit.

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

Mr. Speaker, in addition to striking the litigation management sections, the motion to recommit imposes price controls on the insurance industry. We can attempt to regulate rates, but we cannot force insurance companies to offer coverage; and States with rate regulation have less competition and higher prices for consumers. Only if we want less insurance availability and higher prices would we vote for this motion to recommit.

Our bill, H.R. 3210, forces the industry, not the taxpayers, to bear the ultimate cost of the terrorist attack. That is what this bill is all about. The bipartisan bill passed out of committee on voice vote allows insurers to price it into future policies.

The motion to recommit says that not only are insurers responsible for spreading terrorist costs, but we are going to force them into insolvency. Why should insurers be punished and not allowed to rebuild their reserves? They should be allowed to reinsure themselves, particularly in light of the fact that the reinsurance industry has gotten out of the business.

These price controls proposed are bad for consumers, bad for policyholders and bad for our national economy.

Mr. Speaker, I yield such time as he may consume to the gentleman from Wisconsin (Mr. SENSENBRENNER), the chairman of the Committee on the Judiciary.

Mr. SENSENBRENNER. Mr. Speaker, I rise in strong opposition to the motion to recommit which would strip from the bill vital litigation management provisions. Without these provisions, the bill would threaten untold numbers of businesses with the loss of capital and credit simply because they might be named in a lawsuit related to a terrorist attack.

Nearly identical litigation management provisions were passed by the House by a vote of 286–139 to cover lawsuits related to the September 11 attacks. Without these provisions, anyone could be on the hook for all damages caused by a terrorist attack, running into billions of dollars, even when they share only 1 percent of the responsibility of the losses and the terrorists share the remaining 99 percent.

If any defendant, even those just marginally involved in such a minuscule portion of any injuries could be made to pay the full amount of noneconomic damages caused by a massive terrorist attack, hundreds of legitimate businesses would be thrown into bankruptcy.

Again, existing tort rules are designed to deal with the typical slip-and-fall case. They may properly apply when the primary cause of an injury is excessive water on the floor of a grocery store, but surely that cannot be true when the primary cause is a suicidal fanatic, motivated by the deepest hatred of America and using weapons of mass destruction intended to kill as many innocent people as possible. If anyone can convince me that a slippery floor is the moral equivalent of a terrorist, I will vote for the gentleman's motion myself.

Mr. Speaker, Congress has already recognized this in passing the liability protection provisions governing lawsuits relating to the September 11 attacks. Without the litigation management provisions, no limits would be placed on the fees of attorneys bringing cases against Americans and their businesses, even when the primary cause of injury is a terrorist.

Without the provisions which allow courts the discretion to keep attorneys' fees reasonable, a few war profiteers can turn attacks that result in multibillion-dollar losses into private jackpots for themselves, that are paid for by the U.S. taxpayers.

Mr. Speaker, I urge all Members to oppose this motion to recommit and ensure equitable compensation to victims while protecting the American economy and the taxpayer.

Mr. OXLEY. Mr. Speaker, I yield the balance of my time to the gentleman from North Dakota (Mr. POMEROY).

Mr. POMEROY. Mr. Speaker, I had hoped the motion to recommit would offer us the opportunity to fix this bill. I believe the bill is flawed, and I will be voting against it. Unfortunately, minority leadership staff has fouled up, in my opinion, the motion to recommit. I will be voting against the motion to recommit, and voting against the bill as well.

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

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

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

RECORDED VOTE

Mr. LAFALCE. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 173, noes 243, not voting 17, as follows:

[Roll No. 463]

AYES—173

Abercrombie	Condit	Hastings (FL)
Ackerman	Conyers	Hilliard
Allen	Costello	Hinchey
Andrews	Coyne	Hinojosa
Baca	Crowley	Hoeffel
Baird	Cummings	Holden
Baldacci	Davis (CA)	Holt
Baldwin	Davis (IL)	Honda
Barcia	DeGette	Hooley
Barrett	Delahunt	Hoyer
Becerra	DeLauro	Inslee
Berkley	Dicks	Israel
Berman	Dingell	Jackson (IL)
Berry	Doggett	Jackson-Lee (TX)
Bishop	Doyle	Jefferson
Blagojevich	Edwards	Johnson, E.B.
Bonior	Engel	Jones (OH)
Borski	Eshoo	Kanjorski
Boswell	Evans	Kaptur
Boyd	Farr	Kennedy (RI)
Brady (PA)	Fattah	Kildee
Brown (OH)	Filner	Kind (WI)
Capps	Frank	Kleczka
Capuano	Gephardt	Kucinich
Cardin	Gonzalez	LaFalce
Carson (OK)	Gordon	Lampson
Clay	Green (TX)	Langevin
Clayton	Gutierrez	Lantos
Clement	Hall (OH)	Larsen (WA)
Clyburn	Harman	

LaTourette
Lee
Levin
Lewis (GA)
Lipinski
Luther
Lynch
Maloney (CT)
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Mink
Mollohan
Murtha
Nadler
Napolitano
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pastor
Payne
Pelosi
Phelps
Rahall
Reyes
Rivers
Rodriguez
Ross
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schakowsky
Schiff
Scott
Serrano
Sherman
Shows
Skelton
Slaughter
Smith (WA)
Solis
Strickland
Stupak
Tauscher
Taylor (MS)
Thompson (MS)
Thurman
Tierney
Towns
Traficant
Turner
Udall (CO)
Udall (NM)
Velazquez
Visclosky
Waters
Watson (CA)
Watt (NC)
Waxman
Weiner
Woolsey
Wynn

NOES—243

Aderholt
Akin
Armey
Bachus
Baker
Ballenger
Barr
Bartlett
Barton
Bass
Bentsen
Bereuter
Biggert
Bilirakis
Blumenauer
Blunt
Boehlert
Bonilla
Bono
Boozman
Brady (TX)
Brown (FL)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Castle
Chabot
Coble
Collins
Combest
Cox
Cramer
Crane
Crenshaw
Culberson
Cunningham
Davis (FL)
Davis, Jo Ann
Davis, Tom
Deal
DeLay
DeMint
Deutsch
Diaz-Balart
Dooley
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Etheridge
Everett
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goss
Graham
Granger
Graves
Green (WI)
Grucci
Gutknecht
Hall (TX)
Hansen
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Jenkins
John
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
Kerns
Kilpatrick
King (NY)
Kingston
Kirk
Knollenberg
Kolbe
LaHood
Largent
Larson (CT)
Latham
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lofgren
Lucas (KY)
Lucas (OK)
Maloney (NY)
Manzullo
McCrery
McHugh
McInnis
McKeon
Mica
Miller, Dan
Miller, Gary
Miller, Jeff
Moore
Moran (KS)
Moran (VA)
Morella
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Osborne
Ose
Otter
Oxley
Pascrell
Paul
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reynolds
Riley
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schaffer
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Snyder
Souder
Spratt
Stark
Stearns
Stenholm
Stump
Sununu
Sweeney
Tancredo
Tanner
Tauzin
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thornberry
Thune
Tiahrt
Tiberi
Toomey
Upton
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson
Wolf
Wu
Young (AK)
Young (FL)

NOT VOTING—17

Boehner
Boucher
Carson (IN)
Chambliss
Cooksey
Cubin
DeFazio
Ford
Frost
Greenwood
Johnson (CT)
Lowey
Miller, George
Quinn
Rangel
Rothman
Wexler

□ 1618

Mr. ROEMER and Mr. MORAN of Virginia changed their vote from ''aye'' to ''no.''

Mr. CARSON of Oklahoma changed his vote from ''no'' to ''aye.''

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. NETHERCUTT). The question is on passage of the bill.

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

RECORDED VOTE

Mr. LAFALCE. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 227, noes 193, not voting 13, as follows:

[Roll No. 464]

AYES—227

Aderholt
Akin
Armey
Bachus
Baker
Ballenger
Barcia
Barr
Bartlett
Barton
Bass
Bereuter
Biggert
Bilirakis
Blunt
Boehlert
Boehner
Bonilla
Bono
Boozman
Brady (TX)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Castle
Chabot
Clement
Coble
Collins
Combest
Cox
Cramer
Crane
Crenshaw
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal
DeLay
DeMint
Diaz-Balart
Dooley
Doolittle
Dreier
Dunn
Ehlers
Ehrlich
Emerson
English
Everett
Ferguson
Fletcher
Foley
Forbes
Fossella
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Graves
Green (WI)
Greenwood
Grucci
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Hart
Hastings (WA)
Hayes
Hayworth
Herger
Hilleary
Hobson
Hoekstra
Holden
Horn
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
Kerns
King (NY)
Kingston
Kirk
Knollenberg
Kolbe
LaHood
Largent
Larson (CT)
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (KY)
Lucas (OK)
Maloney (CT)
Manzullo
Matheson
McCrery
McHugh
McKeon
Mica
Miller, Dan
Miller, Gary
Miller, Jeff
Moran (KS)
Moran (VA)
Morella
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Osborne
Ose
Otter
Oxley
Pence
Peterson (PA)
Pickering
Pitts
Pombo
Portman
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reynolds
Riley
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Stenholm
Stump
Sununu
Sweeney
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thornberry
Thune
Tiahrt
Tiberi
Toomey
Towns
Traficant
Upton
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson
Wolf
Young (AK)
Young (FL)

NOES—193

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldacci
Baldwin
Barrett
Becerra
Bentsen
Berkley
Berman
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boyd
Brady (PA)
Brown (FL)
Brown (OH)
Capps
Capuano
Cardin
Carson (OK)
Clay
Clayton
Clyburn
Condit
Conyers
Costello
Coyne
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Doyle
Duncan
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Flake
Frank
Gephardt
Gonzalez
Green (TX)
Gutierrez
Harman
Hastings (FL)
Hefley
Hill
Hilliard
Hinchey
Hinojosa
Hoeffel
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
Kleczka
Kucinich
LaFalce
Lampson
Langevin
Lantos
Larsen (WA)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Luther
Lynch
Maloney (NY)
Markey
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McInnis
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller, George
Mink
Mollohan
Moore
Murtha
Nadler
Napolitano
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Paul
Payne
Pelosi
Peterson (MN)
Petri
Phelps
Platts
Pomeroy
Price (NC)
Rahall
Reyes
Rivers
Rodriguez
Roemer
Ross
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schaffer
Schakowsky
Schiff
Scott
Serrano
Sherman
Shows
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Tancredo
Tauscher
Thompson (CA)
Thompson (MS)
Thurman
Tierney
Turner
Udall (CO)
Udall (NM)
Velazquez
Visclosky
Waters
Watson (CA)
Watt (NC)
Waxman
Weiner
Woolsey
Wu
Wynn

NOT VOTING—13

Boucher	DeFazio	Rangel
Carson (IN)	Ford	Rothman
Chambliss	Frost	Wexler
Cooksey	Lowey	
Cubin	Quinn	

□ 1637

Mr. CROWLEY changed his vote from ''aye'' to ''no.''

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MUSCULAR DYSTROPHY COMMUNITY ASSISTANCE, RESEARCH AND EDUCATION AMENDMENTS OF 2001

Mr. TAUZIN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 717) to amend the Public Health Service Act to provide for research with respect to various forms of muscular dystrophy, including Duchenne, Becker, limb girdle, congenital, facioscapulohumeral, myotonic, oculopharyngeal, distal, and Emery-Dreifuss muscular dystrophies, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Senate amendment:

Page 17, after line 6 insert:

SEC. 7. STUDY ON THE USE OF CENTERS OF EXCELLENCE AT THE NATIONAL INSTITUTES OF HEALTH.

(a) REVIEW.—Not later than 60 days after the date of enactment of this Act, the Secretary of Health and Human Services shall enter into a contract with the Institute of Medicine for the purpose of conducting a study and making recommendations on the impact of, need for, and other issues associated with Centers of Excellence at the National Institutes of Health.

(b) AREAS OF REVIEW.—In conducting the study under subsection (a), the Institute of Medicine shall at a minimum consider the following:

(1) The current areas of research incorporating Centers of Excellence (which shall include a description of such areas) and the relationship of this form of funding mechanism to other forms of funding for research grants, including investigator initiated research, contracts and other types of research support awards.

(2) The distinctive aspects of Centers of Excellence, including the additional knowledge that may be expected to be gained through Centers of Excellence as compared to other forms of grant or contract mechanisms.

(3) The costs associated with establishing and maintaining Centers of Excellence, and the record of scholarship and training resulting from such Centers. The research and training contributions of Centers should be assessed on their own merits and in comparison with other forms of research support.

(4) Specific areas of research in which Centers of Excellence may be useful, needed, or underused, as well as areas of research in which Centers of Excellence may not be helpful.

(5) Criteria that may be applied in determining when Centers of Excellence are an appropriate and cost-effective research investment and conditions that should be present in order to consider the establishment of Centers of Excellence.

(6) Alternative research models that may accomplish results similar to or greater than Centers of Excellence.

(c) REPORT.—Not later than 1 year after the date on which the contract is entered into under subsection (a), the Institute of Medicine shall complete the study under such subsection and submit a report to the Secretary of Health and Human Services and the appropriate committees of Congress that contains the results of such study.

Mr. TAUZIN (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment be considered as read and printed in the RECORD.

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

There was no objection.

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

Mr. WICKER. Mr. Speaker, reserving the right to object, and I certainly shall not object as the sponsor of this legislation. I just wanted to take this opportunity to thank the gentleman from Louisiana (Mr. TAUZIN) and also the gentleman from Florida (Mr. BILIRAKIS) for their hard work and cooperation on this issue, along with expressing my thanks to the ranking members, the gentleman from Michigan (Mr. DINGELL) and the gentleman from Ohio (Mr. BROWN), as well as to my principal cosponsor, the gentleman from Minnesota (Mr. PETERSON).

Mr. Speaker, let me just briefly say that this legislation left this House with a unanimous vote and 310 cosponsors, and it will authorize the Centers of Excellence at the National Institutes of Health as well as an epidemiological survey at the CDC for Duchenne muscular dystrophy and other forms of childhood muscular dystrophy.

I have to say that I cannot think of a better Christmas present during this time between Thanksgiving and Christmas for the tens of thousands of parents whose children suffer from this lethal disease. Duchenne muscular dystrophy, as the gentleman from Louisiana (Mr. TAUZIN) knows, is the most common and most lethal form of childhood genetic disease. By the passage of this legislation tonight, we are giving honest, real hope to the parents of these children and to the entire American people who want to fight this disease. My appreciation goes to everyone.

I have been a strong supporter of NIH and all of the scientists and dedicated professionals at the National Institutes of Health. I want to thank them for their cooperation for helping us write a better bill than I had originally offered. I am grateful to everyone, and my hat is off to the Duchenne muscular dystrophy parents who have actually made this possible.

With those words of thanks and appreciation, I yield to the gentleman from Louisiana under my reservation.

Mr. TAUZIN. Mr. Speaker, I thank the gentleman for yielding, and I want to commend the gentleman for his extraordinary work in this area. Not only will this bill, because of his great work, authorize NIH to do extensive new research on Duchenne muscular dystrophy, but also other forms of childhood muscular dystrophy. What we have learned is when they do extensive research in these areas, very much of it is genetic research and that genetic research yields all sorts of information on other diseases, such as Friedreich's ataxia, which is a disease of my culture, the Cajun culture. We learn a great deal every time we do extensive research into these genetic disease areas and as the gentleman said, not only tens of thousands of parents whose children suffer with these disease, but countless tens and perhaps hundreds of thousands of families who may get an answer to diseases comparable or similar to these may come out of this research.

I want to thank the gentleman for his great work on it; and again, I think not only many families will receive this as a great Christmas gift, but future generations are going to be grateful for the work he has done on this bill.

Mr. WICKER. Mr. Speaker, reclaiming my time under my reservation, I thank my chairman. I will simply conclude by saying it is not often that we are surprised with this legislative business, but I think the speed with which this legislation swept through the House of Representatives and also the other body has taken my breath away. My hat is off to the leadership of the House and to the gentleman from Louisiana (Mr. TAUZIN).

Mr. Speaker, I withdraw my reservation of objection.

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

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. TAUZIN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 717.

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

There was no objection.

ACCESS AND OPENNESS IN SMALL BUSINESS LENDING ACT OF 2001

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

Mr. MCGOVERN. Mr. Speaker, I join my colleagues today to introduce the Access and Openness in Small Business Lending Act of 2001, a bill that I hope will dramatically improve lending practices that benefit women and minority-owned small businesses.

This legislation will amend the Equal Credit Opportunity Act and require depository lenders such as banks, credit

unions, and thrifts to collect race and gender information for small business borrowers. But while the Access and Openness Act requires depository institutions to keep such records, it does not require borrowers to disclose race and gender information if they do not want to.

The Access and Openness Act will effectively eliminate the Federal Reserve's regulation B, which prohibits lenders from collecting data regarding an applicant's gender and race.

The guiding principle behind this bill is time-tested and simple: sunshine is the best disinfectant. Without the specific knowledge of the demographic composition of small business borrowers, including those that apply but do not get approval, we will never be able to unmask discriminatory lending practices or systematically monitor programs that advance women and minority business ownership.

The Access and Openness Act is modeled after the Home Mortgage Disclosure Act, which requires banks to report demographic data on home mortgage lending. It is my hope that this bill will move banks to operate as effectively in the women and minority small business lending market as they have in the home mortgage market where the collection of demographic data has opened lending to underserved communities.

Mr. Speaker, I will include at this point in the RECORD the following supporting material:

ACCESS AND OPENNESS IN SMALL BUSINESS LENDING ACT OF 2001

SUPPORTING ORGANIZATIONS

National Women's Business Council, a federal commission, Association for Women's Business Centers, Women's Business Development Center, Milken Institute, National Community Reinvestment Coalition, Hispanic Economic Development Corporation, and Alternatives Federal Credit Union.

Southern Rural Development Initiative, National Congress for Community Economic Development, Cabrillo Economic Development Corporation, Pittsburgh Community Reinvestment Group, Chelsea Neighborhood Housing Services, Rural Opportunities, and Greater Holyoke Community Development Corporation.

Community Action Committee of the Lehigh Valley, Texas Community Reinvestment Coalition, Charlotte Organizing Project, Common Wealth Development, Wisconsin, Western New York Law Center, and California Reinvestment Committee.

Rural Housing Institute, National Neighborhood Housing Network, Vermont Slauson Economic Development Corporation, Los Angeles, Lawyers' Committee for Civil Rights Under Law, Coastal Enterprises, Inc., and Mon Valley Initiative.

NATIONAL COMMUNITY REINVESTMENT COALITION,
Washington, DC, June 21, 2001.

Hon. JAMES P. MCGOVERN,
House of Representatives, Cannon House Office Building, Washington, DC.

DEAR CONGRESSMAN MCGOVERN: The National Community Reinvestment Coalition (NCRC) strongly supports "the Access and Openness in Small Businesses Lending Act of 2001" as essential to the efforts of lending institutions, community organizations, and local public agencies to increase access to capital and credit for women- and minority-owned businesses. NCRC's 800 member organizations—community groups and local public agencies—around the country also commend the leadership of Representatives McGovern and Morella in sponsoring this bill.

The Access in Small Business Lending Act of 2001 would amend the Equal Credit Opportunity Act (ECOA) to require banks, thrifts, and credit unions to report the race and gender of the small businesses from which they receive applications and to which they make loans. This data is to be disclosed regardless of whether the application is made in person, over the phone, or received via mail or the Internet.

This data disclosure requirement promises to greatly increase access to credit for minority and women-owned businesses. Working together, community groups, lending institutions and local public agencies would analyze publicly available small business data and identify the small business owners and neighborhoods that remain underserved. Stimulated by data disclosure, these types of community-lenders partnerships are a win-win: bankers seize upon untapped markets and find additional profitable lending opportunities; community organizations and small businesses receive more access to private sector credit with which to revitalize their neighborhoods and expand their commercial base.

An amendment to HMDA (Home Mortgage Disclosure Act) data in 1990 to require the reporting of race and gender of applicants unleashed a tremendous increase in lending to traditionally underserved populations. From 1993 to 1999, for example, the number of conventional home purchase loans increased 119 percent for African-Americans, 116 percent for Latinos, and only 42 percent for whites.

Unfortunately, the state of affairs is not as sanguine in the small business area. The truncated CRA small business data (which only reveals the census tract in which a loan is made) suggests that much progress needs to be made. From 1996 to 1999, the number of small business loans increased 39 percent overall but only 8 percent in low-income census tracts. As a result, the percent of small business loans made in low- and moderate-income tracts declined from 21 percent to 18 percent, despite * * *

WORLD AIDS DAY

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

Mrs. CLAYTON. Mr. Speaker, I would like first to thank the gentlewoman from California (Ms. LEE) for asking us to really speak out on this worldwide issue. In fact, we have an opportunity to speak out on this issue 2 days before what we call World AIDS Day. As this day approaches, we are faced with the grim statistics about the spread of HIV/AIDS. From the rural South in my area of North Carolina to South Africa, greater efforts have to be made to fight the spread of AIDS. We hear these statistics. They do not even prick our consciousness. We have got to find a way to make sure that these statistics do not become just sheer rhetoric.

A recent story on the AP wire reports that the AIDS epidemic is spreading across eastern Europe, with HIV infection rates rising faster in the Soviet Union than anywhere else in the world. I would like to submit this article for the RECORD.

There has been more than 75,000 new cases of HIV in Russia as compared to 56,000 cases last year. Here in the United States, HIV infections among U.S. women have increased significantly over the last decade, especially in communities of color.

We must do more. We have an opportunity to do more. The United States must provide more resources for the global AIDS fund of the United Nations. We can do this by providing the resources and being a leader. We must develop long-term strategies to make sure that we rid the world of HIV infections.

REPORT: AIDS SWEEPING EASTERN EUROPE

(By Mara D. Bellaby)

MOSCOW (AP).—The AIDS epidemic is sweeping across Eastern Europe, with HIV infection rates rising faster within the former Soviet Union than anywhere else in the world, according to the latest U.N. report on AIDS, published Wednesday.

The combination of economic insecurity, high unemployment and deteriorating health services in the region are behind the steep rise, which shows no signs of abating, said U.N. officials, in Moscow to launch the report.

Worldwide, "HIV/AIDS is unequivocally the most devastating disease we have ever faced, and it will get worse before it gets better," Peter Pilot, executive director of the Joint U.N. Program on HIV/AIDS wrote in the report, which is updated annually ahead of Worlds AIDS Day, held every Dec. 1.

In Russia, more than 75,000 new cases of HIV infection were reported by early November, compared to 56,000 new cases last year.

"That works out to about 10,000 new cases every month," said Gennady Onishchenko, Russia's first deputy health minister. "This is our reality. . . . It is a very serious problem."

Ukraine has the highest HIV prevalence rate in the region, with an estimated 1 percent of adults infected. In the small Baltic nation of Estonia, 1,112 new cases of HIV infection were recorded in the first nine months of this year, compared to only 12 in all of 1999, officials said.

The U.N. report said that in Eastern Europe, as in the rest of the world, AIDS affects a disproportionate number of young people. The main method of transmission in the former Soviet Union is through injecting drugs.

"It is a teen-age epidemic—teen-agers experimenting with drugs, teen-agers experimenting with sex," Piot said.

Officials in Eastern Europe have blamed the epidemic's increase partly on the sudden opening of borders, the growth of organized crime and weakened social services following the collapse of communist rule a decade ago.

Many young people, bored and unsure about their future, turn to drugs or unprotected sexual encounters, officials said.

Since the first clinical evidence of AIDS appeared 20 years ago, more than 22 million people have died. AIDS is the leading cause of death in sub-Saharan Africa, which has been hit hardest by the epidemic.

This year, African nations will experience 3.4 million new infections and 2.3 million deaths—losses that not only drain national budgets but also put future generations at risk, depriving children of parents and local economies of their work force, officials said.

U.N. officials predicted that some of the most affected African nations could lose

more than 20 percent of their GDP by 2020 because of AIDS.

The U.N. report said unsafe sex was on the rise in high-income countries such as the United States and some European nations, subsequently triggering a rise in sexually transmitted diseases, including HIV.

''All the emphasis is put on treatment, which has had a major impact, but prevention has been neglected and education has been neglected,'' Piot said. ''The price that we will have to pay for that neglect is very high.''

The report found a bright spot in Cambodia, where prevention measures have had a significant impact, but officials also warned about the deteriorating situation in China and in the Caribbean, which continues to be the second most affected region in the world.

Last June, the U.N. General Assembly held a special session on HIV/AIDS, winning pledges from governments to pursue new preventive actions and contribute more funds to the fight. The United Nations estimates that some $10 billion will be needed every year to fight AIDS in low and middle-income countries.

□ 1645

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. JEFF MILLER of Florida). 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 Iowa (Mr. GANSKE) is recognized for 5 minutes.

Mr. GANSKE 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 Ohio (Ms. KAPTUR) is recognized for 5 minutes.

Ms. KAPTUR addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

JUMPERTOWN QUILT PROJECT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Mississippi (Mr. WICKER) is recognized for 5 minutes.

Mr. WICKER. Mr. Speaker, ever since the events of September 11, people in communities large and small have looked for ways to show their support for the victims of terrorism and to express the pride they have in this great country.

I rise today to share the story of an inspiring, patriotic project undertaken in a community in Mississippi's First Congressional District. The students and residents of Jumpertown, in Prentiss County, Mississippi, chose a unique way to share their words of support and patriotism by including them in a quilt. I was honored to be asked to deliver it to President Bush.

Mrs. Nancy Johnson, a teacher at the school, conceived the idea, which quickly became more than a school project. It was enthusiastically embraced by the entire community.

Mrs. Betty Sue Geno started the process by cutting cloth squares, which were then distributed to each class, kindergarten through 12th grade, in the 365-member student body at Jumpertown School. The office staff and lunchroom ladies also participated. Each group was given the opportunity to create and decorate the individual squares.

When all pieces were completed, Mrs. Penny Padgett designed and sewed the quilt top. Then the squares were turned over to a group of ladies in the community who met at the Barksdale Parents Center for an old-fashioned quilting bee.

The ladies who put it all together were Mrs. Ruby Smart, Mrs. Sue Nell Searcy, Mrs. Mary Odle, and Mrs. Louise Robinson. They were assisted by teachers and staff members from Jumpertown School, including Lisa Cousar, Eleshia Jumper, and Martha Mitchell.

Mr. Speaker, I was proud to be part of a patriotic ceremony on November 12, the day after Veterans Day, to present the quilt officially. The entire school assembled in the gymnasium, along with many people from the community, to pay tribute to Prentiss County veterans and to celebrate this very special project.

Prentiss County superintendent of education Judy Perrigo and Jumpertown principal Kenneth Chisholm took part in the program. It included patriotic musical selections from students Kayla Robinson and Megan Downs and teacher Norma Jo Jones. Sixth-grader Channing Durham also read a poem he had written.

In her remarks, Mrs. Johnson said, ''Much as our Nation has come together, our community has pulled together on this quilt. We are sending this to the President with the hope that he knows that in Jumpertown our prayers, our thoughts, and our support are with him and the country.''

This project in Jumpertown, Mississippi, Mr. Speaker, is a reflection of the American spirit which has sustained our Nation during these difficult times. I proudly accepted this quilt on behalf of the entire United States Congress, and I look forward to taking it to President Bush at the White House.

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from the District of Columbia 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 Michigan (Mr. SMITH) is recognized for 5 minutes.

(Mr. SMITH of Michigan 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.)

BORDER POINTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. SOUDER) is recognized for 5 minutes.

Mr. SOUDER. Mr. Speaker, on Tuesday evening after returning from a day and a half visit with the Canadian parliamentarians and government leaders in Ottawa, I spoke briefly about the importance of our mutual trade and our mutual concerns about terrorism.

It is important when we are discussing antiterrorism efforts on our north and south borders that we not forget the importance of trade. The trade crossing just the Ambassador Bridge between Windsor, Ontario, and Detroit, Michigan, equals all U.S.-Japan trade.

That said, Americans as well as Canadians and Mexicans are concerned about the movement of terrorists and other illegal activity along our borders. It is not just about terrorists and possible terrorists. Most Americans have been aware of the narcotics problems along the U.S.-Mexican border over the last decade. Andean cocaine and heroin move into the U.S. through Mexico and the Caribbean Sea. The northern border does not have the fences and patrols that we have along the south border.

Now, as drug patterns change in the United States, Canada has become a major narcotics conduit to the United States, as well: Ecstacy, coming mostly from the Netherlands, across into the U.S. from Canada; ephedrine and chemical precursors for methamphetamines, meth, for Ecstacy and other synthetic drugs are moving through Canada. These are in fact our fastest growing drug problems.

Furthermore, potent marijuana from British Columbia, called B.C. Bud, and from Quebec, called Quebec Gold, have potencies similar to cocaine. In fact, Quebec Gold sells for about the same price as cocaine in New York City. But it is important for Americans to understand two basic points: one, it is our consumption that has resulted in our hemispheric neighbors turning into transit and drug-producing nations; and, B, in the case of Canada, the drug-trafficking, like the movement of terrorists, goes both ways.

This does not change the need for border control. The borders are often our best chance to catch drug traffickers and terrorists before they lose themselves within our free nations; thus, we have to work on border control.

So how can we keep our trade, tourism, and shared work forces moving with relative ease, and also protect our nations? It is not a matter of Canada, Mexico, or the U.S. dictating to the other nations about what must be done, but this is a fact: the United States is toughening its laws. If our neighbors do not, as well, trade will suffer.

Changes must include numerous things, including more shared intelligence information among trained professional personnel. The personnel has to be trained so we do not have compromises when we share information, like happened with the Mexican drug czar who was living in an apartment that was owned by the cartel.

The ability to collect intelligence information. We have to have laws that are flexible enough to allow us to gather the intelligence, or we cannot allow the movement across the borders as free as it has been in the past.

The ability to arrest, detain, and prosecute violators, and to keep track of high risks. This is what we are doing in our terrorism bill; and this is what we need from our neighbors, if we are not going to have tighter controls on the border.

The ability to extradite criminals to the U.S. This has been a sticking point for many years with numerous countries, for example, in Colombia where the drug-corrupted President would not allow extradition, and it became a place for them to hide out. It became a process where we in fact cut off trade and assistance to Colombia. It is now a problem with al Qaeda members from Spain, which does not want to send them to us because of our death penalty.

Extradition of those who murder Americans is essential for justice, but also for defense and for protection and deterrence. Terrorists and drug lords would rather face soft justice than U.S. justice.

In Holland, narcotics traffickers find cover. If someone in Holland attempts to escape or escapes from prison, there is no penalty. It is assumed that that is a natural thing, to want to escape from prison. Is it any wonder that people try to hide in Holland, with those kinds of laws? No wonder drug lords and terrorists try to hide out in other nations that do not work with our extradition.

We need also passenger manifest lists, as our Customs Director, Mr. Bonner, has insisted; and we need them now. We cannot have open airports if we do not know who the passengers are coming in, and it is something that needs to be done immediately, to the degree that we can all, including the U.S. And we, the U.S., after all, missed the September 11 terrorists, and they were here, not at the other places. So this is not just about pointing fingers while we live in a glass house. We know we need to make the changes, but so do our neighbors.

We in the U.S. are building a different house. It is not dramatic, but it is going to have major adjustments. If our neighbors do so also, and Canada clearly is working rapidly to do so as we speak, because they are moving their antiterrorism and immigration packages in the next 2 weeks, we can make this.

The laws will be different but similar, with our neighbors devoting resources to their own airports and borders not adjacent to the U.S. For example, the southern border with Mexico and Central America, if we are sure about that border, then we do not have to be as careful on our border; or if the airports coming into Vancouver and Halifax have protections similar to ours, then we do not need to be as tight on the north border.

Furthermore, we need to work towards joint efforts with Canada and Mexico on our joint borders. For example with Canada, we can look for cooperation on truck sites. We can look for shared border crossings where we do not need as much. I believe we can accomplish this with both countries by working together.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Rhode Island (Mr. LANGEVIN) is recognized for 5 minutes.

(Mr. LANGEVIN addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

ON WORLD AIDS DAY

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. MILLENDER-MCDONALD) is recognized for 5 minutes.

Ms. MILLENDER-McDONALD. Mr. Speaker, this Saturday, December 1, marks the commemoration of World AIDS Day. In my district, I will be holding a special event in support of this occasion.

As our distinguished minority leader, the gentleman from Missouri (Mr. GEPHARDT), stated at the World AIDS Day briefing held earlier today in the Capitol by the African Ambassadors Group and the International AIDS Trust, the issue of HIV/AIDS, he said, is the ''moral issue of our time.'' It affects everyone and everything.

Mr. Speaker, we must leave no stone unturned to bring an end to this pandemic. We must find a way to create an endowment of funding to assist the war against the spread of this disease, both domestically and internationally.

We must increase and accelerate our financial support to the U.N. Secretary General's AIDS Trust Fund, and we must champion our own colleagues in their quest to craft a comprehensive approach to help alleviate the appalling suffering in Africa, as represented by the bill of my distinguished colleague, the gentlewoman from California (Ms. LEE), to establish a Marshall Plan for Africa.

Mr. Speaker, it is vitally important that we focus on ways and means to strengthen infrastructures and services that can help combat the impact of AIDS. HIV/AIDS, after all, is a multidimensional issue that has long-range development implications. It is not just a matter of clinical treatment and curative measures. We must address the issues of poverty and debt relief, so that the poorest countries can apply more of their revenues to the basic human rights and human needs of their people.

We must help and encourage greater gender equity, so women and men can address their sexual dialogue on a more equal basis. We must achieve greater understanding of the cultural values and modes of behavior that undercut safe-sex practices that lead to the spread of this pernicious disease.

Finally, we must increase our financial support to develop activities and programs that can lay a more sustainable foundation for community empowerment and economic livelihood.

Only on this basis will communities around the world, through NGOs and public-private partnerships, be able to find the will to wage this war against AIDS. Our local event will bring together researchers, doctors, and other health professionals, as well as heads of foundations and pharmaceutical companies, together with community leaders to continue to raise support for combatting HIV/AIDS in the 37th district and in the region.

It is our hope that similar commemorative activities across America and around the world will highlight the leadership being brought to bear on this critical concern of our time. Just as we are building a powerful coalition to fight terrorism on a global scale, we can do no less when it comes to HIV/AIDS. Forty million people living with this dreadful disease is one too many.

COMMEMORATING WORLD AIDS DAY

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Texas (Ms. JACKSON-LEE) is recognized for 5 minutes.

Ms. JACKSON-LEE of Texas. Mr. Speaker, this week we will commemorate, celebrate, embrace, and share love on World AIDS Day, December 1, 2001. Today I had the pleasure and honor of being with the African Ambassadors Group and the International AIDS Trust to commemorate that for the House and Senate.

It is important that policy leaders stand up and be counted as we move forward to continue the fight against the devastation of HIV/AIDS worldwide.

Let me thank Sandy Thurman and, as well, all of the African ambassadors, and Ambassador Sheila Suzuli of South Africa, who gave very eloquent comments and remarks about the waging of the war in sub-Saharan Africa.

Let me also acknowledge my friends with the Names Project in Houston. I will join them tomorrow in celebrating

and commemorating the loss of lives, and as well, the lives of those who are still living with AIDS.

As we do that tomorrow evening at the de Menil Museum, we do it together, embracing and noting the wonderment of the lives that are no longer with us but recommitting ourselves to fighting against the devastation of HIV/AIDS.

□ 1700

I say congratulations and my best wishes to the NAMES Project of Houston and all the other fighters in my community who are advocating against HIV/AIDS and working to provide prevention dollars and treatment dollars throughout the entire city, which includes of course the Donald Watkins Foundation.

September 11 will live forever in our hearts and minds as one of the most tragic and horrific acts of terrorism on our country. We have all joined forces to fight back against this terrible evil. Foreign countries have also responded and lent their support to help combat terrorism. It has proven that by joining together, any challenge can be overcome.

While we have focused our attention to addressing the immediate needs of the survivors and families who lost loved ones, increased security, and the economy, we must refocus our attention as well to the global pandemic that has claimed over 29 million lives. The same strategy we apply in our fight against this terrible, terrible dread of terrorism, we must continue the battle, however, in our fight to beat HIV/AIDS around the Nation. This is a global issue and everyone's problem, nationwide and worldwide.

The Global Health Alliance released a report yesterday, entitled ''Pay Now or Pay More Later: An Independent Report on the Response to the Global HIV/AIDS Pandemic.'' Today, the African Ambassadors Group and International AIDS Trust sponsored a briefing on refocusing and reaffirming our commitment to AIDS. As we approach World AIDS Day on December 1, we must stand strong and continue to fight and raise awareness.

Forty million people around the world live with HIV/AIDS or will be living with it by the end of 2001, adults and children, 28 million of which live in sub-Saharan Africa alone.

Since the first HIV case 20 years ago, over 60 million persons have been infected, and over 20 million have already died from AIDS. The spread continues, especially in poor and developing countries.

In Africa, there are an estimated 11,000 new infections per day; and during 2001, 2.3 million Africans will die from HIV/AIDS. Only 10 percent of the world's population lives south of the Sahara, but the region is home to two-thirds of the world's HIV/AIDS. We must not tolerate such devastation, and it has suffered more than 80 percent of all AIDS deaths in sub-Saharan Africa.

I traveled to the South African region in 1999 and this year, and what I witnessed was unbelievable. First, I would like to commend the indomitable spirit of those who are fighting HIV/AIDS. The leadership, the government, the social agency, the NGOs, the people, they are all fighting unified together. It was a life-changing event to see and meet people infected by this deadly virus but also to meet those who were standing alongside of them, committed to defeat this deadly disease.

What affected me most was witnessing the thousands of orphan children whose parents had died from AIDS. Currently there are approximately 14 million children orphaned by HIV/AIDS, with a projection of 40 million children by 2010 if no action is taken. Every minute, an African child dies of AIDS. These orphans are more likely to be poor, deprived of education, abused or neglected.

Who cares for them when their parents die? HIV/AIDS also decimates the family support system, and when I went on one of my earlier trips to Africa, I saw a 4-year old who was left to be the only healthy individual in a family taking care of dying adults, dying from HIV/AIDS.

A teacher who works near the Chinakas and the Kasongos described how 15 of his 42 students have lost one or both of their parents. He sees thousands of children just sitting around, wanting to be left alone. He also noticed that some of these orphans come to school without shoes or without a sweater in the winter. Either their step-families put them last on the list, or their grandmothers could not scrape together enough money.

It is important to note the impact of HIV/AIDS in the United States. Non-Hispanic blacks represent 33 percent of reported AIDS cases in our Nation, and throughout 1994 more than 80,000 of 146,285 African Americans reported to have AIDS have died.

We must work together to fight AIDS worldwide around this country, because if we do not we will stand to lose the talent, the spirit of those who are infected. We must fight it around the world; otherwise we will lose as well. Cases in Hispanics, among women, African American and children, this is a challenge for us all.

As we look toward World AIDS Day on December 1, let me simply say that we must look toward it with a commitment that we will stand alongside of those battling that disease, and we will not let the funding diminish nor will our spirit diminish nor will our fortitude diminish this fight, and we will win.

Mr. Speaker, September 11 will live forever in our hearts and minds as one of the most tragic and horrific acts of terrorism on our country. We have all joined forces to fight back against the evil. Foreign countries have also responded and lent their support to help combat terrorism. It is proven that by joining together, any challenge can be overcome.

While we have focused our attention to addressing the immediate needs of the survivors and families who lost loved ones, increased security, and the economy, we must refocus our attention to a global pandemic that has claimed over 29 million lives. The same strategy we apply in our fight against terrorism, we must also utilize in our fight to beat HIV/AIDS. This is a global issue and everyone's problem.

Just yesterday, the Global Health Alliance released a report entitled ''Pay Now or Pay More Later: An Independent Report on the Response to the Global HIV/AIDS Pandemic''. And today, the African Ambassadors Group and International AIDS Trust sponsored a briefing on Refocusing and Reaffirming our Commitment to AIDS''. As we approach World AIDS Day on December 1, we must stand strong and continue to fight and raise awareness.

Forty million people around the world live with HIV/AIDS, twenty-eight million of which live in the Sub-Saharan African region alone.

Since the first HIV case 20 years ago, over 60 million persons have been infected, and over 20 million have already died from AIDS. The spread continues, especially in poorer countries.

In Africa, there are an estimated 11,000 new infections per day, and during 2001 approximately 2.3 million Africans will die from HIV/AIDS.

Only 10 percent of the world's population lives south of the Sahara, but the region is home to two-thirds of the world's HIV-positive people, and it has suffered more than 80 percent of all AIDS deaths.

I traveled to the South African region in 1999 and this year and what I witnessed was unbelievable. It was a life-changing event to see and meet with the people infected by this deadly virus. But what affected me the most was witnessing the thousands of orphaned children whose parents died from AIDS. Currently, there are approximately 14 million children orphaned by HIV/AIDS, with a projection of 40 million children by 2010 if no action is taken. Every minute an African child dies of AIDS.

These orphans are more likely to be poor, deprived of education, abused or neglected. Who cares for them when their parents die? HIV/AIDS also decimates the family support system.

A teacher who works near the Chinakas and the Kasongos described how 15 of his 42 students have lost one or both of their parents. He sees thousands of children just sitting around wanting to be left alone. He also noticed that some of these orphans come to school without shoes or without a sweater in the winter. Either their stepfamilies put them last on the list or their grandmothers couldn't scrape together enough money.

In the West, meanwhile, the HIV death rate has dropped steeply thanks to powerful drug cocktails that keep the disease from progressing. But that is not the case in African-American communities.

Non-Hispanic blacks represent 33 percent of reported AIDS cases in our Nation. Through December 1994, more than 80,000 of the 146,285 African-Americans reported to have AIDS have died.

While AIDS related deaths have begun to decline, there has been a dramatically greater decline among whites, 21 percent than among African-Americans 2 percent and Hispanics, 10 percent.

African-Americans and Hispanics have been disproportionately affected by the AIDS epidemic. Although 52 percent of reported AIDS cases occurred among African-Americans and Hispanics, these groups represent only 13 and 10 percent respectively of the total U.S. population.

Among women and children with AIDS, African-Americans and Hispanics have been especially affected, representing approximately 75 percent of reported cases among women and 80 percent among children.

In my District, reported AIDS cases in Blacks increased from 24 to 40 percent within the last 5 years. While reported AIDS cases in Whites decreased from 64 to 44 percent. From 1990 to 1998, the percentage of Blacks in Houston/Harris County diagnosed with AIDS increased from 27 to 53 percent.

The key to fighting this virus must involve a comprehensive approach that includes prevention, education, and support of a health care infrastructure. HIV prevention efforts must take into account not only the multiracial and multicultural nature of our society, but also other social and economic factors, such as poverty, underemployment, and poor access to the health care system, that impact health status and disproportionately affect African and Hispanic populations.

We, as Members of Congress, must continue to fight the struggle and persist in obtaining increased funding of the global AIDS response. This is one of the great challenges of our time and of this generation.

The SPEAKER pro tempore (Mr. JEFF MILLER of Florida). Under a previous order of the House, the gentleman from New York (Mr. TOWNS) is recognized for 5 minutes.

(Mr. TOWNS addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

REMEMBERING THE LIVES OF REVEREND CHARLES H. SHYNE, JR., AND HIS WIFE, MRS. VERLENA PRUITT SHYNE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. DAVIS) is recognized for 5 minutes.

Mr. DAVIS of Illinois. Mr. Speaker, there were 16,653 alcohol-related fatalities in the year 2000, 40 percent of the total traffic fatalities for that year. Driving under the influence of alcohol continues to be one of our major domestic problems and issues and we must continue to work towards finding lasting solutions to this major problem.

About a week ago, a driver under the influence of alcohol smashed out the lives of two of my community's most beloved citizens, Reverend Charles H. Shyne, Junior, and his wife of 54 years, Mrs. Verlena Pruitt Shyne. Reverend Shyne, at the time of his death, was serving as pastor of the Hamlet-Isom Christian Methodist Episcopal Church on West Division Street in Chicago. Mrs. Verlena Pruitt Shyne was a retired teacher who had worked for the Chicago public schools and other districts, who at the time of her death was serving as first lady of Hamlet-Isom and providing voluntary leadership to many local church initiatives and programs as well as denominational activities and functions.

Reverend and Mrs. Shyne were both college educated, he at Grambling High School, Central State University, Roosevelt University in Chicago, and received his seminary training at Payne Theological Seminary in Wilberforce, Ohio. Mrs. Shyne also attended Grambling High School and graduated from Roosevelt University with a degree in early childhood education and taught for 15 years in the Chicago public school system and retired in 1999.

She was the first lady of Hamlet-Isom CME Church and served on the missionary and stewardess boards. She was past president of the Ministers Spouses of the Chicago District. Mrs. Shyne is survived by two sisters, Ida Mae and Mildred Gipson, and one brother-in-law, Mr. Clarence Mamone. She loved and was loved by children and devoted much of her life and work to them.

Before coming to Hamlet-Isom, Reverend Shyne served as pastor of Beede Chapel CME Church in Ripley, Ohio; Cleaves Temple in Omaha, Nebraska; and Central CME Church in Detroit, Michigan, where he also served as pastor of Bray Temple and director of Bray Temple Daycare Center. He was subsequently appointed presiding elder of the Chicago District, Southeast Missouri, Illinois and Wisconsin Conference in 1985.

After several years of service in that capacity, he was pastor of Jubilee Temple. He retired in 1999, but agreed to serve as supply pastor at Hamlett Isom, where he remained until his untimely and tragic death.

He is survived by one brother, Joe Shyne of Shreveport, Louisiana, and three sisters, Ozeal Brown of Washington, D.C., Mildred Bennett of Grambling, Louisiana, and Florence Bowers of Washington, D.C., and three brothers-in-law, Reverend Arlester Brown, Benny Bennett, and the Honorable Judge Shelli F. Bowers.

The lives of Reverend and Mrs. Charles H. Shyne, Jr. will be cherished by all of us who knew them, and especially their seven loving children, five daughters and two sons: Gregory Shyne of Arlington, Virginia; Sharon Bowman of Detroit, Michigan; Jacqueline Robertson of Southfield, Michigan; Charlotte Shyne of Chicago, Illinois; Howard Shyne of Fairfax, Virginia; Robin Reddick of Memphis, Tennessee; and Rosalind Curry of Chicago.

Also cherishing their memories are one son-in-law, Michael Robinson, husband of Jacqueline; 11 grandchildren, Nicole White, Tracy Bowman, Leslie Bowman, Damien and Jason Shyne, Jessica Curry, Jennifer and Janis Robertson, Iris, Rose and Samuel Roddick; three great grandchildren, Elijah Herron, Dylan, and Donovan White, and a host of nieces, nephews, and other relatives and friends.

Mr. Speaker, here is another example of where two outstanding citizens who have devoted their lives to serving others have had their own lives cut short as a result of overuse of alcohol while operating a mechanized vehicle, an individual driving without any concern for the safety and welfare of others.

We must all join together to find more effective solutions to this problem of people driving under the use of alcohol.

We commend the Shynes for their outstanding work on behalf of humankind.

Mr. Speaker, another subject, I too just want to acknowledge that today is indeed World AIDS Day. I join with all of those who have spoken relative to the tremendous need to make sure that every effort is made to continue to supply resources, come up with programs and activities to make sure that we combat this deadly disease.

Mr. Speaker, as we recognize the 13th anniversary of World AIDS Day, it is noted that the theme for this years Day is; I care. Do you? Mr. Speaker, yes, we care. World AIDS Day emerged from the call by the World Summit of Ministers of Health on Programmes for AIDS Prevention in January 1988 to open channels of communication, strengthen the exchange of information and experience, and forge a spirit of social tolerance. Since then, it has received the support of many notable organizations world-wide. Notably, the AIDS campaign started on September 1, 2001, and ends on December 1, 2001, which is World AIDS Day.

Every single day more than 8,000 people die of AIDS. Every hour almost 600 people become infected and every single minute, a child dies with the virus. World-wide, the AIDS epidemic has become an extremely difficult battle to combat. While many nations' health care systems lag behind the increasing demand for the supply of drugs that treat AIDS and the virus associated with the disease. Many of the infected cannot afford the drugs or may not be able to obtain insurance that will assist during the treatment of the disease. We must continue to visit the issue with extreme importance and caution. Before the terrorist attacks, we were making progress to develop strategies to combat and control the spread of AIDS. We must continue to work with that same passion while balancing the importance of our country's security. Today, more than 40 million people are now living with the virus. A vast majority of these victims are from sub-Saharan Africa, where the spread of AIDS is moving at an alarming rate. Other countries such as Asia, Eastern Europe and parts of the Caribbean have experienced the hardship of the disease's progression.

As the spread of AIDS grows, the importance of treatment must be made a top priority. Now more than ever, more pregnant women are carrying the disease affecting their unborn children. The future of the World's children depends on how precise we are in our judgment, our prognosis and our preparation in the fight against AIDS. Over the past 20 years, AIDS have claimed the lives of 58 million people, killing 22 million of them. ''Safe-Sex'' messages are simply not enough. A combined effort of education, realization and information is the only answer to detour the spread of the disease.

I urge that we spare no effort to combat this dreadful nuisance.

The SPEAKER pro tempore (Mr. SHUSTER). Under a previous order of the House, the gentleman from New York (Mr. ENGEL) is recognized for 5 minutes.

(Mr. ENGEL addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

JUMPSTARTING THE ECONOMY

The SPEAKER pro tempore. Under the Speaker's announced policy of January 3, 2001, the gentleman from Pennsylvania (Mr. TOOMEY) is recognized for 60 minutes as the designee of the majority leader.

Mr. TOOMEY. Mr. Speaker, today I would like to engage in a discussion about the economic situation we find ourselves in, the state of our economy and what it is that we are going to do about it, what we have done about it in the House, what needs to be done by the other body.

I would like to begin by just summarizing, reflecting briefly on something I hope we all understand, I hope we all appreciate, and that is the very difficult situation that we find ourselves in today. The fact is our economy had been in a slowdown mode. We had been slowing down the rate of growth of our economic output for over a year prior to September 11, 2001, and certainly since September 11 the downturn has accelerated. It has gotten to the point now where we know by various experts, government and private sector economists, that we no longer have economic growth that we can talk about. Today we are experiencing economic contraction.

The consensus is almost a half, four-tenths of a percent, anyway, of actual economic contraction in the third quarter of this year. There is very little reason to believe that the fourth quarter is going to turn around and show growth. Many believe that we started the contraction back in March. In any case, in all likelihood we are in a recession right now, and we are going to be in a recession for some time going forward.

Now, of course, one of the very most unfortunate, tragic things about a recession is the job losses that always result. Unemployment now is at a 5-year high, about 5.4 percent. Our Nation has lost literally hundreds of thousands of jobs since September 11 alone, when this downturn accelerated. Consumer confidence fell for the fifth straight month. It is now at its lowest level since 1994.

The bottom line is, the translation of all of that is people are out of work. People who want to be working and productive and supporting their families have lost their jobs and they are wondering how they will get back to work. Layoffs are impacting just about everywhere in our country and, as best as I can gather, certainly hitting my district. Good solid companies that have provided great jobs for years have had to lay off workers, and I know they do that reluctantly. And I hope those openings will come back, those jobs will come back. But for now, folks have been laid off at Kraft, at Rodale, at Lanco, at Pabst, Agere, all across my district. Good companies. Jobs have been lost. Nationally there are all kinds of job losses, Gateway, IBM. Boeing announced huge losses of jobs. Solid companies laying off thousands of workers, hundreds of thousands of workers all across the country.

So the question is what are we doing about this? What are we doing about this in the House? What have we already done about it in the House? What are our colleagues in the other body going to do about it, if anything?

I think we have got a responsibility to create an environment that maximizes the opportunity for our constituents to get back to work, for this economy to pick up steam, for companies to begin to hire back the people that they have laid off.

I think most of my colleagues share that view that that is our responsibility. I think one of things that divides us, one of the points on which we disagree, unfortunately, is how do you go about that. How do you best encourage that economic growth? And to simplify things a bit, but I do not think it is unfair, I think it is a reasonable simplification of the debate that has been carried on in this town, there are two schools of thought, maybe two major philosophies about how we ought to go about getting this economy moving again and getting people back to work.

One is the school that says the way you do this is government spending, big government spending program, new program on all kinds of things helps to get the economy going again. Some would describe that as priming the pump. There are lots of other expressions, but some think that is the way we ought to go. That has been proposed. Especially it had been advocated by the leadership of the other Chamber as the main thrust of how we ought to go forward here.

There are others who believe that there is an alternative that is a better, more effective, more constructive way to get the economy moving again, and that is major immediate tax relief, and that that would be much more effective both in the near term and in the long term than even more government spending.

□ 1715

So let us take a look at these alternatives. Let us discuss this a little bit. On the side of those who favor more government spending, it seems that that is the traditional approach taken by those who hold the Keynesian economic view, the demand-side model for how an economy works. And one of the ways to look at the premise behind that philosophy is that, in a way, it holds the view that the slowdown, an economic slowdown, is generally caused when a demand for goods and services is just too low; there is just not enough demand. That is what it is called the demand-side model sometimes. But this is a Keynesian idea. And if the demand is too low, then the way to solve the problem is to increase the demand. And the easiest way to increase demand is to flood the economy with money, so that people can go out and spend it. That creates demand. And we hear people talking about getting money out in the people's pockets as a way to get the economy going again.

Of course, for many who subscribe to this theory, they would, rather than have individuals have more money in their pockets to spend, they would rather just have the government do the spending. Because the government is part of the demand; government expenditure contributes to the total demand in the economy. So a lot of folks will say, just short-circuit the whole process, go right to a big government spending program, and that will get the economy going again.

Now, it is interesting to note that this, of course, is a convenient theory. It can be used to justify and rationalize some other objectives that some people might have. For instance, some people would like to redistribute income, to a very large degree, in our society. They like to take money from some people and give it to others, and they like to be in control of that process. Well, you can justify that a little bit better if you argue that this is all good for the economy too. And so often this becomes a convenient theory for those who really have ulterior motives.

But without getting into motives, because I do not want to dwell on that, I want to look at the question of whether this is really the best thing for the economy. Is a wave of government spending going to increase the demand? Is that going to solve our problem? Well, I suspect not, and I suspect not for several reasons, the most simple of which is that this model, this way of viewing the economy, just has not held up very well. The bottom line is I think that there has never been a strong correlation. I do not think anyone has been able to prove a correlation, much less a causation, between increases in government spending and economic growth and prosperity. The correlation does not exist. So that ought to give us some real pause.

Now, there are specific periods in times in history where we can look at this and examine what has happened and what has not happened. One case that comes to mind is the whole stagflation of the 1970s. Now, under the Keynesian model, high inflation and high unemployment are supposed to be impossible to occur at the same time. You could have one or the other, but you would not have both. And the reason is because of the idea that inflation is a manifestation of excess demand. If there is too much demand for products

and goods and services, then everybody must be working to provide those products and services so unemployment would be very low. Of course, we know in the 1970s that was not true. Unemployment was quite high.

Now, conversely, if you have high unemployment, that supposedly is a manifestation of inadequate demand. And if there is inadequate demand, then there is nobody out there bidding up prices for things, or certainly not a sufficient amount of that, and so we would have very low inflation. If we have high unemployment, we would have to have low inflation. That was not true. As I said, we had both. I think the real reason we had both is we had a weak dollar, which gave us inflation, and we had way excessive taxes, which caused an economic slowdown and huge unemployment.

In any case, whatever you think the cause was, the Keynesian model cannot explain what we know happened as a matter of historical fact in the 1970s. And there are other periods of time when we have seen huge government spending increases that have not resulted in economic growth. The chart that I have here to my left just touches on a few periods.

I will cite the very first here. In the 1930s, government spending tripled; massive government spending beginning in the 1930s. But yet during that very same decade, gross domestic product fell by 27 percent in the first 5 years; and by 1940, 10 years later, unemployment had doubled. Obviously, government spending did not solve the problem in the 1930s. Probably because a lack of government spending was not the cause of the problem we had in the 1930s, but rather protectionist barriers to trade and an increase in taxes probably had a lot more to do with the problems that we had in the 1930s.

It is interesting to take a look at what has happened in recent years. From 1992 to 2001, government spending has grown by 41 percent, and at the end of that period we have entered into a recession here. So, clearly, there is not a strong correlation between increases in government spending and an economic slowdown. But when we think about it, it makes sense. If government spending were all it took to get out of a recession, we would never have one. We would just ratchet up spending a little bit and sail along on our merry way.

As this evidence points out, we certainly would not be facing a slowdown now, because in recent years we have had a massive increase in government spending. As soon as the surpluses arrived, we lost the fiscal discipline that got us to that point in the first place, spending took off; and yet here we find ourselves in a recession.

There is another great example that I want to touch on, and then I will recognize some of my colleagues who have come to join me in this discussion, but the Japanese economy is a fascinating example of how this whole Keynesian demand-side, government-spending approach has not worked.

Beginning in 1991, the Japanese proceeded with this approach to dealing with a recession. Fact is they were 10 years into a terrible recession despite excessive waves of massive government spending. Arguably, they have had 10 different stimulus packages, largely based on public infrastructure spending, massive government spending, which has added up to trillions and trillions of yen, a quarter of a trillion U.S. dollars equivalent, a huge percentage of their economy, and where are they today? They are mired in a serious recession that continues well into its 10th year.

So, clearly, excessive government spending, an increase in government spending, is not the solution. But I will pause at this point and recognize my esteemed colleague, the gentleman from North Carolina (Mr. JONES), for any comments he may want to share with us.

Mr. JONES of North Carolina. I want to first thank the gentleman from Pennsylvania (Mr. TOOMEY), as well as the gentleman from Wisconsin (Mr. RYAN), who has just joined us, for their leadership, both of them, in the area of reducing spending and also reducing taxes. And that is what I want to take a couple of minutes to talk about.

As my colleagues know, we have had several conversations about the capital gains tax. I represent the Third Congressional District of North Carolina, which is a great district to represent; and we have a lot of retirees that have moved into our district. We are more than happy to have them living in the third district. Recently, with the downturn of the economy and what has happened in the stock market, I have had many of those retirees say to me, Congressman, why can you all not, in this stimulus package, reduce the capital gains tax?

Now, I realize that that would not in the short-term be the answer, but I think, and I would like to have my colleagues' comments, as to the benefit not only for our retirees but primarily those who have retired that are dependent on their investments that they worked 20, 25, or 30 years for.

And before I yield back to my colleagues for their answers, many times the other side, the liberals, when we start talking about the capital gains tax, they think we are talking about the rich of America. I am talking about middle-income people who have worked all their lives, and some that really are not middle income but are close to being middle income, who have worked their whole lives, they have invested, and now they are in their retirement years; and they are concerned, and rightly so, as to how they are going to live.

Mr. TOOMEY. I thank the gentleman from North Carolina for mentioning the capital gains tax, and our colleague from Wisconsin may want to comment on especially the job creation aspect of lowering this tax, but if I could follow up on one quick point.

The gentleman's point is exactly right. There just cannot be any question that the capital gains tax is really an irrational tax. In the first place, it is a punishment for saving and investing. Now, what society really wants to punish people for saving their money and investing it in the future? But that is what this tax does.

I think it is particularly unfair, especially to the those folks the gentleman is referring to, in the sense that if someone makes an investment in a stock, in a small business, in a piece of property, anything one can invest in, and that investment grows in value, but only maybe by the rate of inflation, a couple of percentage points here and there, but just pretty much tracks inflation, so that the individual has not really made any money, they have only kept pace with the general price structure of our economy, well, after 10 or 20 years, that is a significant amount of increase in the nominal value of that asset because inflation adds up to a lot over 10 or 20 years. But the individual has not really made a dime in terms of any real gains. All that person has done is kept pace. Yet, if they sell that asset, what do we do here in Washington? We attribute the entire increase to a capital gain and we take up to 20 percent of that, despite the fact that the person has truly made no money.

That strikes me as egregiously unfair. But maybe our colleague, the gentleman from Wisconsin (Mr. RYAN), would like to share his thoughts on it.

Mr. RYAN of Wisconsin. Absolutely. When we take a look at the family farmer, who purchased an asset, or maybe inherited the family farm in their early years, went on to sell it later on, they are going to face a capital gains tax in excess of 20 percent, sometimes nearing as much as 100 percent, because they are taxed on that inflated gain on that asset.

As we take a look at what we can do to get this economy going again, because a lot of people have lost their jobs and a lot more are losing their jobs, the jobless rate is the highest rate of growth it has been since 1981, 1982, we know we need to get people back to work. And when we sit here in Congress trying to figure out how we can grow jobs and retain jobs through growing the economy, we look at what works and what does not work.

I notice my colleague from Pennsylvania was talking about what did the second largest economy in the world do; what have they been trying to do; what have we tried to do in our Nation's history. Look at Japan, and like the gentleman from Pennsylvania said, 10 different stimulus packages of federal infrastructure spending and rebate checks, and just as many recessions. They have a debt-to-GDP ratio of 130 percent. They have spent themselves deeply into debt. Their long-term interest rates are about 1.2 percent, their

short-term rates are about zero. They cannot cut interest rates any more. They cannot increase their money supply. They do not have an economy where they can even save. And what did they get from it? A huge debt.

Many around here are talking about doing the same thing the Japanese did: more public infrastructure spending, more rebates. Well, what we learned just 2 days ago from the NBER statistics would show us that we are technically in a recession as of March of this year. And they show us that it was not consumer spending that went down, it was not consumer income that went down, it was investment that dried up. It was business investment that dried up. Venture capital. That seed corn of entrepreneurial activity is down 72 percent.

Mr. TOOMEY. Reclaiming my time for just a moment, the gentleman is pointing to and getting exactly right to the crux of the problem here. What we are talking about is the difference between massive government spending and private sector investment.

I have had colleagues and I have constituents say, well, what difference does it really make, as long as somebody is doing the spending? If it is the government or the private sector, a dollar is a dollar, and the dollar does not really know who is spending it. Right? There is a huge difference for a lot of reasons, and I just want to touch on one.

If we stop and think about it, we all know what drives government spending is politics. What drives government spending is the political system we have, and whose political bed gets feathered by some spending is a big part of what does it. But there is no market force driving political spending or government spending. There is no competition within government over this, whether it is the Department of Housing and Urban Development or any other Department. It does not have a competing Department down the road that it has to outperform. So, basically, the money just gets spent as politicians see fit.

Whereas, in the market, it is a totally different mechanism. Consumers do not buy anything unless they think it is something worthwhile, something of value, something they want to have. Investors do not invest in anything unless they think it is a process, a business that is providing goods or services that people want. So we have a private sector mechanism that ensures that money goes to where it is needed and where it is wanted. And we have a public sector, a government system, that goes to where politicians want. And that is a big part of the reason why one is much more effective than the other.

I will yield back to my colleague from Wisconsin, but I want to say one more thing quickly, because I think all three of us agree on this issue, which is that there is a huge amount of government spending which is absolutely critical. In fact, right now I think we all agree that we need more government spending on intelligence gathering, on defense, and on homeland security. We need to increase spending there. There is no question. That is something only the government can do, the government must do. But I think it argues for even more restraint in the other areas, especially when we know those other areas are not terribly effective.

And did the gentleman from Wisconsin want to say something else?

□ 1730

Mr. RYAN of Wisconsin. Mr. Speaker, I think the gentleman hit the nail on the head. That is, if we thought more government spending was the answer to our economic ills, we would not be in a recession. We have the most spending we have had in the history of the Federal Government today. We have been increasing spending at a rate greater than inflation. If we thought more spending was the answer, why is Japan mired in a 10-year-long recession?

We know that when we see business investment dry up, job losses take place, we know that is where we need to focus; focus on getting people back to work and getting businesses back up and running. And that is not filtering money through Washington by keeping taxes higher and spending more, it is letting people keep more of what they earn so they can reinvest as they see fit.

When we look at the risk that is out there in the marketplace, when we look at the cost of doing business, government has a negative bias against investment. We have a bias in our Tax Code against saving and investing. If you make money and spend it, the Federal Government leaves you alone. But if you make money and save and invest it for your family and business, the government penalizes you with a high tax.

We can reduce the price of saving and investment by reducing the tax on it. Every time in this country in the last century when we cut the capital gains tax or cut income tax rates, we have grown the economy and encouraged more economic growth and activity. We have grown more revenues coming to those lower tax rates.

I think we see before us a plan that is not necessarily even based on ideology, but based on what works and does not work. Higher taxes and more spending has proven to be utterly useless. Lower spending and lower taxes has worked.

Mr. TOOMEY. Mr. Speaker, reclaiming my time, I thank the gentleman from Wisconsin (Mr. RYAN), and I yield to the gentleman from North Carolina (Mr. JONES).

Mr. JONES of North Carolina. Mr. Speaker, I came here in 1995 with Mr. Gingrich. We became the first majority House and Senate in 40-some years. We came here to reduce the size of government, and as the gentleman from Pennsylvania (Mr. TOOMEY) has said and as the gentleman from Wisconsin (Mr. RYAN) has said, we have not done the job. There is more that needs to be done.

I hope sincerely that the American people understand that this is their government and they need to speak through their elected officials in Congress and in the Senate to let people know that we need to return the money to the people, whether it be through capital gains tax, other tax reductions. But the whole key is what has been said; this government is growing too fast, is too large, and we need to do a better job of reducing the size of government so Americans can keep more of their money.

I thank the gentleman for taking the leadership on this Special Order. I will continue to work with the gentleman and my colleagues to do our very best to make sure that we reduce the size of government and we reduce taxes on the American people.

Mr. TOOMEY. Mr. Speaker, reclaiming my time, I hope that we will be able to move on to the discussion that the gentleman from Wisconsin (Mr. RYAN) introduced, the idea, which is the historical fact, that when taxes are excessively high and they are lowered, we get economic prosperity and growth and new jobs. There is a reason why. I would like to discuss why that works and why it has historically worked. But before I do that, I yield to the gentleman from Michigan (Mr. HOEKSTRA).

Mr. HOEKSTRA. Mr. Speaker, I thank the gentleman for taking the lead in having this discussion about economic stimulus. I think it is something that this Congress needs to act on, and we need to act relatively quickly. It is my hope and expectation before we recess for Christmas that we will complete a stimulus package, including many of the items that my colleague has talked about.

In particular, one of the items that I think is very important to a number of manufacturing companies in my district, and that is about the accelerated depreciation that was included in the House-passed economic stimulus package. It is not actually a tax reduction, it simply delays some of the taxes that corporations will pay and allows and encourages them to invest, to invest in new equipment, new products, new investments which will increase their productivity, make them more globally competitive, and it gets corporations buying again and investing, which is good for all of us, and it is good for their employees especially.

In Michigan, some have said this economic stimulus package is tax breaks for corporations, but it is tax breaks for corporations that kind of piggyback on the larger tax reduction package that we put in place this year which is all targeted at individuals and personal income taxes, so I think it is a very good balance. The end result is that it is corporations, and some corporations in my district have had to lay off 20 to 25 percent of their employees. It is our hope and expectation that if we can

pass the accelerated depreciation, get corporations buying again, it will enable these corporations to put these workers back to work.

The specific provision that we are talking about here is modeled after a provision that was put in place in the early 1980s. The impact in the 1980s was when we provided this accelerated depreciation, it spurred corporate spending, it spurred corporate investment and was really one of the things that enabled us to have the prosperity during the Reagan years. And as we all know, during the Reagan years the level of government revenues accelerated very, very quickly. It is good for all of us when we cut tax rates. Most importantly, it is good for American families because it puts workers back to work.

Mr. TOOMEY. Mr. Speaker, I thank the gentleman from Michigan (Mr. HOEKSTRA) for that observation on this particular provision in the bill which the House has passed, and the House has acted to try to lower the tax burden and get this economy moving again. It is our colleagues in the other body who refuse to do a thing about this, which I think is a disgrace given the level of unemployment we have.

The gentleman's point is right; when a business has the opportunity through an incentive in the Tax Code to have greater depreciation or even expensing of a capital item, it benefits the workers who are able to increase their productivity and hold on to their job because that business remains competitive. The other folks that it helps are the consumers. Who do people think pay taxes, corporate taxes? Corporations pass those costs on to the consumer through the form of their prices.

When we lower that burden, we lower the cost of doing business for that company. We enable them to hire more workers and lower their prices and benefit consumers and help accelerate transactions.

This gets into another theme, but at this point I yield to the gentleman from Arizona (Mr. FLAKE). I thank the gentleman for coming here, and salute the gentleman for all of the great work he has been doing to help lower the tax break for American people.

Mr. FLAKE. Mr. Speaker, there are a few comments I would like to make. When I talk to my constituents in Arizona, they are not clamoring for a few more months of unemployment or health care, they are clamoring to get their jobs back. The best way to do that is to recognize that we do not have such a problem with spending, as my colleague from Wisconsin pointed out very effectively. If the problem was spending, we would not have a problem. Government has grown over the past 6 or 7 years at the rate of, I think, an average of 6 percent a year. When we increase the baseline every year, that amounts to a whopping amount of spending. That is not the problem.

The problem is investment for the most part. We penalize investment, and we should not do so. What we need to do is lower the tax burden. The President has said a number of times, and the administration has indicated through a number of people, that the best thing to do is to cut marginal rates. In the President's tax package, we did that. We cut the marginal rate. The problem is that a lot of those cuts do not take effect for a number of years, particularly the rate cuts at the top end.

As our distinguished colleague Senator GRAMM on the other side of the Capitol likes to say, I never got a job from a poor man. We have to recognize that class envy simply does not cut it. We have to recognize that we cannot begrudge those who are making more than we are. We ought to encourage them to make more and invest more. We can do that by cutting the marginal rate at all levels; the top one at 39.6, accelerate that cut, and cut the lower rates as well. That is the first order.

The second thing has also been mentioned, cut capital gains. It has been noted earlier, that is one of the quickest ways to spur stock market, spur increased investment.

Mr. TOOMEY. Mr. Speaker, the gentleman has touched on something which is worth discussing. I have heard people suggest that if we cut the capital gains tax rate, it might be bad for the stock market. People might think the capital gain is lower so I should sell stock now while I enjoy a lower tax rate. I have heard people suggest if we ever cut the capital gains rate, we could have a collapse in the stock market.

That strikes me as exactly the opposite of the likely effect. First of all, we have cut capital gains tax rates before, and the stock market has gone up. We cannot ignore the fact that we have historical evidence on this. We have seen this happen before. And the reason why, if we were to lower the capital gains rate tomorrow, we would immediately increase the value of every asset in America. Because what is the value of an asset? It is its ability to appreciate in value. If you diminish the amount that the government is going to take of that, it is worth more. So why would the stock market collapse when every company in America became more valuable?

The gentleman points out if we cut the capital gains rate, in fact it would help the stock market. That is counterintuitive to some people, for the reason I just mentioned, but it is exactly right.

Mr. FLAKE. Mr. Speaker, we have to look at history. It has been cut before, and the result has been an increase in asset values and more investment. People are not going to take that out and stick it under a mattress. They are going to invest again. There is a compounding effect, and it is beneficial for the entire economy. That is extremely important.

Congress needs to recognize that we have to stop the class warfare. We have to stop saying let us get on this populist theme of spend more, and get money in people's pockets. Let us make sure that Americans can invest. That is where we need help.

Mr. TOOMEY. Mr. Speaker, the gentleman's points are very well taken. Regarding class warfare, the gentleman from North Carolina made the argument that lowering the capital gains burden helps low-income and moderate-income people. It is a job-creation engine. It has nothing to do with class warfare.

As we move on in this discussion, I want to just touch on an issue that is raised sometimes. I think sometimes it is not obvious to see the connection between lowering taxes and economic growth. Why does that happen? How does it really generate economic growth? One of the ways that I think is useful to think about this is the fact that there are a lot of transactions that could be occurring in our economy, transactions on the margin, one more home being sold, one more car being built, and a few more services being provided. These are transactions that are not happening because buyer and seller cannot agree on a price. There are not enough buyers who can quite afford the price that the seller needs, or there are not enough sellers who can lower their price to the point that the consumer can afford. So there is this inability to get the transaction done.

What is one of the biggest costs to every producer, every potential seller of goods and services? It is their tax burden.

□ 1745

What is one of the biggest costs of every consumer that takes away their disposable income? It is the tax burden. So if you lower taxes on producers and you lower taxes on consumers, producers are suddenly able to pass on the lower costs in the form of lower prices and potential buyers have more disposable income so they can afford more, and all of a sudden you have these transactions that start occurring that cannot occur today. If that just happens on the margin with just a small percentage, it can have a huge impact on economic growth.

I think the gentleman from Wisconsin wanted to comment on that.

Mr. RYAN of Wisconsin. I just wanted to ask the gentleman a question. What you are basically saying is that the government actually controls to a large extent the price level of jobs, of retirement, of economic activity. The government through its taxes actually can control the price or the activity of job growth, investment, people's retirements, their take-home pay. So if we lower that price, we get more of it. Is that what you are saying? If we tax more of it, we get less of it; and if we tax less of it, we get more of it?

Mr. TOOMEY. That is absolutely another way to describe it. Another way that I think about it is there is this

barrier between buyers and sellers, between consumers and producers. The barrier is the cost imposed by government. It is not only taxes. It is regulation, it is tariffs, it is litigation that is encouraged or tolerated by the government, but taxes are the biggest part of it. That is why it is not just a coincidence that when we lower taxes, we see economic growth. It is because when we lower taxes, we allow more economic transactions and economic activity to take place. That is why every time in our history, as the gentleman from Wisconsin pointed out, that we have had a significant tax reduction, what have we seen without fail? Prosperity, economic growth, people getting back to work, people getting a raise, people having more disposable income. It helps all Americans.

I have on this chart a couple of examples from our history. We have really only had a few major, sweeping, across-the-board tax relief bills enacted in our Nation's history and it was in the 20th century. We have really had three prior to what we did earlier this year. The 1920s was the first. That is not on this board, but the 1920 tax cuts initiated by Treasury Secretary Mellon ushered in an era of unbelievable prosperity in the twenties. That era started to wane when taxes were raised and a trade war began.

But let us look at some other tax cuts. In the 1960s, President Kennedy had the good sense to realize that you lower taxes, you generate more economic output. Sure enough in the 1960s, gross domestic product grew by 50 percent. Staggering growth. The 1980s was the other great tax relief act of the 20th century. President Reagan pushed through a tax reduction. What resulted? Nothing less than the longest peacetime expansion in our history. And, as the gentleman from Michigan pointed out as we all know, a tremendous increase in revenue to the Federal Government.

There were deficits in the eighties, no question about it. It was not because we cut taxes. Cutting taxes caused revenue to double. It was because spending was out of control. Spending tripled. That was the problem that we had in the 1980s.

But further to that point or any other point he chooses to bring up, I would like to recognize the gentleman from Arizona (Mr. SHADEGG), the chairman of the Republican Study Committee, the distinguished member of the Committee on Commerce and the Committee on Financial Services.

Mr. SHADEGG. I thank the gentleman for yielding.

Let me first compliment the gentleman and his colleagues for this important hour discussing these issues. I want to touch on a point the gentleman just raised. It seems that the debate right now has our colleagues on the other side of the aisle saying that any tax cut is being done just to benefit the so-called rich. But I would like to put the lie to that by history and talk about it in terms that the average American can understand. I would just ask the gentleman a question. Was it not President Kennedy, a Democrat President, who cut taxes in 1960? And is he not the one who said in his famous phrase, a rising tide lifts all boats? And was that not a reference to the fact that if you cut Federal Government taxes when they become excessive that you stimulate the economy and the reference to a rising tide lifts all boats was that it did not just help some, it would help everybody. It is not just going to help the rich or those who are currently employed, it is going to help everybody, at every sector of our economy. And that is our goal. And specifically to help those who are unemployed.

I have close friends in Arizona, a close friend who has been unemployed now for quite some time. He does not want unemployment benefits. He wants his job back. And stimulating the economy. That is why I think it is so important. But is my history correct? Was it not President Kennedy that made those points?

Mr. TOOMEY. That is exactly right. Reclaiming my time for just a moment, when the President, President Kennedy at the time, made that observation, he was correct. He initiated a round of tax cuts that generated this prosperity. It is interesting that you pointed out, quite rightly, that lowering taxes really only works when taxes are excessively high. If we had extremely low taxes right now and an appropriate level of government spending, then I do not think we would be advocating for even further tax reductions. But right now we are at a record high. The Federal Government has not consumed as large a share of our total economic output as it does today since 1944.

Mr. SHADEGG. That was a war year, was it not?

Mr. TOOMEY. In 1944 there was a good reason. At this point we are not at that level where the expenditures justify that, that level, and certainly the taxes cannot be justified at this level. You are exactly right. I would make one other observation before yielding back to the gentleman from Arizona about the Kennedy tax cut which is the fact that the Kennedy tax cut was much larger than the tax relief that we passed this summer. The Bush tax cut plan which was originally $1.6 trillion, we ended up at about $1.3 trillion, as you know, over 10 years which we should not even be talking about that number, we never talk about spending over 10 years but we sometimes talk about tax cuts over 10 years. The fact is as a percentage of the economy, the Kennedy tax cut was much bigger.

Mr. SHADEGG. It was almost half again as big or even more, I believe.

Mr. TOOMEY. I think that is correct.

Mr. SHADEGG. It seems to me that this is an important concept for our colleagues and for the people across America to understand. The bottom line is that a stimulus package is not really a stimulus package if it just extends unemployment benefits. If that is all it does, it is not going to boost our economy. It may help people temporarily while they are out of a job, and perhaps we need to do that, but if we do not go beyond that, if we do not stimulate the economy by reducing taxes, those people are not going to get their jobs back. At the end of the day, the bottom line is unemployed Americans want to go back to work, and that is why it is called a stimulus package.

Mr. TOOMEY. If I could reclaim my time for a moment on that point, as the gentleman from Arizona and my other colleagues know very well, the bill that we passed in the House contained a measure to expand and extend unemployment benefits and even health care benefits through the States. It was $12 billion. This is probably very appropriate. It is probably an appropriate and necessary thing to do, but we ought to recognize it does not have anything to do with economic stimulus. That is a different thing. As the gentleman from Arizona pointed out quite rightly and others have, too, the people who have lost their jobs that I talk to, that I know of, they do not want to know how long can I stay out of work, they want to know how quickly can I get back to work. That is why while it is appropriate to make sure that there is an unemployment system that is going to be there to help people get a transition to regain their job, the most important thing is that they get that job back quickly.

Mr. SHADEGG. Just to comment a little bit further, President Bush's economic stimulus proposal would, according to a study by the Heritage Foundation, create 211,000 new jobs next year. It seems to me that is what a stimulus package ought to be about. The key elements of that are acceleration of the personal tax rate reductions, the tax package we passed earlier in the year. Let us move those dates up. The average American understands that that bill passed but that the rate reductions do not occur for years down the line. And a reduction in the capital gains tax. That is a reduction that would affect every American. It does not favor business; it favors every single American because we are all in an investing economy right now. It seems to me as the Senate and the House and our negotiators begin to go at this issue, it is not just critical that we pass a stimulus bill, it is critical that we pass a stimulus bill that will actually stimulate the economy and create the job growth that will put America back to work, which is where people want to go.

I compliment the gentleman and appreciate his efforts.

Mr. TOOMEY. Reclaiming my time, I want to thank the gentleman from Arizona and just to point out, as we all know, I think all of our colleagues need to be reminded, here in the House, we

have passed a bill that does those two things. It lowers the capital gains rate. Okay, not as much as I would like to see, but it is a movement in the right direction, and it accelerates the reduction in personal income tax rates that we already passed last summer. It makes some of it go into effect immediately. Okay, I would like to see more of it go into effect immediately, but still this is progress. This can only help the economy. But yet our colleagues in the other Chamber continue to do nothing. This is just not acceptable.

Mr. SHADEGG. They not only do nothing, but what they are demanding is pieces of this bill, large portions of it, their latest demand is that half of it not go to stimulus at all and the other half go to stuff that will not actually stimulate the economy. We do not need a stimulus bill that does not stimulate the economy.

Mr. TOOMEY. Even at that, they refuse to put even a proposal such as that on the Senate floor for debate.

I would be happy to yield to the gentleman from Michigan for his comments on this.

Mr. HOEKSTRA. I thank my colleague for yielding. Just building off the points, we maybe ought to start taking a look at this a little bit differently. Maybe we ought to listen to what the other body is saying. In the House bill, we had a pretty balanced approach. We put in the extended unemployment benefits. We put in the protections to ensure that more people would be able to keep their health care. That, I think, is the right thing to do, to provide the protection for these people in our districts who have been unfortunate and have lost their jobs. But our belief is that by doing the proper tax provisions and the proper incentives, we will stimulate the economy. But we ought to maybe just say, if you want to do some more of that spending or put some more of these government programs in place, put them in place, but give us the stimulus package, because we will recognize that if the stimulus package kicks in, the 13 or the 26 weeks of unemployment benefits will not be needed. And we know that if we got to next summer and they were needed, we would probably vote them in and through, anyway. Let us not be worried about an artificial number because the other thing that we saw in the eighties and again we saw with revenue growth in the nineties is that if the economy grows, what happened during much of the nineties, the economy grew so well, the biggest beneficiary was the Federal Government. And as surprising as it may sound, we could not spend it fast enough.

Mr. SHADEGG. I think the gentleman makes an excellent point. Both the 1960s tax cut and the 1980s tax cut stimulated the economy. Maybe we ought to agree, okay, we will expand the size of the unemployment benefits because as long as you will also give us the tax cuts because then we can stimulate the economy and at the end of the day those unemployment benefits will not be needed because America will go back to work. Historically it has proven true. It is the direction we need to go.

Mr. HOEKSTRA. The best thing for America is to get the stimulus package in place and get Americans back to work. It is the best thing for individual American families. It is the best thing for communities. Some of our communities are really hurting. If they have got some of their largest employers losing 20 to 25 percent of their employees, the whole community feels the pain. Our States are feeling the pain at the State level because of decreased revenues. We are not going to bail our way out of this by more government spending. But if the other body believes that that is the crutch that they want to build it off, we ought to maybe just say, fine, but what we want is we want the tax portions that will stimulate the economy because when we stimulate the economy, we will not need these programs so we may not in effect end up spending that money and we will get back to where we were in terms of before the recession hit and before the war hit, where we will be in a position that we will have a growing economy, people at work, we will lead globally, and we will be back to the position where we were which is paying down public debt and reducing taxes so that we can sustain this growth into the future.

Mr. TOOMEY. I thank the gentleman. I think it makes perfect sense. We have already demonstrated in the House that we fully recognize, our society wants to be there for people who lose their job and who are making every effort to find another one. Unemployment benefits occasionally need to be extended. If that has to happen, that is fine. I do not think any of us object to that. I think we all voted for the bill that would do that. But how much better if you never need to use them? Sure they can be there.

Mr. HOEKSTRA. But failure to act by the other body means that we do not get a stimulus package plus that our unemployed do not get the extension in unemployment benefits and they do not get the access to health care. So their inaction is hurting those that are out of work, short-term and long-term.

Mr. TOOMEY. Ironically, their inaction can guarantee a longer period of time when people are out of work while they have not done anything to help even those people. It is absolutely unacceptable.

I would be happy to yield to the gentleman from Arizona.

Mr. FLAKE. I thank the gentleman for yielding. I just want to echo some of the comments that have been made. My colleague from Arizona pointed out that the most important thing about a stimulus package is that it provide some stimulus. I am reminded of my growing-up years. I grew up on a ranch in Arizona; we often used when we had particularly ornery critters if we could not get them through the chute, we would use a cattle prod. It worked quite well, it stimulated them quite nicely and they ran up ahead. Sometimes by the end of the day the batteries would wear a little thin and we would be left with an instrument that did not do much. It might scare them the first time, but once you laid it on them, they would not move. It is much like the stimulus package. Once the batteries are gone, once that charge is out, once the incentive to invest, these items are out, you might as well go back to a 2 by 4 because the stimulus is not there. You can call it what you want. As my colleague from Michigan says, you might want to provide these other things, but do not call it a stimulus package. Do not assume that it is going to rev up the economy because it is not, because the items simply are not there to do it.

Mr. TOOMEY. Reclaiming my time, I would also observe that we have already engaged in a massive spending program very, very recently. By some accounts, we have spent over $105 billion of additional moneys just since the September 11 attack, emergency supplementals, victims' compensation, airline assistance, additional discretionary spending.

Mr. SHADEGG. It is not as though there is not any spending going on.

Mr. TOOMEY. No, it has been a staggering massive increase. And I think most of us feel it was necessary. These are areas that it was appropriate. But has it gotten the economy out of this recession? No.

□ 1800

Mr. SHADEGG. For those of you who have been here a little less time than I have, I came in the 104th Congress and joined this body in 1995, and for years after that we grew the economy at three and four times the rate of inflation, grew the size of government at three and four times the rate of inflation, year after year after year. We were spending at 8 and 12 percent, year after year, and that did not stimulate the economy.

Indeed, that government spending, as you point out in your chart, from 1992 to 2001, if government spending was going to stimulate the economy, we would have a booming economy.

The reality is, to stimulate the economy in this kind of circumstance, you have to put some cash back into it. The way government can do that is by cutting taxes.

Mr. TOOMEY. Well, I thank the gentleman. At this point we are running low on time and I will probably wrap up with a few concluding thoughts if I could.

Mr. HOEKSTRA. We have about 10 minutes remaining.

Mr. TOOMEY. Anybody who has any further points they would like to add, by all means, let me know.

I think we have had a good discussion here about the fundamental flaws in

the premise of the other side, the fundamental flaws in the belief that by government spending, we are going to get out of this problem.

Now, we recognize there is spending we need to do right now, in intelligence gathering, in defense, in homeland security. It is critical. It is increases. We all voted for it and we are going to keep voting for it. But that is all the more reason to be cautious on the other areas that have nothing to do with the threat to our Nation, with the attack that we suffered.

We need to be cautious there and rein in the excessive tendencies, so we can at some point in the near future get back to balancing this budget, get back to retiring some debt. But, most of all, in the meantime, we have got to get this economy going. We have too many people out of work, and that is our obligation.

Our responsibility is to create an environment where folks can get back to work, where our economy can flourish, where businesses can hire new workers. We started that process. In the House we passed a bill that will move us in that direction. The President supports our bill. The President, in fact, called for doing more than we did in the House. I wish we had. But at least we moved in that direction, significantly. And, yet, in the other chamber, we have not a bill on the Senate floor, we have no meaningful progress. It is really a disgrace.

I yield to the gentleman from Michigan.

Mr. HOEKSTRA. Mr. Speaker, I thank my colleague for yielding. I think that last point is the most important. We need to do a stimulus package, and the inability of the other body to even consider in debate a package is very disappointing. We do not help the workers that are unemployed today. We do not put in place a package of stimulus items that will help ensure that this is a short downturn and not a very deep downturn. And the third thing, I think, is that it is difficult to factor in, but it will send a psychological message that we are ready to move on, and that we are about focusing on domestic issues, as well as waging a war on the other side of the world; that we have not forgotten about the issues at home.

So, these three items coming out of the House and moving forward, I think, speaks well for our ability. It may not be a perfect bill, but it is a whole lot better than doing absolutely nothing and not even being willing to bring a bill to the floor for debate.

If our bill is not perfect, let the other body develop its own version and move forward and bring it to conference, so that by Christmas this President, this country and the American people will have a stimulus package. That is the way the process is supposed to work. But the shear inaction as our economy struggles is totally unacceptable.

I thank my colleague for inviting me here.

Mr. TOOMEY. I thank the gentleman from Michigan very much for participating in the discussion tonight and everything he added to that.

Mr. SHADEGG. If I could just briefly as we summarize here kind of reiterate an important point in this debate, because too often things get politicized and we miss the issue, some people have pointed out that we have already agreed in the House bill there needs to be an extension of unemployment benefits and health care benefits. We need to take care of people who have already lost their jobs.

But the other debate that goes on is a rejection of any kind of tax relief. I think it is important for the listening audience to remember that under both Democrat and Republican presidents, President Kennedy, a Democrat in the sixties, President Reagan, a Republican in the eighties, when we cut taxes, when they had become excessive and we cut taxes, we stimulated the economy, and, as President Kennedy, a Democrat, said, a rising tide lifts all boats. It put all Americans back to work. It stimulated the economy for all Americans.

Every time I hear this phrase that tax cuts are just for the rich or tax cuts for the rich, it enrages me, because the reality is the way to stimulate this economy is to give all Americans some tax relief. That is what we were proposing to do, that is what will stimulate the economy, and that ought to be a part of the package and will benefit every single American, not just one sector, as President Kennedy said.

Mr. TOOMEY. Well, the gentleman is exactly right. I would just conclude with one other thought. You know, many of the fundamentals for our economy are actually quite hopeful. There is reason to believe that we could come out of this and we could have a return to some real prosperity relatively soon if you look at some of those fundamentals.

Inflation is extremely low, our dollar is strong, and it is very clear that all around the world people have enormous confidence in the dollar. Our productivity levels are at an all time high. Never before have American workers been so enormously productive. Our national debt as a percentage of our GDP has declined dramatically, from 50 percent of our economic output around 1995 down to about a third today. It has also declined in absolute dollar terms.

So these fundamentals are strong. If we lower this tax burden now, resist the urge for wasteful, excessive and inappropriate spending, and lower the tax burden that is acting as a barrier between people who could get this economy moving again, we will do that exactly, and the folks who are out of work today can get back to work.

We have done our part in the House. We have taken an important and enormous step forward. I am urging my colleagues in the Senate to do likewise. It is long past time. It has been over 11 weeks since the terrible attack that accelerated the decline in our economy. It is overdue to have the kind of economic stimulus that we all need.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. KIRK). The Chair will remind all Members that it is improper in debate to characterize Senate action or inaction.

FAST TRACK PROFITEERING

The SPEAKER pro tempore. Under the Speaker's announced policy of January 3, 2001, the gentleman from Ohio (Mr. BROWN) is recognized for 60 minutes as the designee of the minority leader.

Mr. BROWN of Ohio. Mr. Speaker, I will be joined today by several Members. I am so far joined by my good friend the gentleman from New Jersey (Mr. PASCRELL), who in his several years in Congress has been a leader on trade issues and fighting for American jobs and American workers and raising labor standards and environmental standards, both in this country and throughout the developing world and in other nations around the world.

Before we talk about fast track, and that is what this special order is about, as some of us just could not resist listening to the last speakers who, already in the space of 11 months of a Republican administration with a Republican House of Representatives and formerly a Republican Senate, have already, through their huge tax cuts for the rich, have already brought on to our government a deficit. We had several years of positive, good budget situations. We are now already spending back into deficit because of these huge tax cuts for the rich.

Second, we are already in a recession. We have had a Republican President since January 20th. There are 1 million fewer jobs, industrial, manufacturing jobs in this country than there were a year ago. And when we talk like this, talk about tax cuts for the rich, my Republican friends love to say we are engaging in class warfare. But the fact is that every day in this chamber as Republicans try to cut spending on unemployment compensation, on health care, on Medicare cuts, on cuts that people in this country that need help would benefit from, that they make those cuts, at the same time they cut taxes on the rich, they commit class warfare in this society; when they are hurting working people and hurting the poor and helping their wealthiest contributors and wealthiest friends, whether they are the drug companies, or whether they are some of the wealthiest people like Rupert Murdoch and others that they seem to care so much about. So in other words, Mr. Speaker, they so often commit class warfare every day in this body. All we do is point out they are doing it, and they just seem to bristle from it.

Mr. Speaker, on the evening of September 11, several gas stations in my

district and around Northeast Ohio and other places around this country raised their prices to $4, $5, $6 a gallon. Many of us in this body simply called that as it was, war profiteering, that people would take advantage of the events of September 11 to put a little more money in their pocket.

Unfortunately, over the last 8 or 9 weeks, something not much different has occurred on Capitol Hill. Many of us have called it political profiteering. First, Congress passed a bailout bill that gave the airlines $15 billion in cash and loan guarantees. No sacrifices were required of airline executives, few restrictions were placed on companies that received that money; nothing was provided for airline security; no assistance was given to the 140,000 industry workers who were laid off as a result of the September 11 attacks.

Then, in the name of stimulating the economy, this chamber passed new tax cuts and accelerated others for the richest people and the largest corporations in this country. IBM will get a check from the Federal Government under the Republican plan for $1.4 billion. Ford will get a check from the Federal Government for $1 billion. GM will get a check for $900 million. United and American Airlines, as if they did not do all right with the airline bailout bill, will get several hundred million dollars more from the Republican tax cut for the rich, while they are ignoring unemployed workers.

But now the political profiteering has reached new heights. In the past few months, Mr. Speaker, the Bush Administration's Trade Representative, Bob Zoellick, sought to link the trade negotiation authority known as fast track to our Nation's anti-terrorism efforts. He went further by claiming that people like the gentleman from New Jersey (Mr. PASCRELL) and me and the gentlewoman from California (Ms. SOLIS) and the gentleman from Massachusetts (Mr. LYNCH) and many of the others that will be joining us tonight, that because we oppose fast track, we are indifferent to terrorism, and maybe a little bit less than patriotic.

According to Mr. Zoellick, free trade is the way to combat terrorism around the world, and, if you do not support free trade, if you do not want to do it Mr. Bush's way and Mr. Zoellick's way, if you do not support free trade and do it their way, then you do not really support American values.

Earlier today, Republican leadership took a similar route until support of fast track. They stated that trade is directly related to our battle against the enemies of the Unite States and the values we hold dear; that fast track is essential to our war effort.

In Qatar are, where the World Trade Organization ministerial was recently held, a place chosen by the leaders, the trade ministers, the administration, the people who support free trade, in Qatar, the people do not have freedom of speech, they do not have freedom of assembly, they do not have freedom to publicly worship anything in any other religion but Islam, they do not have freedom of association, they do not have free elections. Yet the World Trade Organization ignored these abuses of personal freedom in selecting Qatar as the host of the ministerial.

Qatar's human rights record is not in line with American values by any measurement, but it is familiar territory for many of America's corporate trading partners.

Supporters of fast track say interaction with the developing world spreads democracy. But as we engage developing countries in trade and investment, democratic countries are losing grounds to dictatorships and authoritarian governments.

Democratic India is less desirable for investors from the West than totalitarian China. Democratic Taiwan is losing out to autocratic oligarchic Indonesia. In 1989, 57 percent of developing country exports, of poor country exports to the United States, came from democracies. Since then, that number has fallen 22 percent. Today, 65 percent of developing countries exports come from authoritarian countries.

The fact is, Western investors want to go to places like China and Indonesia, which are dictatorships, by and large, because they have pliable workforce, because they have authoritarian governments, because they have a docile workforce that cannot organize and bargain collectively, and they are very predictable for Western business.

They do not want to go to India, they do not want to go to Taiwan, they do not want to go to South Korea, and, all too often, they do not want to stay in this country, because these countries have strong environmental laws, strong worker safety laws, labor unions that can organize and bargain collectively, and free elections.

Instead, Western corporations, as they lobby this body, as the corporate jets pull into National Airport and Dulles and BWI, and they fan the halls of Congress going to office after office after office, begging us for fast track, begging us last year, as the gentleman from New Jersey (Mr. PASCRELL) and I worked hard against PNTR for China, these companies want to invest in countries that have nonexistent environmental standards, that have below poverty wages, that have no worker benefits, that have no opportunities to bargain collectively.

Understand that. Western investors do not like to go to democracies where workers can organize, do not like to go to democracies where they have good environmental laws and worker safety laws. They like to go to China. They like to go to Indonesia.

□ 1815

They like to invest in Burma. Countries where workers cannot talk back, countries where workers cannot vote in elections, countries where workers do not have any kinds of rights. That is the way they like it. That is why they want fast track.

Our trade agreements, Mr. Speaker, go to great lengths to protect investors and property rights. These agreements do not include the same protection for workers or the environment. So in other words, fast track provides protections for property rights, protections for investors, but no protections for the environment, no protections for workers.

The call for an absolute trade negotiation authority in the name of patriotism must be recognized for what it is. When Mr. Zoellick says he has to have trade negotiating authority, trade promotion authority to combat terrorism and to fight this war, recognize it is pure and simple political profiteering.

We have all watched with pride the indomitable spirit of so many Americans in response to the events of September 11. The right response to defend the jobs of these Americans and especially the values of these Americans is a ''no'' vote on trade promotion authority.

Mr. Speaker, I yield to the gentleman from New Jersey (Mr. PASCRELL).

Mr. PASCRELL. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I cannot think of another issue in the last 5 years that I have debated on this floor, and we have had some hot issues, that I feel more viscerally about, and I think the gentleman from Ohio would agree with me, he has been here longer than I have, than the subject of trade. We who oppose fast track do not oppose trade. It is a given. And simply put, what we have asked for on every issue since 1997 when there obviously were not enough votes to bring it to this floor at 3 o'clock in the morning one day in the fall, what we simply asked is that every trade agreement be a reciprocal trade agreement. What is good for one side is good for the other. But what does that mean?

To my friends who want to give away the store, I recommend that they read the Constitution of the United States. Many times, people stand on the floor of this great House and talk about what the Constitution says. We talk and refer to the Constitution on guns, we talk about the Constitution in terms of who has war powers. Well, the folks back in the eighth district in New Jersey sent me to uphold this Constitution, not just some parts of it. Article I, section 8 of the Constitution says that the Congress shall have power to lay and collect taxes and duties imposed and excises to pay the debts and provide for the common defense and general welfare, et cetera; to regulate commerce with foreign nations and among the several States, et cetera.

I did not come here, I say to the gentleman from Ohio, to surrender my responsibilities and obligations under the Constitution, because if it is trade today, what will it be tomorrow?

We need to protect that responsibility as defined in article I, section 8. There is no consistent administration

policy on trade besides lower tariffs and cutting quotas. There is no structure; there is no plan. It deals with Vietnam, it deals with the Andean countries, the WTO, Pakistan, our newly found friends, all of which do not take into account the wishes of the American worker. Cost-benefit analyses just are not there.

Congress cannot allow this administration to craft trade laws without our input under the Constitution. The only reason for fast track is that they want to add things they know that the Congress and the American people do not want. We are patriotic Americans. We are loyal to the President. We are loyal to the commander in chief. To question the loyalty of Members of this Congress for being opposed to fast track, to me is shameless.

We are the people's House. We are directly elected by the people. We hear from those out of work, and we must respond to their needs. Americans want us to keep our voice. We must keep our voice. This job belongs to us. The only way our leverage will be felt is to oppose fast track.

Despite overwhelming evidence, the current trade policies have resulted in massive trade deficits. No one on any side of the argument denies that. Job losses. Just take a look at what NAFTA did to jobs in this country. In my State of New Jersey, we have lost 84,749 jobs. That is according to the Department of Labor. This is not anything that was made up. That is not an illusion. Under two free trade administrations we have lost that many jobs. Imports have risen between 1994 and 2000 by 80.5 percent, and exports went up 60 percent. We have a huge trade deficit.

An example of the impact our Nation sees under these disastrous trade laws as we surrender our rights one after the other, just look at the VF Corporation, the well-known jeans producer. They are cutting 13,000 jobs worldwide. They are closing plants in the United States and, according to their own release, to cut costs, they will increase offshore manufacturing from 75 to 85 percent. They are certainly glad we do not require labor standards for our trading partners. In fact, as the gentleman from Ohio pointed out, it is quite interesting to see what our trade ambassador had to say about that.

Apparently the trade ambassador, who appeared in the WTO meeting at Doha, says that labor rights should not make it into the negotiations on trade. Have we lost our way? Are we not a country of free individuals? Labor and environment are not just social issues. They are issues that bind humanity. They are issues that we feel are no less important than any other.

Two weeks ago, 410 House Members voted to ask the United States Trade Representative to preserve the ability of the United States to enforce rigorously its trade laws and should ensure that United States exports are not subject to the abusive use of trade laws by other countries. Not even this important antidumping mandate was needed at the Doha conference.

I want to conclude at this point, Mr. Speaker. Recently Secretary Powell, who all of us in this Chamber have the greatest amount of respect for, he stated some very powerful words I am about to quote. He said, ''Fast track is going to be viewed internationally as a test of the President's leadership at a time when there is all sorts of events going on.'' A better test is his ability to do what is right for working Americans. The real test of leadership is to make bipartisan policy to help our unemployed brothers and sisters. Do not let this scare tactic fool anyone. The President can show leadership by working with the Congress, not taking them out of the equation, not usurping article I, section 8, as if we did not exist.

Mr. Speaker, I said the same thing on the floor last session when Bill Clinton was the President. This is a bipartisan attack on our very rights as Members of the United States Congress. I do not accept it. I am prepared to fight day in and day out to make sure we begin the process of protecting jobs in the United States of America. This Constitution either is meaningful or we will selectively decide what we will adhere to, and then we will become less of a democracy.

Mr. BROWN of Ohio. Mr. Speaker, reclaiming my time, I thank the gentleman from New Jersey very much for his very well thought-out remarks.

We are joined also by the gentleman from Michigan (Mr. STUPAK), an old friend, who first established his trade predictions during the first fight against NAFTA when we almost defeated that trade agreement which has been shown to be dangerous to this country. We also have a new member, the gentleman from Massachusetts (Mr. LYNCH), an iron worker himself who understands trade from all aspects; and the gentleman from Ohio (Mr. STRICKLAND) from the other end of the State. They will be joining the discussion in a moment.

Mr. Speaker, I want to make one comment before yielding to the gentleman from Michigan (Mr. STUPAK). The gentleman from New Jersey (Mr. PASCRELL) mentioned current trade policies and what happened in Doha and the steel industry. When we see that this Congress voted 410 to 4, as he said, to tell them, to instruct President Bush's trade representative in Qatar not to mess with U.S. dumping laws, he immediately put it on the table for negotiations. It is not difficult to understand why LTV, where many people in my district work, and the rest of the American steel industry, is in trouble when we pass these kinds of trade policies, and the President has not moved fast enough on section 201 of the 1974 Trade Act. The President has refused to support and this Congress has not passed 808, the Steel Revitalization Act, which is absolutely necessary to save this industry, and now these same free traders are pushing more of the same, as if our trade policy has worked. It has not worked. Our trade deficit is almost $370 billion. So the President's answer and Trade Representative Zoellick's answer is let us do more of it. That simply makes no sense.

Mr. Speaker, I yield to the gentleman from Michigan (Mr. STUPAK).

Mr. STUPAK. Mr. Speaker, I thank the gentleman for yielding, and I thank my colleagues for appearing here with us tonight. I especially appreciate the leadership of the gentleman from Ohio (Mr. BROWN) on this issue and the compassion of the gentleman for the working men and women throughout our district in Ohio, and the gentleman from New Jersey (Mr. PASCRELL) has always been an expert on these issues.

To just pick up a little bit on what the gentleman had said on these trade initiatives and the WTO rules on antidumping, basically what it says is Congress instructed the Trade Representative, when you go to Doha next week not to give up on antidumping laws. We need them. We have other countries illegally dump their product in this country like they are doing right now with steel. It was very, very specific. But if we go to the text of the agreement that was in Doha this past week and go to paragraph 28, and I am quoting now, they are going to clarify and improve WTO antidumping and subsidy rules, an agreement not to use antidumping measures on the same issue once the case has been rejected. The total disregard for Congress's instructions on this issue, even after over 400 Members of Congress said do not give this up, do not give this up.

So we can see while they are saying, we need the authority to negotiate, give us your authority, Congress, because only you can approve it, but give up the authority under fast track, and we will do the best agreement possible and all you have to do is come back here and say yes or no; we cannot amend under fast track. We just give them instructions: over 400 Democrats and Republicans say do not give this up, and they gave it up.

□ 1830

So now they want to come with a fast track legislation. If you just take a look a little bit at what is going on and the gentleman from Ohio (Mr. BROWN) is correct. We were here and the gentleman from Ohio (Mr. STRICKLAND) was here in 1993, 1994; and a lot of us thought NAFTA, the North American Free Trade Agreement, would be a horrendous thing for this country.

I am talking a little bit about my own northern Michigan district. We have lost manufacturing jobs, agriculture jobs, timber, steel. We are here with a letter. They say even if you lose your job because of foreign imports, we have this trade adjustment assistance. It will help you out, extend your unemployment and do all these things.

I have a letter right here, November 27, to the Honorable Elaine Chow, Secretary of Labor. It was sent to her because we have been waiting since June 9 for a decision, June 9, almost 6 months. One hundred workers from the Besser Company in Alpena, Michigan are at the end of their state unemployment. The State has cut back unemployment. In Michigan we are down to $300 a week now. That is what they have to live on. That is $1,200 a month to try to support their family. That is true unemployment, and we are running out.

Everyone agrees they lost their job because of the flood of imports in the lumber company, in the lumber industry; therefore, they should get trade adjustment. It was a no-brainer case, and here we are still waiting, still waiting for a decision on trade adjustment. We have this letter here. We will make some more phone calls tomorrow. Hopefully, we can move this along.

It was NAFTA, TAA. That was one of the big selling points. Do not worry if you should lose your job. We will take care of it. I think the gentleman from New Jersey (Mr. PASCRELL) was correct on Congress giving up its right underneath the Constitution to approve, amend any agreement before us. Under Fast Track we cannot. That is a good reason not to vote for it.

Let us talk a little bit about steel because I know that has been a big issue lately. I know the gentleman from Ohio (Mr. BROWN) and the gentleman from Ohio (Mr. STRICKLAND) and all of us have been working hard on the steel caucus to try to come to grips with the steel industry since the last 3 or 4 years has just been plagued with this flood of imports on the hot road end, on cold steel, on rod, on wire. You name it, they have been doing it.

As we sat there yesterday in a meeting with Secretary Evans and we will give the Bush administration some credit. Secretary Evans and his assistants have come up and met with us often. They have investigated. The ITC, International Trade Commission, says they are dumping illegally in our country. We must do something and we will.

But if we take a look at it, and I said, I have been hearing this since 1998. I am sort of frustrated. You have 232, 232 trade orders out there; 131 relate to steel. Sixty percent of the trade orders issued by the U.S. Department of Commerce said stop. You are doing this illegally, 131 times; and we have no relief.

What about putting countervailing duties on imports coming in? We have 45 countervailing duties in this country; 28 are related to steel. So we are slapping duties on it. We have 131 trade violations, and we are still losing every 9 days a steel mill or an iron ore mine, like I just lost up in northern Michigan just before Thanksgiving, LTV. They are restructuring their situation. They are 25 percent owner in the mines in northern Michigan. There is only eight iron ore mines left in the United States; two are in my district. LTV is a 25 percent owners in the Empire mine. They are also a big customer of those iron ore pellets. You need iron ore to make steel.

They announced just before Thanksgiving 770 miners will lose their job by the end of the month; 120 salary workers are gone. That is 890 jobs in my little community of Palmer, Michigan, up in the Upper Peninsula of Michigan.

We know they will have trouble getting their TA benefits if Besser is any idea. You go back to them and I say we have 131 orders out there saying you cannot dump steel, but they are still doing it. We have 28 countervailing duties that they cannot do this. They are still doing it.

What is our relief? We are finally going to have a 201. I have testified before the ITC, and I know all of you have too, on that, and saying, look, we need strict, drastic measures. You have all these duties. You have all these trade orders. It is time to put in quotas. It is time to put in tariffs and you have to act now. The President will get that 201 remedy situation or remedy order on or about December 10. He then has 60 days to make up his mind. We urge him to move quickly. Every 9 days we lose a steel mill. Every 9 days another mine goes out. There is going to be nothing left.

I believe we have 27 steel mills right now in bankruptcy. Banks are not lending them money. They cannot keep their mills going. They are shutting them down. And then we just take a look at NAFTA and what has happened after NAFTA. I have been just talking about steel.

In the State of Michigan we have lost over 152,000 jobs. And there is a list here, Table III. They talk about agriculture, mining, construction. Let us just go to manufacturing. Lumber and woods products. I have the mines and I have timber. In lumber and wood products we lost 118,000 jobs since 1994 under NAFTA. Paper and allied products, again paper industry big in my district, we lost over 33,000 jobs since 1994.

Stone, clay, glass, concrete products. We make concrete up in my district. Great limestone mining, 84,000 jobs. Primary metal products, 23,000. Blast furnaces, basic steel products, over 107,000 jobs in the last 6 years.

Motor vehicles and equipment, probably what Michigan is known most for, over 200,000 jobs. The administration comes to us and tells us, give us Fast Track Authority. We will negotiate. We will make sure our trade laws are enforced. That is what we heard in NAFTA. Here are the end result.

We have all of these trade laws, 131 violations on our books; and we cannot get any relief. Where do we go with this?

We must monitor the authority we give any U.S. Trade Representative and ensure that certain special interests such as brand name pharmaceuticals that we have not even talked about yet tonight, they will not gain further concessions at the expense of American workers and the American consumers. No matter what it is, pharmaceuticals, manufacturing, mining, construction, agriculture, forestry, fishing, we have lost. And once again they tell us, trust us. We will take care of it. The last opportunity we had for trust was Doha last week. We said, no more antidumping. Do not give in to that. Over 400 of 435 Members said, do not do it. They did it.

How can we now turn and say let us support Fast Track Authority when a trade representative who we said not to do it just did it to us?

American people, Members of Congress, we have to wake up. We are not protectionists. We are not isolationists. We believe in trade, but it is has to be fair. When you have 131 orders on the books, that is not fair. When our mines are shutting down, our steel mills are shutting down and our hands are tied and we cannot do anything, is that fair? I say not. And I say bringing forth a proposal such as Fast Track Authority for this President to continue trade negotiations is just unconscionable, especially in these economic times. We are in a recession.

We are in a recession. And you can blame September 11. It was well before September 11. But just take a look at what happened. And I believe the state of mind we are in right now and the state of our economy is due to these trade laws, is due to the layoffs in the steel industry, in the mining industry, the lumber industry, the furniture industry. You name it.

I certainly want to join my colleagues here tonight and I look forward to hearing their comments. I will stay in case there are other comments that maybe we can go back and forth on some of these issues.

I appreciate the leadership of the gentleman from Ohio (Mr. BROWN). He has been a stalwart in helping out here. And between WTO and GATT and NAFTA and NTR or whatever you want to call them. The bottom line is the American people, our hard-working men and women in the districts we represent, are not protected with these countervailing tariffs, with these steel orders, with trade adjustment. When it comes right down to it there is nothing there for the American worker. We should not give up our right as Members of Congress to modify and demand tough enforcement issues, especially since last week when we told us not to do it and they sold us out at Doha.

Mr. BROWN of Ohio. Mr. Speaker, I thank my friend from Michigan for his 9 years of leadership against bad trade issue and for fair trade and better working conditions and environmental safeguards for Americans and for people around the world.

One thing that the gentleman from Michigan (Mr. STUPAK) said that was particularly important, and I will then

yield to the gentleman from Massachusetts (Mr. LYNCH), we should think about this. When he said, we in this Congress on behalf of American people, 410 votes in support for said to our negotiators in Qatar said that we wanted to stand strong on our steel antidumping laws. And we demanded that on behalf of the American people. Those demands were totally ignored by the administration.

The administration now says, the gentleman from Michigan (Mr. STUPAK) said this, the administration said, give us Fast Track. You can count on us to protect American workers with Fast Track. You can count on us to be fair. You can count on us to protect the environment and workers and all that around the world.

Well, the fact is can we count on them to do that when we saw already the kind of betrayal from our trade negotiators. Not to mention that this President does not seem very concerned domestically about environmental laws, does not seem concerned domestically about food safety, does not seem concerned domestically about labor standards.

This is the same President that tried for 10 months tried to weaken arsenic laws, and tried to allow the mining and chemical companies to allow more arsenic in the drinking water, and we are going to trust them to protect the environment all over the world and in this country? I do not think so. And that is really the reason, as the gentleman from Michigan (Mr. STUPAK) said, that Fast Track is really a betrayal of our values.

Mr. Speaker, I yield to the gentleman from Massachusetts (Mr. LYNCH), who already in his couple of months in Congress, he came here in early October, I believe, late September, and he has already jumped in the trade fight because he knows that is important to the people of Massachusetts and the people of our country.

Mr. LYNCH. Mr. Speaker, I want to thank the gentleman from Ohio (Mr. BROWN) and the gentleman from Michigan (Mr. STUPAK) and the gentleman from New Jersey (Mr. PASCRELL) and all others, including the gentleman from Michigan (Mr. BONIOR), for the great work they have done.

I am new to this debate. I am new. I have watched the work done by all of the Members here, both in this debate and in previous debates over NAFTA. I commend you for living up to your constitutional obligation to represent the people of your districts.

As I said, I am new to this debate; but I am not new to this issue. In my own life prior to the privilege of my office now, I was an iron worker for 18 years; and over that 18 years I worked at the Quincy shipyard just outside of Boston. And I saw that job go away with thousands of others from that shipyard because of foreign competition and the fact that the American shipyards were paying their workers well. And companies could go offshore to exploit low-wage labor.

I also worked at the General Motors plant out in Framingham, which is closed now and they are making those cars down in Mexico now.

I worked in Michigan in some of the auto industry plants there as well, and I understand those plants have closed and many of them have been relocated in Mexico. I also worked in a couple of the steel mills in Indiana and in Chicago, the Inland Steel and the U.S. Steel plants which I now understand are closed. There is a pattern developing here; and at this rate I am afraid that at some point there will be my counterpart in Mexico City taking my congressional responsibility as well.

The point made by the gentleman from New Jersey (Mr. PASCRELL) needs to be emphasized. And that is that the United States Constitution says that Congress shall, not may, not might, it shall have the power to regulate commerce with foreign nations; and it shall have the power to make all necessary laws proper for carrying out those powers.

This fast track mechanism, and this is just a procedural rule, would obligate us to abdicate our responsibilities on behalf of our constituents. Basically, what we would do we would give up those rights and those responsibilities to the very people who sent us here. I need to join the gentleman from New Jersey (Mr. PASCRELL) and the gentleman from Michigan (Mr. STUPAK) and others who have said that I can say also that my constituents did not send me here to give away their rights and responsibilities, to walk away from a job just because it is complex. It is difficult. It is hard. We knew that that was the job we were taking when we ran for office.

This bill is counterintuitive. It flies in the face of our responsibility both under the Constitution and as a moral obligation to the people who we represent.

Another part of this fast track framework that is poorly designed is the fact that while the obligation under the Constitution is given to us as Members, also many of the other responsibilities and procedures that are set up around the Congress guarantee an open and honest debate around trade matters. The Constitution requires that we publish a journal of the actions taken here in the Congress.

If you look at Fast Track, Fast Track allows these negotiations to be done in secret, if they are given to the U.S. Trade Representative.

□ 1845

These are secret negotiations and they are done in a back room, without the direct representatives of the people being in those negotiations.

It just is an unseemly process that we initiate by supporting a Fast Track-type procedure, and we do not need to look far to see examples of the flaws of that process. We can look directly at NAFTA. We have evidence now to see how this Fast Track procedure plays out.

We see it in the fact that there are no enforceable labor standards in NAFTA nor in the bill before us to expand NAFTA to 34 other countries. There are no firm mandatory or enforceable labor standards in this bill. There are no firm and mandatory and enforceable environmental standards in this bill. Those have been left out.

There is language in here, very fluffy language, that raises the issue of labor standards, raises the issue of environmental standards, but does not allow us in negotiations on these trade matters to require other countries to respect their workers and to respect the environment in those countries.

We can look at what NAFTA has done for Maquiladora, the workers there. Although there was the great promise of the raising the buying power of the average Mexican worker, we still find in Maquiladora that the autoworkers in the Maquiladora are making an average of 67 cents an hour.

I do not have any U.S. autoworkers in Massachusetts anymore. Those jobs are all gone over the border. The U.S. autoworkers today, those left in Michigan and other places across the country, should not be made to compete with workers making 60 cents an hour, living in substandard conditions, with no working conditions, with no right, no voice in their workplace. This bill is completely absent any enforceable standard.

The American worker should not be required to compete with 67-cents-an-hour workers or slave labor or child labor in these other countries. Yet that is exactly what this bill allows. That is exactly what Fast Track and the ministerial directive that came out of Doha, that is just exactly what is allowed here.

The American public should not be faced with the risk of trucks coming over the Mexican border without the safety requirements and the regulatory obligations of the trucks that we have in this country that are registered in any of the 50 States, and we should not allow produce, food products, to come into this country that do not meet the regulatory standards that we have set up in this country.

We have seen examples of that. I know that in Michigan just recently, we had an incident where 200 people were affected by eating strawberries that had been contaminated with the hepatitis A virus and that were allowed into the country because they did not have to undergo the FDA process and the sanitation process that products here in the United States are required to go under. We should also realize that of the 4.4 million trucks a year that come in from Mexico into the United States, we have the ability right now to inspect 2 percent, about 88,000 trucks out of 4.4 million. We do not have the ability to check the licenses, the qualifications of those drivers, the safety mechanisms on those trucks, and there is just a complete lack of accountability. That is the bottom line.

This Fast Track bill takes away the accountability. We are unable to oversee or guarantee that the American workers and the American public are being protected, and we need to do whatever we can to recapture the power and the accountability on behalf of the American people.

I think the easiest way to do that would be to defeat this Fast Track proposal.

Mr. BROWN of Ohio. Mr. Speaker, the gentleman from Massachusetts (Mr. LYNCH) points out something very important about democratic values. At the beginning of this Special Order we talked about political profiteering that some people, the President, the White House and the Bush administration, have said that we need to have Fast Track to wage this war against terrorism. Yet as the gentleman from Massachusetts (Mr. LYNCH) so deftly pointed out, much about trade negotiations and much, not just writing these trade agreements, but actually some of the appeals in front of the tribunals and the three-judge panels at the World Trade Organization and the NAFTA tribunals and all are conducted in secret.

We talk about American values. How can we talk about American values and then turn over our sovereignty on issues of public health and issues of water, as the gentleman from Michigan (Mr. STUPAK) in his district, which borders three of the Great Lakes, how can we turn over those decisions on environment, on food safety, as the gentleman from Massachusetts (Mr. LYNCH) said; on constitutional issues, as the gentleman from New Jersey (Mr. PASCRELL) said.

We are turning those issues over to panels who are people we do not elect, who are making decisions in secret, and then often do not have to publish their findings. And that runs exactly counter to our government, to our way of life, to our values, and to our beliefs as Americans.

I would like to yield to my friend, the gentleman from Ohio (Mr. STRICKLAND), who many years ago during the NAFTA debate used to join the gentleman from Michigan (Mr. STUPAK) and the gentleman from Michigan (Mr. BONIOR), who could not be here tonight, used to join us on these Fast Track issues. I would add that the gentleman from Michigan (Mr. BONIOR), who is a candidate for Governor of Michigan, will be leaving this body at the end of 2002 and has been the real leader on trade issues. He said he could not be here tonight, but he is in there fighting against these bad trade agreements on behalf of Michigan workers and on behalf of all of us.

So I yield to my friend, the gentleman from Ohio (Mr. STRICKLAND), from the other end of Ohio, from southern Ohio.

Mr. STRICKLAND. Mr. Speaker, the fact is that we do represent common areas of our Nation, areas where there has been strong manufacturing in the past and where people are now losing their jobs and where there is great distress. Sometimes I wonder how long the American people are going to be willing to put up with us as they watch what is happening. It seems that the decisions that we make in this Chamber so often favor other countries and other peoples rather than our own country and our own people.

It really bothers me that we would make decisions in this Chamber that would put the American worker at a disadvantage to workers elsewhere in this world. That really troubles me, and I am wondering how long the American people are going to put up with it.

Now, we are going to be facing a decision rather soon and the pressure is building here in Washington, D.C., the lobbying is taking place, the administration is sending people up here to try to twist arms and to convince people that they need to support this Fast Track authority. And we are going to be making a decision, and it is my hope that as the American people observe what is happening, that they will let their voices be heard.

And how can they do that? Well, the old-fashioned way. They can call their representatives. They can send e-mails. They can send letters. They may arrive 2 or 3 weeks late, given the current circumstances. They can call their Representatives and their Senators and ask for a personal meeting in their offices, in their States, in their districts, because unless the American people express themselves, I am afraid this will be pushed through this House and through this Congress, and that once again the American people will be placed at a great disadvantage.

I am the son of a steelworker. I grew up in a family of nine kids. My dad had a fifth-grade education, but he worked in a steel mill and he was able to support us. That steel mill is closed today. There is not a single man or woman or family that is being supported by that steel mill, because it does not exist.

Even today as we met in our Steel Caucus, we heard the fact that if something is not done, over the next 12 months the American steel industry will be decimated, will cease to be a major industry in this country. Yet we are on the verge of being forced to take a position that will extend this, what I would call obscene trade policy that we currently have in place.

When are we going to stop and say what is best for the American worker, the American family? When are we going to do that? When are we going to have an administration that is willing to put Americans first when it comes to these kinds of issues?

We go to a union hall and it is very common in my district when I go to a union hall to have union members stand and pledge allegiance to the flag. We are urging American school children across this Nation to be loyal to our Nation and to express that loyalty by pledging allegiance to the flag. Sometimes I think we should request that these corporate board members who belong to these multinational organizations, who have no particular loyalty to a country or a set of democratic principles or a political philosophy, maybe they should be asked to pledge allegiance to the flag as well.

I am just really getting increasingly concerned about the fact that over the years, in an incremental manner, we are more and more giving up the power that we have within this Chamber to protect our constituents, to make sure that when we cast a vote, when we make a decision, it is in the best interests of the people of southern Ohio or northern Ohio or the upper peninsula of Michigan. We cannot give up this authority. We ought not to. I believe it is a violation of our constitutional responsibilities and our oath of office to just relinquish this responsibility to an administration. And I am not just being critical of this administration because, quite frankly, I think we were critical of the past administration when it came to trade policies and the willingness to stand up for the American worker.

We have got a responsibility as elected representatives to do the right thing, but I am afraid we will not do the right thing if the American people do not make their voices heard. It is my hope that in the next few hours and days, that the American people will call and write and request visits with their Congresspersons and their Senators so that we can stop this and we can once again start reasserting ourselves as the legitimate spokespersons for the people who send us here to represent them.

I want to thank the gentleman from Ohio (Mr. BROWN) for his attention on this issue for many, many years, and he is very knowledgeable about it, as is my Congress friend from the great State of Michigan. I live in a district where the steel mill is already gone. Some of my colleagues live in districts where there is still hope to maintain the jobs, and we will not be able to do it if this Fast Track legislation passes.

We will see more and more jobs going to other countries where those functions are performed by people who earn little more than slave labor salaries, where children are abused, where the environment is raped, where there are no protections in terms of worker rights. How can we do that and say that we are representing the United States of America? I do view this as a patriotic issue and one that calls upon me to oppose this effort to take away and to strip from us our legitimate right as representatives of the people to stand up for them.

I thank the gentleman from Ohio (Mr. BROWN) for this time and for giving me a chance to express myself.

Mr. BROWN of Ohio. Mr. Speaker, I want to reemphasize something the gentleman from Ohio (Mr. STRICKLAND) said. As this debate winds down into next week when the Republican leadership has said it will be scheduled for a

floor vote, we have seen the kind of strong-arm lobbying from the President, from the President personally, from administration officials, Cabinet members, up and down the administration, throughout the administration, promises, all kinds of promises, everything from highway projects to support of legislation, to jobs, to all kinds of things that some of these people promise.

We have also seen strong-arm lobbying from America's largest corporations. Every time there is a trade vote here, people at National Airport used to tell me they saw more corporate jets at that airport than anytime during the year, as corporate executives know that these trade agreements mean they can move more jobs overseas, make more money as they hire low-wage workers with no environmental laws, with no food safety laws, with no kind of worker safety laws.

□ 1900

Mr. STRICKLAND. I would just like to point out that many of these corporations are in fact multinational in nature. They have no loyalty to this country in particular or to any set of democratic principles or anything else, except the bottom line, and we allow these multinational corporations to influence American domestic economic policy. It is just absolutely wrong.

Mr. BROWN of Ohio. Reclaiming my time, one CEO of a major corporation said a couple of years ago, ''I wish I could locate my corporate headquarters on an island that is part of no country.'' He does not mind being an American when he comes to this institution for subsidies, for tax cuts personally or corporate tax cuts, but when it comes time to employing American workers or living under the sovereignty of this Nation, he seems a little bit less interested.

The gentleman from Michigan (Mr. STUPAK) and I, a moment ago, and for years, actually, but a moment ago were talking about food safety. And food safety is a particularly important issue. We have legislation with the gentleman from Michigan (Mr. DINGELL) and some others because we are concerned about country-of-origin labeling; we are concerned about inspections, as more and more fruits and vegetables come into the United States.

Because of budget cuts, and because of increased imports, and because of poor trade laws, only seven- tenths of 1 percent of food coming into this country is inspected at the border, much less than that inspected anyplace else. That means one out of every 140 crates of broccoli, one out of every 140 crates of fruit, one out of every 140 boxes of any kind of food gets inspected at the border. It is a serious problem, and the gentleman from Michigan will tell us more about what all of this means with Fast Track.

Mr. STUPAK. Well, with Fast Track, if we take a look at the proposed legislation, H.R. 3005, the legislation that is going to be proposed, when we get to environmental standards or inspection, it is all voluntary. And when we have voluntary negotiating on objectives, on the environment, on food safety, it usually means nothing will happen. If anything, when we look closely at H.R. 3005, it is a step backwards. We do not have an opportunity to enforce the laws that we have because they are all subject to negotiations. Under H.R. 3005, when it comes to inspections, that is subject to negotiation. Even our laws which prevent adulterated or bad food that does not meet our standards or uses pesticides not allowed in this country, that is subject to negotiation. It is voluntary under these proposals.

The gentleman from Ohio talked about food coming into this country, that seven-tenths of 1 percent is ever inspected. Well, when they do broccoli, they just take a crate and drop it on the ground. If bugs come out, they impound it. If no bugs come out, it goes on. For years, we have asked for sophisticated inspection of food coming into this country. Let us not just drop the crates. Let us do a quick chemical test to see what pesticides are in it that we are consuming. Let us put the country of origin on this food. Let us have inspectors there and be able to impound the food for some time so we can have an opportunity to do a proper inspection.

All that is happening is a quick check, and then we are sending the truck on. By the time they do a sophisticated check, that truck is already hundreds of miles into the United States and has probably dropped its load. They do not know where it is because they do not have the order there in front of them. How do we recall it then? It is consumed.

We had that in Michigan with Guatemalan raspberries and our hot lunch program, and hundreds of kids were ill. Well, it is too late then. And guess what? It was really a U.S. company that imported the food. The U.S. company was supposed to inspect it, but they never did. Tainted water had been used to grow the crops, and that is what we have. We do not even have inspections overseas where this food comes from.

It is amazing. We have worked, as the gentleman said, for a number of years, and we have the bill again this year; but it is frustrating when we see that less than 1 percent is ever inspected. It is wintertime now, and where will most of our fruits and vegetables for our salads come from?

Mr. BROWN of Ohio. When the gentleman and I started this conversation 3 or 4 years ago, 2 percent of food was inspected. This Congress continues to cut the budget on food inspection.

And understand it is not just the adulterated food coming in. The way the trade law works on food safety, there are certain pesticides in the United States that are banned for use. It is illegal to put them on fields. It is not illegal to make them. So in many cases, American manufacturers manufacture these pesticides, sell them to Guatemala to spray on the strawberries or on the raspberries. Those products then come back into the United States with pesticide residues, making the farmers sick that apply the pesticides, and then coming across the border.

We do not spend the money at the border to detect either adulterated food, anything from fecal matter to other kinds of contaminants, nor do they detect any kinds of residues from pesticides. And that is one of the reasons that in this country, and it is not all foreign food, but in this country 5,000 people a year die from food-borne illnesses and 300,000 people go to the hospitals with food-borne illnesses.

Not blaming it all on foreign food by a long shot. We should do a better inspection job with domestic food. But foreign food is a part of it, and food coming from abroad is a growing problem because we are importing more. That is why we get vegetables and fruits in the winter, because we are importing them. That is a good thing. It makes Americans healthier. But give Americans the confidence that our food will be safe by passing trade legislation that upgrades food safety standards everywhere, rather than pulling our standards down to the weaker standards of other countries.

We have about 3 minutes, so I will yield to my friend, the gentleman from Ohio (Mr. STRICKLAND).

Mr. STRICKLAND. I want to say quickly that I think the American consumer deserves information. When they go to the grocery store, as a consumer they deserve the right to know where that food has come from.

I was talking with one of my constituents over the weekend; and he said to me, you know, I would pay a little more for a television set that was made in America by American workers if I could find one. It is just unconscionable that we have reached this place.

But in terms of country-of-origin labeling, that is so basic. And if we cannot give this kind of information to the American consumer, then we will have failed them.

Mr. BROWN of Ohio. Just give more information to people.

In closing, I thank my colleagues, the gentleman from Michigan (Mr. STUPAK), the gentleman from Ohio (Mr. STRICKLAND), the gentleman from New Jersey (Mr. PASCRELL), the gentleman from Massachusetts (Mr. LYNCH), and the gentleman from Texas (Mr. PAUL), who is here on the other side of the aisle, who has always been a strong opponent of bad free trade laws.

I would close by saying, as the gentleman from Ohio (Mr. STRICKLAND) said, corporate CEOs, the President, cabinet officials will all be lobbying this institution big time in the next week. I hope that coming out of this Special Order tonight that people will understand better what our trade policy does to our values and our way of

life, and that the American people will rise to the occasion and continue to push Members of Congress to do the right thing next week when we vote down Fast Track Trade Promotion Authority.

THE WAR ON TERRORISM

The SPEAKER pro tempore (Mr. JEFF MILLER of Florida). Under the Speaker's announced policy of January 3, 2001, the gentleman from Texas (Mr. PAUL) is recognized for 60 minutes.

Mr. PAUL. Mr. Speaker, we have been told on numerous occasions to expect a long and protracted war. This is not necessary if one can identify the target, the enemy, and then stay focused on that target. It is impossible to keep one's eye on a target and hit it if we do not precisely understand it and identify it.

In pursuing any military undertaking, it is the responsibility of Congress to know exactly why it appropriates the funding. Today, unlike any time in our history, the enemy and its location remains vague and pervasive. In the undeclared wars of Vietnam and Korea, the enemy was known and clearly defined, even though our policies were confused and contradictory. Today, our policies relating to the growth of terrorism are also confused and contradictory. However, the precise enemy and its location are not known by anyone.

Until the enemy is defined and understood, it cannot be accurately targeted or vanquished. The terrorists are no more an entity than the Mob or some international criminal gang, such as the Mafia. It is certainly not a country, nor is it the Afghan people. The Taliban is obviously a strong sympathizer of bin Laden and his henchmen, but how much more so than the government of Saudi Arabia or even Pakistan? Probably not much.

Ulterior motives have always played a part in the foreign policies of almost every Nation throughout history. Economic gain and a geographic expansion, or even just the desires for more political power, too often drives the militarism of all nations. Unfortunately, in recent years, we have not been exempt. If expansionism, economic interests, desires for hegemony and influential allies affect our policies, and they in turn incite mob attacks against us, they obviously cannot be ignored. The target will be elusive and ever-enlarging rather than vanquished.

We do know a lot about the terrorists who spilled the blood of nearly 4,000 innocent civilians. There were 19 of them, 15 from Saudi Arabia; and they have paid a high price. They are all dead. So those most responsible for the attack have been permanently taken care of. If one encounters a single suicide bomber who takes his own life along with others, without the help from anyone else, no further punishment is possible. The only question that can be raised under that circumstance is why did it happen and how can we change the conditions that drove that individual to perform such a heinous act.

The terrorist attacks on New York and Washington are not quite so simple, but they are similar. These attacks required funding, planning, and inspiration from others. But the total number of people directly involved had to be relatively small in order to have kept the plans thoroughly concealed. Twenty accomplices, or even 100 could have done it; but there is no way thousands of people knew and participated in the planning and carried out the attacks.

Moral support expressed by those who find our policies offensive is a different matter and difficult to determine. Those who enjoyed seeing the United States hit are too numerous to count and impossible to identify. To target and wage war against all of them is like declaring war against an idea or sin. The predominant nationality of the terrorists was Saudi Arabian. Yet, for political and economic reasons, even with the lack of cooperation from the Saudi Government, we have ignored that country in placing blame.

The Afghan people did nothing to deserve another war. The Taliban, of course, is closely tied to bin Laden and the al Qaeda, but so are the Pakistanis and the Saudis. Even the United States was a supporter of the Taliban's rise to power. And as recently as August of this year, we talked pipeline politics with them. The recent French publication of bin Laden, ''The Forbidden Truth,'' revealed our most recent effort to secure control over Caspian Sea oil in collaboration with the Taliban.

According to the two authors, the economic conditions demanded by the U.S. were turned down and led to U.S. military threats against the Taliban. It has been known for years that UniCal, a U.S. company, has been anxious to build a pipeline through northern Afghanistan. But it has not been possible due to the weak Afghan central government. We should not be surprised now that many contend that the plan for the U.N. to nation-build in Afghanistan is a logical and important consequence of this desire. The crisis has merely given those interested in this project an excuse to replace the government of Afghanistan.

Since we do not even know if bin Laden is in Afghanistan; and since other countries are equally supportive of him, our concentration on this Taliban target remains suspect by many. Former FBI Deputy Director John O'Neill resigned in July over duplicitous dealings with the Taliban in our oil interests. O'Neill then took a job as head of the World Trade Center's security and, ironically, was killed in the 9–11 attack.

The charges made by these authors in this recent publication deserves close scrutiny and congressional oversight investigation and not just for the historical record.

To understand world sentiment on this subject, one might note a comment in the ''Hindu,'' India's national newspaper, not necessarily to agree with the paper's sentiment, but to help us better understand what is being thought about us around the world in contrast to the spin put on the war by our five major TV networks.

This quote comes from an article written by Sitaram Yechury on October 13, 2001: ''The world today is being asked to side with the United States in a fight against global terrorism. This is only a cover. The world is being asked today in reality to side with the U.S. as it seeks to strengthen its economic hegemony. This is neither acceptable nor will it be allowed. We must forge together to state that we are neither with the terrorists nor with the United States.''

The need to define our target is ever so necessary if we are going to avoid letting this war get out of control. It is important to note that in the same article the author quoted Michael Klare, an expert on Caspian Sea oil reserves, from an interview on Radio Free Europe. He said, ''We, the United States, view oil as a security consideration, and we have to protect it by any means necessary, regardless of other considerations, other values.''

□ 1915

This, of course, was a clearly stated position of our administration in 1990 as our country was being prepared to fight the Persian Gulf War. Saddam Hussein and his weapons of mass destruction only became the issue later on. For various reasons, the enemy with whom we are now at war remains vague and illusive. Those who commit violent terrorist acts should be targeted with a rifle or hemlock, not with vague declarations with some claiming we must root out terrorism in as many as 60 countries.

If we are not precise in identifying our enemy, it is going to be hard to keep our eye on the target. Without this identification, the war will spread and be needlessly prolonged. Why is this definition so crucial? Because without it the special interests and the ill advised will clamor for all kinds of expanded militarism. Planning to expand and fight a never-ending war in 60 countries against worldwide terrorist conflicts with the notion that at most only a few hundred ever knew of the plans to attack the World Trade Center and the Pentagon.

The pervasive and indefinable enemy, terrorism, cannot be conquered without weapons and U.N. nation-building. Only a sensible pro-American foreign policy will accomplish this. This must occur if we are to avoid a cataclysmic expansion of the current hostilities. It was said that our efforts were to be directed towards the terrorists responsible for the attacks, and overthrowing and instituting new governments were not to be part of the agenda.

Already we have clearly taken our eyes off that target and diverted it toward building a pro-Western, U.N.-sanctioned government in Afghanistan. But if bin Laden can hit us in New York and Washington, D.C., what should one expect to happen once the U.S. and the U.N. establishes a new government in Afghanistan with occupying troops? It seems that would be an easy target for the likes of al Qaeda.

Since we do not know in which cave or country bin Laden is hiding, we hear the clamor of many for us to overthrow our next villain, Saddam Hussein, guilty or not. On the short list of countries to be attacked are North Korea, Libya, Syria, Iran and the Sudan, just for starters. But this jingoistic talk is foolhardy and dangerous. The war against terrorism cannot be won in this manner. The drum beat for attacking Baghdad grows louder every day with Paul Wolfowitz, Bill Kristol, Richard Perle and Bill Bennett leading the charge.

In a recent interview, the U.S. Deputy of Defense Paul Wolfowitz, made it clear, ''We are going to continue pursuing this entire al Qaeda network which is in 60 countries, not just Afghanistan.''

Fortunately, President Bush and Colin Powell so far have resisted the pressure to expand the war into other countries. Let us hope and pray that they do not yield to the clamor of the special interests that want us to take on Iraq. The argument that we need to do so because Hussein is producing weapons of mass destruction is the reddest of all herrings. I sincerely doubt he has developed significant weapons of mass destruction.

However, if that is the argument, we should plan to attack all the countries that have similar weapons or plans to build them, countries like China, North Korea, Israel, Pakistan and India. Iraq has been uncooperative with the U.N. world order, and remains independent of Western control of its oil reserve, unlike Saudi Arabia and Kuwait. This is why she has been bombed steadily for 11 years by the U.S. and Britain.

Mr. Speaker, my guess is that in the not-too-distant future so-called proof will be provided that Saddam Hussein was somehow partially responsible for the attack on the United States, and it will be irresistible then for the United States to retaliate against him. This will greatly and dangerously expand the war and provoke even greater hatred towards the United States, and it is all so unnecessary. It is so hard for many Americans to understand how we inadvertently provoke the Arab Muslim people, and I am not talking about the likes of bin Laden and his gang. I am talking about the Arab Muslim masses.

In 1996 after 5 years of sanctions against Iraq and persistent bombing, CBS reporter Lesley Stahl asked our ambassador to the U.N., Madeleine Albright, a simple question: ''We have heard that half a million children have died as a consequence of our policy against Iraq. Is the price worth it?''

Albright's response was, ''We think the price is worth it.'' Although this interview won an Emmy Award, it was rarely related in the U.S., but widely circulated in the Middle East. Some still wonder why America is despised in this region of the world.

Former President George Bush has been criticized for not marching on to Baghdad at the end of the Persian Gulf War. He gave then and stands by its explanation today a superb answer as to why it was ill advised to attempt to remove Saddam Hussein from power. There were strategic and tactical as well as humanitarian arguments against it. But the important and clinching argument against annihilating Baghdad was political. The coalition in no uncertain terms let it be known they wanted no part of it. Besides, the U.N. only authorized the removal of Saddam Hussein from Kuwait. The U.N. has never sanctioned the continued U.S. and British bombing of Iraq, a source of much hatred directed towards the United States.

The placing of U.S. troops on what is seen as Muslim Holy Land in Saudi Arabia seems to have done exactly what the former President was trying to avoid, the breakup of the coalition. The coalition has hung together by a thread, but internal dissention among the secular and religious Arab Muslim nations within individual countries has intensified. Even today, the current crisis threatens the overthrow of every puppet pro-Western Arab leader from Egypt to Saudi Arabia to Kuwait.

Many of the same advisers from the first Bush administration are now urging the current President to finish off Hussein. However, every reason given 11 years ago for not leveling Baghdad still holds true today, if not more so. It has been argued that we needed to maintain a presence in Saudi Arabia after the Persian Gulf War to protect the Saudi Government from Iraqi attack. Others argue it was only a cynical excuse to justify keeping troops to protect what our officials declared were our oil supplies.

Some have even suggested that our expanded presence in Saudi Arabia was prompted by a need to keep King Fahd in power and to thwart any effort by Saudi fundamentalists from overthrowing his regime. Expanding the war by taking on Iraq at this time may please some allies, but it will lead to chaos in the region and throughout the world. It will incite even more anti-American sentiment and expose us to even greater danger. It could prove to be an unmitigated disaster.

Iran and Russia will not be pleased with this move, nor will our European allies. It is not our job to remove Saddam Hussein. That is the job of the Iraqi people. It is not our job to remove the Taliban. That is the business of the Afghan people. It is not our job to insist that the next government in Afghanistan include women, no matter how good of an idea it is. If this really is an issue, why not insist that our friends in Saudi Arabia and Kuwait do the same thing as well as impose our will on them. Talk about hypocrisy. The mere thought that we fight wars for affirmative action in a country 6,000 miles from home with no cultural similarities should insult us all. Of course it does distract from the issue of an oil pipeline through northern Afghanistan. We need to keep our eye on the target and not be so easily distracted.

Assume for a minute that bin Laden is not in Afghanistan. Would any of our military effort in that region be justified? Since none of it would be related to American security, it would be difficult to justify.

Assume for a minute that bin Laden is as ill as I believe he is with serious renal disease. Would he not do everything conceivable for his cause by provoking us into expanding the war and alienating as many Muslims as possible? Remember, to bin Laden martyrdom is a noble calling and he may be more powerful in death than life.

An American invasion of Iraq would please bin Laden because it would rally his troops against any moderate Arab leader who appears to be supporting the United States. It would prove his point that America is up to no good, and oil and Arab infidels are the source of all of the Muslims' problems.

We have recently been reminded of Admiral Yamamoto's quote after the bombing of Pearl Harbor in expressing his fear that the event awakened a sleeping giant. Most everyone agrees with the prophetic wisdom of that comment, but I question the accuracy of drawing an analogy between the Pearl Harbor event and the World Trade Center attack. Hardly are we the same Nation we were in 1941. Today we are anything but a sleeping giant. There is no contest for our status as the only world's only economic, political and military superpower. A sleeping giant would not have troops in 141 countries throughout the world and be engaged in every conceivable conflict with 250,000 troops stationed abroad.

The fear I have is that our policies, along with those of Britain, the U.N. and NATO since World War II inspired and have now awakened a long-forgotten sleeping giant, Islamic fundamentalism. Let us hope for all of our sakes that Iraq is not made the target in this very complex war.

The President, in the 2000 Presidential campaign, argued against nation-building, and he was right to do so. He also said, ''If we are an arrogant Nation, they will resent us.'' He wisely argued for humility and a policy that promotes peace. Attacking Baghdad or declaring war against Saddam Hussein or even continuing the illegal bombing of Iraq is hardly a policy of humility designed to promote peace.

As we continue our bombing of Afghanistan, plans are made to install a new government sympathetic to the

West and under U.N. control. The persuasive arguments as always is money. We were able to gain Pakistan's support, although it continually waivers in this manner. Appropriations are already being prepared in the Congress to rebuild all that we destroyed in Afghanistan and then some, even before the bombing has stopped.

''Rumsfeld's plan,'' as reported and quoted in Turkey's Hurriyet newspaper, lays out the plan for the next Iraqi government. Turkey's support is crucial, so the plan is to give Turkey oil from the norther Iraq Karkuk field. The United States has also promised a pipeline running from Iraq through Turkey. How can the Turks resist such a generous offer? Since we subsidize Turkey and they bomb the Kurds, while we punish the Iraqis for the same thing, this plan it to divvy up wealth in the land of Kurds is hardly a surprise.

It seems that Washington never learns. Our foolish foreign interventions continuously get us into more trouble than we have bargained for, and the spending is endless. I am not optimistic that this Congress will anytime soon come to its senses.

□ 1930

I am afraid that we will never treat the taxpayers with respect. National bankruptcy is a more likely scenario than Congress adopting a frugal and wise spending policy.

Mr. Speaker, we must make every effort to precisely define our target in this war and keep our eye on it. It is safe to assume that the number of people directly involved in the 9-11 attacks is closer to several hundred than the millions we are now talking about targeting with our planned shotgun approach to terrorism. One commentator pointed out that when the Mafia commits violence, no one suggests we bomb Sicily. Today, it seems we are in a symbolic way not only bombing Sicily, but thinking about bombing Athens; that is, Iraq.

If a corrupt city or State government does business with a drug cartel or organized crime and violence results, we do not bomb city hall or the State capital. We limit the target to those directly guilty and punish them. Could we not learn a lesson from these examples?

It is difficult for everyone to put the 9–11 attacks in a proper perspective, because any attempt to do so is construed as diminishing the utter horror of the events of that day.

We must remember though that the 3,900 deaths incurred in the World Trade Center attacks were just slightly more than the deaths that occur on our Nation's highways every month. Could it be that the sense of personal vulnerability we survivors feel motivates us in meting out justice, rather than the concern for the victims of the attacks? Otherwise, the numbers do not add up to the proper response.

If we lose sight of the target and unwisely broaden the war, the tragedy of 9–11 will pale in the death and destruction that could lie ahead. As Members of Congress, we have a profound responsibility to mete out justice, provide security for our Nation and protect the liberties of all the people, without senselessly expanding the war at the urging of narrow political and economic special interests. The price is too high and the danger too great. We must not lose our focus on the real target and inadvertently create new enemies for ourselves.

Mr. Speaker, we have not done any better keeping our eye on the terrorist target on the home front than we have overseas. Not only has Congress come up short in picking the right target, it has directed all its energies in the wrong direction. The target of our efforts has, sadly, been the liberties of all Americans.

With all the new power we have given to the administration, none has truly improved the chances of catching the terrorists who were responsible for the 9–11 attacks. All Americans will soon feel the consequences of this new legislation.

Just as the crisis provided an opportunity for some to promote a special interest agenda in our foreign policy, many have seen the crisis as a chance to achieve changes in our domestic laws which, up until now, were seen as dangerous and unfair to American citizens.

Granting bailouts is not new for Congress, but current conditions have prompted many takers to line up for the handouts. There has always been a large constituency for expanding Federal power, for whatever reason, and these groups have been energized.

The military industrial complex is out in force and is optimistic. Union power is pleased with recent events and has not missed the opportunity to increase membership rolls. Federal policing powers, already in a bull market, received a super shot in the arm. The IRS, which detests financial privacy, gloats, while all the big spenders in Washington applaud the tools made available to crack down on tax dodgers.

The drug warriors and anti-gun zealots love the new powers that now can be used to watch the every move of our citizens. Extremists who talk of the Constitution, promote right-to-life, form citizen militias or participate in non-mainstream religious practices, now can be monitored much more effectively by those who find their views offensive.

Laws recently passed by the Congress apply to all Americans, not just terrorists. But we should remember that if the terrorists are known and identified, existing laws would have been quite adequate to deal with them. Even before the passage of the recent Draconian legislation, hundreds had already been arrested under suspicion and million of dollars of al- Qaida funds had been frozen. None of these new laws will deal with uncooperative foreign entities, like the Saudi government, which chose not to relinquish evidence pertaining to exactly who financed the terrorist operations. Unfortunately, the laws will affect all innocent Americans, yet will do nothing to thwart terrorism.

The laws recently passed in Congress in response to the terrorist attacks can be compared to the efforts of anti-gun fanatics who jump at every chance to undermine the second amendment. When crimes are committed with the use of guns, it is argued that we must remove guns from society, or at least register them and make it difficult to buy them. The counterargument made by the second amendment supporters correctly explained that this would only undermine the freedom of law-abiding citizens, and do nothing to keep guns out of the hands of the criminals or to reduce crime.

Now we hear a similar argument, that a certain amount of privacy and personal liberty of law-abiding citizens must be sacrificed in order to root out possible terrorists. This will result only in liberties being lost, and will not serve to preempt any terrorist attack.

The criminals, just as they know how to get guns even when they are illegal, will still be able to circumvent antiterrorist laws. To believe otherwise is to endorse a Faustian bargain. That is what I believe the Congress has done.

We know from the ongoing drug war that Federal drug police not infrequently make mistakes, break down the wrong doors and destroy property. Abuses of seizure and forfeiture laws are numerous. Yet the new laws will encourage even more mistakes by Federal law enforcement agencies. It has long been forgotten that law enforcement in the United States was supposed to be a state and local government responsibility, not that of the Federal Government.

The Federal Government's policing powers have just gotten a giant boost in scope and authority through both new legislation and executive orders. Before the 9–11 attack, Attorney General Ashcroft let his position be known regarding privacy and government secrecy. Executive Order 13223 made it much more difficult for researchers to gain access to Presidential documents from previous administrations and a ''need to know'' had to be demonstrated. This was a direct hit at efforts to demand openness in government, even if only for analysis and writing of history. Ashcroft's position is that Presidential records ought to remain secret, even after an administration has left office. He argues that government deserves privacy, while ignoring the fourth amendment protections of the people's privacy.

He argues his case by absurdly claiming that he must protect the privacy of the individuals who might be involved, a non-problem that could easily be resolved without closing public records to the public.

It is estimated that approximately 1,200 men have been arrested as a consequence of the 9–11 attacks, yet their names and charges are not available, and, according to Ashcroft, will not be made available. Once again, he uses the argument he is protecting their privacy.

Unbelievable. Due process for the detainees has been denied. Secret government is winning out over open government. This is the largest number of people to be locked up under these conditions since FDR's internment of Japanese Americans during World War II.

Information regarding these arrests is a must in a constitutional republic. If they are terrorists or accomplices, just let the public know and pursue their prosecution. But secret arrests and silence are not acceptable in a society that professes to be free. Curtailing freedom is not the answer to protecting freedom under adverse circumstances.

The administration has severely curtailed briefings regarding the military operation in Afghanistan for congressional leaders, ignoring a longtime tradition in this country. One person or one branch of government should never control military operations. Our system of government has always required a shared power arrangement.

The antiterrorism bill did little to restrain the growth of big government. In the name of patriotism, the Congress did some very unpatriotic things. Instead of concentrating on the persons or groups that committed the attacks on 9–11, our efforts, unfortunately, have undermined the liberties of all Americans. ''Know your customer'' type banking regulations, resisted by most Americans for years, have now been put in place in an expanded fashion. Not only will the regulations affect banks, thrifts and credit unions, but all businesses will be required to file suspicious transaction reports if cash is used with a total of the transaction reaching $10,000. Retail stores will be required to spy on all their customers and send reports to the U.S. Government.

Financial service consultants are convinced that this new regulation will affect literally millions of law-abiding American citizens. The odds that this additional paperwork will catch a terrorist are remote. The sad part is that these regulations have been sought after by Federal law enforcement agencies for years. The 9–11 attacks have served as an opportunity to get them by the Congress and the American people.

Only now are the American people hearing about the onerous portions of the antiterrorism legislation, and they are not pleased. It is easy for elected officials in Washington to tell the American people that the government will do whatever it takes to defeat terrorism. Such assurances inevitably are followed by proposals either to restrict the constitutional liberties of the American people or to spend vast sums of money from the Federal Treasury.

The history of the 20th century shows that the Congress violates our Constitution most often during times of crisis. Accordingly, most of our worst unconstitutional agencies and programs began during the World Wars and the Depression. Ironically, the Constitution itself was conceived at a time of great crisis. The founders intended its provisions to place severe restriction on the Federal Government, even in times of great distress.

America must guard against current calls for the government to sacrifice the Constitution in the name of law enforcement. The antiterrorism legislation recently passed by Congress demonstrates how well-meaning politicians make shortsighted mistakes in the rush to respond to a crisis. Most of its provisions were never carefully studied by Congress, nor was a sufficient time taken to debate the bill, despite its importance. No testimony was heard from privacy experts or from other fields outside of law enforcement. Normal congressional committee hearings processes were suspended. In fact, the final version of the bill was not even made available to Members before the vote. The American public should not tolerate these political games, especially when our precious freedoms are at stake.

Almost all of the new laws focus on American citizens rather than potential foreign terrorists. For example, the definition of terrorism for Federal criminal purposes has been greatly expanded. A person could now be considered a terrorist by belonging to a pro-Constitution group, a citizen's militia or a pro-life organization. Legitimate protests against the government could place tens of thousands of other Americans under Federal surveillance.

Similarly, Internet use can be monitored without a user's knowledge, and Internet providers can be forced to hand over user information to law enforcement officials without a warrant or subpoena.

The bill also greatly expands the use of traditional surveillance tools, including wiretaps, search warrants and subpoenas. Probable cause standards for these tools are relaxed, or even eliminated in some circumstances. Warrants become easier to obtain and can be executed without notification. Wiretaps can be placed without a court order. In fact, the FBI and the CIA now can tap telephones or computers nationwide without demonstrating that a criminal suspect is using a particular phone or computer.

The biggest problem with these new law enforcement powers is they bear little relationship to fighting terrorism. Surveillance powers are greatly expanded, while checks and balances on governments are greatly reduced. Most of the provisions have been sought by domestic law enforcement agencies for years, not to fight terrorism, but rather to increase their police powers over the American people.

There is no evidence that our previously held civil liberties posed a barrier to the effective tracking or prosecution of terrorists. The Federal Government has made no showing that it failed to detect or prevent the recent terrorist strike because of the civil liberties that will be compromised by this new legislation.

In his speech to the Joint Session of Congress following the September 11 attack, President Bush reminded all of us that the United States outlasted and defeated Soviet totalitarianism in the last century. The numerous internal problems in the former Soviet Union, its centralized economic planning and lack of free markets, its repression of human liberty and its excessive militarization, all led to its inevitable collapse. We must be vigilant to resist the rush toward ever-increasing state control of our society so that our own government does not become a greater threat to our freedoms than any foreign terrorists.

□ 1945

The Executive Order that has gotten the most attention by those who are concerned that our response to 9–11 is overreaching and dangerous to our liberties is the one authorizing military justice, in secret. Nazi war criminals were tried in public, but plans now are being laid to carry out the trials and punishment, including possibly the death penalty, outside the eyes and ears of the legislative and judicial branches of government and the American public. Since such a process threatens national security and the Constitution, it cannot be used as a justification for their protection.

Some have claimed this military tribunal has been in the planning stages for 5 years. If so, what would have been its justification? The argument that FDR did it and, therefore, it must be okay is a rather weak argument. Roosevelt was hardly one that went by the rule book: the Constitution. But the situation then was quite different from today. There was a declared war by Congress against a precise enemy, the Germans, who sent 8 saboteurs into our country. Convictions were unanimous, not by two-thirds of the panel, and appeals were permitted. That is not what is being offered today. Besides, the previous military tribunal expired when the war as over. Since this war will go on indefinitely, so too will these courts.

The real outrage is that such a usurpation of power can be accomplished with the ''stroke of a pen.'' It may be that we have come to that stage in our history when an Executive Order is the ''law of the land,'' but it is not ''kinda cool,'' as one member of the previous administration bragged. It is a process that is unacceptable, even in this professed time of crisis.

There are well-documented histories of secret military tribunals. Up until now, the United States has consistently condemned them. The fact that a two-thirds majority can sentence a person to death in secrecy in the United

States is scary. With no appeals available and no defense attorneys of choice being permitted should compel us to reject such a system outright.

Those who favor these trials claim that they are necessary to halt terrorism in its tracks. We are told that only terrorists will be brought before these tribunals. This means that the so-called suspects must be tried and convicted before they are assigned to this type of ''trial'' without due process. They will be deemed guilty by hearsay, in contrast to the traditional American system of justice where all are innocent until proven guilty. This turns the justice system on its head.

One cannot be reassured by believing these courts will only apply to foreigners who are terrorists. Sloppiness in convicting criminals is a slippery slope. We should not forget that the Davidians at Waco were convicted and demonized and slaughtered outside our judicial system and they were, for the most part, American citizens. Randy Weaver's family fared no better.

It has been said that the best way for us to spread our message of freedom, justice, and prosperity throughout the world is through example and persuasion, not through force of arms. We have drifted a long way from that concept. Military courts will be another bad example for the world. We were outraged in 1996 when Lori Berenson, an American citizen, was tried, convicted, and sentenced to life by a Peruvian military court. Instead of setting an example, now we are following the lead of a Peruvian dictator.

The ongoing debate regarding the use of torture in rounding up the criminals involved in the 9–11 attacks is too casual. This can only represent progress in the cause of liberty and justice. Once government becomes more secretive, it is more likely this too will be abused. Hopefully, the Congress will not endorse or turn a blind eye to this barbaric proposal. For every proposal made to circumvent the judicial system, it is intended that we visualize that these infractions of the law and the Constitution will apply only to the terrorists and never involve innocent U.S. citizens. This is impossible, because someone has to determine exactly who to bring before the tribunal, and that involves all of us. That is too much arbitrary power for anyone to be given in a representative government and is more characteristic of a totalitarian government.

Many throughout the world, especially those in the Muslim countries, will be convinced by the secretive process that the real reason for military courts is that the U.S. lacks sufficient evidence to convict in an open court. Should we be fighting so strenuously the war against terrorism and carelessly sacrifice our traditions of American justice? If we do, the war will be for naught and we will lose, even if we win.

Congress has a profound responsibility in all of this and should never concede this power to a President or an Attorney General. Congressional oversight powers must be used to their fullest to curtail this unconstitutional assumption of power.

The planned use of military personnel to patrol our streets and airports is another challenge of great importance that should not go uncontested. For years, many in Washington have advocated the national approach to all policing activities. This current crisis has given them a tremendous boost. Believe me, this is no panacea and is a dangerous move. The Constitution never intended that the Federal Government assume this power. This concept was codified in the Posse Comitatus Act of 1878. This act prohibits the military from carrying out law enforcement duties such as searching or arresting people in the United States, the argument being that the military is only used for this type of purpose in a police State. Interestingly, it was the violation of these principles that prompted the Texas revolution against Mexico. The military, under the Mexican Constitution at that time, was prohibited from enforcing civil laws, and when Santa Anna ignored this prohibition, the revolution broke out. We should not so readily concede the principles that have been fought for on more than one occasion in this country.

The threats to liberty seem endless. It seems we have forgotten to target the enemy. Instead, we have inadvertently targeted the rights of American citizens. The crisis has offered a good opportunity for those who have argued all along for bigger government.

For instance, the military draft is the ultimate insult to those who love personal liberty. The Pentagon, even with the ongoing crisis, has argued against the reinstatement of the draft. Yet the clamor for its reinstatement grows louder daily by those who wanted a return to the draft all along. I see the draft as the ultimate abuse of liberty. Morally, it cannot be distinguished from slavery. All the arguments for drafting 18-year-old men and women and sending them off to foreign wars are couched in terms of noble service to the country and benefits to the draftees. The need-for-discipline argument is the most common reason given after the call for service in an effort to make the world safe for democracy. There can be no worse substitute for the lack of parental guidance of teenagers than the Federal Government's domineering control and forcing them to fight an enemy they do not even know in a country they cannot even identify.

Now it is argued that since the Federal government has taken over the entire job of Homeland Security, all kinds of jobs can be found for the draftees to serve the State, even for those who are conscientious objectors.

The proponents of the draft call it ''mandatory service.'' Slavery too was mandatory, but few believed it was a service. They claim that every 18-year-old owes at least 2 years of his life to his country. Let us hope the American people do not fall for this need-to-serve argument. The Congress should refuse even to consider such a proposal. Better yet, what we need to do is abolish the selective service altogether.

However, if we get to the point of returning to the draft, I have a proposal. Every news commentator, every Hollywood star, every newspaper editorialist, and every Member of Congress under the age of 65 who has never served in the military and who now demands that the draft be reinstated should be drafted first; the 18-year-olds last. Since the Pentagon says they do not need draftees, these new recruits can be the first to march to the orders of the general in charge of Homeland Security. For those less robust individuals, they can do the hospital and cooking chores for the rest of the newly-formed domestic Army. After all, someone middle-aged owes a lot more to his country than an 18-year-old.

I am certain that this provision would mute the loud demands for the return of the military draft.

I see good reason for American citizens to be concerned, not only about another terrorist attack, but for their own personal freedoms as the Congress deals with this crisis. Personal freedom is the element of the human condition that has made America great and unique and something we all cherish. Even those who are more willing to sacrifice a little freedom for security do it with the firm conviction that they are acting in the best interests of freedom and justice. However, good intentions can never suffice for sound judgment in the defense of liberty.

I do not challenge the dedication and sincerity of those who disagree with the freedom philosophy and confidently promote government solutions for all of our ills. I am just absolutely convinced that the best formula for giving us peace and prosperity and preserving the American way of life is freedom, limited government, and minding our own business overseas.

Henry Grady Weaver, author of a classic book on freedom, The Mainspring of Human Progress, years ago warned us that good intentions in politics are not good enough and actually are dangerous to the cause. Weaver stated: ''Most of the major ills of the world have been caused by well-meaning people who ignored the principle of individual freedom, except as applied to themselves, and who were obsessed with fanatical zeal to improve the lot of mankind-in-the-mass through some pet formula of their own. The harm done by ordinary criminals, murderers, gangsters and thieves is negligible in comparison with the agony inflicted upon human beings by the professional do-gooders who attempt to set themselves up as Gods on earth and who would ruthlessly force their views on all others, with the abiding assurance that the end justifies the means.''

Mr. Speaker, this message is one we should all ponder.

RECESS

The SPEAKER pro tempore (Mr. JEFF MILLER of Florida). Pursuant to clause 12 of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 7 o'clock and 56 minutes p.m.), the House stood in recess subject to the call of the Chair.

EXECUTIVE COMMUNICATIONS, ETC.

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

4652. A letter from the Assistant to the Board, Board of Governors of the Federal Reserve System, transmitting the Board's final rule—Risk-Based Capital Guidelines; Capital Adequacy Guidelines; Capital Maintenance: Capital Treatment of Recourse, Direct Credit Substitutes and Residual Interests in Asset Securitizations [Regulations H and Y; Docket No. R–1055] received November 27, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

4653. A letter from the Federal Reserve Board, Office of the Comptroller of the Currency, FDIC, and the Office of Thrift Supervision, transmitting a joint report on review of regulations affecting online delivery of financial products and services, as required by Section 729 of the Gramm-Leach-Bliley Act of 1999; to the Committee on Financial Services.

4654. A letter from the Director, Department of Defense, Defense Security Cooperation Agency, transmitting notification concerning the Department of the Air Force's Proposed Letter(s) of Offer and Acceptance (LOA) to Austria for defense articles and services (Transmittal No. 02–13), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

4655. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on International Relations.

4656. A letter from the Chairman, Board of Governors of the Federal Reserve System, transmitting the semiannual report of the Office of Inspector General covering the period April 1 through September 30, 2001, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform.

4657. A letter from the Acting Assistant Director, Communications, Bureau of Land Management, Department of the Interior, transmitting the Department's final rule—Notice of Interim Final Supplementary Rules on BLM administered Public Lands within the Imperial Sand Dunes Recreation Area [CA–067–1220–NO] received November 20, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

4658. A letter from the Acting Director, Fish and Wildlife Service, Department of the Interior, transmitting the Department's final rule—Endangered and Threatened Wildlife and Plants; Final Rule To List the Vermilion Darter as Endangered (RIN: 1018–AG05) received November 21, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

4659. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Rolls-Royce Corporation (Formerly Allison Engine Company) AE 2100 turboprop and AE 3007 turbofan Series Engines [Docket No. 2000–NE–27–AD; Amendment 39–12423; AD 2001–17–31] (RIN: 2120–AA64) received November 16, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4660. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Rolls-Royce Corporation (Formerly Allison Engine Company) Model AE 3007A and AE 3007C Turbofan Engines [Docket No. 2000–NE–41–AD; Amendment 39–12442; AD 2001–19–03] (RIN: 2120–AA64) received November 16, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4661. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Rolls-Royce plc Dart 525, 525F, 528, 528D, 529, 529D, 530, 532, 535, 542, and 552 Series Turboprop Engines [Docket No. 2001–NE–29–AD; Amendment 39–12446; AD 2001–19–06] (RIN: 2120–AA64) received November 16, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4662. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Airbus Model A300 B2 and B4 Series Airplanes, and Model A300 B4–600, B4–600R, and F4–600R (Collectively Called A300–600) Series Airplanes [Docket No. 2001–NM–282–AD; Amendment 39–12454; AD 2001–20–06] (RIN: 2120–AA64) received November 16, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4663. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Airbus Model A319 and A320 Series Airplanes [Docket No. 2001–NM–287–AD; Amendment 39–12464; AD 2001–20–16] (RIN: 2120–AA64) received November 16, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4664. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Airbus Model A340–211 Series Airplanes Modified by Supplemental Type Certificate ST09092AC–D [Docket No. 2000–NM–246–AD; Amendment 39–12427; AD 2001–18–01] (RIN: 2120–AA64) received November 16, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4665. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Airbus Model A300 B2 and B4 Series Airplanes [Docket No. 2001–NM–300–AD; Amendment 39–12481; AD 2001–22–02] (RIN: 2120–AA64) received November 16, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4666. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule—Security Zone; Various areas on the islands of Oahu, Maui, Hawaii, and Kauai, HI [COTP Honolulu 01–006] (RIN: 2115–AA97) received November 16, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4667. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule—Security Zone; Lake Michigan, Kewaunee, Wisconsin [CGD09–01–138] (RIN: 2115–AA97) received November 16, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4668. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule—Security Zone; Lake Michigan, Point Beach Nuclear Power Plant, WI [CGD09–01–137] (RIN: 2115–AA97) received November 16, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4669. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule—Security Zone; Lake Erie, Perry, Ohio [CGD09–01–130] (RIN: 2115–AA97) received November 16, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

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. 1022. A bill to amend title 4, United States Code, to make sure the rules of etiquette for flying the flag of the United States do not preclude the flying of flags at half mast when ordered by city and local officials; with an amendment (Rept. 107–305). Referred to the Committee of the Whole House on the State of the Union.

Mr. SENSENBRENNER: Committee on the Judiciary. H.R. 3209. A bill to amend title 18, United States Code, with respect to false communications about certain criminal violations, and for other purposes; with an amendment (Rept. 107–306). Referred to the Committee of the Whole House on the State of the Union.

Mr. SENSENBRENNER: Committee on the Judiciary. H.R. 3275. A bill to implement the International Convention for the Suppression of Terrorist Bombings to strengthen criminal laws relating to attacks on places of public use, to implement the International Convention of the Suppression of the Financing of Terrorism, to combat terrorism and defend the Nation against terrorist acts, and for other purposes; with an amendment (Rept. 107–307). Referred to the Committee of the Whole House on the State of the Union.

NOTICE

Incomplete record of House proceedings.

Today's House proceedings will be continued in the next issue of the Record.

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PROCEEDINGS AND DEBATES OF THE 107th CONGRESS, FIRST SESSION

Vol. 147 WASHINGTON, THURSDAY, NOVEMBER 29, 2001 No. 163

Senate

The Senate met at 9 a.m. and was called to order by the Honorable JEAN CARNAHAN, a Senator from the State of Missouri.

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Gracious God, we thank You for the privilege of living in this land You have blessed so bountifully. You have called the United States to be a demonstration of freedom and equality, righteousness and justice, opportunity and hope that You desire for all nations. O God, help us to be faithful to our heritage in this time of war against terrorism.

Today we gratefully remember the memory of Johnny Michael ''Mike'' Spann, marine and CIA agent who gave his life in the battle in Afghanistan, in his own words, ''to make this world a better place in which to live.''

Now we praise You for the way that You have blessed this Senate with great leaders in each period of our history. Through them You continue to give Your vision for the unfolding of the American dream. Bless the Senators with a renewed sense of their calling to greatness through Your grace. You have appointed them; now anoint them afresh with Your spirit. As they confront the soul-sized, crucial issues today, give them a spirit of unity and cooperativeness. The workload is great, the pressure is heavy, the challenges formidable, but nothing is impossible for You.

Fill this Chamber with Your presence. You are the judge of all that will be said and done today. Ultimately, we have no one to please or answer to but You. With renewed commitment to You and reignited patriotism, we press on to live the page of American history that will be written today. Through our Lord and Saviour. Amen.

PLEDGE OF ALLEGIANCE

The Honorable JEAN CARNAHAN 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.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, November 29, 2001.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JEAN CARNAHAN, a Senator from the State of Missouri, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mrs. CARNAHAN thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator from Nevada is recognized.

SCHEDULE

Mr. REID. Madam President, this morning the Senate will resume consideration of the motion to proceed to H.R. 10. There will be 60 minutes of debate equally divided between the two leaders. The Senate will vote on cloture on the motion to proceed at approximately 10 a.m.

MEASURE PLACED ON CALENDAR—H.R. 2938

Mr. REID. Madam President, I understand H.R. 2983 is at the desk and due for its second reading.

The ACTING PRESIDENT pro tempore. The leader is correct.

Mr. REID. I ask that H.R. 2983 be read a second time and then I would object to any further proceedings on this legislation at this time.

The ACTING PRESIDENT pro tempore. The clerk will read the title of the bill.

The legislative clerk read as follows:

A bill (H.R. 2983) to extend indemnification authority under section 170 of the Atomic Energy Act of 1954, and for other purposes.

The ACTING PRESIDENT pro tempore. Objection having been heard, the bill will be placed on the calendar.

NOTICE

Effective January 1, 2002, the subscription price of the Congressional Record will be $422 per year or $211 for six months. Individual issues may be purchased for $5.00 per copy. The cost for the microfiche edition will remain $141 per year with single copies remaining $1.50 per issue. This price increase is necessary based upon the cost of printing and distribution.

Michael F. DiMario, *Public Printer*

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

Printed on recycled paper.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

COMPREHENSIVE RETIREMENT SECURITY AND PENSION REFORM ACT OF 2001—MOTION TO PROCEED

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of the motion to proceed to H.R. 10, which the clerk will report.

The legislative clerk read as follows:

Motion to proceed to the bill (H.R. 10) to provide for pension reform, and for other purposes.

The ACTING PRESIDENT pro tempore. Under the previous order, there shall be 60 minutes of debate prior to the cloture vote.

Who yields time? If neither side yields time, time will be charged equally to both sides.

The Senator from Nevada is recognized.

REPUBLICAN ENERGY PLAN

Mr. REID. Madam President, yesterday there was considerable talk on the Senate floor regarding the Republican energy plan, using that term loosely, talking about the need for us to move forward. The majority leader has announced that we are going to take up an energy bill in February. He has given a date. I guess it is difficult for some to take yes for an answer. We are going to go to an energy bill just as soon as we get back. It is important we do that.

In the meantime, there is this constant harangue from the other side about how important it is that we go to an energy bill right now. We agree that there should be an acknowledged policy in this country. It is very important we do that.

We have to understand that under their plan, an increase in oil import dependence would go from 56 percent today to well over 60 percent by the year 2010.

According to the Energy Information Administration, which is part of the DOE, by 2010, cars, light trucks, and SUVs will use an additional 1.8 million barrels of oil a day. Total oil use will increase by twice that much to about 3.6 million barrels a day. The Republican plan does virtually nothing to address oil consumption. Their mantra is supply, supply, supply.

Nothing the United States does will have any impact on the price of oil. That price is determined in the world market. If we don't address our consumption, we might drive the price higher.

The United States currently uses 25 percent of the world's oil supply.

U.S. oil production has been declining since 1970. Even if ANWR were opened to oil development, the most optimistic scenario would only result in a net increase of less than half a million barrels a day. That is a lot of oil, but certainly it will not do anything to address the major problems we have in this country. Those problems relate to consumption.

This assumes that oil companies don't shift production from other places in the United States. There are 32 million acres in the Gulf of Mexico that have been leased but not developed.

Most of the dollars spent on developing new oil supplies are invested outside the United States. Why? Because there is more oil outside the United States. We, who are so proud of our natural resources, must acknowledge, reluctantly but truthfully, that we don't have a lot of oil in the United States. It is estimated that out of 100 percent of the oil reserves in the world, we have 3 percent in the United States. Most of the dollars spent in developing new oil supplies are in places such as Russia, Africa, Brazil, the Caspian and, of course, the Middle East.

Major oil companies, led by Exxon, just committed $30 billion to develop gas and water projects in Saudi Arabia. This is a picture of the signing of that deal. Mobil has done well. We don't need to cry about how Mobil is doing in the economic world. Let's talk about ExxonMobil. I am glad they are doing well, but let's not cry about how they are doing. Profits in 2000 were $12.40 billion, total upstream profits. Profits from the U.S. oil and gas production is this much; you can see that. Investment in U.S. production is this much. We have learned how much they are doing with the Saudi Arabia program. The picture is of Lee Raymond of Exxon signing that deal. It was for $30 billion. The United States is spending that much. Investment in non-U.S. production in Saudi Arabia, Angola, Qatar, and others, is $5.2 billion. Madam President, we should understand where the money is going.

Natural gas: On the other hand, natural gas is currently being produced from existing oilfields on the North Slope of Alaska, and then reinjected because there is no pipeline to bring the gas to the lower 48 States.

Natural gas demand is projected to increase by 24 percent by 2010. We in the United States have a choice. We can build a pipeline to bring the gas to market. We can do that. It would be expensive, but it would be very productive and good for the consumer. Or we can become dependent on liquefied natural gas from oil and gas exporting countries as we are for our other oil.

So the question is: Arctic gas or liquefied natural gas from OPEC. Eleven of the world's gas-exporting nations gathered in Iran in May of this year for the inaugural meeting of the Gas Exporting Countries Forum. They control two-thirds of the world's natural gas reserves.

According to the OPEC bulletin of June 2001, ''Not only was the Gas Exporting Countries Forum born in the capital city of an OPEC member, but the two groups also have five members in common: Algeria, Indonesia, Iran, Nigeria, and Qatar. They can unite and coordinate their policies in much the same way as OPEC has done in the past four decades.'' That should give us pause.

We need a stimulus from the energy policy. Some argue that opening ANWR to oil development would be a great economic stimulus. As we now know, the job numbers thrown around have been grossly exaggerated.

CRS estimates job creation from ANWR might be between 60,000 and 130,000. Again, this assumes jobs are not just shifted from the Gulf of Mexico or the Rocky Mountain region.

Construction of an Arctic natural gas pipeline would create between 350,000 and 400,000 jobs in steel production, pipe manufacturing, trucking and shipping, and construction jobs for 3 to 4 years for assembling the pipeline. These projections are derived from the estimated construction costs and the Bureau of Labor Statistics for pipeline construction, and this is the same approach as the CRS analysis used for ANWR.

This pipeline would be a mammoth project, requiring 4 times as much steel as used for all the cars produced globally in 1999. The steel for the pipe would be enough to give each person on Earth enough stainless steel to make cutlery for six elaborate table settings. The potential natural gas resources could supply the American market for 50 to 60 years.

It seems that we have an easy choice to make. We can do it ourselves or we can be dependent on foreign oil. In the speeches we hear from the other side, I hope they will recognize that we can't continue to consume, consume, consume and meet our energy needs. We are going to have to cut back on consumption. We can do that in a number of simple ways. We can make cars more fuel efficient. We can save millions of barrels of oil a day by making our cars more efficient. Also, we need to look at what we are going to do with alternative energy sources, such as sun, wind, geothermal, biomass, and also spend some money—real dollars—in hydrogen development. For example, Senator HARKIN, for years, has worked with me in trying to come up with a hydrogen program in the United States. It can be done, but we can't get the research dollars to do it. We know it is a safe product. If you had a container of hydrogen that started leaking, you would get water vapor. That is what you would get—not the sludge and these terrible messes that we get in the ocean and on land.

In short, we are no longer going to stand by and let the other side speak about what a terrible thing is happening and that we are not doing something about energy policy. We want to do something. We want to have a full and complete debate, recognizing that

the answer to the problems of America is not drilling in the Arctic pristine wilderness.

The ACTING PRESIDENT pro tempore. The Senator from New Jersey is recognized.

Mr. CORZINE. Madam President, I rise this morning to offer my strong support for the Railroad Retirement Survivor Improvement Act of 2001. It is a piece of legislation that truly will modernize the railroad retirement system and help ensure that our railroad retirees are offered benefits that are consistent with what is made available in the private sector to other industrial workers throughout our economy.

Quite frankly, this is simply a fairness issue, to which I think we need to attend. It is strongly supported on both sides of the aisle, and I think we ought to do away with the procedural hangups that are keeping us from addressing this issue and moving forward.

Today's railroad retirement system is deeply outmoded, badly in need of reform. Unlike most pension plans, the current pension system for railroad workers has tied the hands of those who have the fiduciary responsibility to manage it. It can't invest in private market assets, bonds, or equities. Instead, under the current law, the railroad retirement system is required to invest only in Government securities. That is whether it is the tier 1 benefits, which are like Social Security, or tier 2 programs, which are very consistent or the moral equivalent of a private pension system.

The result is that railroad retirees and their families are being placed at a significant and, I believe, unfair disadvantage relative to their peers in the economy.

Throughout modern pension activities, we have a different result than what happens for rail workers because they are not able to retire with the same certainty and security that other workers are, and their families are prejudiced as well because of the lack of effectiveness in their investment programs and retire programs. We need to do something about it.

This program is very simple and very straightforward. The legislation before us also represents a political compromise that enjoys broad support, as I suggested, by Republicans and Democrats, labor and management. It has wide sponsorship throughout all interested parties. It makes sense from an economic standpoint, a consistency standpoint, and certainly a political standpoint. After all, most people in this Chamber—putting this into a personal perspective—are not being forced to invest in pension plans that are limited only to Government securities.

Under the Thrift Savings Plan, Government employees, like most in the private sector, can invest in the private market, stock index funds, debt index funds—a whole host of options that improve the performance profile of the assets involved in the pension funds.

These funds historically have done better, and the academic history and testing objective data show private pension funds need more opportunities than just being limited to Government securities. I do not understand why we are denying to railroad workers the same opportunity that we have as public employees.

Because private debt and equities generally provide these higher returns, this also would allow for significant improvement in the retirees' benefits: For example, a simple concept such as reducing the retirement age from 62 to 60 after 30 years of service. It is a pretty straightforward, simple, commonsense view and is very consistent with what goes on in the private sector.

Also, widows and widowers would be guaranteed benefits at an amount no less than the amount of the annuity that the retiree received. If one works all their life to build up an annuity that is sensible, the widow or widower should receive more than 50 percent of the retiree's annuity. That is also pretty consistent with actions in the private sector.

This legislation will allow a retirement system to reduce its vesting requirement from 10 years to 5 years, a very standard feature in all private sector pensions. We ought to take advantage of this opportunity to modernize the railroad retirement system and put it in a consistent format with other elements in our society's retirement programs.

I am concerned that the reason this legislation is not moving is because there are those who believe we somehow are going to pilfer the money. The opposite is true. I believe when we do not properly manage, as a fiduciary, retirees' money, we are actually limiting their ability, and the pilfering is really our fault, not theirs. We ought to do something about that.

I am concerned about what is really happening. I believe it is sometimes the view of some that we are trying to limit our options in managing retirement funds. It is quite possible people are presuming that if we make this kind of move with respect to railroad retirement activities and pension investments, we must have an analogy that works for Social Security. There is reason to believe we ought to be thinking about how we manage our Social Security trust funds so that we secure their actuarial responsibility over the long run.

I hope we are not standing against doing something that makes sense for railroad workers because we have this great desire to resist modernizing our practices in how we handle our pension funds.

It is time for us to move forward with this legislation. It was overwhelmingly supported in the House. There is something approaching 75 cosponsors in the Senate. This is 21st century investing—actually, it is 20th century investing practices, and we need to make sure our railroad workers have that same right. I hope we will avoid all this haggling about procedure and move forward to protect their retirement the way we expect others in the economy to proceed.

Mr. ROCKEFELLER. Madam President, I am proud to have been an original cosponsor of the bipartisan Railroad Retirement and Survivors' Improvement Act of 2001 when it was introduced this spring. This legislation has strong bipartisan support and it deserves action before Congress adjourns this year.

In West Virginia, we have over 11,000 retirees and their families currently depending on railroad retirement, and almost 3,500 West Virginians working for the railroads who will need their railroad retirement in the future. These hardworking railroad employees have done tough jobs for years, and because of the physical work and often harsh outdoor working conditions, they deserve a good retirement package, at a earlier age than current benefits allow.

Nationwide, there are currently about 673,000 railroad retirees and families, and about 245,000 active rail workers. They, too, deserve a better retirement program, and I want to work with them to promote this historic package supported by both rail labor and rail management.

There can be no doubt that improving retirement benefits for railroad workers, retirees, and their families must be one of our top priorities. Right now, it takes 10 years of service before a railroad worker becomes vested in the retirement plan, while private companies covered by the Employee Retirement Income Security Act, ERISA, vest their employees in just 5 to 7 years.

The need to dramatically improve benefits for railroad widows and widowers is also obvious and has gone unaddressed for far too long. It is cruel to slash the benefits of the widow of a railroad retiree at the death of her spouse, as the current policy does. Railroad widows have called my offices and pleaded with me at West Virginia town meetings to understand how essential this legislation is for them.

A railroad widow living in Hinton, WV, recently told me that her current railroad pension benefit is too small for her to pay the premium for railroad health insurance. This widow's husband died when he was just 56, and she was only 46. She has been struggling to maintain her home and pay her bills, and can just barely do that, but she cannot afford to buy health insurance. She deserves a better deal. Railroad widows in my state and across our country living on fixed incomes face a tough challenge to maintain their homes and their dignity. Increasing pension benefits for railroad widows should be a priority before this Congress adjourns.

Today, experts predict that the Railroad Trust Funds are solvent for the next 25 years, and existing policy offers

guaranteed benefits to railroad retirees and their families. Under the new plan, the railroads would pay less taxes into the Railroad Retirement Trust Funds, but the fund would create an investment board to invest its reserves in private equities, so the increased rate of returns would cover the expanded benefits. Under the plan, there is a provision to increase railroad taxes in the future when necessary to fully fund the railroad retirement benefits.

As a member of the Senate Finance Committee, I have been pushing hard to enact this legislation to improve benefits for railroad retirees and their families. I will be working with Finance Chairman BAUCUS and Senate Majority Leader DASCHLE to achieve our goal of improving railroad retirement. Our railroad workers, our retirees, and their widows have been waiting too long for a better retirement package. It would be wrong for Congress to leave without acting on this vital program.

Mr. REID. Madam President, I suggest the absence of a quorum and ask that the time be charged equally.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BURNS. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

THE ENERGY BILL MUST BE DEBATED

Mr. BURNS. Madam President, I have heard several comments this morning with regard to energy, yet I am still in a fog about why we are even discussing this legislation.

Americans should know that September 11 not only changed the entire Nation but it also changed the mindset in Washington, DC. I can remember that morning because we were in a press conference talking about enhanced 9–1–1, legislation that was passed and signed by President Clinton. Basically what it did was it allowed the technology to move forward in our wireless communications that when someone used their cell phone and they hit 9–1–1, they got the nearest first responder or emergency responder.

In a State such as Montana where we have large rural areas, this is very important. I held a safety conference in Helena during the August break. We had around 200 people attending, saying we need to locate people whenever an emergency comes in on a cell phone because we have great distances to cover.

With the technology of triangulation of the towers and enhanced GPS, we can now locate the 9–1–1, or the emergency caller, just as we can when we pick up a phone in our own home where it is wired.

We were taking a look at the deployment of that technology in a news conference on that morning of September 11 when the terrorists decided to take their bite out of the United States of America. It was a shocking thing when we saw the second airplane go into the second tower and then the one that hit the Pentagon in Washington, DC. It changed our perspective on everything.

I bring that up because we are in a war, and the only defense against terrorists who will forfeit their lives to carry out a mission, the only way to prevent those people from doing great harm to our country, is to keep them on the run where they do not have a lot of time to plan to do bad things to us.

I congratulate the President this morning because we are taking out the al-Qaida and the terrorists who perpetrated this act of war on our country.

We are also in a recession. We have an agricultural sector that is hurting, and we are talking about something that affects none of the things that are affecting our country today. Nothing in this legislation, with the time we think we have left of this year, the first half of the 107th Congress, will stimulate the economy. It has nothing to do with the economy.

I am a cosponsor on the bill. We have farmers who are walking into their banks to renew their operating loans, and what are the bankers telling them? We have to have some concrete evidence this Government is going to be in your corner next year. We have been every year, but now they want to tie it down a little tighter. Yes, that is a stimulus. Agriculture is about 20 percent of the GDP in this country. It is very important, and it all starts at the production level. We do not hear anybody talking about that.

Yesterday morning I brought up the fact that energy is a part of this, and we hear speeches even this morning on energy, but we only hear speeches. Put a bill on the floor. Allow a bill to come to the Senate. We will debate conservation. We will debate the economy. We will debate production. The President had a task force put together headed by Vice President CHENEY, and a lot of the actions he wants taken are not allowed to be debated. Make no doubt about it. We are at war, and then we hear speeches. We have an energy crisis, but we hear speeches. The economy continues to slip; we continue to hear speeches. Put the bill before the Senate. That is all I say.

The Railroad Retirement Act probably has as many cosponsors as have ever cosponsored a bill in this body. Some folks would say fairness. Fairness to whom? Fairness with the rest of the country? It does nothing that would heal some of the ills that are afflicting our country right now.

What I am saying is let us get our work done. If we want to talk about energy, put an energy bill before the Senate. That is all we ask. Then we will let the chips fall where they may. That is what we should be doing this morning if we move forward on anything.

Let us do something substantive. Let us complete the appropriations. I serve on the Appropriations Committee. The assistant minority leader serves on that committee. We have worked together on a lot of issues, and I think he will agree that it is not going to take a lot of work or a lot of time to finish. As soon as we get the Defense appropriations and complete a stimulus bill, then let us go home and let us recharge the batteries. Let us talk to the people back home. Let us find out what their agenda is, what they want to see this Government and this Congress do as we complete the year 2001.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Nevada.

UNANIMOUS CONSENT REQUEST—H.R. 3090

Mr. REID. Madam President, the junior Senator from Montana, my good friend, and I have worked together on a number of issues. We were the two who handled military construction appropriations for many years. He is a pleasure to work with. I enjoyed working with him this year on the Interior appropriations bill. In answer to my friend, the reason we are talking about energy this morning, it has been talked about so much from the other side, I must reply.

Regarding the railroad retirement bill, it is important legislation. For the widows, it is an important piece of legislation. I acknowledge we should move these appropriations conference reports as quickly as we can. Transportation was resolved yesterday. That is big news. We hope to complete that this week as soon as the House does.

Yesterday it was noted that if we moved to the House bill, which will be the vehicle for the railroad retirement legislation, the stimulus bill would be displaced. We agreed that the stimulus bill should not be displaced. We did not raise a point of order to knock it off the calendar. We could have raised a point of order against a Republican vehicle and then the stimulus bill would be gone forever from this session of the legislature. We chose not to do that. We agreed the stimulus bill should not be displaced. That is the reason we asked to call the railroad bill up by unanimous consent, but that was objected to by a Republican colleague.

To ensure again that the stimulus bill is not displaced by the railroad retirement bill, I ask unanimous consent the stimulus bill, H.R. 3090, recur as the pending business immediately upon the disposition of the railroad retirement bill.

The ACTING PRESIDENT pro tempore. The Senator from Idaho.

Mr. CRAIG. On behalf of the Republican leadership, I object.

The ACTING PRESIDENT pro tempore. The objection is heard.

SENATE WORK PRIORITIES

Mr. CRAIG. Madam President, let me speak for a few moments on the issue of railroad retirement, the stimulus package, and the business before the Senate. Our assistant Republican leader is on the floor and wants to speak to the motion to proceed, so I will be brief.

I rise in support of railroad retirement and have been a cosponsor of that legislation for the last several years. There is adequate time to deal with this issue. We can deal with it now following the stimulus package or certainly we can deal with it next year. The Democratic leadership has chosen to bring it up and force the issue at this time. It is an important piece of legislation. There are 75 cosponsors in the Senate. The Senate Finance Committee has worked some on it. The House has worked on it and passed it.

Is it a perfect piece of legislation? No. It goes a long way to fix a flawed system, a system at this time that is in deep trouble, a 65-year-old system that has been treated poorly in the past in many respects and will not serve the retirees or the railroad system effectively well in the future.

As a result of an effort on the part of management and labor to bring this issue together, they have worked hard to do so. There are many on my side who disagree and some on the other side who disagree. This issue does not find unanimous support in the Senate. I would hope issues of such critical nature could find unanimous support, but that will not happen.

It is important this issue be addressed. I hope the Senate can work its will. I will support efforts to bring it to the floor. At the same time, I hope the Democrat leadership understands a recession has been declared in this country by the institutions that measure our economics and measure the output of our economy. If we are in recession—and we are—we ought to deal with a stimulus package that will bring investment and job creation back to the marketplace.

We ought to be understanding that we are at war. We ought to move expeditiously, as the House now is, to deal with the DOD package to make sure our men and women in harm's way are adequately funded, and that all of the issues of post-September 11 are dealt with in the appropriate fashion. That doesn't mean we have to stay here for the next 3 weeks to get that done.

We do our timely work now; we come back in late January and do the balance. This is an issue that could have been dealt with in late January, as can agriculture, as energy, I hope, will be with a date definite and a vote up or down to pass. If energy is not dealt with in that fashion, and if the majority leader does not choose to give us a clear signal as to how energy will be voted on, energy will be an amendment to any amendable bill that comes before the Senate following the current effort.

This bill will be amendable. Maybe energy fits well into a railroad retirement package. It is every bit as critical to a broader base of the American economy as this bill is very critical to a lot of people in my State and across the Nation.

To reiterate, I support the railroad retirement legislation. I am one of the 75 cosponsors in the Senate. In the last Congress, when I was briefly a member of the Senate Finance Committee, I had an opportunity to participate in the hearings on the bill and vote in favor of passing it and sending it to the Senate floor for consideration. While I am a supporter of this bill, I can understand why some of my colleagues have genuine problems with it. Does this bill take a flawed system and make it perfect? No. However, does this bill take a flawed system and dramatically improve it? Yes.

I am here today to urge my colleagues: Do not let the perfect be the enemy of the very, very good. It is no small feat that rail labor and rail management came together, reasoned together in good faith, and devoted a great deal of energy, expertise, and old-fashioned innovation to improving a 65-year-old system in a bright and forward-thinking way. They have fashioned a remarkably good bill. It removes a 65-year-old requirement that assets of the system be invested solely in Federal instruments. It permits the kind of investments that any other industry pension plan might make. As a result, over time the system will bring in more revenue, and that will permit better benefits for retirees and surviving spouses, while reducing the contributions needed from rail employers.

It is important to remember that this bill also provides for the possibility that the returns on investments might be less than history suggests they will be. If that should occur, it would trigger an automatic adjustment mechanism requiring more contributions from the industry. This protects the federal government and the nation's taxpayers. On the other hand, if returns are greater than projected, both labor and management will be able to reduce contributions further. The new Investment Trust created by the bill will not include any government employees and will not be appointed by any. Trustees will be subject to ERISA fiduciary standards. They will be able to hire professional pension investment advisors. Congress will annually receive a report on the results of the investment efforts.

Let me also address the so-called ''cost'' of this bill. I agree with the House of Representatives that changing the investment mix is not an outlay, but just a new means of financing the government's obligations under the system. Those who take balanced federal budgets seriously should have no reason to back away from this legislation.

Mr. President, the thousands of working men and women, retirees, and surviving spouses who will benefit from this legislation have waited patiently while this bill has been reviewed again and again. They have waited long enough. This bill is an enormous step in the right direction, and one the entire Senate should support.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Oklahoma.

Mr. NICKLES. Madam President, I rise in opposition on a motion to proceed. I have great respect for my friend and colleague from Nevada, but I happen to disagree that moving to railroad retirement is what we should be doing. Railroad retirement is an issue that some people say has been considered by Congress. It hasn't been considered. We didn't have a hearing in the House; we didn't have a hearing in the Senate. We have a bill written by special interest groups, by railroad companies and unions. They negotiated a deal and said, great, now have the American taxpayer pay for it.

If there is ever special interest legislation, this is it. We are going to say we want to set aside the stimulus package so we can take this bill up. I have told my friends and colleagues if we take it up, we will have to have a lot of amendments and a lot of debate.

I read where tier 1 is the same thing as Social Security. But it is not. It is not the same thing. There are differences. People who receive Social Security do not get to retire at age 60 with 100-percent benefits. And this is what this legislation does for railroad retirees.

Under private pension benefit plans, survivors of deceased usually receive 50 percent; the survivors under this bill receive 100 percent. We are going to do that? We are going to put that in the statute and say the Federal Government will pay for it?

People say they want to be treated like the private sector. Private sector gets to invest in the stock market. Great. Make this a private sector plan. We can do that. We are going to give them $15 billion, that is a heck of a cash infusion to a pension system. We have never done that in the history of America where we have taken $15 billion, given it to one industry for their retirement system. It benefits primarily a few companies and a whole lot of employees and retirees. They have worked it out in a mutually beneficial manner. They both benefit, almost exactly the same amount. They negotiated a deal to save $4 billion in 10 years and the employees get $4 billion in new benefits. And the Federal Government will gives them $15 or $16 billion in the process.

I question the wisdom of doing that. We have not had a hearing and have not been able to ask people: Why are we doing this? How does it work? Where does the money come from?

If we move to this bill, as I expect may well happen but, will have to have some amendments. We will have to consider should tier 1 really be equivalent to Social Security. If they are going to be in the Social Security system and pay Social Security taxes, they pay identical tier 1 taxes to Social Security, shouldn't we give them identical Social Security benefits? Or do we give them benefits far in excess of what Social Security provides? We are going to have to consider that.

What about this survivor benefit? They say this is great, we have a survivor benefit, and it is a big increase. Everyone likes it. If we are going to increase the survivor benefit for railroads, should we do it also for Social Security? Or conversely, should survivor benefits, at least for Social Security, be the same for all Social Security beneficiaries? There is a big difference. We have to look at that and we have to look at the cash infusion. The argument is made that this is just moving $16 billion of Government IOUs over into the private sector for real investment.

I asked the Treasury Secretary, how are you going to do it? He said: I am going to go out and borrow $16 billion. We are in a deficit situation. It is all going to be added to debt, so we are going to add $16 billion to our national publicly held debt that you and I and all taxpayers will be paying interest on every year. That means if we are paying something like 6 percent interest on $15 billion, we are going to be paying $1 billion per year in interest maybe forever for this cash infusion to go to this retirement fund which will greatly increase benefits and also reduce the contributions to that retirement fund.

I used to be a fiduciary and trustee of a retirement fund. You can't do that. You would have the Pension Benefit Guarantee Corporation saying: You are not making your minimum allocation requirements to make these funds adequately financed. You are doing just the opposite. You have a grossly underfunded actuarial benefit that is required, and you are not making those payments.

We are doing just the opposite. We have an unfunded plan that has financial problems in the future, and what we are doing is cutting taxes and increasing benefits. Oh, yes, we are going to transfer a whole bunch of money so it will last a little while, but it doesn't last even that long. As a matter of fact, it is kind of startling to find out the amount of money available. This fund starts evaporating pretty quickly. It is projected in 20 years the taxes are going to have to be raised as much as 70 percent—in 20 years, because of the shortfall.

My biggest problem is the way we have directed scorekeeping in here to say we are not going to count that $15 billion. Hocus pocus—write a check, and it doesn't count. That really bothers me.

There is language in the House-passed bill on page 25 that says:

Means of financing. For purposes of the Congressional Budget Act of 1974 and the Balanced Budget Act and Emergency Deficit Control Act of 1985—and on and on—notwithstanding the purchase or sale of non-Federal assets—shall be treated as a means of financing—i.e., it doesn't count; they are kind of clever legal words that say it doesn't count.

It will be interesting to see how Democrats and Republicans vote on this bill because we have a little section in here that says ''the budget doesn't count.''

I ask you, if you can do this for the railroad retirement system, why can't you do it for Social Security? Why don't we write a check for $1 trillion or $1.8 trillion, or whatever the Social Security trust fund balance is that is Government-held debt, Government IOUs to itself? Why don't we just write a check for that entire amount and say now we have real securities?

If you do it, you are going to have outlays and we are going to have to borrow money. This $16 billion we are going to have to borrow. We are going to increase the national debt to do this.

I wonder if people really thought about that and what that really means. Can we do this for Social Security? Is this real? Are we moving away from Government T-bills into Government stocks? No, we are not. We are moving away from Government IOUs, which are on paper, into real debt that we will have to write checks for and pay interest on every year—real debt, publicly held debt that could be held in the United States or overseas, on which we will be writing checks. We will have to pay interest on it to the tune of $1 billion a year.

We will put it in the railroad retirement fund and at the same time say: Railroad companies, you don't have to pay as much. We are going to reduce your taxes. Even though you signed contracts that are very generous in retirement benefits, we are going to reduce your contribution. Incidentally, retirees, because you were willing to go along with this, we are going to increase your benefits. We are going to give you benefits nobody else has in the private sector. We are going to give you benefits that are greater than Social Security.

You are tier 1, which is supposed to be equivalent to Social Security. In Social Security, the retirement age is going to 67. For tier 1 benefits, the retirement age is going to 60. For Social Security beneficiaries, for everybody—every Senator, every civil servant, employee who is on Social Security today—when they receive benefits, every person in the private sector on Social Security today, if they retire at 62, they receive 80 percent of their normal retirement benefit—80 percent.

Not railroad retirement; it is 100 percent under age 62, and under this bill it will be 100 percent at age 60. And they pay the same taxes. That is 12.8 percent, 6.4 percent by the employer, 6.4 percent by the employee for tier 1 taxes and Social Security taxes. These are the same taxes everybody else pays in America, but they get a lot better benefit under this bill we are considering.

The House almost passed this bill unanimously. Did they really know what they were doing? Did they realize the cost implications of this legislation? Does that really make sense, and can we afford it? Is this trust fund in such good shape we can give the most generous benefits in America? Does it make financial sense to do that? I don't think so.

I think people are going to be embarrassed when sometime, at some point, if and when this bill ever becomes law—and it has not become law yet because it still has to go through the amendment process, and I hope we can improve it, I hope we can strike out language that says this $16 billion check we are going to write doesn't count.

I am on the Budget Committee. I have been on the Budget Committee for 21 years. I am horrified by this language. I am embarrassed the House passed it, and I am embarrassed we would even consider it in the Senate. So we are going to have amendments to strike it, and we will find out whether or not people think when you write a check it doesn't count. If we say it doesn't count, let's just tear up the Budget Act totally.

Speaking about budgets, a lot of people are talking about emergencies. I met with the President last night, and I said we have been trying to respond to emergency situations in a bipartisan fashion, but I am looking at spending that is growing rather dramatically. The President proposed a budget that grew at 6.1 percent. We had an agreement at $686 billion. We signed a letter. Members of Congress actually asked the President to sign the letter that said: Here is our deal. October 2, our budget deal, $686 billion discretionary spending, a growth rate of 7.1 percent. We added a few billion more for education. All signed on, this is the deal.

Then we agreed, let's add $40 billion as a result of the September 11 attack. So that moved the $686 up to $726 billion. The growth of spending now is 13.3 percent. That doesn't include $16 billion coming in for railroad retirement. That doesn't include $16 billion or $15 billion or $7.5 billion for additional homeland security. That doesn't count the additional billions of dollars—we don't know how much it is going to cost—in the victims' compensation fund that is already the law of the land. That doesn't count the $15 billion we have for airline security and loan guarantees.

If we add all that together, we are on a spending spree in Congress. It looks to me as if people are trying to ram through all the spending they can this year because they know that next year we are in red ink. Next year we are going to have deficits.

There was a front page story in the Washington Post today alluding to the situation that we may have deficits for several years, so let's run this through now and put in little language in the bill that says it doesn't count.

So I hope to have several amendments to this legislation if we are forced to consider it. Although, I think it is more important that we stay on

the stimulus package and visit this legislation at another time. I hope we finish the Nation's business. I hope we get our appropriations bills done, pass the stimulus package trying to help this economy which is in a recession, and go home. But if we are going to say let's come out and spend this kind of money, we are going to have to rework this program and improve it.

Let's allow the unions and railroad companies to come up with whatever benefits they want. I don't care if they have retirement at age 40, as long as they pay for it and don't ask us to pay for it. If it is their retirement system and they are responsible for it, great. If they are asking taxpayers to pay for it, wait a minute, we should be a little more cautious. If they are going to have survivor benefits greater than almost every survivor benefit in America, that is fine, as long as they pay for it. But don't ask us to guarantee it.

So I urge my colleagues to vote no on the motion to move off the stimulus package and move on the railroad retirement bill.

The ACTING PRESIDENT pro tempore. The Senator from Nevada.

Mr. REID. While the distinguished Senator from Oklahoma is on the floor, I ask unanimous consent the time for debate prior to the cloture vote on the motion to proceed to H.R. 10 be extended until 10:30, with the time equally divided and controlled as under the previous order, and that the remaining provisions of the previous order governing the cloture vote remain in effect.

Mr. NICKLES. Reserving the right to object, I suggest the absence of quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The 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 ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. REID. Madam President, I renew my request.

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

Mr. REID. Madam President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. 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.

The PRESIDING OFFICER. Under the previous order, the clerk will report the motion to invoke cloture.

The senior assistant bill clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on the motion to proceed to Calendar No. 69, H.R. 10, an act to provide for pension reform and for other purposes:

Paul Wellstone, Richard Durbin, Byron Dorgan, Harry Reid, Jon Corzine, Hillary Clinton, Blanche Lincoln, Thomas Carper, Patrick Leahy, Tom Harkin, Benjamin Nelson, Mary Landrieu, Bill Nelson, Ron Wyden, Charles Schumer, Bob Graham, and Barbara Mikulski.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on the motion to proceed to H.R. 10, an act to provide for pension reform, and for other purposes, shall be brought to a close? The yeas and nays are required under the rule.

The clerk will call the roll.

The assistant legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 96, nays 4, as follows:

[Rollcall Vote No. 343 Leg.]

YEAS —96

Akaka	Domenici	Lugar
Allard	Dorgan	McCain
Allen	Durbin	McConnell
Baucus	Edwards	Mikulski
Bayh	Ensign	Miller
Bennett	Enzi	Murkowski
Biden	Feingold	Murray
Bingaman	Feinstein	Nelson (FL)
Bond	Fitzgerald	Nelson (NE)
Boxer	Frist	Reed
Breaux	Graham	Reid
Brownback	Grassley	Roberts
Bunning	Hagel	Rockefeller
Burns	Harkin	Santorum
Byrd	Hatch	Sarbanes
Campbell	Helms	Schumer
Cantwell	Hollings	Sessions
Carnahan	Hutchinson	Shelby
Carper	Hutchison	Smith (NH)
Chafee	Inhofe	Smith (OR)
Cleland	Inouye	Snowe
Clinton	Jeffords	Specter
Cochran	Johnson	Stabenow
Collins	Kennedy	Stevens
Conrad	Kerry	Thomas
Corzine	Kohl	Thompson
Craig	Landrieu	Thurmond
Crapo	Leahy	Torricelli
Daschle	Levin	Voinovich
Dayton	Lieberman	Warner
DeWine	Lincoln	Wellstone
Dodd	Lott	Wyden

NAYS —4

Gramm	Kyl
Gregg	Nickles

The PRESIDING OFFICER. On this vote, the yeas are 96, the nays are 4. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

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. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. EDWARDS). Without objection, it is so ordered.

Mr. HATCH. Mr. President, I ask unanimous consent that I be allowed to speak for up to 15 minutes as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Thank you, Mr. President.

NOMINATION OF JOHN WALTERS

Mr. HATCH. Mr. President, I rise today to speak on behalf of all parents and grandparents, teachers, clergy, mentors, law enforcement, treatment and prevention coalitions, and all the others who work every day to prevent illegal drug use from destroying the lives of our young people. Our country needs John Walters, the President's nominee for drug czar, to be confirmed. It is shameful that here we are in November, and Mr. Walters remains the President's only Cabinet member who has not been confirmed.

To say that the confirmation of Mr. Walters has been obstructed is by no means an exaggeration. It has been 203 days since the President announced his choice of John Walters to be the next Director of the Office of National Drug Control Policy. It has been 177 days since the Senate received his nomination. It has been 50 days since Mr. Walters' hearing before the Judiciary Committee. And it has been 21 days since his nomination was voted out of the Judiciary Committee by a wide margin and sent to the Senate floor. How many more days, weeks, and months can we expect this nomination to linger before a vote is finally scheduled? In my view, we have already waited much too long.

John Walters' confirmation will also add another much-needed weapon to our arsenal in the war against terrorism. Since the September 11 attacks, there has been much discussion about the nexus between drug trafficking and terrorism. We know that proceeds from the manufacturing and trafficking of opium poppy helped sustain the Taliban's control of Afghanistan. We also know that terrorist organizations routinely launder the proceeds from drug trafficking and use the funds to support and expand their operations internationally, including purchasing and trafficking illegal weapons. I am sure in the coming months and years, we will continue to learn about the clandestine connection between drugs and terrorists.

The situation in Afghanistan also bodes ill for the world's supply of heroin. In 2000, over 70 percent of the world's heroin was produced in Afghanistan. Stockpiles of Afghan heroin were reportedly dumped on the market after the September 11 attacks. While officials in America and Europe are bracing for the onslaught of cheap heroin that will soon be hitting the markets in all neighborhoods across America and Europe, we have no drug czar. The

head of the Drug Enforcement Administration, the DEA, Asa Hutchinson, recently referred to the situation in Afghanistan as a ''rare opportunity'' for U.S. antidrug efforts to act on the successes of the military campaign and influence the future direction of heroin production in Afghanistan. While I have great confidence in the work Asa Hutchinson and the DEA are doing, the administration needs its lead drug control policy official in place to help formulate a comprehensive policy designed to reduce significantly heroin production in Afghanistan.

Mr. Walters will have to work closely with law enforcement and intelligence authorities to ensure that the international component of the Nation's drug control policy is designed not only to prevent drugs from being trafficked into America but also to prevent the manufacturing and sale of drugs for the purpose of funding terrorist activities. Mr. Walters is eminently qualified to carry out this task, and I am confident that he will be a first-rate Director. He is the right person for this job.

John Walters' career in public service has prepared him well for this office. He has worked tirelessly over the last 2 decades helping to formulate and improve comprehensive policies designed to keep drugs away from our children. By virtue of this experience, he truly has unparalleled knowledge and experience in all facets of drug control policy. Lest there be any doubt that Mr. Walters' past efforts were successful, let me point out that during his tenure at the Department of Education and ONDCP, drug use in America fell to its lowest level at any time in the past 25 years, and drug use by teens plunged over 50 percent. Mr. Walters has remained a vocal advocate for curbing illegal drug use. Tragically, as illegal drug use edged upward under the previous administration, his voice went unheeded.

John Walters enjoys widespread support from distinguished members of the law enforcement community, including the Fraternal Order of Police and the National Troopers Coalition. His nomination is also supported by some of the most prominent members of the prevention and treatment communities, including the National Association of Drug Court Professionals, the American Methadone Treatment Association, the Partnership for Drug Free America, National Families in Action, and the Community Anti-Drug Coalitions of America. All of these organizations agree that if we are to win the war on drugs in America, we need a comprehensive policy aimed at reducing both the demand for and supply of drugs. Mr. Walters' accomplished record demonstrates that he, too, has always believed in such a comprehensive approach. As he stated before Congress in 1993, an effective antidrug strategy must ''integrate efforts to reduce the supply of as well as the demand for illegal drugs.''

Despite this groundswell of support, ever since Mr. Walters was first mentioned almost 7 months ago to be the next drug czar, several interested individuals and groups have attacked his nomination with a barrage of unfounded criticisms. Because of these untruths, I believe his confirmation has been delayed, and I feel compelled to respond to some of these gross distortions of John Walters' record.

The most common criticism I have heard is that John Walters is hostile to drug treatment. This is categorically false. He has a long, documented history of supporting drug treatment as an integral component of a balanced national drug control policy. You do not have to take my word on this. You need only look at the numbers. Keep in mind, just today, just an hour ago, we passed the Hatch-Leahy ''Drug Abuse Education, Prevention, and Treatment Act of 2001'' out of the Judiciary Committee. The bulk of the money in that bill will go for drug treatment, education, and prevention programs. And we have done so with the advice and counsel of Mr. Walters. So that is a false accusation. But look at the numbers.

During Mr. Walters' tenure at ONDCP, treatment funding increased 74 percent. Compare that with the increase over 8 years for the Clinton administration of a mere 17 percent. This commitment to expanding treatment explains why John Walters has such broad support from the treatment community. It is simply inconceivable to believe that all of the prominent groups that are supporting Mr. Walters would do so if they believed he was hostile to treatment programs.

Another recurring criticism is that Mr. Walters doesn't support a balanced drug control policy that incorporates both supply and demand reduction programs. This criticism, too, is flat wrong and again belied by his record. For example, in testimony given before this committee in 1991, Mr. Walters, then acting Director of ONDCP, laid out a national drug control strategy that included the following guiding principles: educating our citizens about the dangers of drug use, placing more addicts in effective treatment programs, expanding the number and quality of treatment programs, reducing the supply and availability of drugs on our streets, and dismantling trafficking organizations through tough law enforcement and interdiction measures.

Mr. Walters' support of prevention programs is equally evident. His commitment to prevention became clear during his tenure at the Department of Education during the Reagan administration. He drafted the Department's first drug prevention guide for parents and teachers entitled, ''Schools Without Drugs'' and created the Department's first prevention advertising campaign, and implemented the Drug-Free Schools grant program.

These are not the words or actions of an ideologue who is hostile to prevention and treatment but, rather, represent the firmly held beliefs of a man of conviction who has fought hard to include effective prevention and treatment programs in the fight against drug abuse.

Some have also charged that Mr. Walters doesn't believe the oft-repeated liberal shibboleth too many low-level, ''non-violent'' drug offenders are being arrested, prosecuted, and jailed. I, too, plead guilty, and we have the facts on our side. Data from the Bureau of Justice Statistics, BJS, reveals that 67.4 percent of Federal defendants convicted of simple possession had prior arrest records, and 54 percent had prior convictions. Moreover, prison sentences handed down for possession offenses amount to just 1 percent of Federal prison sentences. It is flatly untrue that a significant proportion of our Federal prison population consists of individuals who have done nothing other than possess illegal drugs for their personal consumption.

The simple fact is that the drug legalization camp exaggerates the rate at which defendants are jailed solely for simple possession. Mr. Walters, to his credit, has had the courage to publicly refute these misleading statistics. And to these critics I want to make one other point perfectly clear. Those who sell drugs, whatever type and whatever quantity, are not, to this father and grandfather, nonviolent offenders, not when each pill, each joint, each line, and each needle can—and often does—destroy a young person's life. Mr. Walters' critics have shamefully distorted his statements to claim that he favors jailing first-time, nonviolent offenders.

I am committed 100 percent to expanding and improving drug abuse education, prevention, and treatment programs, and I know that John Walters is my ally in this effort. Earlier this year I introduced S. 304, the Drug Abuse Education, Prevention, and Treatment Act of 2001, a bipartisan bill that I drafted with my good friend, Senator LEAHY, Senators BIDEN, DEWINE, THURMOND, FEINSTEIN, and GRASSLEY. This legislation will dramatically increase prevention and treatment efforts. In drafting the bill, I repeatedly solicited Mr. Walters' expert advice. I know, and his record clearly reflects, that he agrees with me and my colleagues that prevention and treatment must remain integral components of our national drug control policy.

We just passed that bill out of the Judiciary Committee this morning. I hope it will be called up immediately and passed out of the Senate because it will make such a difference in the lives of our young people around this country. If I recall correctly, Joe Califano, the former head of HEW, Health, Education, and Welfare—now Health and Human Services—called this bill truly revolutionary and one that he could support wholeheartedly. He is not alone.

We need to shore up our support for demand reduction programs if we are

to reduce illegal drug use in America. This belief is bipartisan. Our President believes it. Our Attorney General believes it. Our Democratic leader in the Senate believes it. My Republican colleagues believe it. And most importantly, John Walters believes it.

Since being nominated in May, Mr. Walters has made himself available to all Senators on the Judiciary Committee. He has throughly answered all questions posed to him by the Judiciary Committee, as well as questions from Senators not on the Committee. I commend the President for his selection and nomination of John Walters, and I call upon the Democratic leader to end the delay, remove all holds, and schedule a vote on Mr. Walters' nomination as early as possible, this week, if he could. At a time when we are at war, it is simply not prudent or proper to play politics with this nomination. I urge my colleagues to reject the efforts of those who have wrongfully sought to taint John Walters and to support an immediate vote on his nomination.

Finally, I urge Chairman LEAHY not to let this session end without holding hearings for the deputy positions at ONDCP. Mr. Walters needs his team in place. I look forward to working with my Senate Republican and Democratic colleagues and the administration to carry forward our fight against drug trafficking and terrorism.

Let me make one or two final remarks. I was pleased to see the Judiciary Committee pass out the nine additional district judges, one a circuit court judge nominee and eight district court nominees, and, in addition, to pass out two other top officials in the Bush administration and, of course, a number of U.S. Attorneys. I commend our chairman for doing that. I commend him for moving forward on these judges.

We have come a long way from when the criticisms reached their height. We still have a long way to go because there are still 101 vacancies in the Federal judiciary as I stand here today. Frankly, that is probably 101 too many. Be that as it may, we all know that we have to do something about them.

As we prepare to recess, there is one startling fact that needs more attention. On May 9, President Bush nominated 11 outstanding attorneys to serve as Federal appellate court judges. To this date, nearly three quarters of those nominees are still pending in the Judiciary Committee without a hearing. Although all of these nominees received qualified or well-qualified ratings from the American Bar Association, only 3 of those first 11 nominees have had a hearing. At present, there are 30 vacancies in the Federal courts of appeals. Some courts, such as the DC circuit, are functioning under a dramatically reduced capacity.

President Bush has responded to the vacancy crisis in the appellate courts by nominating a total of 28 top-notch men and women to these posts, a number of circuit court nominees that is unprecedented in the first years of recent administrations. Yet the Judiciary Committee has managed to move just five appeals court judges from the committee to the Senate floor for a vote. Last year at this time we had 67 vacancies in the Federal judiciary. Since Senator LEAHY has become chairman, the vacancy rate has never been below 100. I am concerned that this number will only continue to grow after Congress recesses next month.

I urge my colleagues on the other side to use the remaining weeks of this session to hold hearings and votes on judicial nominees to combat the alarming vacancy rate.

Having said that, I am pleased that the chairman did allow nine judges to pass out today. I hope he will continue to work in a bipartisan fashion with me to pass more out. I am proud to work with Senator LEAHY. I certainly want to cooperate with him in every way I possibly can. I believe the other Republicans on the committee do as well.

There is a lot of criticism that goes back and forth on judges. I have to say, it is difficult to be chairman of this committee. I sympathize with Senator LEAHY on some of the difficulties he has had. I know there are people on his side who would just as soon not have any Bush judges go on through, as there were occasionally on our side. It is very difficult to meet some of the objections and to overcome them and to resolve some of the political problems that arise. We have to do it. We have to stand up and work with both sides to get the Federal courts as full as we possibly can so that justice can proceed, especially in the case of the Circuit Court of Appeals for the District of Columbia, the District Court of the District of Columbia as well, so that we can handle all of the terrorist issues that will come before that particular court.

Having said all of that, I hope we can move ahead with John Walters; if there are any holds, that they will be removed; and if they won't remove them, I hope the majority leader will ignore the holds, bring this up for a battle on the floor, and then have a vote up or down and let the chips fall where they may.

I believe Mr. Walters will be confirmed. I believe he must be confirmed. If we don't get him confirmed, I believe the rate of youth drug use will continue to rise. Frankly, we have had enough of that. We have to get a very tough policy going again on drugs, and that should include both the supply and demand sides.

I will make sure that this new administration, under John Walters, will take care of the demand side as well as the supply side. If we pass S. 304 through the Senate on which Senator LEAHY and I have worked so hard, I believe it will go to the House. I believe they will pass it, and it will go a long way toward resolving some of the really serious drug problems we have among our young people.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

The PRESIDING OFFICER. Without objection, it is so 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.

ORDER FOR RECESS

Mr. REID. Mr. President, I ask unanimous consent that the Senate stand in recess today from 12:30 to 3:30 p.m., and that the time be charged under rule XXII. We will reconvene at 3:30.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, for those who are listening, this is really important that we do this. We are privileged today that both the Democrat and Republican caucuses will listen to the Secretary of State, Colin Powell, talk about world affairs. Then we are going to have a briefing upstairs.

It is important that all Senators attend the luncheon with Colin Powell and the briefing upstairs about what is going on in Afghanistan.

We know that a number of Senators have expressed a desire to speak. The junior Senator from Michigan is here. She wishes to speak. I understand Senator CARNAHAN is here. So we will recess at 12:30. Everybody should be advised that the time until then is open. Perhaps we could arrange some times, if that is helpful to the parties here. It is my understanding that Senator CARNAHAN wishes to speak, but I don't know for how long. Maybe we can get things set up so people don't have to wait around. The Senator from Michigan wants to speak for 15 minutes. The Senator from Illinois wants 5 minutes. So we have Senator DURBIN for 5, Senator CARNAHAN for 10, Senator STABENOW for 15, and Senator THOMPSON wants 15.

I ask unanimous consent that the Senator from Illinois be recognized for 5 minutes, the Senator from Michigan be recognized for 15 minutes, the Senator from Missouri be recognized for 10 minutes, and then Senator THOMPSON be recognized for the final 15 minutes. That would take us to the recess.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Illinois.

ECONOMIC STIMULUS

Mr. DURBIN. Mr. President, I thank the Senator from Nevada for his leadership. He works so hard on the floor on a regular basis to make sure things run smoothly and we get about the business of deliberating important issues. At this time, there is no more important an issue than the economic stimulus package. As we move around the Nation, clearly people have lost jobs

and businesses are hurting. We need to spark this economy, to move it forward.

There was good news yesterday on Capitol Hill. The leaders—Democrats and Republicans—came together to start a process to lead to a stimulus package, a recovery package that will truly help all Americans. I have taken a look at many of the proposals here, and I certainly support the Democrats' position that we need to help families who have lost their jobs. If you are unemployed in America today and you are lucky enough to have unemployment insurance, you get about $230 a week on which to live. Imagine for a moment, as you follow these proceedings, what life would be like on $230 a week, trying to make your mortgage or rental payment, pay utility bills, buy food for your family, and provide for the necessities. It is very difficult.

Over half of the unemployed workers don't even have unemployment insurance. They have left part-time jobs and they have no help. It is no wonder we are finding that food pantries and kitchens for the poor across America are being overwhelmed with those coming in asking for help at the end of the year. It is important that we remember these people as part of the stimulus package. Money given to these families is money that will be spent on the necessities of life, and that would be an expenditure that would not only help them but equally important, spark the economy because they are going to be making purchases that help retailers and producers of goods and services across America.

In addition, health insurance is one of the first casualties of an unemployed family. And $500 or $600 a month for a COBRA plan, a private health insurance plan, is beyond the reach of most families. Think for a moment. If you are one of those lucky Americans, such as myself, whose family is insured, what would it be like to know that tomorrow your health insurance is gone; you are one accident or one illness away from disaster?

We don't want that to happen to the families of the unemployed. That is why the Democrats pushed hard to keep that in the package.

Let me tell you another thing we can do to spark the economy. We need a tax cut that will have an immediate impact and is fair. One I have talked about over the last several weeks—Senator DOMENICI of New Mexico raised it as well—is a Federal tax holiday. It means that for a month we would suspend the collection of Federal payroll taxes on employees and employers across America. What is the impact? If your family earns, say, $40,000 a year, it means that in that month-long payroll tax holiday you would see an additional $250 in your paycheck, $250 at the end of the year for important purchases for your family, for holiday purchases, for year-end purchases that you might otherwise have put off.

The good thing about this approach is that it is fast, focused, and it is fair. It not only helps workers, every worker who gets a payroll check, it is going to help businesses, particularly small businesses.

Let me give you an illustration. If you had a small business with 100 employees, with each employee having an average income of $40,000, it would mean for your small business, in that month-long holiday period, an additional $25,000 in tax savings. Why does small business need that? The last time I talked to people running a small business, they told me, for example, the increase in health insurance premiums is causing a real problem and hardship. So they can turn around and make sure their employees are covered and also have this money through a tax holiday.

This idea has strong bipartisan support. It certainly makes more sense for us to spend the $30 billion involved in this proposal rather than to put it on a tax cut for people in the highest income categories in America. This payroll tax holiday, which I and Senator DOMENICI and others support, would be focused on helping employees and employers across America. We can do this. The Congress can enact it. We can say to the American people, even before this holiday season comes to an end, we are going to provide them a real tax cut and real tax relief.

I hope as part of our bipartisan package we can include this provision. We can get this economy moving and do it in the right way, and do it in a fair fashion.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Ms. STABENOW. Mr. President, I rise to commend my colleague from Illinois for his comments. I wish to associate myself with the comments of both Senator DURBIN and Senator DOMENICI, who are involved in advocating common-sense approach to put money in people's pockets immediately. I congratulate them for doing that.

I also rise to speak about what needs to happen in terms of economic recovery and an economic stimulus package. I commend our leader, Senator DASCHLE, for bringing together the leaders for discussions. I thank the leaders on both sides of the aisle for sitting down together to move this measure because we do need to move quickly on a stimulus and recovery package. But we all know it has to be the right thing.

I am very concerned about what the House Republicans passed and the fact their approach is so very different from what mainstream economists are telling us needs to be done in terms of moving this economy forward quickly. What we saw in the House was an attempt to place into law another round of large tax cuts for the top 1 percent of the public, and literally billions of dollars in tax cuts for the largest multinational corporations—supply-side economics at its best—hoping that it would trickle down somehow in time to help small businesses, workers, professionals, middle-income people, somehow that it would trickle down in order for people to be able to receive some kind of assistance during this recession.

We know in the past that approach has not worked. I am here today to encourage us to do what mainstream economists across the board have suggested we do, which is to put something in place that is immediate, temporary, and stimulates the economy by putting money directly into people's pockets. I think the payroll tax holiday is one good way to do that. It would certainly support small businesses.

We hear a lot of talk about big business in the Congress. Yet small business is the fastest growing part of our economy, employing millions of people. They, too, have been affected—many times more so by what happened in terms of the recession. We need to make sure we are focusing on support for small business, whether it is being able to write off investments more quickly, whether it is a payroll tax holiday. I think supporting small business in this equation is very important.

I want to share some facts. We know that if we focus on those who have lost their jobs, whether it is through the airline industry since September 11 or other jobs in our economy, when we give dollars directly to those who are unemployed, they turn around and buy groceries for the family, school supplies, Christmas, or other holiday gifts. Those activities are important to keep the economy going. It moves the economy along, and it helps our families. It is a win-win situation for everyone.

Studies have also shown that for every $1 invested in unemployment insurance, we generate $2.15 in the gross domestic product. A 1999 study by the Department of Labor estimated that unemployment insurance mitigated the real loss in GDP by 15 percent. That is real, that is measurable, and it is an immediate stimulus to the economy. In the last 5 recessions, real loss of GDP was mitigated by 15 percent, and the average peak number of jobs saved was 131,000 jobs.

Economists are telling us that this is not just about doing what is fair; it is the best solution. It is the best way to stimulate the economy. Joseph Stiglitz, co-winner of the 2001 Nobel Prize in Economics, has stated: We should extend the duration and magnitude of the benefits we provide to our unemployed. This is not only the fairest proposal but also the most effective. It is the most effective for the economy. People who become unemployed cut back on their expenditures. Giving them more dollars will directly increase expenditures and improve the economy.

We are talking about a demand-side approach. The Republicans in the House of Representatives have said

trickle-down economics, supply side, that is the way to get the economy going. Economist after economist has come forward to say the problem is not supply. In my State of Michigan where we make outstanding automobiles, trucks, and SUVs, we want folks to purchase those vehicles. We know the problem is not supply; the problem is demand and people having a job, having income, and being able to purchase that vehicle. It is demand side, and that is what the economists are all telling us.

I want to speak about the economy and why we need to expand the unemployment insurance needs and modernize the system and why the Senate Democratic approach is so important to women in our economy.

When we look at unemployment insurance today, only 23 percent of unemployed women meet the current unemployment insurance eligibility requirements. Only 23 percent of unemployed women meet the eligibility requirements of unemployment insurance. Women who are heads of households and families dependent upon two incomes are disproportionately and unfairly affected by layoffs and by our current unemployment system.

That is why the Senate Democrats have put forward a modernization of unemployment compensation by covering both part-time and low-wage workers. This proportionately helps women more than it does men because women are more likely to be in part-time positions or in lower wage positions.

Unfortunately, the administration plan and the House plan do nothing to include part-time or low-wage workers. Sixty percent of low-income workers are women and 70 percent of part-time workers are women.

I believe it is important for us to understand that those part-time workers may be care giving for their children, may be care giving for a mom, a dad, a gramps or grandma who need assistance. They are fulfilling other family obligations while providing important income for their family. They should not be left out of the economic picture. When we are looking for ways to support the economy and working men and women, we need to remember those women who are working part time or are in low-wage professions.

Women are the majority of workers in industries that have been hardest hit by the economic downturn: 56 percent of retail sales, 69 percent of restaurant and wait staff, 65 percent of kitchen workers, 79 percent of flight attendants.

I find it so disconcerting that here we are, long past September 11 when we immediately responded to the concerns—and I supported doing that—of the airline industry to help them recover from what happened on September 11, we have yet to pass a bill to support the people who work in that industry.

We were promised that if we dealt with the industry first, we would come back to those hundreds of thousands of airline industry-related workers who had been laid off. Yet we have not done that. Again, we see that this disproportionately affects women.

Also, women only earn 76 percent of men's median income, and women of color earn 64 percent of the wages of working men. As a result, women have a greater need for income replacement when they are unemployed. It is important to note that we are talking about women who are providing a significant percentage of their family income, in addition to caring for their children and caring for older adults and all of the other work in which women are involved. For poor female heads of households who work part time, their earnings represent 91 percent of the family income. If they lose their job, we are talking about 91 percent of the family income disappearing. Failure to replace the wages of part-time workers through unemployment insurance benefits detrimentally impacts working women and their families.

This is about doing the right thing in stimulating the economy. It is about coming up with ways that support small business, as well as large, and our workers. It is about tax cuts that go to low- and moderate-income people who will put that back into the economy.

Also, this is about making sure we remember the large part of our workforce, our women, who are disproportionately affected by the current unemployment system. It is designed in a way that unfairly penalizes women who are working part time while caring for their children and caring for loved ones at home or working in important but very low-wage jobs.

This debate about stimulating the economy, about economic recovery, is incredibly important for everyone. We need to keep an eye on the fact that the policies we set may, in fact, have different results for working women than for working men, and we need to remember women and their families as we put together this economic recovery package.

I urge we do what is right, what is fair, and most importantly what is effective, what the economists across this country have said we need to do, put money into the pockets of working people and those who are unemployed, and make sure we do not forget our small businesses as part of this economic recovery process.

The PRESIDING OFFICER (Mr. NELSON of Florida). Under the previous order, the Senator from Tennessee is recognized.

Mr. THOMPSON. Mr. President, I want to address some of the issues my distinguished friend from Michigan has been discussing. First of all, not only can we not agree as to what belongs in the stimulus package, we cannot seem to agree in the Senate, unfortunately, as to what our priorities ought to be. We are a nation at war and in recession. Those ought to be our priorities. Yet we are talking about railroad retirement, we are talking about farm bills, everything but what we ought to be discussing.

We ought to be talking about the issues my friend from Michigan has raised concerning the stimulus package. I will address that for a few moments myself. There is no doubt for some time now there has been pretty much a consensus on the idea we need a stimulus package. Later on in my remarks I will discuss further whether or not that is really necessarily true. I think there has been a consensus, but there certainly has been no consensus as to what we ought to do about it and what belongs in it.

In fact, there is no consensus as to what in fact stimulates the economy. Everybody has their own ideas. We have our own ideas in this Chamber, and we state them authoritatively. But it is not only us, it is the economists. We cannot really say the economists think this or say that. They think everything and they say everything. They are on all sides of all of these issues. So are businesspeople, labor people. Remarkably, their economic philosophy seems to somewhat coincide with their vested interest, which is not really different from the rest of us, I suppose. That is the situation we are confronting.

I want to discuss for a moment where we are, examine the validity of the ideas we are using in support of our positions in general terms, and then discuss what we should do about it.

Assume for a moment this is not a political issue. One could make that case. There have been a lot of disparaging remarks about certain provisions in the House bill. There certainly have been a lot of disparaging remarks about what came out of the Senate Finance Committee, all the pork and unrelated items, but we can put that aside for a moment. We can put aside the remarks of the former adviser to President Clinton, who in a local publication said it is in the Democrats' self-interest to defeat a stimulus package or not have one because it might affect the economy negatively and President Bush would get blamed for a negative economy. I do not think that is the way most of my colleagues believe, but those thoughts exist.

Unfortunately, we do spend a little bit too much time in this body talking about how to divide the pie instead of trying to figure out how to make the pie bigger, who is going to get what. There is the tax-cuts-for-the-rich rhetoric, of course, we all have heard, ignoring the fact that 80 percent of the individual tax cuts would go to small businesspeople who provided 80 percent of the new jobs over the last decade.

I must say I find it somewhat ironic that every time we get into the stimulus discussion, we talk about tax breaks for the rich, when the same folks who make those arguments are also promoting a farm bill where 10 percent of the richest people in farming get 61 percent of the benefits. So

tax cuts for the rich are bad, but pork for the rich is good.

Let us set all that aside for a moment, take the political aspects out of it, and talk about the economics of it. Basically, we have two different economic views in this body—at least two main ones—as to what in fact does stimulate the economy. We each make statements as to what will stimulate it and what will not, but we never provide any authority or any evidence or any historical precedence for what we are saying.

There are four or more proposals now before us: The House bill, the Senate Finance bill, the President's bill, a compromise that is being worked on; a lot of things in common among all of those bills: Rebates for low-income folks, additional unemployment benefits, health care provisions. We disagree on the amounts of those, but those are pretty much common to all of these proposals, and if a stimulus package passes, that is going to be in there. That is where the similarity breaks down and the division begins.

There is nothing wrong with philosophical divisions. That is why we have elections, and that is why we have parties. Everyone is entitled to their opinion, but they are not entitled to their facts or their history. Let us examine which side is supported by history or precedent or facts and which is not.

On our side of the aisle, we basically think the majority of the package ought to be tax cuts for the private sector, working men and women who are carrying the load and paying the taxes, and that includes a speed-up of the reduction of the individual tax rates. That way, people can get not just an extra check in their pocket one time, but they can rely on a tax system that is going to be lower, and they can look at it in the future and base their conduct, whether it is additional work or additional investment, on a tax code that has been changed to their benefit on out into the future, not just a check but a change of policy. That is what we believe.

Our friends on the other side of the aisle basically seem to think the way to stimulate the economy is spending by the Federal Government, and therein lie the differences and the debate. Our friends on the other side of the aisle and some on our side, and many in the media and some economists, point out we need to get money into the hands of the consumer by means of the Federal Government, which incidentally is money that either has to be borrowed or on which people have to be taxed. That is where the Federal Government gets its money and redistributes it to others in the form of checks which they will immediately spend.

The argument goes, the lower the income level, the more likely they are to spend it. So getting checks into the hands of consumers will stimulate the economy. The problem is there is not any evidence to support that proposition. I know it is often said. It might even be considered to be common wisdom at this stage of the game. But I submit all of the evidence and historical precedent indicate Federal spending programs designed to grow the economy have not proven to be successful.

What are my citations for that? I am accusing other folks of not giving their reasons, historical precedent or evidence. ''Thompson, what are your citations?'' one might say. I cite studies prepared by the Joint Economic Committee back in 1988. I cite the 1930s, when in an attempt to ameliorate the effects of the Great Depression, we saw a percentage of the gross domestic product in this country almost triple while unemployment doubled.

I cite the case of Japan. They have been trying to do this fordecades—spend themselves into prosperity. They have had 10 separate spending stimulus packages in the 1990s, to no effect. France and Sweden have had similar problems. I ask, if in fact we really run our economy based on an ATM principle, where we have it figured out, that we have to put in our card, our solution, our congressional solution, and out comes the result we want, why do we ever tolerate recession anyway? Why do we not print some more money? Why do we not send out some more checks? Why do we ever sustain the average recession of 11 months? Why do we go that long if that is the solution? It is an easy solution and an easy one to understand. I submit it is because it has not proven to work.

On the idea the poor will spend more, there is no historical evidence for that either. It might seem logical, but a lot of things that seem logical are not borne out in real practice. The last time we sent checks out, 18 percent of people spent them. According to the Presidential adviser, Mr. Hubbard, I was reading the other day he says all the economic evidence is that people spend at various income levels. People basically spend the same percentage. We already have the budget with $686 billion in spending, an additional $40 billion that has been allocated, and an additional $15 billion in airline support.

Certainly, when we hear of economists saying this is a solution, you would not want to include Mr. Greenspan in that category. He doesn't say that spending is the way to do this. He says if we do it, we cannot do it fast enough to have any effect anyway. In fact, by the time it kicks in, by the time our governmental spending kicks in and the checks get in the mail, are received and spent, even if it works the way we want it to, it will be too late. If the average recession lasts 11 months—and ours started last March—we are going to have to hurry up or the doggone recession will be over before we act and we will not get credit for anything. There is no way we can possibly have anything that affects the economy by next February or spring. We could assist it if we did exactly the right thing. Is it worth $100 billion under those circumstances, when we cannot agree on the components? I question that.

What about the other side? I have been talking about the philosophy of Federal spending being the answer to stimulating the economy. What about this side of the aisle? As to the idea that the private sector is the source of the solution for recession and that tax cuts, and especially marginal rate cuts, is an integral part of that, what about the evidence for that? I submit the historical evidence to support that proposition is just as clear as the historical evidence that fails to support the Federal Government spending proposition.

The evidence is, those kinds of tax cuts not only grow the economy but they produce more revenue to the Federal Government. President Kennedy pointed that out. He said: It is not a matter of either tax cuts or higher deficits; the more you cut taxes, the more revenue you will generate. Of course, he was right.

Incidentally, the rich pay more as a percentage of the taxes paid when you have the marginal rate tax cuts than beforehand. At every level it is borne out, and especially marginal rate reductions, which encourage work, encourage investment, are the kinds of action that get the economy going. Sending someone a check to buy a pair of gym shoes will be momentarily beneficial to somebody, I suppose, but that is not the kind of policy that strengthens our economy or causes that money to recirculate or to be there for a longer period of time.

What is my historical evidence? I refer to the 1920s, the 1960s and the 1980s. During those periods, the country went with that approach. In every instance, we had more economic growth, more revenue to the Federal Government, and the richer paid a higher percentage of the taxes that were paid in terms of dollars. From 1961 to 1968, the economy expanded 42 percent because of President Kennedy's tax cuts, over 5 percent a year. I would settle for that. We could use a little of that right now.

When you look at the package from the Finance Committee or what is being talked about in the Chamber by my friends on the other side of the aisle, the best I can figure is, only 20 to 25 percent of the possibly $100 billion package would in any way justify being called stimulative, if you look at the evidence and do not just pick this economist's statement who is aligned philosophically with one group or another economist aligned with another group or someone who comports with our own philosophy.

My concern is that in all this compromise language talk, we will say, OK, let's do what we often do around here and take both of them: Have the tax cuts and additional spending. That is what got us in trouble before. We do not need to go that way. Not only would it not be good, it would be harmful.

We will need that revenue. If we had good reason to believe such an approach that just gave pennies on the dollar to stuff that would be stimulative, and the rest would make us feel good and help us with certain voters in certain segments of the economy—we are all concerned about the unemployed. I am as concerned about unemployed in Tennessee as unemployed in New York. They are all unemployed and all deserve our consideration, and they will under these bills, but they will not stimulate the economy.

We have only begun to assess the costs of what happened in September. We know now almost overnight not only will we have to spend a whole lot more in our defense budget, but we have law enforcement, public health facilities, nuclear facilities, government buildings, Border Patrol, post offices, airports, mass transit. Those are all directly at the feet of the Government and the private sector. We have handling of the mail, insurance costs, transportation costs. Somebody said it is not that ''just in time'' philosophy with the average business, it is ''just in case'' philosophy. That will cost money. Slowing globalization has hit a lot of company pockets; computer security—all these things cost a lot of money in the public and private sectors. Unless we are very sure what we are doing with $100 billion or $85 billion, we should not do it.

Now the OMB Director says we will be in deficit at least until 2005. If we cannot at least get half of a stimulus package that stimulates the economy, we should not do it. We do not know how long the recession will be. If it is average, we have already bottomed out and are working our way back. Nobody knows for sure. But we do know retail sales are up, unemployment stabilized, low oil prices, and interest rate reductions have put more money into the consumer's hands faster than the Federal Government could. The stock market is not doing too badly.

We should give ourselves a chance. There is a good argument to be made that we can do the right thing, have policy that stimulates the economy, which is the private sector, and a large portion has to be tax cuts and rate reductions which are tried and true. We can also make some compromises and do some things in terms of spending that many think are not stimulative but within the bounds of political reality, realizing that has to be part of the package, and have a decent mix and maybe do some good. Anything less than that, I fear, would do harm.

I hope the President draws the line and says something to the effect, if part of this package cannot be stimulative, I will veto it. I think that is a position we ought to take. I don't think we have been talking about this for so long and the markets are so convinced and have been convinced that this is what we are going to do and it is such a great idea. I don't think they are paying that much attention to us in that regard. I don't think that train is down the track that far that we have to pass something, regardless. I will not vote for something ''regardless'' that is, in the long term interests, detrimental to the economy of this Nation. But it will be unfortunate if we do not have the opportunity to do something that would be beneficial and come together on something that would be beneficial.

I still hope we will be able to do that because I think that would be the best solution for the economy and for the Nation.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. CORZINE. Mr. President, I wonder if the senior Senator, the distinguished Senator from Tennessee, would respond to a question.

Mr. THOMPSON. Yes.

Mr. CORZINE. I wonder if the Senator is familiar with the Federal Reserve's view of how they model or look at the economy, and how tax cuts and spending cuts work through the economy. We just had a Joint Economic Committee meeting yesterday in preparation for that. We went back and looked at some of their models which are based on statistics and observations through time.

When you were commenting earlier, I thought it would be worthwhile if I mentioned that, at least according to the Federal Reserve's models, spending has a multiplier effect of 1.4 times in the first year relative to tax cuts, which have about a half of 1 percent impact in the first year.

Sometimes when you drag those out over a longer period, you catch up with the benefits of taxes, depending on the nature of them. But there is solid evidence in the economic community, and I think among the Federal Reserve, that spending can have and often does have meaningful multiplier effects on the economy. That is why so many people would argue, and I think they would argue based on fact, or at least data, that there is reason to believe that spending does have a positive impact on the economy.

Mr. THOMPSON. I will respond to my friend that I do not doubt that. I do not know the details of how they do that. I am aware that they do it. I do not doubt, as I have indicated, someone, going down at the micro level, going down and getting a check and buying some goods has some effect; that a lot of people doing that might not have some effect.

I think the difference has to do with short term versus long term. The history I have read on the subject concerning a concerted effort by the Government, with Federal spending programs over a period of time—whether it be the United States in the 1930s, or Japan for the last decade—has not proved beneficial, has not brought about growth. So we might be talking about the difference between microeconomics and macroeconomics. I am not sure. I do not dispute the statistic that the Senator gave, but I think the studies that were done from the Joint Economic Committee back in 1998 is the other side of that coin.

Mr. CORZINE. Would the Senator comment on whether he believes unemployment benefits tend to get expended or not in the process of going to people who have lost their jobs? Do you think that goes to savings? Is that what I am reading you to say?

Mr. THOMPSON. No, I think you can assume in most cases, if you are talking about that very small part of the economy that has to do with unemployment benefits, that those checks probably are spent.

My concern, I suppose, is that if you expand that concept, then why not send everybody a check. A lot of people laughed at Senator McGovern several years ago—what was the size of the check he wanted to send everybody, $1000? Why not extrapolate that concept, if the concept is the solution?

I think there is some factual validity to what you are saying. But I am saying if you expand that concept in terms of the overall economy, the evidence is not there to support it.

If it is that simple, if that is the solution, why do we ever put up with a recession? When we first see one, why don't we decide to whom we want to send the checks and get it over with and the economy will bounce back?

Mr. CORZINE. I appreciate the remarks of the distinguished Senator. I think there really is—the point that I was trying to make—some evidence that spending does have meaningful impact on the growth of the economy. I will make sure I send you over a copy of the Federal Reserve Bulletin's commentary on this so you can get a sense of what this is about.

Mr. DASCHLE. Mr. President, I ask unanimous consent the recess be postponed until 1 o'clock.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DASCHLE. Mr. President, 5 months ago, America had a projected budget surplus of $2.7 trillion over the next 10 years. The stock market was soaring. The question before us was one that most leaders could only dream of: ''What should be we with out prosperity?''

At that time, we came to this floor to debate our Nation's fiscal future—how could we sustain that hard-won prosperity, meet our great unmet needs, and, yes, provide meaningful tax relief for millions of American families.

Democrats put forward a balanced plan that maintained our fiscal discipline, while at the same time making sound investments in our children, our health, and our security, and provide tax relief.

Because we recognized how fragile and inaccurate budget projections are, we left room to deal with an economic downturn or an unforeseen emergency.

Unfortunately, our approach was not the one that prevailed.

Instead of a balanced and fiscally responsible plan, we ended up with one so top-heavy with tax cuts, it left little room for other investments, and no flexibility for a change in circumstances.

I made no secret of the fact that I was unhappy with that debate, and its outcome. But based on the administration's predictions—and assurances—that we could afford such cuts without running into deficits or shortchanging our priorities, the majority of my colleagues voted for it.

Early this morning, just several months after receiving those assurances, and several months into the administration's 10-year plan, we now learn that the White House budget director is predicting that our government is likely to run budget deficits until 2005. This is a stark reversal from the situation this administration inherited less than a year ago.

This is a marked departure from the rosy predictions we were being offered just months ago.

So, how did this happen? Let's start with how it did not happen.

As deeply as the September 11 attacks impact our lives, our security, and our economy—they are not responsible for the fiscal situation in which we now find ourselves.

While the attacks of September 11 seemed to change everything in a moment, the economic trends before September 11 were clear.

As a panel of economists announced earlier this week, our economy had officially entered a recession in March.

Neither does our current situation have to do with congressional spending.

We have not spent a dollar more than what the President and the Congress agreed to, either in the course of the normal appropriations process, or in response to the events of September 11—not a dollar.

Although we have taken a great deal of action in the aftermath of these attacks—supporting the President's use of force in Afghanistan, keeping the airlines solvent, giving law enforcement additional tools to combat terrorism, and strengthening airport security—to date, we have actually spent less than $40 billion. So why are we now facing deficits when just months ago we were looking at years of surpluses?

Regrettably, what we feared then is what we are faced with now. The economic plan that was passed ate up nearly two-thirds of what was an optimistic prediction of our 10-year surplus. It left no room for an economic slowdown, or an unanticipated emergency.

As Robert Reischauer, the former Director of the nonpartisan Congressional Budget Office said:

> Had we not had the tax cut, it's likely that we would have skated along with close to a balanced budget, despite the costs of the war and the effort to contain terrorism.

Even more ominously, the administration warned that decisions about taxes and spending in the next year ''will determine whether we ever see another surplus.''

Despite the fact that some of us did not approve of the plan that got us here, all of us should now work together to make sure that we pass an economic recovery plan that helps—rather than exacerbates—the problem.

As we consider a package to stimulate the economy, we need to be extremely careful to pursue a policy that is temporary, truly stimulative, and—now more than ever—fiscally responsible.

As I look at the Republican proposals, I am disappointed to see that they are based on tax cuts that fail these simple yet essential tests, and they do little or nothing for the dislocated workers who most need our help.

In the weeks since September 11, Democrats and Republicans have been able to work together in a way that I haven't seen in all my time in Washington.

Our ability to speak together and work together is one of the reasons, I believe, we have been able do so much, so quickly, in response to the attacks and the continuing terrorist threat. The fiscal outlook we are now facing is as serious as anything we have faced to date.

We need to renew that same spirit, if we are to address this problem as well.

Right now, we have an opportunity to help those who are hurting, and lift our economy in the process.

It is an opportunity we cannot afford to lose.

I appreciate the opportunity to come to the floor because I do fear with these economic projections—we have said on several occasions we knew the real possibility existed—that we will revert right back to the bad old days of deficits and huge new debt. I never dreamed it would be this soon. I never dreamed we would be talking in the third quarter—now the fourth quarter of this calendar year and the first quarter of the new fiscal year—that we would have deficits well into the third year beyond this year.

That ought to be as strong an indication as we ever need that what we did last spring was a mistake; that what we did in economic policy with the passage of that tax cut was a disaster, not only for our economy but for our ability now to respond to the array of challenges we face in the aftermath of the crisis of September 11.

How sad it is that the legacy of the last 8 years did not last longer than a few months. I am very hopeful we will take to heart the admonition of the Budget Committee chairman who has asked every Member of our Senate body to look very carefully at the report made by the OMB Director, to look at it with the recognition that, as we face these other additional challenges, whether it is the economic stimulus plan or the array of other challenges we face as we meet the needs of our current situation in fighting terrorism, that we do so prudently and with the recognition that a major mistake was made last spring.

I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. DAYTON. Mr. President, I ask the Chair, are we under an earlier agreement for a time limit?

The PRESIDING OFFICER. The Senator is correct. Senator CARNAHAN will have 10 minutes, but there is not a particular sequence.

Mr. DAYTON. Mr. President, I ask unanimous consent that at the conclusion of Senator CARNAHAN's remarks I be granted 10 minutes in morning business, and following the conclusion of my remarks Senator REED be granted 10 minutes, and that the time be charged against postcloture.

The PRESIDING OFFICER. Under the previous order, we are to recess at 1 o'clock. Is the Senator asking to extend that time?

Mr. DAYTON. No. I am not asking to extend the time. Maybe the Chair could clarify exactly what we are in.

The PRESIDING OFFICER. We have 16 minutes remaining before the recess time. Under the previous order, the Senator from Missouri is recognized for 10 minutes. That leaves 6 minutes remaining.

Mr. DAYTON. Mr. President, I ask unanimous consent that order be modified: That at the conclusion of Senator CARNAHAN's remarks, I be granted 10 minutes to speak as in morning business, after which Senator REED be granted 10 minutes to speak in morning business, the time be charged against postcloture, and the time for the recess be extended until the completion of Senator REED's remarks.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from Missouri.

Mrs. CARNAHAN. Mr. President, I am very encouraged to hear that the leadership has begun negotiations regarding the stimulus package.

Congress has been paralyzed on this issue for weeks now. And while we sat here at an impasse, economists confirmed that our Nation is in a recession.

We must act quickly to jump start our slowing economy. It is well past time for us to find common ground.

As we seek compromise, I encourage my colleagues to keep in mind the goal of a stimulus package.

In order to truly promote economic growth, the policies we approve should take effect immediately, they should have a temporary cost, and they should focus on those individuals and businesses most likely to spend and invest additional cash.

These are the bipartisan principles that we started with. These principles ought to guide our negotiations now.

A wide range of proposals will be on the table for this negotiation.

The Republicans have a plan, and the Democrats have a plan. The Centrist Coalition has its own proposal.

From among all these ideas, we must put together a balanced, reasonable package.

In the end, the stimulus package needs to promote business investment, spur consumer demand, and assist those Americans who have lost their livelihoods during this recession.

Shortly before Thanksgiving, Senator DOMENICI, with the support of my colleague from Missouri, Senator BOND, added a new and interesting idea to the debate. They suggested that Congress should provide a payroll tax holiday for the month of December. This idea has some merit. It would distribute benefits across a broad range of taxpayers, including most individuals who earn less than $80,000 a year. And it would provide needed cash to businesses based on the size of their payrolls.

However, the question remains:

How does this new idea fit into the overall stimulus debate?

It has been suggested that a payroll tax holiday could substitute for proposed rebate checks to low-income workers.

I have serious reservations about such a tradeoff.

Rebate checks of $300 would go to low-income workers who have not yet received any tax refund this year.

Let me give you an example.

A single mother working full time at a minimum wage job would probably be eligible for a $500 rebate check. This money could help her put food on the table, or cover the rent, or keep her old car going a few months more.

However, under the Social Security tax holiday, she would receive about $50 worth of tax relief—not enough to make a real difference.

That is not a fair trade.

I am sure that the single mother who is struggling to make ends meet would not consider that a good deal.

This is not to say that the payroll tax holiday has no place in a stimulus package. Rather, I simply suggest that it is not an appropriate substitute for tax relief for our lowest income workers.

In spite of this observation, I think that the payroll holiday may have a place in the stimulus package. The payroll tax holiday has the benefit of providing assistance to both workers and businesses. It is therefore appropriate that it be included in place of other individual and business tax cuts under consideration.

I propose that the payroll tax holiday is appropriate in lieu of two proposals in the House bill: The acceleration of the 28 percent tax rate cut, and the repeal of the corporate alternative minimum tax, or AMT.

Let us first look at the impact of my suggestion for individuals.

Under current law, the 28 percent tax bracket is scheduled to be reduced to 25 percent by 2006. It has been proposed that it would be stimulative to implement this cut next year. This tax cut would benefit married couples filing jointly with income over $45,000, and individuals who earn more than $27,000. This is approximately one-quarter of all income tax payers.

On the other hand, a payroll tax holiday will help almost all taxpayers.

Americans are subject to payroll taxes on the first $80,400 of income per year.

In other words, every worker who has earned less than about $80,000 by the end of November would get a tax break. And very importantly, the payroll tax break is immediate and temporary.

If we accelerate the rate cuts next year, it will still cost us money in 2003, in 2004, and in 2005.

In all, over the next 10 years the accelerated tax cuts could cost $78 billion. But only the money put into workers' hands now can stimulate the economy. The payroll tax holiday would inject more money into the economy now. It would cost less in the long run than accelerating rate cuts. And it would benefit a much greater number of workers. In short, the payroll tax holiday meets our basic principles for stimulus and accelerating rate cuts simply does not.

Now I will discuss the impact of my suggestion for corporations. The House-passed stimulus bill and the proposal made by Senator GRASSLEY would repeal the corporate alternative minimum tax. Elimination of this tax would cost approximately $25 billion next year.

Let's be clear. This is a tax paid by profitable corporations that would otherwise pay no tax at all. By contrast, a payroll tax holiday would benefit all corporations.

Under current law, corporations pay a Social Security payroll tax equal to 6.2 percent of each employee's income up to $80,400 per year. With a payroll tax holiday for the month of December, these businesses would save $19 billion.

This is additional cash infused into virtually all businesses. It would help our small businesses, the true engine of our economy. The size of the tax benefit is linked directly to the wages the company is paying to its employees. This tax cut would make it easier for businesses to keep workers on their payrolls, and that is the whole goal of this stimulus package, to keep America working.

Congress ought to act quickly to reinvigorate this country. In order to do so, we must be willing to compromise. While I may not think that a payroll tax holiday is the perfect way to stimulate our economy, I understand compromise, and I am willing to support Senator DOMENICI's proposal, if it is offered in place of these other tax cuts that are unpalatable to me.

This is a compromise that makes sense to me. It makes sense to that single mother who is trying to make ends meet. It makes sense to most businesses which would not benefit from a repeal of the corporate AMT. And it makes basic sense, based on the principles that were laid out by the House and Senate Budget Committees at the beginning of this year, that the effects of the stimulus be temporary, immediate, and focused on those most likely to spend the investment.

I hope my colleagues will join me in support of this sensible compromise.

Thank you, Mr. President.

The PRESIDING OFFICER. Under the previous order, the Senator from Minnesota is recognized.

Mr. DAYTON. Mr. President, during the last few weeks we have all heard about and discussed many ideas and proposals for inclusion in the economic stimulus legislation. In fact, one of our difficulties is we have so many meritorious proposals that we could not possibly fit them all in, even if we could all agree on them.

One proposal of which I have heard recently, and one I believe may have merit, deals with tax provisions which apply to many families and small businesses throughout the country. Many were taxed for years under subchapter C of the Internal Revenue Code. In recent years, with the liberalization of the rules under subchapter S of the code, many of these businesses have elected a sub S status, which means, in general, all corporate income is taxed at the shareholder level, not to the corporation as a separate legal entity.

One exception to this rule applies to built-in gains which are taxed at the corporate level in full and at the shareholder level in full for 10 years after a C corporation converts to an S corporation.

The original and primary purpose of this tax on built-in gains was to prevent C corporation shareholders from converting to subcorporation status and thereafter immediately being able to liquidate or mix corporate distributions with only the single level of taxation applicable to an S corporation as opposed to the double layer taxation applicable to a C corporation.

Unfortunately, however, this proper purpose also prevents the shareholders of an S corporation from selling corporate assets without incurring a double tax even if the proceeds are not distributed to shareholders but instead are reinvested in the business to help create new jobs and stimulate the U.S. economy.

This tax burden makes it difficult, if not impossible, for many families and small businesses that have elected S status to access the capital of the business to help stimulate our economy.

This proposal would provide for the elimination of the built-in gain tax where the entire proceeds of the sale are reinvested in the business. In other words, it would permit the business owners to do what we should want any good business to do as much and as often as possible: expand the business and create new jobs. That should be the foundation of our economic stimulus legislation. It will also be the foundation of our national economic recovery.

All of us know that small businesses provide most of the jobs in America.

Their abilities to do so have been longstanding concerns of Republican and Democratic Members of this Senate body for many years.

When I worked as a legislative assistant in 1975 and 1976 for one of Minnesota's greatest Senators, Walter Mondale, one of my areas of responsibility was to staff him on the Senate Small Business Committee. The committee operated then, as I understand it does now, largely in the spirit of bipartisan cooperation to help encourage and assist in the creation and growth of as many American businesses as possible.

This proposal presents us with an important opportunity to take another step in that direction.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 6 minutes 39 seconds remaining.

Mr. DAYTON. I thank the Chair.

Mr. President, I also wish to express my strongest possible support of the Railroad Retirement and Survivors' Improvement Act of 2001. I would like to thank Senator BAUCUS and Senator HATCH for offering this important legislation.

My office has received hundreds of calls and letters from current and retired railroad employees. From St. Paul to St. Cloud, from Brainerd to Duluth—from everywhere in Minnesota—railroad retirees and current railroad employees understand the critical need to pass this legislation now.

My very good friend Tom Dwyer, originally from Hibbing, MN, has been working on railroad retirement issues since 1973. He also was a clerk for different railroad companies for 35 years until he retired in 1997. Tom is now the legislative director for the National Association of Retired and Veteran Railway Employees.

Advocating for retired railroad workers, widows, and widowers is Tom's life work. He reminds me that this debate is not over Government money. This bill is about the pensions that workers have paid into this fund. It is their money.

Throughout our country, there are 673,000 railroad retirees and families and about 245,000 active rail workers. Minnesota's Eighth Congressional District, up in the northeastern part of our State, ranks 10th in the Nation in the number of retired and active railroad employees. Throughout our State there are over 18,000 retirees and their families depending on railroad retirement benefits.

In addition, over 5,500 Minnesotans are presently working for the railroads. They will eventually need pensions for their retirement.

All of these fine men and women have worked hard, and they all deserve the best possible retirement program. They know better than we what kind of retirement program is best for them. They paid in the money, out of their paychecks, for all their working years, and all they are asking us to do now, by passing this legislation, is to return to them their money in a way that is best for them.

What could be controversial about that? Which one of us, if we were in their shoes, would not want the same and think we deserve it. They are right. And they do deserve it.

This bipartisan legislation presents a historic opportunity for our Nation's railroad retirement system. Senator BAUCUS and Senator HATCH deserve tremendous credit, and they have my gratitude, for bringing together railroad companies, labor organizations, and retirees to work together to modernize this system. The result of all that hard work is this legislation, which provides better and more secure benefits, and which does so at a lower cost. What could be better than that?

I say, let's vote on this bill today and pass it.

I thank the Chair.

The PRESIDING OFFICER. Under the previous order, the Senator from Rhode Island is recognized.

Mr. REED. Thank you, Mr. President. I ask unanimous consent that, at the conclusion of my remarks, Senator GREGG be recognized for 10 minutes, and upon the conclusion of his remarks, the Senate stand in recess under the previous order.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REED. Mr. President, I am privileged to serve as the vice chairman of the Joint Economic Committee. The Democratic staff of the Joint Economic Committee issued a very pressing report about America's economy. I would like to read from the first paragraph of the Executive Summary.

> New reports from the Bush Administration's Office of Management and Budget and the Congressional Budget Office confirm that the combination of the large tax cut and the worsened economic situation have essentially eliminated any expected on-budget surplus for the next five years. Indeed, there is a growing possibility that the government's fiscal position could be even worse, with no surplus at all by the end of the decade and with a national debt that might be even higher in ten years than it is now.

What is particularly prescient about this report is the fact that it was not issued this morning, hours after Mr. Daniels of OMB declared that the fiscal policies of this administration have locked this Government into deficits for the next several years. This report was issued on September 7, 2001.

It is also interesting to note that this report suggests very strongly, prior to the attack on America on September 11, that the fiscal policies of this administration had headed us down a road to deficit after deficit after deficit.

The attack on September 11 was a dreadful assault on this country, but it is not the cause of the current deficit we are staring at over the next several years. It may have accelerated the timing, but the fundamental core was the irresponsible tax policies of this administration.

If we look across several years, we see a situation where our colleagues on the other side resisted, in 1993, President Clinton's plan, which mercifully passed by a very narrow margin, which set the fiscal context, together with monetary policy, for the largest expansion of our economy perhaps in our history. Yet when this party came to power, not only in the Senate and the House but in 2001 in the Presidency, it took them a scant 9 to 10 months to reverse years of economic progress and prosperity and cast us back again into deficit after deficit after deficit.

The consequences are severe. We are approaching critical choices about Social Security and Medicare. Just a year ago, we had surpluses which we could use to make these difficult choices. Those surpluses are gone. But the demographic timebomb of the baby boomers is not gone. It will be here. It is virtually on our doorstep. So we now have to respond to these issues bereft of a surplus that was hard-earned over years of effort during the 1990s.

There is something else, obviously, that is one of the direct consequences of September 11. We are at war. This is a war that will demand increased expenditures which we cannot decline to make, not just in the military operations, which are expensive inherently, but if we are not to repeat the mistakes that were made previously in the area of Southwest Asia. We have to maintain a presence there. We have to be one of the international participants to help in the reconstruction of Afghanistan. We have to take steps across the globe to eliminate other terrorist threats, sometimes more sinister than the dreadful events we saw in New York.

We have to recognize there are loose nuclear materials around the world, particularly in Russia, loose biological agents around the world. All of these things will cost money. And the war on terror will not end simply with the defeat of al-Qaida. It will be a constant ongoing battle, perhaps akin to the Cold War—increased expenditures now, because of this tax cut policy, without the benefit of a surplus.

There is something else we must recognize. We are looking at short-run economic consequences of this tax policy. But what is going to happen in the next several months and days and years ahead is that the administration's response will be OK, we can't shun funding defense. We will have to cut back in every other area of effort.

The key to our long-run economic prosperity is the productivity of America. That productivity is not simply machines and tools and computers. It is human capital. It is healthy, educated Americans who can use these tools, who can invent new tools, who can continue this growth. When we cut education and when we refuse to fund special education and when we go ahead and cut back on health care and we do all these things, we are harming our long-run productivity.

That is the dilemma we are in today. It is a dilemma that was entirely avoidable by a more responsible fiscal policy of this administration.

There is no surprise about Mr. Daniels' announcement yesterday. Perhaps the only shock, if you will, was the timing. It was inevitable after we passed this tax cut. Now as we go forward, we are seeing the consequences. Those consequences will be very difficult to bear. What is worse than that, our colleagues are compounding this terrible situation by advancing the same policies in the guise of a stimulus package: Accelerating marginal tax cuts further and proposing corporate AMT that is retroactive. That is not going to get this economy moving. That will simply make the hole we are in much, much deeper and the climb out much steeper and longer and harder, particularly for working Americans.

Again, there should be no surprise about Mr. Daniels' announcement, but there should be surprise, shock, and perhaps even anger, that having brought us down this path, they refuse to see the error of their ways. They refuse to recognize that, yes, we do need a stimulus package but one that would truly stimulate the economy by getting consumers back in the marketplace, by ensuring that middle- and low-income working Americans get access to additional dollars that they will spend quite quickly. We must in fact protect ourselves through increased expenditures on homeland defense.

I hope yesterday's announcement represents not just waking up to the reality of their policies but changing the policies, that in working collectively with the leaders in the House and in the Senate to script and craft a fiscal package that will move America forward, we will begin our slow climb out of this deficit situation. But there should be no confusion about the fundamental cause of our current economic situation—a precipitous collapse from surpluses to deficits. It was an unwise, irresponsible tax plan promoted and proposed by the President and regrettably accepted by this Congress.

I hope the searing news that Mr. Daniels gave us yesterday will provide something more than heat, that will provide a little illumination to those who seek to lead this country.

I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senator from New Hampshire is recognized for 10 minutes.

NOMINATIONS

Mr. GREGG. Mr. President, I come to the floor to talk about one of the problems we have had over the last few months, which is a failure of the majority party to address the issue of nominations sent up by the President. This failure has been most blatant, of course, in the area of judicial nominations where we now have well over 100 openings in the judiciary which have not been filled, which is an extraordinary number, especially when you put it in context of the prior administration. It is almost 100 percent larger than what the prior administration experienced under a Republican Senate.

There are also, independent of the judiciary nominations, a number of other nominations critical to the operation of the Government which are being held up by the majority party.

I rise to speak to one specifically. That is the nomination of Eugene Scalia to be the solicitor of the Department of Labor. Most people have never heard of the term or the individual solicitor of the Department of Labor. It is, however, a significant position within a significant department.

It is the fair arbiter of the laws within the Labor Department. It is the place at which the Government represents its cases, the individual who carries forward a great deal of the policy of the Government, as it has been set forth by the Congress and the Executive.

Why is Mr. Scalia not being brought to the floor? First off, you have to understand that it is not because the nomination hasn't been pending. The nomination has now been pending for 213 days. That is the longest period of time that any nomination has been pending around this body. Ironically, I think the reason it is not being brought forward is that it is tied to something that occurred 351 days ago, and that was the case of Gore v. Bush, or Bush v. Gore—the issue settled in the Supreme Court as to how the Florida law would be applied and the prior election, therefore, resolved. You see, Eugene Scalia, through family ties, appears to be tied to that case by the majority in the Senate.

There is a lot of frustration about that case on the other side of the aisle. Many of my colleagues, with great energy, believe it was decided the wrong way. Many have taken it personally, I suspect. Obviously, they have taken it personally because they are applying it personally in the case of Eugene Scalia, a relative to one of the decisionmakers in that process —of course, Justice Anthony Scalia—and who was one of the majority in the decision of Bush v. Gore. Well, Eugene Scalia is his son.

So we now have a scenario where the son has come up for a nomination to serve in the Government. I suppose you can argue, well, maybe he is not being approved because he was sent up quickly. I pointed out it was 313 days ago. You may argue he is not qualified. Actually, he is extraordinarily well qualified. He is one of the finest attorneys in the area of labor law in the country. In fact, five former Solicitors General of the Department of Labor have said he is unquestionably an extraordinarily qualified individual. To quote them, they say:

> We are unaware of any prior solicitor nominee with his combination of academic accomplishment, prolific writing on labor and employment matters, and many years of practice as a labor and employment lawyer.

That is five prior Solicitors of the Department. They have said this is a great nomination. It is not because he holds views that are antithetical or inappropriate to the position. In fact, he strongly is supported by some of the leading civil rights attorneys in this country; for example, William Coleman, who is one of the leading civil rights attorneys in our Nation's history, said that Eugene Scalia would be among the best lawyers who have ever held the important position—the position of Solicitor of the Department of Labor. He went on to say:

> Eugene Scalia is a bright, sophisticated lawyer whose writings are well within the mainstream of ideas.

So he is not being attacked because he doesn't have the ability. He has all the ability you could possibly want. In fact, it is great that we can attract people of his talent and capability to public service. No, Eugene Scalia—Scalia the younger—is being attacked because of Scalia the elder. You might say, well, maybe he came up too quickly. We pointed out that isn't right.

Maybe he doesn't qualify. That is not true either.

Maybe he holds outrageous opinions. Actually, during the hearing process, the only significant attack made on his writings was a disagreement over his position on ergonomics. Eugene Scalia committed the ''cardinal sin'' of opposing the ergonomics rule as put forward by OSHA, so he was aggressively attacked during the hearings—not personally but on that issue relative to policy.

Well, that is OK. You can disagree with him on that policy point, but you have to acknowledge that on that policy point he agreed with the majority of the Congress. The Congress found the regulation that was promulgated by OSHA to be too officious, bureaucratic, counterproductive, and we—the Senate and the House of Representatives—threw the regulation out.

In my experience in the Congress, that has only occurred once or twice. We as a Congress actually rejected the regulation of OSHA on the issue of ergonomics, confirming the arguments that the younger Mr. Scalia had made on that issue.

So it is pretty hard to come to the floor with a straight face and say this man should not be confirmed as Solicitor of the Department of Labor because he took a position on ergonomics, when that position was consistent with the position taken by the Congress earlier this year.

No, regrettably, the younger Scalia is being held hostage because of attitudes toward the elder Scalia. That isn't the way we should govern. We should not prejudice an individual because of their race, their ethnic background, their gender, and we certainly should not prejudice an individual because they happen to be the son of an

individual who some people do not agree with and who feel antipathy towards.

Eugene Scalia's nomination should be brought to the floor of this Senate. If people want to vote against him, that is their right. Then if he is defeated on the floor of the Senate, so be it. But let's not shuttle him off and hold him hostage to try to make a point to his father. That is not right and that is what is being done by the leadership of this Senate at this time.

Mr. President, I yield the floor.

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 3:30 p.m.

Thereupon, the Senate, at 1:17 p.m. recessed until 3:31 p.m. and reassembled when called to order by the Presiding Officer (Mr. CARPER).

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. 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 assistant majority leader.

MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent that the Senate be in a period for morning business from now until 4:30 p.m., that the time be divided equally, and that at 4:30 the Senate go in recess subject to the call of the Chair.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, I ask unanimous consent that any time that is used be charged against the 30 hours under postcloture.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Mr. President, I ask unanimous consent to be recognized for 15 minutes.

The PRESIDING OFFICER. The Senator is recognized.

PROUD NEW YORKERS

Mr. SCHUMER. Mr. President, I thank all of my colleagues for their understanding for my State and my city of New York over the last 2 months. I particularly thank the majority leader, the Senator from South Dakota; the majority whip, the Senator from Nevada; the Senator from Montana, Mr. BAUCUS, chairman of the Finance Committee; and the chairman of the Appropriations Committee, Senator BYRD; as well as all of our Senate colleagues for being there for New York in its greatest hour of need.

I spoke with the mayor of New York this morning, and we were commenting to one another about what amazing fortitude New Yorkers have. The spirits are high. The desire grows to stay the course and rebuild our city and make it greater than ever before. The desire of New Yorkers to stay in New York, if one looks at the poll numbers, is higher than ever before. The number of people when asked if they expect to be living in New York 5 years from now increased since September 11.

We know all about the bravery of the firefighters and the police officers and the rescue workers, but maybe we do not know enough about the fortitude and the love of the city had by so many in New York City and the metropolitan area of New York have. They are brave people.

As New Yorkers, we come from all over the globe. New York takes us and shapes us and makes us into Americans, and we are proud of that. We now know more than ever that America is proud of that as well.

That is the good news. The good news is the fortitude, the strength, the courage, and the good grace of the people of New York. The bad news is that despite our confidence that our nightmare will soon end, we are in trouble. Two months after the attack, the economic damage to our city is becoming increasingly apparent and has been documented in publication after publication. The damage is enormous.

Let me give some statistics. Our streets are littered with 37 miles of high-voltage electricity lines that are but one prankster away from shutting off power to our Nation's financial center. Over 40 percent of the lower Manhattan subway infrastructure has been destroyed, adding hours to the daily commute of 375,000 people who work in New York City. All our major river crossings: The Brooklyn, Manhattan and Queensboro Bridges, the Lincoln and Holland Tunnels, have been and continue to be subject to nightmarish traffic jams because of security requirements.

Two weeks ago, they were all shut down again because of the crash of flight 587. Twenty-five million square feet of commercial office space was destroyed or heavily damaged. The amount destroyed—nearly 20 million square feet—surpasses the entire office space inventory of large, important cities, such as Miami and Atlanta. Over 125,000 jobs have at least temporarily vanished from the area and the city estimates that 30,000 of those jobs, at a minimum, are gone for good.

Noxious fumes continue to emanate from the hole at the World Trade Center, creating great concern among the workers and residents for their personal health. There is even a possibility that the Hudson River retaining wall, which is underground and stops the Hudson from washing in, will break and flood the area as the debris is removed.

Insurance companies are another problem—problems come from all sides—demanding 100 percent increases from companies doing business in New York simply because they are located in a confirmed terrorist target zone. Those offers are some of the better ones. There are many insurance companies offering no insurance at all.

Mayor Guiliani has had to cut $1 billion from the city budget just to prevent an immediate fiscal meltdown at a time when the need for city services is at an all-time high, and Mayor-elect Bloomberg will have to cut much more than that and begin thinking about it the day he enters office because the city is staring at a $3 billion deficit next year as a direct result of this crisis.

Governor Pataki has it even worse. The State's revenue loss is projected at $9 to $12 billion. The comptroller of the city of New York places the economic loss to the city and its businesses at $105 billion over the next couple of years.

We were so proud as our city grew and grew and grew and added over 800,000 people in the last decade. It was a record. But now we have had the first decline in the city gross product in over 9 years.

In short, we have taken a hit for the Nation. None of the problems I describe was of the making of New Yorkers. None of these problems was the result of a single thing New York did or didn't do. And so we find ourselves in extremely difficult times.

Now, with Chairman BYRD and Senator DASCHLE at the helm and broad support of Senate colleagues, I believe we will ultimately get the disaster aid needed to rebuild our damaged and destroyed infrastructure. That is coming through. Some Members would like it to come through more quickly, but it is coming. We don't have much of a dispute about that.

We thank everybody. Senator CLINTON and I are extremely grateful to all of our colleagues for the support they have shown New Yorkers.

What we are here to talk about today is the need for tax provisions for New York to deal with the kind of economic damage I have mentioned. As we all know, the FEMA dollars go to the Governor, as they have for disaster after disaster. They go to replace the subway lines and streets that were destroyed. They go to pay for the cleaning up of the refuse. They deal with the firefighters and the police officers and their overtime. But none of that will give one iota of help to keep the businesses in New York or get the jobs growing to where they were.

Senator CLINTON and I put together an economic stimulus package. We had great help from the Finance Committee, Chairman BAUCUS and members of the Finance Committee, and help from the staff, led by Russ Sullivan. We were extremely grateful when it was included in our stimulus package that we presented.

The reason I take the floor today, it appears there is a good chance we will

have a stimulus package. I remind my colleagues how much we need that part of the package that went for New York to remain in the package. The provisions in it are designed to counter the uncertainty and fear we believe may lead many companies to walk away from us. We believe if we do not do it now, it will be too late.

Company after company, the large ones, the small ones, are making their decisions over the next few months as to whether they stay in lower Manhattan and in New York City or whether they leave. Once they decide to leave, we can be as generous as we want, but come next spring it won't do any good. Their leases will have been signed, their decisions will have been made.

There is urgency to do this now. It is not related to the FEMA spending or even the extra help in some of the appropriations measures that we have asked of the Appropriations Committee. Senator BYRD has been extremely generous to Senator CLINTON and myself. We have been in constant conversation with him. But this relates to tax cuts. This relates to keeping the businesses in New York lest the financial center—not just of New York but of America—dissipates. That would be a real blow to our country—not just our city but our country—because so much of the capital to build the factories and the homes and so much of the capital to start new businesses comes from the financial center located in downtown New York. It is the greatest capital market in the world.

Whether you live in Manhattan, Brooklyn, Buffalo, Albany, or even if you live in Omaha, Seattle or Wilmington, you have a real interest in seeing that financial center remain as strong as it has been. It has helped create the unprecedented prosperity we have seen.

The need to act is now. The amount of money we are asking for in a huge budget is modest. We hear, as we talk about the stimulus package, of many other needs. We are aware of them and want to be helpful, too. Maybe I am a bit parochial, but I can't think of a better need than this one—a need for New York, a need for America.

Let me outline to my colleagues—and I know many are familiar with this—the three complimentary provisions included in the stimulus package. There is $4,800 for an employee tax credit to companies that retain jobs and to not abandon New York in the area immediately around ground zero.

There is the creation of special private activity bonds to lower the cost of redevelopment projects.

There is a provision that would permit companies that replace equipment destroyed in the World Trade Center bombing to take a special deduction if they replace that property in New York, minus the insurance costs they will get back. We all know an insurance company will give $500 for a 2-year-old computer and you have to replace the computer with $1,000 in costs; the difference would be deductible.

There is a one-time residential tax credit designed to encourage residents in Lower Manhattan to continue to live there. They are all afraid. Many visited Senator CLINTON and myself here yesterday. They are scared. They are worried. These are their homes. They don't know if they should stay. This will be an incentive for them to stay and overcome the fear and disruption that has been visited upon their lives.

And there will be permission for New York municipal bond issuers and hospitals to issue advance additional refunding to help enable them to refinance their debt service.

Not a single aspect of the provision is designed to take business from another part of the country. We want to just keep what we had, what bin Laden and al-Qaida tried to take away from us.

The provisions are designed very carefully. We worked closely with both the business and labor communities. They are designed very carefully to do just enough—not more, not overly generous but just enough—to keep the businesses in New York.

I am making a humble plea. There are many, many needs and many, many conflicts embodied in the stimulus package. We need your help. I have tried in my few years as Senator to be generous.

I have tried in my years here to respond when other areas of the country needed help. I did not do it thinking New York would. We do not have the kinds of natural disasters we are accustomed to seeing in many other parts of the country. But when I heard about and read about the earthquake in California, the hurricane in Florida, the floods in North Dakota and North Carolina, I knew they needed help. Now, unexpectedly but in a devastating way, we were hit by, not a natural disaster but one very real. We need your help.

I thank Chairman BAUCUS. These provisions for New York he championed, not because of politics but because it was the right thing. He has done the right thing. I believe the Nation, with his stimulus bill which will also extend unemployment and COBRA to hard-working Americans, is the right thing to do. I thank Senator DASCHLE who has stood with us through thick and thin. Among all my colleagues I have hardly heard a word of dissent. There was tremendous sympathy.

At our Thanksgiving table this year, we closed our eyes and had some moments of silence as we thought of the thousands and thousands of New York families who, that same day, were having their Thanksgiving dinners—their turkeys and stuffing and corn bread—but at whose tables there was an empty seat. Someone wasn't there who had been there for all the previous Thanksgivings. That person will never come back. Those families' hearts will remain broken for the rest of their lives.

We remember them. We think of them. But when we talk to the families who have survived, they tell us: Rebuild New York. Don't let those deaths be in vain. Don't let Mr. bin Laden and his evil band succeed in permanently hurting our country and our city. This is a mission. It is a mission to rebuild New York. It is a mission to rededicate ourselves, in the name of so many in the New York metropolitan area who lost their lives. We hope and we pray that all of you will join us in this effort.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nebraska.

RAILROAD RETIREMENT REFORM

Mr. NELSON of Nebraska. Mr. President, I rise today in support of the Railroad Retirement and Survivors' Improvement Act of 2001.

For years, our Nation's railroad workers have played a vital role in moving commerce and passengers around this country, and it is my belief and hope that America will benefit from their hard work for years to come.

This bill is designed to strengthen the Railroad Retirement System and ensure that these men and women who have helped build, run, and maintain our railroads, have adequate resources to care for themselves and their families when they finally complete their years of hard labor.

The current system, which has been around for over 65 years, currently serves more than 690,000 retirees and their family members, and more than 245,00 active employees.

Because the Railroad Retirement System, unlike other industry pension plans, is funded by payroll taxes on employees, it is easy to see why this program, that pays retirement benefits to almost three times as many people as there are paying for those benefits, is in desperate need of reform.

Most Americans are concerned about the future of Social Security for similar reasons—because the number of retirees in America will greatly increase in the coming years as baby boomers retire. Well, the problem for Railroad Retirement is here and now, and so is the right time for a commonsense solution.

Railroad Retirement has always been restricted to investing only in government securities, and while this may have been a good policy 65 years ago, it does not make sense in today's economy.

Because of this policy, the system's annual average investment return has been far lower than that of private multiemployer pension plans.

This bill would solve that problem by allowing Railroad Retirement to be operated more like a private pension plan, by establishing a private trust in which assets of the system can be invested in various ways, including private securities.

Moreover, the legislation would shift greater responsibility to the railroad

industry, and away from the government, to ensure adequate funding of the system.

Better financing means enhanced returns to provide for an improved benefit structure for Railroad Retirement beneficiaries.

These benefits would include a lowering of the incredibly high payroll taxes currently paid by railroad workers and employers; a lowering of the retirement age for those with 30 years of service to age 60; reducing the vesting period in the system from 10 years to 5; and improving the benefits paid to widows and widowers.

All of these improved benefits are desirable reforms, and they can be achieved without compromising the solvency of the system, which the Railroad Retirement Board's actuary has projected out to 75 years under this legislation.

Because this legislation is the right solution at the right time, it has received overwhelming bipartisan support in both Houses of Congress.

Last year, when the bill was first introduced, it was approved on the floor of the House by a vote of 391–25, and had the support of 80 Members in the Senate. However, after it was reported favorably by the Finance Committee, it never made it to the Senate floor.

After its reintroduction in the current Congress, the bill has again been approved by a landslide on the floor of the House, and now awaits action here in the Senate, where it has enjoyed the support of 74 cosponsors.

I urge your continued support of this legislation, and speedy passage of the reform that railroad workers and their families throughout this country so badly deserve.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. JOHNSON). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. THOMAS. 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. THOMAS. Mr. President, I ask unanimous consent to speak in morning business for 10 minutes.

The PRESIDING OFFICER. The Senator is recognized for 10 minutes.

THE SENATE AGENDA

Mr. THOMAS. Mr. President, we are hopefully working down to the end of this session. We have completed most of those things that we need to do. We need now to focus on those remaining items that I think are imperative for us to complete. Obviously, there are lots of things that could be done. The fact is, we have spent an extraordinary amount of money. We are going to exceed our budget with the budget activities and, of course, about $50 billion in addition to that. I agree that it should indeed be spent for those things. We are in an emergency situation with the terrorists. We are in an emergency situation with the economy.

The two things I believe we have to do are, No. 1, finish our appropriations. We are moving along. The House passed one of the most difficult bills yesterday. We will now undertake to do Defense appropriations. There are about four more with which we need to deal.

Then we need to finish a stimulus package. The President has called upon the Senate to pass a responsible economic stimulus bill.

It is difficult to identify what will have a short-term impact on the economy. Our economy is much lower than we would like. Indeed, as has been said, we are in a recession. But we need to do something that will have some impact.

The President has suggested a package that would extend unemployment benefits for 13 weeks for Americans who lost their jobs as a result of the terrorist attacks; making $11 billion available to low-income people to obtain health insurance in a manner such that the system would not become mandatory in the future; $3 billion in special energy emergency grants to help displaced workers. That has to do with health care coverage.

Then, of course, the other portion has to do with helping create jobs, which, after all, is really the result we would like. We would like to help people without jobs. Most importantly, we provide encouragement to companies and corporations by accelerating depreciation so they will invest in new material; partial expensing to encourage the purchasing of new equipment; and also have payments for low-income workers and get the money in their hands so we can see increased purchasing.

Those are things on which I hope we focus. I know we are talking about agriculture. We are talking about railroad retirement. They need to be completed. But there is a question of whether they need to be completed now with this emergency. We really need to evaluate the money. We have already made available $12 billion in new spending for many of the things we talked about. The President and the administration determine where it will go.

I am hopeful that we can focus in the relatively short time we have left. I am pleased that we seem to be making progress in terms of the economic stimulus. The bill that came out of the committee was not a bipartisan bill. We did not work on it from both sides. Now we have a House bill that is somewhat different. We have a Democratic bill that is somewhat different. The President's bill is somewhat different. Of course, we need to find a reasonable agreement among those groups to come up with something that works. I certainly encourage that we do that.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. HELMS. Mr. President, I ask unanimous consent that it be in order for me to make my remarks while seated at my desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. I thank the Chair.

THE NORTH SHORE ROAD MUST BE COMPLETED

Mr. HELMS. Mr. President, for some time I have felt inclined to discuss in the Senate a matter for the RECORD and of importance to the people living in the far western counties of North Carolina and in the beautiful mountains adjacent to the Tennessee border.

The matter involved is the federal government's finally fulfilling after a fashion a commitment made in 1943 in writing by the U.S. Government to the citizens of Swain County. The federal government proposed to build a road along the north shore of Fontana Lake which was created in World War II to provide power to the TVA. This written commitment was made to citizens who voluntarily gave up their homes to support the U.S.'s World War II defense efforts.

The federal government has not yet fulfilled its commitment, and that has caused a great deal of resentment and mistrust of the government among the citizens of Swain County and other surrounding counties on the North Carolina side of the Great Smoky Mountains National Park.

These citizens understandably believe that the federal government should now live up to its written commitment made during World War II because these people gave up their homes in order that Fontana Lake could be built so that power could be generated by TVA.

But, there has been a curious development. A small group of citizens in Swain County now proposes to ask that the federal government buy them out, thereby voiding that federal government commitment made in 1943. They presented the proposal that they be bought out to the Swain County Commissioners, and, praise the Lord, the commissioners rejected this suggestion.

So as a result of the $16 million appropriation in the fiscal year 2001 Department of Transportation and Related Agencies Appropriations Bill, this project has at long last begun to move. The National Park Service and the Federal Highway Administration have restarted this process to complete that road as promised, in writing, in 1943 to the citizens of Swain County and western North Carolina.

Mr. President, I have a letter in hand, along with the text of the resolution adopted by the Swain County Commissioners which expresses their thanks for the $16 million that provided for continued road construction and improvements that were included in the fiscal year 2001 Transportation and Related Agencies Appropriations Bill.

The commissioners of Swain County want that road completed. The people of Swain County want that road completed.

Mr. President, I ask unanimous consent that the aforementioned letter and resolution be printed in the RECORD, following which I shall resume my remarks.

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

NOVEMBER 9, 2001.

JESSE HELMS,
Dirksen Senate Building,
Washington, DC.

SENATOR JESSE HELMS: I again take this opportunity to thank you for the continued support you have showed for projects in Swain County.

Attached is a statement, which you should have received earlier, thanking you for the work you have done on behalf of Swain County and the North Shore Road.

Sincerely Yours,

JIM DOUTHIT,
Chairman, Swain County Commissioners.

SWAIN COUNTY BOARD OF COMMISSIONERS

STATEMENT REGARDING THE APPROPRIATION OF $16M FOR CONSTRUCTION OF AND IMPROVEMENTS TO THE NORTH SHORE ROAD

The Swain County Board of Commissioners would like to thank Senator Jesse Helms, Congressman Charles Taylor, and President Bill Clinton for making available from the Highway Trust Fund for Swain County 16 million dollars for construction of and improvements to the North Shore Road in Swain County North Carolina.

With the completion of this road, the federal government will have fulfilled their contract with Swain County known as the 1943 Agreement, then trust can be restored between Swain County and the federal government. We feel this appropriation will go a long way in helping Swain County.

Mr. HELMS. Mr. President, roads in national parks are vital pieces of economic infrastructure that fuel the engines of economic growth. In fact, the National Park Service itself recognizes as much on its Web site. Let me quote: ''Recreation travel accounts for 20 percent of travel in the United States. Park roads are a vital part of America's transportation network, providing economic opportunity and growth in rural regions of the country. In addition to the park access, motor tourism has created viable gateway communities en route. In some areas entire economies are based on park road access. Examples include communities near Yellowstone, Glacier, and Great Smoky Mountains National Parks, and the Blue Ridge Parkway.''

Why on Earth, then, are these economic benefits denied to the people living in the counties on the North Carolina side of the Great Smoky Mountains National Park? I will tell you why. The Department of the Interior and the National Park Service have been held hostage by self-proclaimed environmentalists and their sympathizers in the Interior Department who are horrified, obviously, by their pretended apprehension that environmental Armageddon will somehow result from the construction of a simple ''two-lane dustless road,'' as specifically called for in the 1943 agreement, signed by the Federal Government.

Mind you, this would be a Blue Ridge Parkway-type road allowing for greater access on the North Carolina side of the park just as long ago occurred on the State of Tennessee side a few miles west.

Additionally, according to the National Park Service statistics, there are 5,000 miles of paved roads and 3,000 miles of unpaved roads in the National Park System of this country. My question is, can anybody seriously suggest that 30 more miles will cause an environmental Armageddon? The thought is laughable. Of course not. But that is the ringing cry of these professional environmentalists.

In fact, the Federal Government began building the road back in 1963, and did build 2½ miles of it. In 1965, they built another 2.1 miles. Then in 1969, they built an additional mile, plus a 1,200-foot-long tunnel.

That was when, Mr. President, the self-appointed environmentalists created an uproar and forbade the Federal Government from going further, which has caused, by the way, economic problems for the four North Carolina counties surrounding the park that I am talking about.

Road engineering has improved enormously since that most recent section was built in 1969. Many more improved methods are now available to address the concerns thrown up by these self-appointed environmental opponents of progress.

Let me make it clear, I have no problem with our Tennessee neighbors who are ably represented by Senators FRIST and THOMPSON, but I am obliged, as a Senator from North Carolina, to emphasize some meaningful and relevant statistics of the National Park Service.

In the 2000 report, which has the most recent statistics available, the Park Service stated that 4,477,357 visitors came to the North Carolina side of the park, while 5,698,455 visitors came to the Tennessee side of the park. Of course, for anybody who wants to figure it out, it is a difference of 1,221,098 visitors.

Additionally, according to the latest available retail sales per capita figures from the U.S. Census Bureau, the four Tennessee counties surrounding the park have averaged $9,431.25, but the average for the four North Carolina counties that need that road for more tourists to come there have averaged $7,964.00, a difference of $1,467.25, if you want to get down to the penny.

The North Carolina State average is $9,740.00 per capita, and the Tennessee State average is $9,448.00 per capita. The four Tennessee counties surrounding the park averaged just $16.75 under the Tennessee State average. The four North Carolina counties, on the other hand—the four counties of which we are talking about in terms of building this road along the north shore of Fontana Lake—come in $1,776.00 under the North Carolina average.

Now then, these figures are among countless indications of the inequities between the North Carolina side and the Tennessee side of the Great Smoky Mountains National Park.

Let me assure the Administration of this: I have met with the distinguished Director of the National Park Service, Fran Mianella and she is a very pleasant lady—to let her know that this is a significant issue with citizens of western North Carolina who have been neglected.

I am hopeful she and Secretary Norton will give this matter their highest priorities and will continue to move this project well away from those who have for too long been holding it hostage.

I will continue my opposition to a Federal buyout of the Federal Government's commitment in 1943 to the citizens of Swain County and western North Carolina. I commend the commissioners of Swain County for standing flatfooted against it as well.

Mr. President, I thank the Chair and yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DORGAN. Mr. President, I ask unanimous consent to speak in morning business for 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

GINA'S LAW

Mr. DORGAN. Mr. President, I have today written a letter to the Attorney General and to the head of the Office of Management and Budget expressing my great concern over regulations that should now have been in place as a result of a law that was signed by the President last December. That law would have required regulations to be published by the Justice Department in July. No such regulations have been published.

Here is the background of this issue. I, along with my colleague, then-Senator John Ashcroft, authored legislation that became law, when signed by the President, dealing with the transportation of violent criminals around this country. Private companies have been contracted by State and local governments to transport prisoners around America from one prison and one location to another.

These private companies were transporting violent criminals, and all too often those criminals were walking away. We decided the companies that were hauling violent offenders were not adhering to standards or regulations and there should be some regulations. The President signed a bill, authored by myself and then-Senator Ashcroft,

establishing regulations with respect to private companies that are transporting violent prisoners.

The law is called Gina's bill. It is named for an 11-year-old girl in Fargo, ND, who was murdered brutally by a man named Kyle Bell. Kyle Bell was being sent to a prison in Oregon after being convicted of first-degree murder, being transported by a private company in a bus. They stopped for gas. One guard was asleep; the other apparently went in to get a cheeseburger. The other guard was filling the bus with gasoline. Kyle Bell slipped out the top vent of the bus, walked in street clothes into a parking lot of a shopping center and was gone for 3 months. They found him. He is now in prison.

This has happened all too often: Violent offenders, including convicted murders, walking away from private companies that are transporting them. There should have been regulations in place in July of this year that establish how these private companies are transporting violent criminals. As for me, I don't believe any State or local government should ever contract with a private company to turn over a murderer to be transported somewhere. Law enforcement officials ought to transport convicted murderers.

As long as some State and local governments are using private companies for that transport, those private companies ought to be subject to regulation as is required by the law signed by the President in December, regulations such as what kind of restraints are used, what color clothing is required to be worn by the violent offender being transported, the training of the guards, and so forth.

Since July, when the regulation should have been in effect, in Wisconsin a private company was hauling a violent criminal and that violent criminal escaped and stabbed a law enforcement officer in the neck. Down South, a private company was transporting a violent offender. The violent offender escaped and went on a bank robbing spree.

When we passed the law, I told the story of a retired sheriff and his wife showing up at a prison to pick up five convicted murderers with a minivan. The warden said: You have to be kidding; you and your wife are here to pick up five convicted murderers to transport them?

He was not kidding. They put them in the minivan. Those five convicted murderers escaped, of course. That is why we wrote the law and why the President signed it. That is why in July the Justice Department had a responsibility to put the regulations in place. To date, nearly 5 months later, those regulations do not exist.

I have written to the Attorney General and the Office of Management and Budget to say lives are at stake. The public safety is at stake. Get this done and get it done now.

This law, called Gina's bill, named after this wonderful 11-year-old girl who was brutally murdered by Kyle Bell, is a law designed to keep violent offenders behind bars, keep them in the arms of law enforcement officials, and make certain if they are transported by those other than law enforcement officials, they are transported safely.

I don't want any American family to drive to a gas pump somewhere and have a minivan drive up next to them with a retired law enforcement officer and his brother-in-law calling themselves a transport company hauling three murderers in the back seat and not having the basic safety standards in place to make sure that transportation is safe. I don't want any family to come up to a gas station and have that situation next to them and put them at risk. That is why we wrote this bill. That is why the President signed it into law.

I hope my letter to the Attorney General and the Office of Management and Budget will stimulate them to do what they should have done in the month of July. I know there are reasons that bureaucracies act in a slow way and drag their feet from time to time. There is no good reason for this to have happened. I ask the Attorney General for his cooperation. I ask the head of the Office of Management and Budget to cooperate. Get this done. The Congress required you to do it after 180 days. That was July. This is December. It should have been done 5 months ago.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DASCHLE. 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. DASCHLE. Mr. President, I ask unanimous consent that the recess be postponed for 10 minutes, and that the Senate stand in recess following my remarks.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

ELECTION REFORM

Mr. DASCHLE. Mr. President, I wanted to come to the floor for a moment because I feel the need to talk about a lot of unfinished business, as we consider what remains for the balance of the time we have here. We will be going into our caucus shortly.

This morning, prior to the opening of our session, I held my daily news conference and made mention of the fact that among those issues that are of greatest importance to us is the issue of election reform. I don't know of another bill that is pending in this Congress that has the unanimous support of our caucus. It is rare that one ever sees all of the members of our Caucus—51 in this case—as cosponsors of a bill. But election reform has that distinction. All 51 of our caucus members have endorsed the bill introduced by Senator DODD earlier this year.

The reason that they have endorsed that bill unanimously is because of the extraordinary degree of concern that exists within our caucus about the need for election reform as quickly as possible. Because of the tragedy of September 11, and the crisis of being at war, we haven't had the opportunity to focus on the many, many problems associated with the last presidential election—not just in Florida, but across the country.

The studies and the reports that have been issued have made the problems quite clear: outdated and unreliable technology, confusing ballots, language barriers, lack of voter education, lack of poll worker training, and inaccurate voting lists that prevented legitimately registered voters from casting ballots. All of those concerns were of such gravity and magnitude that 6 million voters across the country were disenfranchised.

So it probably should not surprise anybody that almost immediately following the beginning of this session of Congress, Senator DODD went to work as chairman of the Rules Committee. He worked with Members on both sides of the aisle in both the House and the Senate to try to respond to the growing awareness of how serious the situation really is: how problematic, how incredibly unfair, how undemocratic were the results reflected in the degree of difficulty with our election processes—while we should proclaim our democracy with each and every election. So as a result of just a tremendous amount of work, Senator DODD and members of the Rules Committee produced a bill that, as I said, generated 51 cosponsors.

I simply wanted to come to the floor this afternoon to say this: If between now and the end of this session, Senator DODD is able to reach an agreement with our Republican colleagues on a bill that we can bring to the floor to address all of these issues, these serious concerns, it is my intention to bring it to the floor. If somehow that is not possible and the negotiations continue, and we are able to reach an agreement prior to the next session of Congress, one of the very first pieces of legislation I expect to bring up will be election reform. If at any time during the coming year that agreement can be reached, my intention will be to bring the agreement to the Senate floor very quickly. But I will say this: Even absent an agreement, we will come to the floor and we will have a debate about election reform. We will make a comprehensive proposal to deal with this issue. We have no choice. It will be part of the agenda of the second session of the 107th Congress.

I simply wanted to come to the floor to emphasize that and relate my concern, and the concern of a lot of members of our caucus, about the importance of this issue, and reiterate our

determination to deal with it in this Congress. We cannot simply sit idly by and watch 6 million people—maybe more next time—as they are disenfranchised when they attempt to exercise their constitutional right to vote and participate in our political process.

I appreciate the attention of my colleagues on this issue, and I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. DODD. Mr. President, first of all, I appreciate the comments of the distinguished majority leader on this issue. From the very beginning, he has been a very strong and vocal advocate of this body and the Congress of the United States in fashioning a piece of legislation that would address not just the events of last year. As the majority leader properly points out, this was not a one-time event in one jurisdiction. In the consistent reports, whether by MIT, CalTech, or the General Accounting Office, and surveys done by the media, that analyzed the election last year in Florida, all of these organizations that analyzed it, including the Carter Commission, the story has ultimately been about who wins or loses. That has been the headline.

The real story is about the pathetic and tragic situation of our electoral system of this country. It didn't happen in one event and in one State. It is in all 50 States—some worse than others—and has been going on for years.

So those of us who have been involved in this issue over the last several months, my colleague from New York, Senator SCHUMER, my colleague from New Jersey, Senator TORRICELLI, members of the Rules Committee, have been stalwarts in this effort going back to the earliest days in January, cosponsoring legislation, reaching out, trying to fashion some proposals that would make the Federal Government a true partner with our States and localities in trying to correct a wrong that is in desperate need of being addressed.

Senator MCCONNELL of Kentucky is the ranking member of the Rules Committee, as the majority leader knows. He has a deep interest in this subject matter. I want the majority leader to know that Senator MCCONNELL and his staff—Senator KIT BOND of Missouri and his staff—brings a separate set of issues that he is particularly worried about, the issue of fraud. We have been working with Senator SCHUMER's staff, our staff. There have been serious negotiations, I say to the leader, over the last number of weeks, actually going back even further than that, but most intensely in the last few weeks. We have not yet arrived at a product we can present to this body that is a bipartisan proposal.

I will let Senator SCHUMER speak for himself, but it is my fervent desire, I say to the leader and to my friends on the other side—Senator MCCONNELL and Senator BOND, obviously, they do not need me to speak for them, but I know it is their desire as well to fashion legislation of which all of us can be proud.

I know the events of September 11 have obviously taken over the agenda and debate. It is hard to imagine a year ago what we were in the middle of. We were in the middle of one of the worst debacles in terms of a national election in the history of the United States, and it was not just about Florida. It was in almost every jurisdiction. In my State alone, we have not bought a new voting machine in 26 years, and the company that made them no longer exists. We had an election in one of my communities in Connecticut a few weeks ago where the incumbent officeholder did not receive a single vote in his own hometown because the machines did not record them, which shows us we can go anywhere we want and we will find this system is in need of work.

I say to the leader I appreciate immensely his comments. We are pretty close to getting an agreement. I hope we can. I also take to heart what he has said, that we have been patient in trying to work this out. My hope is we can come to the Senate with a bill that involves ideas and thoughts that we can all live with that will address the problems. I also appreciate his comments that if that is not possible we will come to the Senate with a bill to debate this issue and bring people to the table. We cannot go on and not address this issue.

The majority leader has said it far more eloquently than I can. It would be a travesty of significant proportions if this Congress were to convene and adjourn in the wake of what happened in the election of 2000 in this country and not step up to the plate and offer the kind of assistance our jurisdictions so desperately need. For those reasons, I thank the leader for his comments, and I yield to my colleague from New York.

Mr. DASCHLE. Mr. President, we are out of time under the unanimous consent agreement. I ask unanimous consent that we not enter into recess until we have accommodated the remarks of the Senator from New York and the Senator from Idaho.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SCHUMER. Mr. President, I will be very brief because I know we have other business to do. I thank the majority leader, who I know has to get over to the Democratic caucus, for his wonderful leadership on so many issues. This is a man who believes strongly in so many things, including the right to vote. I say to the majority leader, Senator DODD has done a superb job. He has had the patience of Job and the persistence of whatever Biblical character was very persistent.

We are all proud of the job he has done. His leadership in bringing up this issue as soon as we can come up with a compromise, or next year if, God forbid, we cannot, is vital to America.

I wish to add one point, aside from my thanks to the Senator from Connecticut, our chairman of the Rules Committee, for doing such a great job on this. I have been proud to be working with him. My point is this: He made an excellent point, that we almost have forgotten about, the wrenching agony we all went through, whatever party, a year ago last November. There is one point that, if anything, September 11 should increase our ardor and our fervor to bring forward a good bill, hopefully a bipartisan bill. The terrorists hate our right to vote. They want a group of religious leaders controlling everything and not letting people make any determination.

The beauty of America is we can vote, and our job as Senators, our job as citizens, is to perfect that right so nothing stands in the way. Unfortunately, too much stands in the way. Usually not by design but, rather, because we have not paid attention. Malfeasance, we are going to correct that.

The Senator from Connecticut has taken on a great leadership role and brought together Senator MCCONNELL and Senator BOND and myself in hours and hours of painstaking meetings. We talked today. We are willing to move in the direction necessary to get a bill. It is heartening to know we will be voting and debating on this issue in this Congress, if not this year, no matter what happens. I just pledge myself to the Senator from Connecticut to follow his leadership to continue those efforts because the issue of the right to vote, the ability to vote, the enfranchisement of all Americans, no matter how rich, poor, or of whatever race, there is no higher duty.

Mr. DODD. Mr. President, I thank our colleague for his remarks. I note again our staffs are working. I want these remarks to be seen as constructive and positive. We appreciate immensely the work being conducted by my friend from Kentucky and my friend from Missouri and their staffs who have spent a lot of time on this issue. It has not gone smoothly. It has had its ups and downs. It has been a roller coaster ride. I hope when the process is over, sooner rather than later, we will present the Senate a bill for which they can be proud.

The PRESIDING OFFICER. The Senator from Idaho.

CHRISTMAS EVE IN THE SENATE

Mr. CRAIG. Senator BOND and Senator MCCONNELL are not in the Chamber. I know their work with the Senator from Connecticut is dedicated to the end we all want to see in reform because there is an obsolescence to the voting system that has to be addressed. I think that is without question. I guess my only frustration by the majority leader's comments was earlier this week he talked about bringing a farm bill to the Senate. We now have a railroad retirement bill. We still have appropriations to do, and several conference reports coming out of that, and we hope yet a stimulus package now

that we know America truly is in a recession. We have known that for some time, but it is now officially proclaimed.

Not in any way to lessen the importance of a debate over election reform, and that is important, I cannot yet quite understand how we get all of this done in time to get out for Christmas.

Before the Thanksgiving recess, I had offered Senator BOXER of California an opportunity to join with me—she from the Democratic side, I from the Republican side—to organize Christmas caroling for the Senate so we could join together in unity, as we have for the last several weeks, and sing Christmas carols on the eve of Christmas.

I suggest if we are going to do election reform, if we are going to do a stimulus package, if we are going to do a farm bill, and I add an energy bill because I think right now energy is every bit as important to the American consumer as election reform is to the American voter, and let us see what else is on that schedule—oh, yes, I forgot, railroad retirement reform—then it is going to be a merry little Christmas in Washington for all Senators who cannot make it out the night before to their home States. My State is about 2,500 miles further away than the Senator from Connecticut. So I say to Senator DODD, have yourself a very merry little Christmas.

RECESS SUBJECT TO THE CALL OF THE CHAIR

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess subject to the call of the Chair.

There being no objection, the Senate at 4:48 p.m., recessed subject to the call of the Chair and reassembled at 5:30 p.m. when called to order by the Presiding Officer (Mr. REID).

THE SENATE SCHEDULE

Mr. DASCHLE. Mr. President, we have just completed our caucus. I know the Republicans were caucusing. I am not sure whether they have completed or not. I want to report to the Senate about our current circumstances and what the schedule might be for the remainder of the week.

Senator LOTT and I have been discussing the current schedule and our circumstances involving the railroad retirement bill. My hope is that we can move to proceed to the bill sometime within the next hour. If that is the case, it is my intention to file cloture on the bill at some point this evening.

It is also my intention that we seek unanimous consent to vote on cloture on Monday. We will not be in session on Saturday, but we will be on Monday. We will also entertain amendments. It is my understanding that Senator LOTT may be recognized to offer an amendment, and we will have a debate on that amendment tomorrow and on Monday.

My expectation is that there will not be any votes tonight or tomorrow but that we will have votes on Monday at approximately 5 o'clock.

Senator MURRAY reports to me that the Transportation conference report has now been completed, and it is my hope that we can vote on the Transportation conference report perhaps as early as Monday. If not Monday, then on Tuesday. My hope is that if we can achieve cloture on the railroad retirement bill on Monday, we can bring debate on the bill to a close by Wednesday.

It is then my intention, as I have said on several occasions, to make a motion to proceed to the farm bill. That is a must-pass piece of legislation. It is my hope and expectation that we can complete our work on that, maybe even as early as the end of next week.

I also note that we have made the decision over the course of the last few hours, and in consultation with Senator LOTT as well as our caucus, that we will be in session and voting the week of December 10. That has been an open question until now. But we have now made that decision. Our expectation is we will be voting every day the week after next. Senators ought to be on hand and prepared to vote all week. Of course, it may be that we will have to vote and be in session the week after that. But clearly, for the next 2 weeks the Senate will be in session and Senators need to be prepared to be on the floor and voting, to accommodate the remaining schedule we have for the remainder of this session of Congress.

I also presented to the caucus what amounts to an informal agreement on how we will proceed on the economic stimulus bill. I am pleased to report that our caucus has agreed with the proposal that has been presented to me by the Speaker, as we consider how to proceed on the economic stimulus bill. If we can reach a procedural agreement tonight, it is my expectation we can move to substantive negotiations on the economic stimulus bill tomorrow morning. It is my hope we can work on it through the weekend, if that is possible, in order to try to expedite our work on that bill and our efforts to reach some final agreement early next week.

The procedural agreement would call for consideration of the Senate Finance Committee bill, the House-passed economic stimulus bill, and other issues relating to those two bills. We do not exclusively limit our consideration of economic stimulus to those two vehicles. There are a lot of other issues out there.

Senator DURBIN in particular has expressed to the caucus on numerous occasions, and here on the floor, how important it is that we consider a payroll tax holiday. That is an issue I have indicated I am particularly interested in and intrigued with. I don't know whether or not we have the ability to work it into the agreement. I know Senator DOMENICI has expressed an interest in the proposal, and Senator LOTT has noted his support for the proposal.

On our side, I don't think there has been any more ardent a supporter, any more articulate an advocate of the so-called payroll tax holiday than the distinguished senior Senator from Illinois. I applaud him and appreciate his tutorial to the caucus on the issue. He has been able to bring us to a better understanding of how it would work. I must say I am indebted to him for all of his work in advocating that particular issue.

But my point is that that, along with other vehicles, is going to be considered as we debate the issue in the hope that we can bring some resolution to our negotiations sometime early next week.

I see the Senator standing. I am happy to yield to him.

(Ms. STABENOW assumed the Chair.)

Mr. DURBIN. I thank the leader for his kind remarks.

I hope that in the course of this economic recovery or economic stimulus package we can still stick to our principles that what we do will help the economy, help the right people in the economy, and not do any long-term damage to the economy.

I think this proposed Federal payroll tax holiday, month-long holiday, meets the criteria. Frankly, it will go to workers across America who draw a paycheck. They will see it on payday. It will come as quickly as we can pass the bill and enact it into law. That is money that families can use for important purchases at the end of the year. It is money that will go right into the economy and spark some growth and some activity that we really do need. It is also money that is going to go to workers, to those making incomes up to $80,000—$80,400 is the limit on the Federal payroll tax. So that really gives it to working families.

In addition, it is focused to help small businesses because I think forgiving this tax for employers will say to small businesses, we are going to help you meet some of your expenses, whether they are health insurance premiums or security needs, for your business after September 11.

I have spoken to Senator DOMENICI. I thank my friend and the majority leader for his reference. I hope in the course of this conference, putting together the stimulus and recovery package, that this can be included.

Mr. DASCHLE. I thank the Senator from Illinois. His comments make my point. He is not only knowledgeable and articulate on the issue, but he has certainly persisted in ensuring that this piece of legislation be considered along with many others.

Madam President, there are several key areas the Democratic caucus—and it goes to the point raised by the Senator from Illinois—will be advocating.

First and foremost, I want to emphasize again because I feel the need every

time we talk about economic stimulus to ensure that people understand our real priority. Our priority, first and foremost, is to help the 7.5, now almost 8 million workers who are unemployed.

In the last recession, we extended employment benefits four times. We have to consider the fact that those weeks are running out now, for those who are eligible for unemployment assistance, and we have to extend it again this time.

But we also have to understand that 54 percent of those who are unemployed today are not entitled to unemployment benefits, so we have to broaden eligibility. That is certainly going to be a key area for us as we attempt to negotiate some successful solution.

I would say as well that none of them can afford health benefits.

When you are given a few hundred dollars a month in unemployment, it is almost impossible—after you have paid the rent, after you have paid for the groceries and the heating bills and other necessities of the family—to buy health insurance. We have to assist these unemployed workers to pay for their health care during the time they are unemployed as well. That would be a priority for us.

We also will try to ensure that the issue of rebates is addressed for those who pay a lot of payroll tax but were not entitled to an income-tax rebate last year. That ought to be on the table, and we will be talking about that.

Business tax relief is also something we care a lot about. The expensing for small business is something for which we are going to fight.

We are also going to try to assure additional depreciation for all businesses. The high-tech community said that is one of the most important issues for them. That will be a priority for us.

We have a number of very key issues we hope to present to our House colleagues. But I also remind all of my colleagues that whatever we do on the finance side—whatever we do on the revenue side—is only half of our interest. There is an economic stimulus involved here. It is our interest to pass homeland security as well—Senator BYRD and I have been meeting all day long—as we consider the Byrd amendment to ensure that homeland security is part of economic stimulus as we take up the Defense appropriations bill early next week.

Just as soon as that bill comes over to the Senate, we will take it up in committee. Senator BYRD will be offering his amendment on homeland security. It is my hope we can get a bipartisan vote on that as well.

Nothing will stimulate this economy faster than raising people's confidence about their own security. Nothing will help them more in that regard than if we increase law enforcement assistance and provide ways in which to ensure, on bioterrorism and all the other potential possibilities for attacks to our national security, we are more prepared than we are today.

That, too, is economic stimulus. That, too, is part of our plan. But that will be running on a separate track. I want to emphasize how critical we think that piece is, and how important it is to our long-term resolution. They have to go hand in glove. They are going to run in tandem. We are going to be taking both of these sequentially, and both are important to us.

I make that point, as we have made it before on the Senate floor.

I appreciate very much the interest of all Senators.

Mr. DORGAN. Mr. President, will the majority leader yield for a question?

Mr. DASCHLE. Yes. I yield the floor.

Mr. DORGAN. Mr. President, I would like to ask the majority leader if he would entertain a question. I would like to inquire further of the majority leader on this subject of the farm bill. I know it was the stated intent of the majority leader to attempt to offer a motion to proceed to the farm bill this week, perhaps midweek, late in the week, yesterday, or today. I know that was thwarted by the filibuster on the motion to proceed to the bill that the Senate was prepared to debate. The majority leader was unable to make the motion to proceed to the farm bill. The filibuster we have had and cloture vote that was required now puts us into next week.

The majority leader indicated it is still his intention to file a cloture motion to proceed following the disposition of the bill that is on the floor.

Is that correct?

Mr. DASCHLE. Mr. President, the Senator is absolutely correct. I have noted on several occasions my intention to move to the farm bill just as soon as we complete our work on the railroad retirement bill. It can be next Monday or Tuesday. It can be whenever we finish. But we will move to that bill next. We have to move to it.

These are must-pass pieces of legislation that have to be done. We can take them in any order. But it is my intention to follow through with the order that I have already announced, which is to complete our work on the farm bill next.

We will have the Defense appropriations bill, the stimulus bill, and the terrorist insurance bill. All of those have to be addressed.

But as I noted—I see the chairman of the Agriculture Committee in the Chamber—the farm bill will be the next bill after the railroad retirement bill.

Mr. DORGAN. Mr. President, if the Senator will yield for just another moment, that is a reassuring answer. I know how strongly the majority leader feels about the need to write a farm bill.

I observe that the House of Representatives has passed a farm bill. We have now passed one out of the committee under the leadership of Senator HARKIN. We need to get it to the floor of the Senate and then to conference.

The goal here is to get a bill on the President's desk for signature. This is about family farmers hanging on by their financial fingertips and struggling to survive. It is our obligation to get this done.

I know it is not the fault of the majority leader. It was his full intention to bring that to the floor. It would have been on the floor today had we not faced the filibuster.

I wanted to, once again, ask. And I received the answer that I expected I would. The majority leader is a strong advocate of family farms and the need for a better farm program. I am deeply reassured by that answer. I look forward to being here with the majority leader and with the chairman of the Agriculture Committee fighting hard for a farm bill that will give family farmers in this country a decent chance to survive.

I thank the majority leader for his answers.

Mr. DASCHLE. Mr. President, the Senator from North Dakota and I have been through a lot of legislative battles over the years on rural issues. As he has noted, nothing is more important to rural America than passage of this bill to allow us to go to conference first and to allow us to resolve the outstanding issues that remain between the House and the Senate membership on farm policy so we can get the bill to the President in time to provide all the assurance and confidence we can to farmers and ranchers all over this country. We understand their economic plight.

I note, as the Senator from North Dakota has on several occasions, that last month—the month of October—we saw the single biggest 1-month depression in prices that we have seen in all the time the Department of Agriculture has been keeping records. We have never seen the prices plummet as dramatically in 1 month as we saw them plummet last month.

If there is no other reason to move forward on farm legislation than that, it would be enough.

I am hopeful that people understand the urgency of the issue—the urgency of the issue of completing our work on the bill in time to go to conference, resolve our differences, and enact it into the law.

Mr. REID. Mr. President, will the Senator yield?

Mr. DASCHLE. I am happy to yield.

Mr. REID. Mr. President, I congratulate the majority leader for defining our schedule. It makes our lives more definite. I think we have the schedule outlined. As I heard the majority leader say, we are going to be in session starting Monday with votes, perhaps over the next weekend, and the next weekend until we finish.

Regarding the Agriculture bill—the farm bill—I think the Senator from Iowa has done an outstanding job not only in the product that came out of the committee but his willingness to take on issues that are so important. Everybody in America is affected by this farm bill. The conservation provisions in this bill are the best we have ever had, and they are getting better.

I think this farm bill is so important because of the problems the Dakotas, Nebraska, and Iowa have. The farm bill is so important. This bill affects the whole country. It is not just a farm bill.

I also say to the majority leader that I was given a statement by Senators as I walked into this Chamber indicating that Alamo and National car rental companies have filed for bankruptcy. This is really astounding. These two large rental car companies filed for bankruptcy.

I have had a number of conversations and meetings with the distinguished majority leader about companies and individuals who depend on tourism. For 30 States in the United States, their No. 1, No. 2, or No. 3 most important economic force is tourism.

I know the majority leader has stated publicly—and I appreciate it very much—that one of the items we are going to be looking at in an economic stimulus package is how the tourism industry can be helped. It is in such desperate shape—helping rental car companies and other entities that so depend on tourism.

I am very happy that there has been a framework developed. We can move forward. This is not inventing the wheel. In fact, we have done this before on very important issues since September 11. It will go down in history as remarkably good legislation. We have done it on four occasions. We did it with the appropriations for New York City, plus the $20 billion for added defense for the country. We did it with airport security and antiterrorism. There is one other that I can't remember.

That sets the framework for doing some good work on the stimulus package.

I hope the leader will do something about this. I believe we will be very successful in working it out.

Mr. DASCHLE. Mr. President, I thank the distinguished assistant Democratic leader for his comments. He is absolutely right. The tourism industry has been very hard hit. This is yet another indication of the difficult time they are having. I wasn't aware that these two companies declared bankruptcy. But it certainly illustrates yet another instance of just how difficult a time many of these companies are experiencing.

So I appreciate his comment and especially appreciate so much his sensitivity to the agricultural situation. He noted he does not have a lot of farmers, but he has been extremely supportive and understanding about the farm situation. I appreciate that very much.

Madam President, I yield the floor.

Mr. REID. I say to the majority leader, we don't have a lot of farmers; we have a lot of people who eat the food.

The PRESIDING OFFICER. The majority leader.

COMPREHENSIVE RETIREMENT SECURITY AND PENSION REFORM ACT OF 2001

Mr. DASCHLE. Madam President, I move to proceed to the railroad retirement bill.

The PRESIDING OFFICER. The Republican leader.

Mr. LOTT. Madam President, if the Senator will yield, I believe we have no further requests for time on the motion to proceed. We are ready to vote.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the motion to proceed.

The motion was agreed to.

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.

The PRESIDING OFFICER. The clerk will report the bill.

The legislative clerk read as follows:

A bill (H.R. 10) to provide for pension reform, and for other purposes.

The Senate proceeded to consider the bill.

Mr. DASCHLE. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LOTT. Madam President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. Madam President, I ask for the yeas and nays on the pending substitute amendment.

The PRESIDING OFFICER. There is no pending substitute. There is no pending amendment.

AMENDMENT NO. 2170

(Purpose: To modernize the financing of the railroad retirement system and to provide enhanced benefits to employees and beneficiaries.)

Mr. DASCHLE. Madam President, I have an amendment at the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from South Dakota [Mr. DASCHLE], for Mr. HATCH, for himself and Mr. BAUCUS, proposes an amendment numbered 2170.

Mr. DASCHLE. Madam President, I ask unanimous consent reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in the RECORD under ''Amendments Submitted.'')

Mr. LOTT. Madam President, I now ask for the yeas and nays on the pending substitute amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 2171 TO AMENDMENT NO. 2170

(Purpose: To enhance energy conservation, research and development, and to provide for security and diversity in the energy supply for the American people, and for other purposes)

Mr. LOTT. Madam President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Mississippi (Mr. LOTT), for himself, Mr. MURKOWSKI, and Mr. BROWNBACK, proposes an amendment numbered 2171 to amendment No. 2170.

Mr. LOTT. Madam President, I ask unanimous consent reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in the RECORD under ''Amendments Submitted.'')

Mr. DASCHLE. Madam President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. LOTT. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LOTT. Madam President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CLOTURE MOTION

Mr. LOTT. Madam President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the pending Lott amendment:

Trent Lott, Frank Murkowski, Robert Bennett, Phil Gramm, Sam Brownback, Don Nickles, Pat Roberts, Mike Crapo, Larry Craig, Jon Kyl, Chuck Grassley, Pete Domenici, Mitch McConnell, Judd Gregg, Conrad Burns, Craig Thomas.

The PRESIDING OFFICER. The majority leader.

CLOTURE MOTION

Mr. DASCHLE. Madam President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on the Daschle for Hatch and Baucus substitute amendment

No. 2170 for Calendar No. 69, H.R. 10, an act to provide for pension reform and for other purposes:

Paul Wellstone, Richard Durbin, Byron Dorgan, Harry Reid, Jon Corzine, Hillary Clinton, Blanche Lincoln, Jack Reed, Jean Carnahan, Mark Dayton, Carl Levin, Tim Johnson, Bill Nelson, Charles Schumer, Ron Wyden, Debbie Stabenow, Barbara Mikulski, and Tom Daschle.

Mr. DASCHLE. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DASCHLE. Madam President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CLOTURE MOTION

Mr. DASCHLE. Madam President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close the debate on Calendar No. 69, H.R. 10, an act to provide for pension reform and for other purposes.

Paul Wellstone, Richard J. Durbin, Byron L. Dorgan, Harry Reid, Jon Corzine, Hillary Clinton, Blanche L. Lincoln, Jack Reed, Tom Carper, Tim Johnson, Daniel Inouye, Christopher Dodd, Ron Wyden, Jeff Bingaman, Joseph Lieberman, John Breaux, Paul Sarbanes.

Mr. DASCHLE. Madam President, just for explanation to all Senators, we have now moved to proceed to the railroad retirement bill. The distinguished Republican leader has offered an amendment for which there will be a cloture vote at 5 o'clock on Monday. Following that vote on cloture, there will be a vote on cloture on the bill at approximately 5:30 on Monday as well. So under the current arrangement, there will be two votes on Monday at about 5 o'clock.

There will be, hopefully, a very good debate tomorrow on the Lott amendment. There can be debate tonight on the amendment or on the bill. But I hope Senators will use the time that is now allotted for the debate to express themselves and to participate in whatever debate may be required. But those cloture votes will occur at 5 o'clock. And there will be no other votes until that time.

The PRESIDING OFFICER. The Republican leader.

Mr. LOTT. Madam President, if the distinguished majority leader will yield to respond to an inquiry, I thought also we would have a vote on the Transportation appropriations conference report at some point in the sequence on Monday.

Mr. DASCHLE. That is correct. The Senator is right. I appreciate his reminding me. If the Senate has been presented with the papers on the Transportation conference report by Monday, it is our intention to have a vote on the Transportation conference report as well.

I am told the House is planning to act tomorrow. I know there has been a little bit of a debate. I don't know if that has been resolved. But if the papers arrive, it is our intent—and I had announced it earlier—to bring up the conference report on Transportation as well.

I yield the floor.

The PRESIDING OFFICER. The Republican leader.

Mr. LOTT. Madam President, if I could be heard with regard to the situation as it now exists for my colleagues on both sides of the aisle actually, what has transpired over the past few minutes procedurally is that Senator DASCHLE has offered the railroad retirement substitute to a House bill.

That had to be done to get us on the railroad retirement subject itself. Then, as is in order, I offered an amendment to the substitute. So that will be the issue that can be debated, along with the railroad retirement bill, if Senators so desire.

Let me talk about the content of the amendment that was filed on my behalf as well as Senator MURKOWSKI and Senator BROWNBACK and others.

Regardless of the merits of the railroad retirement bill, I had hoped that the Senate would stay focused on appropriations conference reports, the defense appropriations bill, and the stimulus package that would create economic growth and jobs creation in this country. I am pleased that now an effort is under way to get a conference negotiation going on the stimulus package. That movement yesterday afternoon affected the decision that was made earlier today not to fight the motion to proceed on the railroad retirement bill.

My question is, why we are moving to bills that are not an emergency, not related to appropriations and the stimulus package or even the reinsurance issue? It seems to me we should focus on those urgent and emergency issues that need to be addressed as a result of the events of September 11 and since then, before we go out for the holiday season, for the Christmas period.

That has not been the case. Now we are on the railroad retirement issue. There are other issues we believe urgent and need to be addressed and should be addressed. That is why this amendment is the Murkowski energy bill, basically H.R. 4, the House-passed bill, that we believe and have been believing since June needed to be brought up in the Senate. We need a national energy policy. That needs to be broad-based. It needs to address the need for additional production of oil and natural gas. Clean coal technology needs to be moved forward, the use of nuclear power, alternative fuels, transmission line problems, as well as conservation, which is a very important part of this package.

We see right now circumstances that really bother me. We are dependent on OPEC oil, Russian oil, and Iraqi oil, approaching now well over 50 percent of our energy needs. It is imported oil, and that is extremely dangerous. Just last week we saw where the OPEC countries were lobbying others, including Russia, to cut their production so that the prices could be driven back up. Unbelievably, or perhaps gratefully, we see that the Russians resisted that and said, no, we are going to continue with our production.

Apparently now they have come to some sort of agreement and I guess there will be some reduced production and prices will go up some. But we are on a yo-yo. This past June and the June before that, we saw prices shoot up on gasoline inexplicably and probably unjustifiably in some instances. So we don't have a national energy policy. We were told we would do it later. Then there were the September events and October had other things we were working on. Now we are told we will get to it in January or February.

Every day we lose puts us at risk one more day. We should have a full debate about a national energy policy. We are going to have it. This amendment is offered to the underlying bill because this is an issue that needs to be voted on by the Senate. We are going to see who believes energy is something we need to do or whether there is a potential threat there.

This is not only a national security issue; it is an economic issue. If you want to help the railroads with some of their problems, let's have a reliable energy policy. Let's reduce the cost of what they take to run the industry if you want to help farmers in America. Let's deal with the cost of the energy they need all the way from producing ammonia to diesel. So this is an economic issue.

Remember this: If the OPEC countries decided to cut us off, we would be on our knees economically in less than 30 days. America doesn't depend on anybody else in the world for anything else for our existence but energy. We can not have that. The simple solution, is to have the debate. Let's have the vote.

By the way, this doesn't displace the railroad retirement bill. It would be added to it, and so we would have an opportunity to pass a railroad retirement bill, presumably one that might be amended substantively as we go forward, with an energy package.

The second part of the amendment I offered also puts a 6-month moratorium on cloning. It doesn't say we won't have it for therapeutic research. It doesn't say what we will do. It says ''time out here.'' We have a lot of serious questions that we need to ask and have answered and think about what we want to do. So it is the energy bill and the 6-month moratorium on cloning. This should make for a good debate. It is long overdue.

In the case of energy, in the case of cloning, if we don't do it now, we won't be able to do anything until February or March, and this issue will march forward with uncertainty and concern. Senator BROWNBACK has been advancing the need for us to take some action to have the moratorium. The House acted months ago, overwhelmingly, in a bipartisan manner. We will have the opportunity to do the same here.

I urge my colleagues to take time tonight and tomorrow and Monday. Let's talk about these two issues. We should not invoke cloture on this amendment. We should have a vote. We should not stop the debate. We should have a vote on the substance itself, and then we could move to the underlying bill and could get it done.

Instead of taking shots at each other, we could actually address three big issues in one swoop. That is why I offered the amendment. It is also to serve notice that if we keep going off track on what we need to do to get out of here, other issues will be brought up.

This is the Senate. Wonderful place that it is, no one person and no one party dictates what we can do. Marvelously, any Senator can offer any amendment on any subject he or she wishes at any time. Lots of times it takes 60 votes, but that is the way it works. Therefore, we will have an opportunity now to have a full debate on energy and on cloning as well as railroad retirement.

I thank the Chair and my colleagues for the opportunity to briefly describe what we are doing. I am sure Senator MURKOWSKI and members of the Energy Committee will be here to describe what is in this energy package. Senator BROWNBACK is waiting to describe the details of his moratorium.

I yield the floor.

The PRESIDING OFFICER. 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 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 (Ms. CANTWELL). Without objection, it is so ordered.

MORNING BUSINESS

Mr. REID. Madam President, I have spoken to the minority leader, and I now ask unanimous consent that we go into a period of morning business. We want to be as lenient as we can. I know the Senator from Alaska wants to speak for an extended period of time. Others also want to speak. Therefore, we will have the 10-minute limitation, with the understanding that people can ask unanimous consent to speak for any period of time they want.

Again, I ask unanimous consent that we proceed to a period of morning business with Senators permitted to speak therein for up to 10 minutes, and we divide the time, even though it appears that maybe there won't be the need to do that. I ask unanimous consent that we——

Ms. LANDRIEU. Reserving the right to object, would this be OK with the leader? I ask if I may have my 10 minutes starting now if it would be OK with the Senator from Alaska.

Mr. REID. If I may reclaim my time, I think we would be better off not having a 10-minute limitation. I ask unanimous consent that we now go into a period for morning business with Senators permitted to speak therein.

The PRESIDING OFFICER. Is there objection?

Mr. MURKOWSKI. Madam President, as Senator LANDRIEU indicated that her children were getting hungry, I suggest the Chair recognize her first.

Mr. REID. Madam President, the request is that we go into a period for morning business with a 10-minute limitation—I will state it again. It is that we go into a period of morning business, that Senator LANDRIEU be recognized for 10 minutes to begin with, and Senators thereafter be limited to 10 minutes, with the understanding that there will be a number of Senators asking for more time.

The PRESIDING OFFICER. Is there objection?

Mr. MURKOWSKI. Madam President, in order to accommodate Senators, let's be more realistic and make it 15 minutes.

Mr. REID. I have no problem with that.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS CONSENT AGREEMENT—H.R. 3090

Mr. DASCHLE. Madam President, I ask unanimous consent that the majority leader may turn to the consideration of H.R. 3090 with the consent of the Republican leader.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

ENERGY SECURITY

Ms. LANDRIEU. Madam President, I know the Senator from Kansas is on the floor to speak on several important issues, and the Senator from Alaska will be addressing the Senate later this evening on the important issue of energy security for our Nation. I agree with so many of the points of the Senator from Alaska, as well as the Senator from Mississippi, who has been taking with us this evening on that subject.

I want to talk about a subject that is actually somewhat related. The subject I want to spend a few minutes on tonight is most certainly related to the issue of energy security for our Nation. It is related to the situation that we find ourselves in, combating this new war against terrorism in many different ways and in ways very different than our past conflicts would have us be engaged. Let me just try to bring this into focus.

We have troops in Afghanistan and, luckily and thankfully, and because we have the best equipped, best led, and bravest and most courageous fighting force in the world, we are making extraordinary progress on our front in Afghanistan. You can see the headlines in all of the newspapers that would attest to the great effort that is being made. But we all know, and we are all learning quickly, that this war on terrorism is something we are going to have to fight on many different fronts. One of those fronts is in our own homeland.

We hated to see what happened on September 11, and we were all heart broken and angry and justifiably angry at the devastation and the horrific attack on our Nation.

As I was saying, we now have to fight this war on many different fronts, not just the front in Afghanistan but the front here at home. We were all terribly horrified and righteously angry. We have to turn that righteous anger into concrete steps to protect ourselves in the future. Many of us in our various capacities and many different committees are about doing that. We are stepping up airport security. We are trying to step up the security of our cyberinfrastructure in the Nation. We are looking at ways to set up medical response teams on health care, our public health system. And all of these efforts, if we do them correctly and come up with good policies and funding streams, will most certainly help to protect our Nation against these attacks that, unfortunately, are going to certainly come. Even if we are successful—and we have been—in cornering bin Laden and taking down the Taliban regime and capturing or destroying that particular cell, it is likely, based on everything that we know—not to alarm people or frighten people, but we know that it is likely that there will be future attacks.

The point of my short presentation today is to simply say that we are not sure where these attacks will be aimed. We never imagined that a group of people, with three of our own airplanes filled with fuel, would take down some of the most important buildings in this Nation. So we have to think: What might the next attack be? What could possibly come at us?

There are so many things that could happen that we have to be smart and strategic about how we spend our resources.

One of the issues that I am going to argue for a few minutes on the floor today is some of the critical infrastructure in our Nation—some of it is rail, some transportation issues, such as highways and tunnels, some of it is critical infrastructure protecting our nuclear powerplants, our electric grid, our cyberinfrastructure that we now rely on to run so much of our communications, transportation, health care

systems, et cetera. We can't do all of it at once, but we can most certainly begin taking some steps.

I think we need to identify where we can—whether we do it in the supplemental bill or in the energy bill, or whether we do it in the stimulus package—some projects that are worth giving some attention to in the event that there would be some effort to cut our resources. One of those resources is energy.

Let me be very clear. In Louisiana, there are many critical highways, as there are in many States. There is a highway that is of critical importance not just to our State but to the whole Nation. It doesn't look like much because it is a small highway. Right now, it is a two-lane highway. I will show you a picture of it in a moment. It is Louisiana 1. I think it is called LA–1. It is rightfully named because it is the one highway in Louisiana, and perhaps in the Nation, that we rely on so heavily for our oil and gas production in this Nation.

Oil and gas production takes place, as you know, primarily off the southern shore of our Nation, off the coast of Texas and Mississippi and Louisiana and Alabama, primarily.

We get 18 percent of our imported oil off of the loop facility, which is right off the coast of Louisiana and down this highway, which I am going to show a picture of in a minute. One can see clearly from this picture there are a thousand trucks a day on this highway on a regular day. This is not a fancy highway. It is a small highway. It runs from Port Fourchon all the way up to the 90 loop. There are a thousand trucks a day that bring pipes, supplies, men, women, equipment, and engineering services to produce oil and gas in the Gulf of Mexico that help this Nation to be secure every day.

So when people walk into this Chamber or they walk into their building at Cisco or IBM or eBay or whether they walk into Shaw Enterprises or any number of the shipbuilders in Louisiana and they turn the lights on, lights come on. When they fire up those plants, that energy runs. This energy comes, in large measure, off the coasts of Louisiana, Mississippi, and Texas. This highway is the highway that is the bridge to Port Fourchon, where these trucks and this equipment are located.

Even in a slight rain this highway goes under water. Imagine if there was any kind of purposeful attack on the infrastructure with some minor effort. This highway in the shape that it is in and the condition that it is in could cause a major disruption in energy flows to the United States.

The Gulf of Mexico has 20,000 miles of the most extensive network of offshore oil and gas pipelines in the world. There is only 2,000 miles from the east coast to the west coast, approximately, as the crow flies, in the Nation. Ten times the amount of the length of our country are the miles of pipeline that come out of Louisiana to bring oil and gas to the rest of the Nation.

This highway is the only way one could basically get to the point where this oil and gas comes off of our shore. The loop facility is the only offshore oil terminal in the country. There are not three. There are not four. There is one. It is the loop facility, and it is just a few miles off the shore of Louisiana. The only way to get to the loop facility, other than helicopter or ship, is to come down this highway to Port Fourchon, at the end of Louisiana, and to get to the loop facility, where 18 percent of our imported oil comes into the Nation. It comes up through the pipes and again all the supplies for the coast come through this highway.

It is time that this highway be designated as a special highway for the Nation, a high priority corridor for this Nation. There are such designations in the Transportation bill for many of our highways, and I am sure every Senator could stand up and claim there are at least one or two highways in their States that are particularly important, whether it be for trade or for commerce. We could say that, too, about all of our highways, particularly for I–10, that is connecting Houston in the southern part of the State; I–49 that is now going to be a trade route hopefully to Canada and down through Louisiana; I–20 that connects our State, of course, east and west to other parts of the United States. But clearly LA–1, which is primarily responsible to help this Nation keep its oil and gas supply not only operating but in a vigorous, robust manner to supply the rest of the Nation, deserves to have a special designation.

I am requesting by the amendment I am offering to the Transportation bill to get Louisiana-1 designated as a high-impact corridor so we can be in line for appropriations to change this from a two-lane highway to a four-lane highway to give it some of the protections a highway of this magnitude deserves.

Let me show what happens when there is a turnover of an 18-wheeler, one of the thousands that are in this lane. The traffic is backed up for hours. There is no way around it. The services to the rigs out in the gulf are basically shut down for all practical purposes. If one cannot get to the port, they cannot basically get service to the rigs or the supplies or the pipes that are needed.

I hesitate to actually give this speech. Frankly, I hope no terrorist is watching because it would be so easy in some ways to disrupt the supply of the oil to this Nation, but one thing September 11 has to teach us is putting some of our resources into building up the critical infrastructure in this Nation so we are not so vulnerable. I wanted to give this speech because I would feel terrible if something happened and people said: Well, Mary, you did not tell anybody about this highway and, after all, it is not a major interstate and we did not know about it.

So I want to give my colleagues fair warning there is a little highway in Louisiana. It only has two lanes, but it has a thousand trucks a day that are bringing supplies and equipment to the offshore of this Nation that helps turn on lights in every schoolhouse and hospital and office building and run factories from Louisiana to Illinois and from Maine to California. If we cannot find a few million dollars in these trillions of dollars of budget to help us improve this highway so we can withstand a natural occurrence of a hurricane or a man-made attack that we would be better equipped to handle than what we have now, then I do not want to be held responsible for not bringing this into the light.

I have been in this Chamber many times talking about all the critical infrastructure around our Nation. I have several bills and amendments to try to direct some of our resources to fund those projects, but this one comes to mind as one of the most important we should address. I urge my colleagues to look carefully at our needs for LA–1 to help us to direct through any of the bills that are moving forward. I am prepared to stay in this Chamber and to come back many times until we can get some relief to get some funding for Highway 1. I should also mention I–49 and I–10 which handle the bulk of our domestic production.

Production in the United States of America is basically limited to this area of the country. There is virtually no production off the eastern shore, as the Senator from Alaska will say in his speech later tonight. There is virtually no production going off of the eastern shore. All of the offshore oil and gas production is coming off of this part of the gulf.

So the infrastructure, for the Port of New Orleans, for the Port of Mobile, for the Port of Galveston, for the I–10 corridor that links basically Houston and New Orleans into Florida, is critical for the development and the spreading of the gas and the oil that comes off of the gulf to the different parts of the Nation.

Finally, we are not complaining about producing the oil and gas. We recognize it brings jobs and wealth to our State. While others do not want production, we want production that is environmentally responsible. We are happy with the jobs and the wealth that it creates. I need to say, though, we are not creating the wealth and the jobs and the energy for our State. We are creating it for the entire Nation. So it is only right, it is only fitting, that some of the taxes that are paid by the oil companies from this exact production would come back to help us reinvest in Highway 1, in I–49, in I–10, in I–69, because it is those roads that support the oil and gas drilling.

I thank my colleague from Alaska for yielding to me. He knows this subject in many ways even better than I know the subject. He has been in the Senate longer than I have, but it is so obvious

to some of us that we have to dedicate some resources to protecting the critical infrastructure of this Nation. This is at least one highway that deserves to be No. 1, as its title would suggest.

I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. Madam President, I wish to enter a short colloquy with my good friend, the Senator from Louisiana, and ask her if the anticipated opening of ANWR would not require construction of 19 double hull tankers, some of which would be constructed in her State, from Mississippi or Alabama, costing about $4 billion? I think we have several of those ships underway now, creating 5,000 jobs each for 17 years. These are figures that have been released to me by the American Petroleum Institute, estimating that 19 new double hull tankers of a millennium class will be needed if ANWR is open. The assumption is that ANWR will produce 10.3 billion barrels of oil. That is about what has come out of Prudhoe Bay, for a 60-year production life, and the new tankers would be needed because the old North Slope tankers are being phased out in their entirety by the year 2015. That is when the double hull requirements come into effect.

There would be more jobs created because the Jones Act requires that the American oil be transported in U.S.-flagged vessels, built in U.S. shipyards, with U.S. crew, transported within the United States, which is from Alaska and the west coast, which he agreed, according to API's analysis, assuming ANWR passes, it will include any ban on ANWR oil being exported outside the United States. It also assumes that ANWR oil will be transported by tankers to refineries primarily in Washington, California, and Hawaii.

I would like the Senator's confirmation on the estimate it would pump almost $4 billion into the economy, create 2000 construction jobs in the U.S. shipbuilding industry, some perhaps in the State of Washington, and approximately 3,000 other jobs. They predict this will compute to approximately 90,000 job years by estimating it will take approximately 17 years to build all the 19 ships at almost 5,000 jobs each year. The prediction is one ship must be built each year in order to coincide with the schedule of retired existing tankers.

I wish we had the capacity to build the ships in our State of Alaska, but that is not the case and will not be the case. However, Louisiana has been prominent in its shipbuilding and supply of various resources for Alaska's oil development.

Ms. LANDRIEU. I thank the Senator for that inquiry. As he knows, and I completely agree, more production in the continental United States and Alaska is definitely a step we should take to reduce our dependence on foreign oil and to increase job opportunities here in our own country. Particularly at this critical time, not only is it part of our overall energy strategy but now it is part of our security strategy for homeland defense and homeland security to reduce our dependence on oil and gas, liquefied natural gas that may come from other sources.

We are very proud of the shipbuilding we do in Louisiana and the engineering and the construction of the landforms and infrastructure that make it possible to drill in extraordinary conditions, in very deep water, leaving a minimal footprint. In days past, there were terrible environmental consequences to drilling. We simply did not have the know-how or the technology to handle some of the negative environmental impacts. That has changed dramatically over the last few years. While there is risk associated with every human activity, we have minimized the risk to the environment in tremendous ways.

The Senator knows we build some tremendous ships and off- and onshore oil and gas equipment in Louisiana. We agree the production numbers need to get up.

For the record, the Senator from Alaska should know that one-fifth of the entire Nation's energy supply depends on LA–1 and its connection to Port Fourchon. The Department of Interior mineral management identifies Port Fourchon as the focal point of deep water activity in the gulf. There is perhaps a deep water or perhaps a focal point in Alaska. I am not familiar with that focal point, but in Louisiana it is Port Fourchon. Eighty-five percent of the deepwater drilling rigs, working in the gulf, are supported by Port Fourchon. We have a highway that is not worth skating down, let alone with the 1,000 18-wheelers a day trying to supply the Nation with the energy it needs to operate.

I look forward to working with the Senator as we try to improve and increase production. I see the Senator from Hawaii on the floor. He has been an outstanding spokesman of conserving where we can. It will be a combination of strong conservation measures and alternative energy and more production in Alaska and all the States, and in many places in the lower 48.

Mr. MURKOWSKI. I thank the Senator from Louisiana. I have appreciated the good relationship between our two States.

Madam President, this is a fairly significant moment from the standpoint of those interested in passing a comprehensive energy bill. We have that bill, finally, on the floor of the Senate this evening. Procedurally, Senator DASCHLE has offered a substitute amendment. Senator LOTT offered a second-degree that adds the provisions of energy, as well as cloning. At 5 p.m. Monday there will be a vote on cloture on the Lott amendment. The significance of this is clear to those who said we never bring up energy for a vote, are never able to resolve the merits of whether or not the President's request that we pass a comprehensive energy policy will become a reality.

I rise today to say that that time has come. Today it is a reality. I hope in the coming debate we can separate much of the fiction that has been associated with this issue.

I rise today in support of the amendment to the underlying legislation offered by Senator LOTT. Division A through G of the amendment will provide a balanced and comprehensive energy policy to guide this Nation into the future.

Where does the American public stand? I have the results of a poll recently done by the IPSOS-Reid Corporation, with offices in Washington, New York, Toronto, Minneapolis, Vancouver, San Francisco, Montreal, Ottowa, Winnipeg, and Calgary. It is a public opinion poll on energy issues. It was not done last year; it was done in November.

Let me share, with you the results of this poll. This independent and objective poll, conducted by a highly respected research firm, clearly shows that Americans place a high priority of passing an energy bill. The highlights are enlightening because 95 percent of Americans say Federal action on energy is important. That doesn't surprise me.

Continuing, 72 percent of Americans say passing an energy bill is a higher priority than any other action Congress might take. I hope that message is loud and clear. Again, 72 percent say energy is a higher priority than any other action Congress could take. That includes campaign finance reform, railroad retirement, stimulus.

Continuing, 73 percent of Americans say Congress should make the energy bill part of President Bush's stimulus plan. Surprisingly enough, 67 percent say exploration of new energy sources in the United States, including Alaska's Arctic National Wildlife Refuge, is a convincing reason to support passing an energy policy bill.

We have a significant portion of America's public saying we should go ahead and pass an energy bill. That is what is before the Senate, H.R. 4. That bill passed the House of Representatives. Clearly, the House has done its job. Now it is up to the Senate to do its job.

We have heard from our President many times, indicating that:

> We need the energy, we need the jobs, we need a comprehensive energy bill from the Senate. This plan increases our energy independence and therefore our national security.

The Secretary of Energy:

> We need an energy-security policy and we need it soon.

Secretary of Veterans Affairs, Anthony Principi:

> We are engaged in mortal combat with an enemy who wants to see us fail in securing an energy policy.

The Secretary of Labor, Elaine Chao:

> The President's plan will create literally thousands of new jobs that will be needed to

dramatically expand America's capacity for energy production.

Let's look at those who have gone overseas and fought wars over oil—the American Legion:

The development of America's domestic energy resources is vital to our national security.

That is what they wrote to Senator DASCHLE.

The Veterans of Foreign Wars:

Keeping in mind the horrific event of September 11 and mindful of the threats we are facing, we strongly believe that the development of America's domestic energy resources is a vital national security priority.

That is in a letter to Senator DASCHLE.

The American Veterans Association:

As you know, our current reliance on foreign oil leaves the United States vulnerable to the whim of individual oil-exporting companies, many existing in the unpredictable and highly dangerous Persian Gulf. . . . [We] firmly believe that we cannot wait for the next crisis before we act.

A letter to Senator DASCHLE.

The Vietnam Veterans Institute:

War and international terrorism have again brought into sharp focus the heavy reliance of the U.S. on imported oil. During these times of crises, such reliance threatens our national security and economic well being. . . . It is important that we develop domestic sources of oil.

Another letter to Senator DASCHLE.

The Catholic War Veterans of America participated.

How about organized labor? This issue, our energy security, is expressed first by the Seafarers International Union, from Terry Turner, the executive director:

At a time when the economy is faltering, working men and women all over the country would clearly benefit from the much-needed investment in energy development, storage, and transmission.

The International Brotherhood of Teamsters, Jerry Hood:

America has gone too long without a solid energy plan. When energy costs rise, working families are the first to feel the pinch. The Senate should follow the example passed by the House and ease their burden by sending the President supply-based energy legislation to sign.

The Maritime Laborers Union participated in numerous press conferences; the Operating Engineers, Plumbers and Pipefitters Union; the Carpenters and Joiners Union.

We have a significant group of America's organized labor in support of this because this is truly a jobs bill, much of which could be done without any cost to the taxpayer.

We are talking about stimulus. Let me just indicate what opening ANWR would do as a stimulus to the economy. It would create about 250,000 jobs. Those are direct jobs. The number of secondary jobs—making pipe, making valves—is anybody's guess. Some have come up with as high as 700,000 jobs associated with developing it.

What is the other stimulus? This is Federal land. As a consequence, the Federal Government would lease the land under a bidding process. It is estimated to generate about $3 billion in Federal funding coming into the general fund.

If one considers the number of jobs, the revenue, and the reality that it will not cost the taxpayer one red cent, it is pretty hard to find a better stimulus. If you or anyone else in this body can identify a single more beneficial stimulus than opening ANWR, I would like to know what it is.

The Hispanic community, the Latin American Management Association, has written:

As we head into the winter season in a time of war, these worries multiply. The possibility of terrorist attacks on oil fields or transportation in the Mideast are very real. This would force energy prices to skyrocket and immediately impact the most vulnerable families across the country.

That is by the Latin American Management Association. They fear bin Laden will disrupt, perhaps, the refining or pipelines either in Saudi Arabia or initiate some terrorist action in the Straits of Hormuz, which would cut off our supply.

We have the Latino Coalition:

The Senate must act on comprehensive energy legislation before adjourning. Not addressing this issue immediately is both irresponsible and dangerous to America as a nation and particularly to Hispanics as a community. America must increase the level of domestic production so we can reduce our dependency on foreign oil.

It is signed by Robert Despoda, the president of the Latino Coalition.

The U.S. Mexico Chamber of Commerce:

We urge the Senate leadership, both Democrats and Republicans, to pass comprehensive energy legislation before adjourning. This is not a partisan issue. Millions of needy Hispanic families need your support now. History would not treat inaction kindly, and neither would Hispanic voters next year around.

It is signed by Mario Rodriguez, Hispanic Business Roundtable President.

The seniors organizations have spoken out. The group 60 Plus, which I might add I have joined at some time:

It's time the Senate leadership quit demagoguing and come to grips with the energy legislation they bottled up. Our economy depends in no minor way on the passage of an energy plan. Much more important, our security depends on it.

It is signed by Roger Zion, chairman, 60 Plus.

The Seniors Coalition participated in support—the United Seniors Association.

I ask unanimous consent for another 5 minutes and I am going to yield to some of my colleagues.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MURKOWSKI. The Jewish organizations have come aboard. I ask unanimous consent that their letter be printed in the RECORD.

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

CONFERENCE OF PRESIDENTS OF MAJOR AMERICAN JEWISH ORGANIZATIONS,

New York, NY, November 16, 2001

Hon. FRANK H. MURKOWSKI,
U.S. Senate, HSOB,
Washington, DC.

DEAR SENATOR: The conference of Presidents of Major American Jewish Organizations at its general meeting on November 14th unanimously supported a resolution calling on Congress to act expeditiously to pass the energy bill that will serve to lessen our dependence on foreign sources of oil. We believe that this important legislation has, in addition, to the economic impact, significant security implications. We hope that Congress will move quickly to pass this vital measure.

We look forward to continuing to work with you and your colleagues on this and other matters of importance to our country.

MORTIMER B. ZUCKERMAN,
Chairman.

MALCOLM HOENLEIN,
Executive Vice Chairman.

Mr. MURKOWSKI. The Conference of Presidents of Major American Jewish Organizations, in their conference, at a general meeting of November 14:

. . .unanimously supported a resolution calling on Congress to act expeditiously to pass the energy bill that will serve to lessen our dependence on foreign sources of oil.

That was in a letter to Senator DASCHLE.

The Zionist Organizations of America say in their letter:

At a time when our Nation is at war against international terrorism, it is more important than ever that we work quickly to free ourselves of dependence on oil produced by extremist dictators.

Further, they say on behalf of that organization, which is the oldest and one of the largest Zionist movements in the State:

We are writing to express our strong support for your efforts to make our country less dependent on foreign oil sources by developing the oil resources in Alaska's national wildlife refuge.

So there you have a fair segment of Americans represented through these organizations.

Then we go to American business, the National Black Chamber of Commerce:

Our growing membership reflects the opinion of more and more Americans all across the political spectrum that we must act now to lessen our dependence on foreign energy sources by addressing the nation's long-neglected energy needs.

It is signed by Harry Alford, president and CEO.

U.S. Chamber of Commerce—Bruce Josten, executive vice president, U.S. Chamber:

The events of the last month lend a new urgency to our efforts to increase domestic energy supplies and modernize our nation's energy infrastructure.

And the National Association of Manufacturers:

The House of Representatives has answered the President's call. It has taken our obvious energy needs into account—along with concerns of many interest groups—and produced reasonable and comprehensive legislation that will help provide stable energy prices and long-term confidence in our economy.

But the Senate is dragging its feet. Some seem willing to let politics stop the will of the majority that wants to move forward with comprehensive energy legislation this year. In light of current economic conditions and on behalf of NAM's 14,000 members, I strongly urge Sen. Daschle to move an energy bill to the floor without further delay. It is high time to put the national interest ahead of parochial political interests.

It is signed by Michael Baroody, National Association of Manufacturers.

Last, the Alliance for Energy and Economic Growth.

They indicate, representing 1,100 businesses, large and small, and over 1 million employees:

All of the members of the Alliance enthusiastically welcome the President's strong appeal for action on a national energy policy. We are also committed to work with Senate Majority Leader Daschle to move forward in a spirit of bipartisanship with comprehensive, national energy legislation.

The Alliance spokesman is Bruce Josten.

That completes my comments to some extent. I will not tax the Presiding Officer further at this time. I will take a little break.

But I think it is important that we all listen carefully to these groups. They are sending a message to the Senate to get on with its obligation to move an energy bill. We have that energy bill here in the Chamber. It is the pending business for the first time in several years.

I think it is very important that we look at the political ramifications associated. We have elections coming up. We have a great deal of unknown exposures relative to the instability in the Mideast.

I remind my colleagues that in about 1973 we had the Arab oil embargo, and the gas lines were around the block. The public was blaming everybody. They were outraged and inconvenienced. Just one terrorist act could bring that situation back.

Some say it will take time. In 1995, this body passed a bill. It included ANWR. The President vetoed it. Had he not vetoed it, we would very possibly have oil flowing from ANWR today and oil coming down in new U.S. ships. But that was the loss of yesterday which is reflected in the vulnerability of our country today.

I urge my colleagues to think seriously before voting Monday about what you are voting for. Are you voting to be responsive to America's somewhat extreme environmental community that has used their ANWR issue as a cash cow to generate revenue and funding for their organizations? When this passes, they will move on to something else. You might say I am perhaps being overly critical. I have seen their actions. I know what this issue means to them. It gives them a cause.

Members are going to have to determine whether it will be a responsive vote for the environmental groups that oppose this effort or a responsive vote to do what is right for America at a time when we are not only at war but we are having a recession in this country.

Indeed, this energy bill would be a significant economic stimulus and would dramatically help remove our dependence on imported oil—particularly at a time when we are contemplating moves in the Mideast, and our dependence on Saddam Hussein's oil is over a million barrels a day. Yet at the same time we are enforcing a no-fly zone. In enforcing that no-fly zone, we are probably using his oil in our aircraft to take out his targets, and he is using our money to pay his Republican Guards and to develop weapons capability. We already lost two U.S. seamen the other day when that tanker sunk.

My time has expired. I defer to the next Senator seeking recognition.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. BROWNBACK. Madam President, I rise to speak in favor of the pending business, which is the amendment put forward by Senator LOTT containing the energy bill of Senator MURKOWSKI and a number of other Members in a bipartisan fashion.

It also contains a 6-month moratorium on the issue of human cloning. That is the pending business. We are in morning business. I want to speak to that particular issue, the pending business itself.

I think the Senator from Alaska has adequately and very well described the need for an energy bill and what is in that energy package. He has been very aggressive in expressing the need to do that. I wholeheartedly agree with what he is saying. We need an energy bill. We need an energy package, and we need less energy dependence.

If we move soon to address the issue of mass destruction in Iraq, we are going to be in far worse shape if Iraq starts cutting down their oil and not making it available to the United States. If some other countries follow suit, then that means we are going to feel a great pinch. Even though we are doing the right things to address the weapons of mass destruction, we are going to feel a real pinch if they cut down on oil supplies when we have such an international dependence on oil from the Middle East in particularly.

I think what the Senator is putting forward for reducing our energy dependence abroad—particularly from the Persian Gulf—and having our energy sources here is a valuable thing, a necessary thing, and something we need to do today. We need to get it addressed today. I applaud the Senator from Alaska. That is why I am a cosponsor of the amendment which is the pending business on the floor.

CLONING

The issue I wish to address specifically is another issue of great concern and immediacy. It needs to be addressed. I think the world was shocked when they read the papers Sunday about the first human clone. It is something that was theoretical and something that was talked about. It was something in the movies. Now there is a ''Star Wars'' movie coming out this year called ''The Clone Wars.'' It has been something everybody has been discussing.

I think people were shocked when they read this headline about the first human clone. It isn't something that happened in Europe or South Africa. It was in the United States of America.

People were looking at this and saying: I thought this was in a theoretical mode. I didn't realize we were actually at a point of cloning humans.

The House of Representatives passed a bill to address this issue, saying we should not be cloning humans. The President addressed this issue and said: Send me a bill to ban human cloning; I don't think this is something we should be doing.

The Senate is the only body of the three that has not addressed the issue yet.

In the underlying amendment today on the issue of cloning is a 6-month moratorium. It is not a complete ban. It is a 6-month moratorium on all cloning to say time out. Let's hold up just a little bit while we start catching up philosophically and thoughtfully in this body on what is taking place on human cloning in the United States of America today—not tomorrow, not next month—that we need to address this before we get more stories such as this or we start seeing the face of a child appearing before this body takes its position on addressing the issue of human cloning. Presently, this country has not addressed it.

You can clone in this country, if you choose to do so, even though I have a list of other countries that have acted on this issue. Twenty-eight other countries or bodies such as the European Parliament have already acted on the issue of human cloning. We have not. The Senate has not yet acted on this. Twenty-eight other mostly developed countries have already acted on this issue in some way or another.

What does the public say about it? I want to read from today's Roll Call magazine on page 10 about the issue of cloning. There was a poll of the American public. This is in today's Roll Call magazine, November 29. It says:

The majority of Americans clearly remain opposed to cloning, with 87 percent telling ABC News interviewers in early August that cloning humans should be illegal. Respondents were told the following about therapeutic cloning:

There is a debate going on about that. I am opposed to reproductive cloning. Some people are saying they want to try to do therapeutic cloning, which I think is a misnomer of the highest order. Therapeutic cloning is where you create a human clone. You grow it for a period to two weeks. You kill it. It is certainly not therapeutic to clone. You harvest the cells out of that for some supposed research or other benefit for another individual. That is so-called therapeutic cloning. I call it destructive cloning. Some call it therapeutic.

Let's see what the respondents said. This is how the question was put forth:

Some scientists want to use human cloning for medical treatments. They would produce a fertilized egg, or human embryo, that's an exact genetic copy of a person, and then take cells from this embryo to provide medical treatments for that person. Supporters say this could lead to medical breakthroughs. Opponents say it could lead to the creation of a cloned person because someone could take an embryo that was cloned for medical treatments and use it to produce a child.

That was the question. That is the way it was phrased on therapeutic cloning. It might produce medical breakthroughs but also a reproductive clone.

How did the people respond to the question?

Sixty-three percent said therapeutic cloning should be illegal and 33 percent held the opposing view.

Even framed on just the issue of therapeutic cloning, 63 percent say: No, I don't want to do that. I don't want us to go there. Yet we continued to dawdle in this body. We did not take up the issue. We would not hear it or bring it up on the floor until now. It is the pending business with a 6-month moratorium. It is not a complete ban. It is a complete ban for the 6 months. But after that, this would sunset.

I think this is a very prudent move that this body should take in addressing this highly controversial, highly problematic and monumental bioethical issue. Our Nation is currently wrestling with monumental bioethical issues. As I mentioned, the House of Representatives has dealt with this issue. They have passed a ban on human cloning with a 100-vote margin. The President keeps calling for it. This body has not acted.

On these bioethical issues, many of which I have raised on the floor previously—and I am going to keep raising in the future—we need to debate all these issues, but we need to act now to have a moratorium on human cloning so the Senate can properly debate the issue and hopefully resolve it in the coming 2 or 3 months. That is what we are asking for in the underlying amendment.

I would like to take this opportunity to address some of the profound moral issues that this Nation is going to need to wrestle with and the Senate is going to need to wrestle with for us to deal with the issue of human cloning.

Human cloning demands the public's attention, in part, because it implicitly revolves around the meaning of human dignity, around the meaning of human life, and the inalienable rights that belong to every person. Should a clone belong to someone or should a clone not belong to someone? I think we ought to resolve that issue before it starts being forced upon us by private companies creating clones.

Some will argue that the issue simply needs to be studied before any research begins, a notion which does not respect the rights of the clone. Some people say: Let's just create a group of clones out there, and let's see and let's research and let it evolve.

Shouldn't we fundamentally deal with the issue first about what is a clone? Is it the property of somebody who created it? Is it a person? It is genetically identical to the person from whom it was created. It is physically identical. Is this a person or is this a piece of property?

We should be debating that ahead of them being out there in the public. Should we allow people to create clones of themselves for spare body parts? That would be down the road a longways, but people are thinking about those sorts of things now. We now have the creation of the first human clone.

I think clearly we should err on the side of caution at this point in time. We should call a timeout. We should have a 6-month moratorium so we can all sit down and think about this.

This is not going to kill the research into helpful areas of research. Some people looking at this are saying: OK. They are confusing it with embryonic stem cell research, which I personally have a deep problem with because you are destroying an embryo to create that research. But this moratorium does not apply to embryonic stem cell research. That is going on. There is even Federal funding for some embryonic stem cell research, as the President outlined in an August speech with the NIH, much with which I continue to disagree.

I think we ought to focus on the adult stem cell. Be that as it may, the embryonic stem cell work is going on and would not be affected by this moratorium.

What this moratorium goes at is saying: Do not create human clones for any purposes. Do not create that. After a period of 6 months it expires.

So for those purposes, I think this is an entirely appropriate issue for us to push the pause button. The alternative of this is for us to do nothing. But if we do nothing, if we do not put a pause on this, you are going to see a lot more headlines such as the one shown on this magazine. You are going to see a lot more human clones or you are going to hear about them being implanted in women once they get to the point where the technology is such that that can take place. You are going to see all that taking place and this body will not have even spoken. We will not have said, yes, we agree or we disagree. The President has spoken and the House has spoken, but we will not have even said, OK, we agree we should or we disagree. We will not have done anything.

That is why I plead with the sponsors of the bill that we should take up this particular issue. We would allow this amendment that has the important energy language in it for energy security that contains the important moratorium on human cloning. And that would be allowed to be voted on by this body. We would not have a cloture vote that rules out the vote on these two imminently important issues that need to come before this body at this particular time.

So I plead with my colleagues, do not vote on a procedure that knocks off these two very important issues. Let us have a vote on these two issues.

We are going to be in town. We should take up these very important issues that are of immediate importance and need to be considered. I look forward to discussing this further with my colleagues as we get a chance to bring this amendment up for a vote.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. NELSON of Nebraska). The Senator from Ohio.

AN ENERGY POLICY AS STIMULUS

Mr. VOINOVICH. Mr. President, I rise to speak on the amendment to the underlying bill before the Senate.

I think the Senator from Kansas has spoken eloquently on the need to pass a moratorium on human cloning. It is interesting to note that about 80 percent of the people in this great Nation agree with that. It is also interesting to note that the other portion of the amendment calling for an energy policy for this country is also supported by about 80 percent of the people in this country. Although I do not ordinarily pay that much attention to polls, I say, in this case, the polls reflect good public policy for the United States of America.

Mr. President, with all the debate that has been going on in this body and throughout the Nation as to whether or not we actually need a stimulus bill, I reiterate my view that, yes, we do need a stimulus bill.

It is important that we pass a bill from several points of view.

Psychologically, the American people need a stimulus bill. For all the talk over the last couple of months about how much we need a stimulus bill, the public has now grown to expect we will pass a stimulus bill. I think that has been taken into consideration in the decisions the American public has been making. They see it as a positive measure, one that will bring us out of our economic doldrums and put things back on track.

As my colleagues know, the National Bureau of Economic Research reported earlier this week what many of us knew; and that is, our country is in recession. The people in my State of Ohio have known that since last year.

We need to spark our economy by getting businesses to boost investment. We need a stimulus package to help raise consumer confidence and get the American people spending again. As you know, consumer spending makes up two-thirds of our economy. We have to get buying. That is what we need to do: We have to get buying.

We need an economic stimulus bill that will put money in people's pockets, one that will restore consumer confidence, give businesses the money

they need to survive by letting them recapture taxes they paid in the past.

We need a bill that will lower people's tax rates by expanding the amount of earnings that are taxed at the 10-percent marginal rate. We need a stimulus package that provides a ''life preserver'' to the unemployed by giving them 13 additional weeks of unemployment benefits and one that responds to their health care needs.

One proposal that responds to what Americans want is the Centrist Coalition package that the Presiding Officer is completely familiar with and that has been sponsored, on a bipartisan basis, by the Presiding Officer, Senators JOHN BREAUX, OLYMPIA SNOWE, ZELL MILLER, and SUSAN COLLINS.

Regardless of what we do involving a stimulus bill, the American people expect us to work together in a bipartisan fashion. They see President Bush doing that. He is more worried about protecting the Nation's interests than in partisan politics.

Indeed, some of my colleagues on this side of the aisle have been critical of the President because he has not been partisan enough. In fact, he has gone the extra mile, I believe, to be nonpartisan.

The American people believe that Congress' motives are the same as the President's. If they become convinced otherwise, that we are working for special interests or succumbing to our past bad habits of playing politics, the consequences are going to be devastating.

It will lower their confidence in us and in the economic future of our Nation. Things changed on the 11th of September. Those of us in Congress should never forget it.

There is one other action we need to take to stimulate our economy, improve and enhance public health and the environment, secure our competitive position in the global marketplace, and secure our homeland and national security. That action is the adoption of an energy policy for this Nation.

That is why I am so enthusiastic about the amendment to the underlying bill. Given the tragedy of September 11 and the actions that have occurred in the aftermath, enacting an energy plan is much more relevant than ever before.

As far as I am concerned, and many others, our adoption of an energy package is, in the long term, more important to this country than the economic stimulus package.

Because of the situation in the Middle East and the Persian Gulf and Southwest and Central Asia, we are more vulnerable today than ever before.

You can see from this chart that one-fourth of our crude oil imports, 27.18 percent, come from the Middle East. Consider the following numbers: Iraq, 6.83 percent; Kuwait, 2.9 percent; Saudi Arabia, 16.79 percent; the United Arab Emirates, about three one-hundreths of 1 percent; Oman, less than three one-hundreths of 1 percent; Yemen, three-tenths of 1 percent. Given the near constant instability in the region, it should give my colleagues little comfort to know that we are so reliant on that part of the world.

OPEC, which produces approximately 40 percent of the world's oil supply, has threatened to cut oil production 4 separate times this year, and they cut oil production a total of 3.5 million barrels per day or 13 percent this year. I know this is a figure that can be difficult for people to comprehend, but every day, the United States receives 750,000 barrels of oil from Iraq. If we look at the chart, over 6.8 percent of the oil we import every day comes from Iraq.

In December, the United Nations will be conducting a periodic review of Iraq's oil-for-food program. In the past Iraq has suspended exports during the review in order to press their case that the program be allowed to continue uninhibited by the United Nations. This could happen again.

As many of you know, Iraq could be next on the list of nations that we go after because of their threat to world peace. It would be surreal if we were importing oil from Iraq at the same time we were engaging in antiterrorist activities against that nation.

It was strange enough that when we had the last oil crunch last year, we were providing them with technology to increase their oil production while at the same time we were conducting air sorties over their no-fly zone. We were bombing them on one hand and providing them technology so they could increase their oil production at the same time. It doesn't make sense.

The attack on Washington and New York could make things even more unpredictable as support for the United States by oil-producing Arab nations could bring Osama bin Laden and al-Qaida attacks on them. It is important to make it clear that Osama bin Laden would dearly like to bring down the Saudi government because of its Western influence and the alleged exploitation by the United States of Saudi oil. Remember, the Saudis provide 16.8 percent of our oil imports.

On the domestic front, we are also in trouble. The refinery fire in Illinois this past August decreased the available supply of gasoline while our inventory was already low. That caused prices to jump in my State of Ohio and other Midwest States. The price of gasoline jumped up 30 cents per gallon in Ohio over a 2-week period because of a fire at a refinery.

We have had no new refineries built in almost 26 years, while the number of refineries has dropped from 231 in 1983 to 155 today. While the refineries today are more efficient, they are not getting the job done. When a refinery shuts down for repairs or accidents such as fires, it creates price spikes that can be felt across the Nation.

We should not be lulled into complacency because of the temporary low cost of gasoline. If you travel the country, the price is down. We must do more to increase domestic production of oil in the United States.

Our transmission system also needs to be improved and opened up. We don't have the infrastructure in place to transmit natural gas and the pipelines to transmit oil. Last year one of the reasons we had the large increase in gasoline prices in the Midwest was because of a break in an oil pipeline coming up from Texas and another one coming from Wolverine, MI. Those two events skyrocketed the price of oil in Ohio and many other States in the Midwest.

Because of this, last month I introduced the Environmental Streamlining of Energy Facilities Act with Senator LANDRIEU. Our bill will streamline the siting process for pipelines and transmission lines.

Utility costs are another major factor in our Nation's competitive position in the global marketplace. Long before the events of September 11, utility costs were exacerbating the recession in Ohio and the Midwest. We need to assure Americans that they can count on reasonable, consistent energy costs if we expect to get their confidence back in terms of the economy.

As a major manufacturing State, energy is the backbone of my State, and Ohio and the Midwest are the backbone of this Nation's economy. Twenty-three percent of our Nation's gross State product for manufacturing is concentrated in five States which comprise the Midwest; Ohio, Indiana, Michigan, Illinois, and Wisconsin. For example, when you compare Ohio's manufacturing production with the New England States, Ohio's gross State product for manufacturing is higher than all six of the New England States combined. Energy is the backbone of the U.S. economy. And without a reliable supply, we are not competitive in the world marketplace.

Congress needs to act on an energy bill as soon as possible. It needs to be done on a bipartisan basis.

This chart is really very illuminating. It looks at projected demand for energy in this country between now and 2020. The green line is what we are going to need. The red line is based on current production and shows what we will have available to meet the demands for energy in this country. As my colleagues can see, there is a large canyon between the lines that needs to be filled. That means that we are going to have to produce more oil, more gas, use more coal, produce more nuclear energy, if we are going to take care of this large gap.

Many of my colleagues would argue that the solution to our need for energy is the issue of renewables and other alternatives. The fact is, today, renewables, that includes hydro- and non-hydropower, take care of only a fraction of our energy needs in the United States of America. That is surprising, because I have had some colleagues come to the floor and argue

that all we need are acres and acres of windmills and acres and acres of solar panels and that will take care of our energy problem. The fact is, solar and wind power make up only one-tenth of one percent of our energy needs. There is no way that we are going to be able to deal with our energy problem with renewables because if you look at the bottom line, this purple line, going out to 2020, you can see that it is going to represent a very small part of the production we have in America.

There is no question, we need more energy. We need more oil. We need more gas. We need more nuclear. We need more coal. While conservation helps, it is not going to meet our estimated consumption without drastically changing America's standard of living. We cannot kid ourselves and think otherwise.

Although it won't get the entire job done, a good beginning in our goal of achieving a solid energy policy is a bill that is currently on the Senate calendar, H.R. 4, and which is part of the amendment to the underlying bill before the Senate that was submitted today by Senator LOTT.

It is a good beginning. Those of us who have been on this issue for a long time would like to see amendments dealing with an ethanol component which will help decrease our dependence on foreign oil. We need to use more ethanol. We need to have an electricity title to improve nationwide delivery. We need more funding for clean coal technologies and a nuclear title, including Price-Anderson reauthorization.

It is a beginning, a big beginning, a bill that passed the House of Representatives and one that should be passed in the Senate.

I hope when Monday comes and this body has an opportunity to vote on the issue of cloture dealing with the amendments to the underlying bill that we will vote to allow those amendments to be debated by the Senate. It is important not only to the economic well-being of our country, but it is important to our national security.

We cannot allow ourselves to be lulled into a false sense of complacency simply because energy prices have stabilized. People say, ''Natural gas prices are down, GEORGE,'' and, ''Oil prices are down, GEORGE.'' The fact is that they have been down before and we have seen them go up. These prices are like a yo-yo, up and down and I am worried that one day, we are going to end up hanging at the end of the string.

It is time for us to act. As sure as the Sun will rise, so too will prices. OPEC will make sure it happens. The longer we wait to pass an energy bill, the more vulnerable this Nation will be to supply disruptions, which will, in turn, have a dramatic impact on our economy, our environment, our health and, yes, our national security.

The time has come for the Senate to act and adopt an energy policy for the United States of America.

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. MURKOWSKI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ENERGY POLICY

Mr. MURKOWSKI. Mr. President, let me thank my colleague from Ohio for outlining his position on the legislation we are discussing, the energy bill, H.R. 4. His presentation certainly summarized the fact that this indeed is in the national security interest of our Nation. He pointed out that our continued dependence on such unreliable sources as Iraq, at a time when we are not sure what our next move will be, puts us in a rather embarrassing position. He has certainly highlighted the vulnerability of this country, which is growing; there is absolutely no question about that.

The question we have—legitimate question—is just whether or not H.R. 4, which has passed the House of Representatives and is before us, does the job as a comprehensive energy bill. I am going to spend a little time on that because I think the public deserves to know what is in H.R. 4.

I will again ask my colleagues to reflect on the vote that is going to take place on Monday. This is not a vote on the issue of ANWR; this is a vote on the entire bill that passed the House of Representatives. A vote will be seen and read strictly as a vote on passing an energy bill. I think that is significant. It is a vote for or against passing an energy bill that has passed the House of Representatives.

With that, of course, is the cloning ban. I support that. The Senator from Kansas made an excellent presentation on the merits of that. It is rather unusual to see such devoid issues brought together, but that sometimes happens in this body. It is important to point that out and highlight that Senator BROWNBACK's presentation is simply a 6-month ban. What we are seeing here on cloning is the scientific and medical movement is so fast that we are not sure where the ethical evaluation should come down. Therefore, a 6-month moratorium on cloning is certainly in order. I certainly support that.

Here is what H.R. 4 does for the Nation. The amendment is the legislative portion of the President's comprehensive energy policy. It aims to secure America's energy future with a new national energy strategy that is designed to reduce energy demand, increase energy efficiency and supply, and enhance our energy infrastructure and our energy security.

I think that should address the issue some have raised that this is nothing but a very narrow bill containing ANWR. Let me tell you what we have in here in the sense of reducing demand. This bill reauthorizes Federal energy conservation programs and directs the Federal Government to take leadership in energy conservation with new energy-saving goals.

Secondly, it expands Federal energy savings performance contracting authority. It increases the Low Income Home Energy Assistance Program, LIHEAP. It provides weatherization and State energy program authorization levels to meet the needs of low-income Americans. It expands the EPA and the Department of Energy's so-called energy star program. It directs the EPA and the Department of Energy to determine whether energy star labels should be extended to additional products. We used to see seals of the Underwriters Laboratories. This is much like that, but these stars are awarded for reduction in energy use. In other words, you can get a better, more efficient refrigerator, but you probably won't because your other one is working just fine. But these new ones deserve a particular rating and some identification. That is what the energy star program is all about. It highlights that this is indeed an energy-saving device and technology that has been put on your iron, refrigerator, or dishwasher.

We need to encourage Americans to go out and buy these. But, obviously, some are reluctant because theirs is working fine. But they can reduce energy consumption and therefore their energy bill. It directs the DOE to set standards for appliance standby mode energy use. It reduces light truck fuel consumption by 5 billion gallons over 6 years. Now this is the CAFE—people are saying, ''Where are your CAFE savings?'' It directs the DOE, in the sense of light truck fuel consumption, to reduce it by 5 billion gallons over 6 years. It also improves Federal fleet fuel economy and expands the use of hybrid vehicles.

What do we mean by Federal fleet? We say before we put mandates on the general public, let's put it on the Government fleet and see how it works. That is kind of the old saying that charity begins at home. So it will improve the Federal fleet economy. It increases funding for the DOE's energy conservation and efficiency R&D programs designed to reduce consumption of energy. It expands HUD programs to promote energy-efficient single and multifamily housing. That should answer pretty much the concern some have raised, well, you don't have anything in your bill to reduce demand. I think we do.

On the issue of increased supply, we have provisions for environmentally sensitive oil and gas exploration on the Arctic Coastal Plain. That is ANWR. I will talk about ANWR later. Clearly, the reserves are there. It is estimated to be between 5 and 16 billion barrels. We have an average somewhere in between 5 and 16. It will be as big as

Prudhoe Bay, now producing the 13 billionth barrel. We can get 10 out in the field—the largest field ever found before. I have a chart here that shows a comparison with our good neighbors from Texas, and I am sure my staff can find it in a moment or two. As they look, I will move into the other areas of increased supply.

I think we all assimilate in our minds domestic oil reserves coming from the great State of Texas, and the great State of Texas has been producing a lot of oil for a long time. This says: ANWR, More Oil Than Texas. This is from the Energy Information Administration which reports that Texas proven crude oil reserves are 5.3 billion barrels.

In 1998, the USGS estimated there is a 95-percent chance of more than 5.7 billion barrels from ANWR, a 50/50 chance of more than 10 billion barrels of oil and a 5-percent chance of more than 16 billion barrels of oil. So if we want to use the average, ANWR has more potential than Texas.

I have heard my friend, the junior Senator from Massachusetts, speak in generalities about why this should not be open. I have never heard a good explanation as to whether or not he believes there is evidence to suggest it cannot be opened safely, but he does generalize that it is insignificant.

If the oil in ANWR were to be the average of 10 billion barrels, ANWR would supply 321,428 barrels per day to the State of Massachusetts. That would last the State of Massachusetts 85.2 years. The State of Connecticut uses 216,000 barrels per day. It would last Connecticut 126 years. South Dakota uses 59,000 barrels a day. It would provide South Dakota with 460.3 years for their petroleum needs. I throw that out simply as a matter of comparison when individuals say the increased supply is insignificant. It is not insignificant.

Further, increased supply authorizes new oil and gas R&D for unconventional and ultra-deep-water production. We are seeing that in the Gulf of Mexico. That is where our new finds are, in deep water. The industry has done an extraordinary job of advanced technology, and they have been very fortunate. They have had very few accidents. It provides royalty relief incentives for deepwater leases in the central and western Gulf of Mexico. It streamlines the administration of oil and gas leases on Federal land. It authorizes the Department of Energy to develop accelerated clean coal power initiatives. So it recognizes the significant role of coal, which makes up nearly 50 percent of our power generation in this country.

It establishes alternative fuel vehicles and green school bus demonstration programs. That should appeal to many Members. It reduces the royalty rate for development of biothermal energy and expedites leases. It provides for regular assessment of renewable energy resources and impediments to their use. It streamlines the licensing process for hydroelectric dams and encourages increased output. It provides new authorization for fossil, nuclear, hydrogen, biomass, and renewable R&D.

These things are included to increase the supply, but they are not only in ANWR. There is authorization for new technology, hydrogen, biomass, renewable R&D, because we want to remove our dependence even greater on imported oil. The difficulty many people fail to recognize is America and the world move on oil because we do not have any other alternative. We wish we did. We can generate electricity from coal, from gas, from nuclear, from wind, but we cannot move America and we cannot move the world. That is why we are becoming so dependent on Mideast sources.

If this bill passes this House and this Senate, two things are going to happen. We are going to send a message to OPEC. The message is going to be loud and clear that the United States is committed to reduce its dependence on OPEC. OPEC, I think, will read that and decide, all things being equal, they had better be careful how they operate that cartel because if they move it up too high, why, obviously it is not going to be in their interest. So I think it will be a curb on prices because the more we produce domestically, the less we will import. As we know, those countries need those gas fuels, particularly the Saudis.

Finally, in the area of enhanced infrastructure and energy security, it sets goals for reduction of United States dependence on foreign oil and Iraqi imports. It initiates the review of existing rights of way on Federal lands for energy potential. It directs the Department of Energy to implement R&D and demonstrate use of distributed energy resources. It invests in a new transmission infrastructure R&D program to ensure reliable electricity.

It requires a study of boutique fuels and issues to minimize refinery bottlenecks and supply shortages because, as we remember, it was not so very long ago under the previous administration, when we had a shortage of heating oil in the Northeast in the wintertime, the decision was made to open up SPR. We took 30 million barrels out of SPR. Suddenly we found we did not have the refining capacity because we had not built new refineries in this country in 20, 25 years, so all we did was displace what we were importing. That is kind of the situation. So this does provide some relief.

It initiates supply potential for renewable transportation of fuels to displaced oil imports, it offers scholarships to train the next generation of energy workers, and it prohibits pipelines from being placed on national registers of historic places. That is what the bill does.

Last night the majority whip, Senator REID, my good friend, came to the Chamber, and I do not know whether he was ill informed or not, but in any event I will comment a little bit on his statement. I assume it was an attempt to support the majority leader's priorities from the standpoint of the remaining time we have in this session and what those priorities should be. I know many of my friends on both sides of the aisle feel very strongly about the railroad retirement legislation, but the majority leader stated he thinks it is more important this body consider the railroad retirement legislation than comprehensive energy legislation. That is contrary to polling information I just presented. That polling information, as I said, indicated that 95 percent of Americans say Federal action on an energy bill is important. That is not enough because 72 percent of the Americans say passing an energy bill is a higher priority than other actions Congress might take.

We have seen polls from time to time. We take them or leave them, but this was an IPSOS-Reid poll done in November. So clearly there is a little bit of difference expressed by the polling information on what the priorities should be.

Now, evidently, the leader thinks it is more important that we consider a farm bill. It is kind of interesting about how we set priorities because the farm bill does not expire until the end of next year. Does it have the same prioritization as the exposure we are seeing in the Persian Gulf, the danger of terrorism to Saudi Arabia in bringing down the Royal Family, a couple of tankers colliding in a terrorist attack in the Straits of Hormuz, terrorizing oil fields? These are the crises that would come about, and clearly with our increased dependence on Iraqi oil and the fact we are looking to finalize things over there against those who sponsor terrorism, it is beyond me how the leader would consider the farm bill as being more important, particularly when it is not due to expire until the end of next year.

I know what good soldiers are about. I have been in the majority and I have been in the minority, and sometimes we are asked to defend the indefensible. That is politics. I think the whip is doing a good job as we have come to understand he always does in the Senate. However, I really cannot stand by and watch the facts simply evaporate. As I indicated, we simply cannot stand by and watch the facts simply evaporate. I emphasize ''facts.''

During his comments, the majority whip stated that the overall benefits to the country for developing a small area of the Arctic Coastal Plain were ''nonexistent.'' I find it rather ironic that he would make that blatant statement. Nonexistent? Did the majority whip really say the overall benefit to the country would be nonexistent when we have seen the Teamsters, the unions, the veterans, the minority groups in this country say they think this is the most important thing for the Senate to take up, and the fact that the House has passed it sends a strong message. We have some work to do.

When he said that would be nonexistent, I asked myself, can he really believe that? Does he really think the facts support his assertion? Knowing that the majority whip would never deliberately mislead other Senators, I only conclude he doesn't know all the facts. He, as well as the majority leader, have never taken the time to visit the area. We have made repeated offers. I have taken many Members there.

It is ironic we only have to justify on the side of the proponents the merits of the issue based on our personal experience, the experience of my senior colleague, Senator STEVENS, and Representative DON YOUNG. The administration has seen the area, physically gone up there. The Secretary of Interior has been up there twice. I took her up last February. We took off with a wind chill factor of 72 degrees below zero. It is tough country.

One chart shows the bleakness of the Arctic in the wintertime. I am also convinced the only way the Senator might learn those facts, if he doesn't visit the area, would be if I were to share more and more facts with him in the hopes he will understand. I am here to make the Nation aware of the significance of what this could mean to our energy security. I will also make the Nation aware of the benefits to the country in opening a small sliver of the Arctic Coastal Plain for development.

Today, I will share with the Senate what the Clinton administration said about ANWR. I think my colleagues should know what the previous administration said about ANWR, as related by the Energy Information Agency in May of 2000, an agency created by Congress to give unbiased energy information. I will come back to this in a moment.

ANWR is the area on this chart to the right on the map of Alaska. Also shown is the State of South Carolina for a size comparison. There are 19 million acres in ANWR. We have 365 in the whole State. ANWR, on the big chart, the 19 million acres, is already predestined by Congress for specific designation. The darker yellow is part of the refuge. The lighter yellow is in a wilderness in perpetuity. That is about 8 million acres. The green at the top is the 1002 area, or the ANWR coastal plain. The geologists say this is a very productive area. It is 60 miles from Prudhoe Bay. Prudhoe Bay, of course, is the field that has been producing for some 27 years.

The TAPS pipeline is an 800-mile pipeline traversing the length of Alaska. Interestingly enough, when that was built 27 years ago, we had arguments in the Senate whether that could be built safely. What would happen to the animals? What would happen to a hot pipeline in permafrost. Would it break? All the same arguments are being used today. There was a tie in the Senate, and the Vice President came in and broke the tie. I cannot recall how many hundreds of billions of barrels we have received, but for an extended period of time that was flowing at 2 million barrels a day. It is a little over 1 million barrels at this time.

This map shows another area worthy of some consideration. That is the red dot. That is the footprint associated with the development. In the House bill that is 2,000 acres. I know the occupant of the chair knows what 2,000 acres is. Robert Redford has a farm in Utah of 5,000 acres. Keep in mind this authorization is for 2,000 acres, a permanent footprint, out of 19 million acres. Is that unreasonable? I don't think it is.

Some are under the impression this is a pristine area that has not been subject to any development or any population. Of course, a village is at the top of the map. Real people live there. They have hopes and aspirations for a better lifestyle and better working conditions, jobs, health conditions, schools. There is a picture of some of the Eskimo kids going to school and nobody there to shovel the walks. There is also a picture of the public buildings, in front of the community hall, with pictures of the Eskimo's two modes of transportation: One is a snow machine and the other is a bicycle. That should take care of the myth that nobody is up there. Real people live there.

The Coastal Plain comprises approximately 8 percent of the 19 million acres. ANWR is along the geological trend that is productive in the sense that the oil flows in the same general area. This is the largest unexplored potential production onshore base in the entire United States, according to the Energy Information Agency.

I return now to the statement of the Clinton administration: This is the largest unexplored potential onshore base in the United States. The Energy Information Agency, under the Clinton administration, did not think the benefits of ANWR would be nonexistent on our Nation's energy supplies. That is why I am amused that the majority whip would use the term ''nonexistent.''

The Department of Interior says if the Energy Information Administration isn't good enough, how about the Department of the Interior under Bruce Babbitt?

I am wondering if that argument isn't enough to convince the majority whip that the benefits of ANWR are not nonexistent on energy supplies.

According to a 1998 Department of the Interior study under the previous administration, there is a 95-percent probability—that is 19 in 20 chances—that at least 5.7 billion barrels of oil in ANWR is recoverable. That is about half what we would recover initially from Prudhoe Bay. There is a 50–50 chance that there is 10.3 billion barrels of recoverable oil. And there is a 5-percent chance at least 16 billion barrels are recoverable.

These are not my numbers. These are not coming from FRANK MURKOWSKI or DON YOUNG or TED STEVENS. These aren't the environmental fundraiser groups' numbers. These are Interior Secretary Bruce Babbitt's scientific numbers.

I fail to recognize how the majority whip can add these up and suggest that it is nonexistent, as was stated by the whip. How much oil is there reason to believe is there? We don't know. We won't know until we get in there. Senators might wonder how much these numbers add up to. How much impact would oil from ANWR have on our Nation's energy security, our economy, our jobs?

Let me try to put that in perspective. According to the Independent Energy Information Administration, at the end of 2000, Texas had 5.27 billion barrels of proven reserves. That means there is a 95-percent chance that ANWR has more oil than all of Texas. Think of the jobs associated with the oil industry in Texas.

California has 3.8 billion barrels of proven reserves. There is a 95-percent chance that ANWR has more oil than all of California.

New Mexico has 718 million barrels of proven reserve. There is a 95-percent chance that ANWR can recover almost 8 times as much oil as is proven to exist in New Mexico.

Louisiana has 529 million barrels of proven reserves. Oklahoma, 610 million; Michigan, 56 million; Pennsylvania, 15 million; Nevada, Massachusetts, and Connecticut had no proven reserves.

In fact, the Energy Information Agency states that the lower 48 States have total proven reserves of 17,184,000,000 barrels of oil. That's it, 17 billion. This could come in at the high end. If we are lucky enough to hit Secretary Babbitt's high number of 16 billion barrels, ANWR would almost double U.S. reserves.

These are not my figures. They are figures of the previous Secretary of the Interior. Are these benefits nonexistent, as the whip has indicated last evening?

I hope this will clarify the issue for the majority whip, and any other Senators who might wonder whether ANWR would have an impact on our energy security, economy, or our jobs. To repeat, ANWR could potentially double our reserves overnight. Do I know it will? No. Does anyone else? No. But I will certainly take the word of the Clinton administration scientists over the word of the environmental fundraising groups. They have never wanted this issue resolved because they would no longer have their best fundraising issue to lie their way into well-intentioned American wallets. It is easy to understand how people might be misled. These groups have simply not been telling the truth, period.

I am happy to debate any and all, at any time, on the merits of this issue. If there are those who do not believe me, or the Clinton administration, how about organized labor? Teamsters, maritime, construction trade unions,

the AFL/CIO, operating engineers, and many other unions have joined us in support of this legislation. They think it will have a great impact on the economy, on our national security, on our jobs. They estimate between 250,000 and 750,000 jobs will be created here at home by opening ANWR.

They do not believe the benefits to our Nation are nonexistent, as the majority whip has indicated.

The PRESIDING OFFICER. The Senator has used 15 minutes.

Mr. MURKOWSKI. I ask unanimous consent I may have another 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MURKOWSKI. Mr. President, I would like to take a note here, relative to the number of ships that would have to be built if, indeed, ANWR were opened. A lot of people overlook the reality that Alaskan oil is unique. It has to move in U.S.-flagged vessels because the Jones Act requires that. Any movement of goods and material between two U.S. ports has to be moved in a U.S.-flagged vessel. So all the oil from Alaska moves down in ships built in U.S. yards, with U.S. crews, and flying the American flag.

This is the largest concentration of U.S.-flagged tankers in existence in our country, in this particular trade. They would require, if ANWR opens, 19 double-hulled tankers which would add about $4 billion to the economy and create 5,000 jobs each for 17 years because these new ships will come on as replacements for others.

I do not know if those benefits are nonexistent, but to the States—Maine, where they are likely to build some of these ships; Alabama, Mississippi, Texas, Washington, California—these are jobs. These are good jobs, good jobs in U.S. shipyards.

What about these other ships that bring in oil, the 56 percent that are coming from overseas? They bring their oil in foreign-flagged vessels. They don't have the deep pockets of an Exxon.

I will conclude because I see other Senators are here waiting for recognition. But I want to ask again, the benefits are nonexistent? I hope this will clarify the issue for the majority whip and any other Senators who might wonder whether ANWR would have any impact on our energy security, the economy, and jobs.

To repeat, ANWR could almost double our reserves overnight. Do I know it will? Does anyone? No. But I, again, would take the word of the Clinton administration scientists over the word of the environmental fundraising groups. They have never wanted this issue resolved because, as I indicated, they would no longer have the best fundraising issue to lie their way into well-intentioned American wallets.

It would be easy to understand how they might be misled but, as I have indicated, they pulled the wool over the public's eyes. This is an issue that involves our national energy security. It is a very fundamental issue.

I will conclude by, again, referring to the other organizations—the Veterans of Foreign Wars, the American Legion, Vietnam Veterans Institute—which think it is good for the national security. They do not believe the benefits to our Nation are nonexistent, and they ought to know. They fought the wars.

The House acted on national energy security legislation before September 11. Frankly, they have shown up the Senate. In that body, committees were allowed to advance energy legislation, debate it, and pass it to the floor for further consideration.

Here, the majority leader seized the bill from the committee of jurisdiction, the Energy and Natural Resources Committee, of which I am a ranking member. I used to be chairman. He has seized the bill from the committee of jurisdiction and has substituted his will for the will of the committee. He has bypassed the committee process entirely.

I am very disappointed that we were not able to bring around the majority to recognize this matter should go to the committee of authorization and not be taken away from it, but I am not chairman of that committee anymore.

Finally, I offer up this question to the Senate: If, indeed, the benefits to this country were nonexistent, there was so little oil there, then why is there such a huge campaign to deny Americans that oil? We can all ask ourselves why—16 billion barrels of oil, times $30 a barrel, is almost one-half trillion dollars.

It is about $480 billion; $480 billion is nonexistent? If that is the price about the time ANWR comes on line, that means $480 billion stays at home rather than being spent abroad for oil. With that kind of money, we can better provide for our schools, our security, our health care system, our elderly.

Here we are today rising before this body at last to take up an energy bill. The amendment offered by Senator LOTT is the underlying legislation. Divisions A through G of the amendment will provide us with the remainder of a comprehensive energy policy to guide this Nation into the future.

As I have indicated specifically, these provisions provide ways to do the following: Reduce our demand for energy, increase our domestic supply of energy, invest in our energy infrastructure, and enhance energy security.

I will go into more detail at a later time.

But for the past decade, America has lacked a comprehensive energy strategy. We are aware of that. Without such a guidebook, our record of economic expansion and resulting growth in demand has outpaced our energy production. We saw a similar situation last year in the sense of a perfect storm, if you will. All the parts of our energy supply were stretched, and there were limits on output. We actually saw that occur.

As we know, when supply doesn't meet demand, prices go up. When you have a cartel such as OPEC, they are able to do things that antitrust laws in the United States simply prohibit. They are able to set prices by reducing supply. As we all know, when supply doesn't meet demand, the price rises.

Rising energy prices have already been blamed by many economists for putting us into the recession we now face. It is a matter of particular importance that we develop a comprehensive national energy strategy for our economic and our national security.

Under previous control of this body by the Republicans, the Senate had a very aggressive timetable. That timetable was to get a comprehensive energy bill passed by the Fourth of July. We were working on this bill and introduced it shortly after we came in last year in late January. We had a change. And the GOP left a legacy to the other side. We have done our part.

When I was chairman, our committee had 24 hearings. We heard from 160 witnesses, and we introduced the Murkowski-Breaux bipartisan bill and were ready to move. The President's national energy policy framed the debate.

I can see no reason why the Democrats should not have kept this schedule. But since they took control, we have had a few hearings and heard from some of the same witnesses. We started a markup on the bill of the new chairman in August. We engaged in good-faith discussions to come to a consensus only to find our committee stripped of its jurisdiction by the majority leader because he pulled the plug on the Energy Committee's deliberations and simply took over the process bypassing the authorizing committee and bypassing Senator BINGAMAN, who is the chairman. I can only guess why.

We had the votes in committee to pass out an energy bill. We asked the majority leader, Senator DASCHLE, for a date certain. We asked the chairman of the committee, Senator BINGAMAN, for a date certain. The statement from our Senate leadership is there will be no new energy bill this year. That statement has been made.

At least we are in the Chamber tonight. We have an energy bill up for consideration. I thank all my colleagues who played a role in assuring this would come about, because I made a commitment that we were going to bring this matter up before we go out on recess. Now we are in it.

In recent weeks, there has been considerable talk of the need to address the Nation's problems in the old spirit in a bipartisan manner. I wish we could. We have seen this with respect to an antiterrorist package, the airline security measure, and several other pieces of legislation. Sadly, this air of ''bipartisanship'' has broken down with respect to energy policy. We now find ourselves in a partisan standoff.

I think, though, we all agree we need an energy policy. We have one which

passed the House. That is before us. It is up to us to address whether we are going to simply walk out of here without an energy policy or take this up seriously, vote it out, get it to conference, and respond to the request of our President.

We have seen threats of filibusters, suspension of committee activities, and a failure to give the American people a fair, open, and honest debate on this issue.

I do not think, and I refuse to accept, that meeting the energy needs of this Nation is a partisan issue.

At the beginning of the session, I sought out my colleagues on the other side of the aisle for their ideas and suggestions. And as committee chairman, I delayed introducing any legislation until a measure could be developed that reflected their interests. We worked hard on that.

S. 389, while not perfect, met that requirement and remains the only bipartisan comprehensive energy measure introduced in the Senate.

At a time when the country is seeking unity and bipartisanship, we should be moving forward with a bipartisan energy bill. Just as we did last year with respect to electricity, we should put the contentious issues to a fair and open debate, and vote on them.

Repeatedly, the President has called on Congress to pass energy legislation as a part of our efforts to enhance national security.

With H.R. 4, the bill now sitting on the Senate calendar, the House of Representatives has done its job. Now it's the Senate's turn. The best thing we can do to ensure this Nation's energy security is to act now: take up the House bill, amend it, and go to conference.

Make no mistake about it. That is what we should do. This energy policy proposal will create new jobs in domestic production and new energy technologies. This will be a significant economic stimulus that couldn't come any sooner—when the economy needs thousands of new jobs.

At stake are billions of dollars in construction spending, hundreds of thousands of jobs, and billions of dollars that won't go overseas in future energy spending.

Our increasing dependence on foreign oil helps to support the very terrorists we now fight in the Middle East and elsewhere. We import nearly a million barrels per day of oil from Iraq, and some of our oil payments to Saudi Arabia may have been used against us in the events of September 11.

As a matter of national importance, we cannot allow our energy security to get bogged down in partisanship and procedural maneuvers. One of the purposes of committees is to test various proposals and to provide the Senate with a considered recommendation. A majority of the members of the Energy Committee have been willing to provide this advice—and report out a bill. Yet the majority leader and the committee chairman have seen fit to ''short-circuit'' the regular order to avoid votes on certain issues. These votes would prevail if we could get the matter up in the committee.

The American people deserve better than this. They deserve more than just partisan sniping on energy issues. We certainly need to provide for the security of our energy supply. We need to deal with our infrastructure and our domestic capacity for development, refining and transportation and transmission. And we should take those steps that we can all agree on to promote the energy technologies of the next decade and beyond.

Our Nation deserves a fair, honest, and open debate on all aspects of the important energy issues, including ANWR. This is a debate that a majority of members were ready to have in committee, but that opportunity was denied us. We are ready to have that debate and let the votes fall where they may on all the contentious issues that remain.

So let us now finally—since we are on the bill—have this debate so we can look the American people—our constituents—in the eye when we go home for the holidays and say that, yes, we have passed, in the national interest, an energy bill, H.R. 4, which passed the House overwhelmingly; and then tell them we are going to do our part to provide safe, secure, and affordable energy supplies now and into the future.

At this critical point in our Nation's history, we clearly need a national energy strategy to ensure a stable, reliable, and affordable energy supply.

While many choices have been forced upon us in the aftermath of September 11, we now have the chance to choose our energy future. The other alternative is simply to dodge the issue. Will we have the courage to act? Will we have the courage to make the difficult decisions we avoided some 10 years ago?

In 1995, ANWR was in the omnibus bill. It was an energy bill. It passed this body. It was vetoed by the President. Had he signed that order, we would know what was in ANWR. We could be producing from ANWR. The question is, When are we going to start?

As the President said, there was a good bill passed out of the House of Representatives. Now it is the job of the Senate. The Senate can and must act.

I hope my colleagues will join me in voting for this amendment to ensure the security of our energy supply, our economy, and our Nation for years to come.

I thank the Chair for being patient. We are going to be back on this tomorrow. I thank the majority whip for his indulgence as well.

The PRESIDING OFFICER (Mr. MILLER). The Senator from Nevada.

Mr. REID. Before my friend, the distinguished Senator from Alaska, leaves the Chamber, I did want to say that I was a little disappointed, when he went over the reserves in various States, that he said Nevada had nothing.

Mr. MURKOWSKI. I think the terminology is ''inexistent.''

Mr. REID. Inexistent? The reason I mention that is for 6 years Nevada had the largest single producing oil well in the United States in a place called Railroad Valley. The well went dry about 8 or 9 years ago. But for 6 years it was the best in the country.

Mr. MURKOWSKI. I was talking about current reserves, so there very well may have been a well in Nevada, but there isn't anymore.

Mr. REID. That we have found yet.

Mr. ENZI. Mr. President, I rise today in support of the Railroad Retirement and Survivor's Improvement Act of 2001. As a Senator from Wyoming, I represent a State that bears the undeniable mark of the railroads. Many of the towns across the southern corridor of my State were established on the sites of old railroad shanty towns. These shanty towns were constructed to house the workers that built the railroads. The railroad workers brought diversity to Wyoming. Many of my constituents with Chinese, Irish and Italian heritages call Wyoming home because their ancestors moved there with the railroad.

The railroad is still an integral part of Wyoming today. It transports one of our greatest energy resources, low-sulfur coal, to States that lack our power supply. And today's railroad workers are still an important part of the Wyoming population. I support this bill because I support providing the survivors of railroad employees with the benefits they require to live out their days in my State and other States. I support this bill for another reason; it is a viable option to provide solvency to the railroad retirement fund and increase retirement benefits and while lowering employer taxes.

These two results may sound mutually exclusive, but I assure you that they are not. The bill authorizes the newly created Railroad Retirement Trust Fund to invest the current Railroad Retirement Account in securities, including stocks and bonds. Even a conservative estimate places the rate of return on these investments as greater than the current rate of return in government accounts. This is the mechanism that allows retirement benefits to increase while taxes decrease.

As an accountant, I refrained from sponsoring the bill until I reviewed the actuarial report. After examining the report, I determined that the Railroad Retirement Trust Fund would remain well-capitalized and able to pay benefits under this legislation far into the future. The actuarial report indicated that this would occur even during mediocre economic conditions.

This bill would directly benefit Wyoming railroaders and their spouses by allowing 100 percent benefits for survivors of eligible retirees. It would lower the retirement age from 62 to 60

years for employees that have worked at least 30 years for the railroad. Some of my colleagues have asked why we should lower the railroad retirement age when the Social Security retirement age is increasing from 65 to 67. It is important to make a distinction between Tier I and Tier II benefits in this plan. Tier I benefits are comparable to Social Security benefits, and they do not start paying until the equivalent Social Security benefits are payed. Currently, that is at age 65. Tier II benefits, which are funded by taxes to the railroad employers and employees, pay the early retirement benefits for eligible workers. This is very similar to the ''bridge plan'' offered by private pension plans. This is important because railroading is a physically rigorous profession that ages a body prematurely and is still considered hazardous.

This legislation includes an automatic tax trigger that initiates an increase or decrease of the employer's taxes if the trust fund's amount moves outside of preset barriers. The barriers would ensure that a cushion of 4 to 6 years' worth of benefits payable remain in the account. A number of my colleagues have been presenting graphs that show benefit levels falling and employer taxes increasing 20 years after the program is initiated. I do not dispute this. In fact, it shows the fund's ability to manage itself and respond to decreases in its cushion.

As a Wyoming Senator and an accountant, I support the Railroad Retirement and Survivor's Improvement Act. I support it as a responsible way to manage the funds entrusted to us by the railroad workers. I support it as a way to fully care for the individuals that have contributed so much to our nation's infrastructure. I ask that my colleagues do the same and pass this bill.

SERVICE MEMBERS OPPORTUNITY COLLEGES

Mr. THURMOND. Mr. President, it is with great pleasure that I rise to bring to the attention of the Senate a true national asset, the Service Members Opportunity Colleges, (SOC). The SOC is a consortium of over 1500 Colleges and Universities across the Nation that have taken on the privilege of educating our Nation's men and women in uniform.

Founded in 1972 the SOC was created to ''provide educational opportunities to service members, who, because they frequently moved from place to place, had trouble completing college degrees.''

In fulfilling this primary role the SOC and their member institutions currently serve hundreds of thousands of service members. They work very hard to provide opportunities for our brave young men and women to educate themselves while serving our Nation. Consequently the SOC is helping prepare the future leaders of our military and our country. For this I salute them.

However, in addition to their stated mission the SOC, and their director Dr. Steven Kime, have dedicated themselves to ensuring that our men and women in the Guard and Reserve are taken care of when our Nation calls upon them and they are forced to leave school. The SOC does this by using their extensive network to ensure that students called to service are either refunded their tuition or receive credits for later education. Through their hard work SOC has helped create a sense of duty among their member institutions who regularly prove their devotion to this Nation by providing help and assistance to their students called upon to serve.

Consequently SOC has ensured that our brave young men and women called to active duty have one less worry on their already heavy shoulders. In these trying times it is this type of duty and leadership that proves our Nation and the American people are without equal.

Again, I would like to offer my thanks and admiration to the Servicemembers Opportunity Colleges and their men and women working so hard to make life better for our men and women in uniform.

ANOTHER REASON TO CLOSE THE GUN SHOW LOOPHOLE

Mr. LEVIN. Mr. President, I would like to enter into the RECORD some important information about guns and terrorists. Currently, shoppers at gun shows may choose to buy firearms from federally licensed firearms dealers—or from unlicensed dealers. Since unlicensed sellers are not required to run Brady background checks, which involves an instant background check for among other things, criminal history, outstanding warrants and illegal immigration status, gun shows are an important source of guns for criminals and terrorists who would not be able to buy weapons in a store. In fact, several cases have linked the purchase of guns at gun shows to terrorists. For example, in Florida, a man accused of having ties to the Irish Republican Army testified that he purchased thousands of dollars worth of machine guns, rifles, and high-powered ammunition at gun shows and proceeded to smuggle them to Ireland. Now more than ever, we must close the gun show loophole. I urge my fellow Senators to support bringing to the floor legislation that will close the gun show loophole.

MAJOR GENERAL PAUL A. WEAVER, JR.

Mr. STEVENS. Mr. President, I would like to take a moment to recognize one of the finest officers in our Armed Forces, Major General Paul A. Weaver, Jr., the Director of the Air National Guard. Well known and respected by many Members in this chamber, General Weaver will soon retire after almost 35 years of selfless service to our country. Today, I am honored to acknowledge some of General Weaver's distinguished accomplishments and to commend the superb service he has provided to the Air National Guard, the Air Force, and our great Nation.

After completing his Bachelor of Science degree in Communicative Arts at Ithaca College, New York, Paul Weaver entered the Air Force in 1967 and was commissioned through Officer Training School. After earning his pilot wings, he had flying assignments in the F–4E and O–2A, and completed overseas tours in Germany and Korea. In 1975, he joined the New York Air National Guard with which he served in increasing levels of responsibility. This culminated when he took command of the 105th Airlift Group at Stewart Air National Guard Base, New York, in 1985. Following his nine years as commander, General Weaver served as the Air National Guard's Deputy Director for four years and was appointed the Director of the Air Guard in 1998.

General Weaver is a command pilot with more than 2,800 flying hours in five different aircraft. He is a veteran of Operations Desert Shield, Desert Storm, and Just Cause. General Weaver's decorations include the Distinguished Service Medal, the Legion of Merit, Meritorious Service Medal, Aerial Achievement Medal, Air Force Commendation Medal with two oak leaf clusters, Combat Readiness Medal with Service Star, and Southwest Asia Service Medal with two oak leaf clusters.

While serving as Commander of the 105th Airlift Wing, Paul Weaver was responsible for the largest conversion in the history of the Air National Guard. Under his command, the wing converted from the Air Force's smallest aircraft, the O–2 Skymaster, to its largest, the C–5 Galaxy. During this conversion, he oversaw the largest military construction program in the history of the reserve forces as he literally rebuilt Stewart Air National Guard Base.

As the Air National Guard's Director, General Weaver's accomplishments are also noteworthy. He had dedicated each year of his term to a different theme—transition, the enlisted force, the family, and employers, thereby providing focus and enhancements to these four crucial areas. In addition, Paul Weaver's modernization, readiness, people, and infrastructure initiatives have enabled a fuller partnership role in the Air Force's Expeditionary Aerospace Force. The Air Guard achieved all its domestic and global takings and requirements with a force that is also smaller in size. Under General Weaver's leadership, the Air National Guard is even more relevant, ready, responsive, and accessible than it has ever been.

I would be remiss if I also did not mention that the Air National Guard is also fortunate to have another Weaver contributing to its success. Besides

fully supporting his chosen profession, Paul's wife, Cathylee Weaver has had a major impact on the Air Guard's Family Enrichment programs. With dignity and grace, she dedicated time and attention to Air National Guard families, which led to her recently being voted as Volunteer of the Year of Family Programs. Clearly, the Air National Guard will lose not one, but two, exceptional people.

Let me close by saying that as both its Deputy and Director, General Weaver has made the Air National Guard a stronger and more capable partner for the Air Force. His distinguished and faithful service has provided significant and lasting contributions to our Nation's security. I know the members of the Senate will join me in paying tribute to this outstanding citizen-airmen and true patriot upon his retirement from the Air National Guard. We thank General Weaver, and wish him, Cathylee, and the entire Weaver family much health, happiness, and Godspeed.

KIDS TO KIDS: WARM CLOTHING FOR AFGHAN CHILDREN

Mr. JEFFORDS. Mr. President, I would like to draw my Colleagues' attention to an important initiative that is taking shape in Vermont. On Monday of this week, I attended a very special ceremony at Lawrence Barnes School in Burlington to kick off a program called Kids to Kids. The event was organized by Vermont Boy and Girl Scouts and its goal is simple—a drive to collect and send warm clothing to Afghan children. My wife, Liz, and I wholeheartedly agreed to be honorary co-chairs of this program and we are pleased to be part of a mission that involves the Boy Scouts and Girl Scouts, the Islamic Society of Vermont, the National Guard and the business community.

We in Vermont know the importance of being well-prepared for the frigid winter months, and we are fortunate to be in a position to help. But I am particularly pleased that the impetus for this clothing drive has come from the children. Vermonters have always stood eager and ready to lend a hand to those in need, and it fascinates me to see how this tradition passes from one generation to the next. It is the Boy Scouts, Girl Scouts, and school children of Vermont who will make this campaign a success, and the importance of their role cannot be stressed enough.

This campaign is so much more than simply a gesture of good will. It is a matter of saving lives. Thousands of children have fled Afghanistan with nothing more than the clothing on their backs. The flood of Afghan refugees started many years ago, and now there are many thousands of displaced children living in refugee camps.

Many of these children are suffering under conditions that no child should have to bear. They are hungry and they are cold. With winter setting in, something like a warm winter sweater, which so many of us take for granted, is a luxury item that is far beyond their reach.

From our small State to Afghan refugee camps, the boys and girls of Vermont are proving that they can make a difference. I am certain their ''good turn'' will be as rewarding for them as it is for the children of Afghanistan.

NATIVE AMERICAN BREAST AND CERVICAL CANCER TREATMENT TECHNICAL AMENDMENT ACT OF 2001

Mr. BINGAMAN. Mr. President, last evening, the Senate passed by unanimous consent S. 1741, the Native American Breast and Cervical Cancer Treatment Technical Amendment Act of 2001, which I had introduced with Senator MCCAIN and 23 other bipartisan cosponsors.

S. 1741 is identical to S. 535 and was introduced as a freestanding bill to address a jurisdictional concern raised with the committee referral of the initial bill. Due to the importance of the legislation, I am pleased that the entire Senate saw fit to allow this bill to be reintroduced and passed by unanimous consent yesterday.

The legislation makes a simple, yet important, technical change to the Breast and Cervical Cancer Treatment and Prevention Act of 2000 by clarifying that American Indian and Alaska Native women should not be excluded from receiving coverage through Medicaid for breast and cervical cancer treatment.

The Breast and Cervical Cancer Prevention and Treatment Act of 2000 gives States the option to extend coverage for the treatment of breast and cervical cancer through the Medicaid program to certain women who have been screened through the National Breast and Cervical Cancer Early Detection Program, or Title XV of the Public Health Service Act, and who do not have what is called ''creditable coverage,'' as defined by the Health Insurance Portability and Accountability Act of 1996, or HIPPA.

In referencing the HIPPA definition of ''creditable coverage,'' the bill language inadvertently precludes coverage to Native American women who have access to medical care under the Indian Health Service, or IHS. HIPPA included a reference to IHS or tribal care as ''creditable coverage'' so that members of Indian Tribes eligible for IHS would not be treated as having a break in coverage, and thus subject to pre-existing exclusions and waiting periods when seeking health insurance, simply because they had received care through Indian health programs, rather than through a conventional health insurance program. Thus, in HIPPA, the inclusion of the IHS or tribal provision was intended to benefit American Indians and Alaska Natives, not penalize them.

However, use of the HIPPA definition in the recent Breast and Cervical Cancer Treatment and Prevention Act has the exact opposite effect. In fact, the many Indian women, who rely on IHS or tribal programs for basic health care, are specifically excluded from the law's new eligibility under Medicaid. Clearly it was not the intent of Congress to specifically discriminate against low-income Native American women and to deny them much needed health treatment to combat breast or cervical cancer.

The legislation resolves these problems by clarifying that, for purposes of the Breast and Cervical Cancer Prevention and Treatment Act, the term ''creditable coverage'' shall not include IHS-funded care so that American Indian and Alaska Native women can be covered by Medicaid for breast and cervical cancer treatment, as they are for all other Medicaid services. Since a number of States are currently moving forward to provide Medicaid coverage under the State option, the need for this legislation is immediate to ensure that some American Indian and Alaska Native women are not denied received life-saving breast and cervical cancer treatment due to a Congressional drafting error.

In addition, this bill would also reduce the administrative burdens this language places on states. Under administrative guidance, some Native American women can be enrolled on the program depending on a determination of their ''access'' to IHS services, which depends on certain documentation obtained by Native American women seeking breast and cervical cancer treatment from IHS. In order to determine the Medicaid eligibility of Native American women who are screened as having breast or cervical cancer through the Title XV program each year, states are having to put together a whole set of regulations and rules to make these special ''access'' determinations.

During this year, almost 50,000 women are expected to die from breast or cervical cancer in the United States despite the fact that early detection and treatment of these diseases could substantially decrease this mortality. While passage of last year's bill makes significant strides to address this problem, it fails to do so for certain Native American women and that must be changed as soon as possible.

In support of Native American women across this country that are being diagnosed through CDC screening activities as having breast or cervical cancer, this legislation will assure that they can also access much needed treatment through the Medicaid program while also reducing the unnecessary paperwork and administrative burdens on states.

I would like to thank all Senators for their support and specifically thank

Chairman INOUYE and Senator CAMPBELL of the Committee on Indian Affairs and Chairman BAUCUS and Senator GRASSLEY of the Finance Committee for agreeing to move the bill. In addition, I would like to thank the bill's cosponsors, which include Senators MCCAIN, DASCHLE, BAUCUS, CLINTON, DOMENICI, FEINGOLD, KENNEDY, JOHNSON, MURRAY, STABENOW, WELLSTONE, HARKIN, MILLER, SNOWE, INOUYE, SMITH of Oregon, CANTWELL, INHOFE, LANDRIEU, COCHRAN, BOXER, MURKOWSKI, MIKULSKI, and GRASSLEY for their help in getting the bill passed.

I would also like to thank Sara Rosenbaum at George Washington University for bringing this problem to our attention and for her vast knowledge on this issue and Andy Schneider for his technical advice and counsel on correcting the problem.

In addition, this bill would never have passed without the outstanding support and efforts by Fran Visco, Jennifer Katz, Wendy Arends, Alana Wexler, Joanne Huff, and Vicki Tosher at the National Breast Cancer Coalition, Wendy Selig, Licy Docanto, Brian Lee, and Janet Thomas of the American Cancer Society, Dawn McKinney and Laura Hessburg of the American College of Obstetricians and Gynecologists, Leigh Ann McGee of the Cherokee Nation, Jacqueline Johnson of the National Congress of American Indians, and the many Indian health organizations that have helped with the passage of this legislation as well.

I urge the House to immediately take up and pass this legislation and for the President to sign it into law to ensure that Native American women are not inappropriately denied treatment for their breast and cervical cancer. As states proceed with the implementation of last year's bill, any further delay and failure to act could unnecessarily threaten the lives of Native American women across this country.

LOCAL LAW ENFORCEMENT ACT OF 2001

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 October 16, 1994 in Salt Lake City, UT. Two women, one lesbian and one bisexual, allegedly were beaten by a man who yelled anti-gay slurs. The assailant, Gilberto Arrendondo, 44, was charged with four counts of violating the State hate crime law and four counts of assault.

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.

ART THERAPY

Mrs. CLINTON. Mr. President, since the terrible tragedies of September 11, many Americans, both adults and children, have been forced to deal with a level of pain and anxiety that most people have never had to endure before. Art therapy—the process of using art therapeutically to treat victims of trauma, illness, physical disability or other personal challenges—has historically been under recognized as a treatment. However, since September 11, many of us have witnessed its enormous benefits in helping both children and adults alike express their emotions in a very personal, touching way.

While nearly every person in our country has been irrevocably changed by that day's events, we know that children are particularly vulnerable to the long-term emotional consequences that often accompany exposure to trauma. One of the ways in which children have coped with the aftermath of September 11 is by reaching for their crayons, pencils, and paintbrushes to express some of what they are feeling. Children all over the country have created images of World Trade Center towers and the Pentagon decorated with hearts, tears, rainbows, and angels. These simple, yet heartfelt, drawings, which do such a wonderful job of expressing the complex emotional terrain that these children are navigating, have moved us all.

Adults, too, have used creativity to help cope with the difficult emotions that so many are experiencing. I heard the story of a woman who was one of the last people to be rescued from the World Trade Center rubble after being trapped for more than a day. She drew a picture while in intensive care of herself under the rubble with angels and God hovering above her. Another victim of the disaster drew pictures of flowers and spoke about how grateful she was to be alive.

Last June, I had the pleasure of viewing an art exhibit here on Capitol Hill in which all of the art was created by patients who were being treated by art therapists. It was a remarkable feat for people coping with such immense personal pain to be able to produce such works of passion and beauty. Although sometimes the healing qualities of art may be less tangible or obvious than its aesthetic qualities, they may be even more important.

I want to thank art therapists, in New York and every community in America, who are assisting survivors, rescuers, and the bereaved. Throughout the country, there are almost 5,000 trained and credentialed art therapists working in hospitals, nursing homes, schools and shelters. They are among the army of mental health professionals who support those suffering from psychological trauma from the attacks, and undoubtedly will continue to serve the needs of individuals coping with subsequent stress disorders.

And that is why I rise today to encourage my colleagues in Congress to support the field of art therapy and expand awareness about this creative form of treatment. At this time of heightened awareness about the importance of maintaining mental health, we should recognize art therapy as a way to treat those among us who have experienced trauma.

RAILROAD RETIREMENT

Mr. CRAPO. Mr. President. I am pleased that we are proceeding on the Railroad Retirement and Survivors' Improvement Act. This important legislation will modernize the retirement system by giving rail employers and employees more responsibility and accountability for a private pension plan. Moreover, the bill permits the reduction of payroll taxes and improves benefits for widows and widowers.

The overwhelmingly success of today's vote, which transcended party lines and ideological persuasions, shows what can be accomplished when all parties work together. This was a victory for the workers in the yard, all the railroads and especially for the survivors of retirees.

I am hopeful that we can build on today's momentum. This is a smart bill with bipartisan support. The consensus is that it makes sense to modernize the railroad retirement system in a way that increases benefits for railroad retirees and their families.

ADDITIONAL STATEMENTS

TRIBUTE TO HAROLD R. ''TUBBY'' RAYMOND, HEAD COACH OF THE UNIVERSITY OF DELAWARE FOOTBALL TEAM

• Mr. BIDEN. Mr. President, we in Delaware, and especially those of us associated with the University of Delaware, engaged in a very proud celebration this fall, when on November 10, Harold ''Tubby'' Raymond won his 300th game as head coach of the University's Fightin' Blue Hens football team.

The win put Coach Raymond into some very elite company, as he became the ninth ranked college coach in all-time wins, fifth among active coaches, second among division I–AA coaches, and one of only four coaches in the 300-wins club to have won all of his games at one school.

Coach Raymond came to the University of Delaware in 1954; to put that in perspective, it means that he had already been coaching at Delaware, as an assistant in football and head coach in baseball, for six years when I arrived on campus as a college freshman. With apologies to my New England colleagues, we stole Tubby from the University of Maine, where he had coached

with his fellow University of Michigan alumnus and later College Football Hall of Famer, Dave Nelson. If you've ever seen the University of Delaware football helmets, you know that Coaches Nelson and Raymond never forgot their Michigan roots.

After serving as Dave Nelson's backfield coach for 12 years, Tubby Raymond took over the head coaching job in 1966, leading that first team to a 6–3 record and the first of three Middle Atlantic Conference University Division championships. In his 36-year career as Delaware's head coach, Tubby has gone on to win three national championships, including back-to-back titles in 1971 and '72, and has led Delaware to the national playoffs a total of 16 times, five in Division II and 11 in Division I–AA. His teams have earned 14 Lambert Cup eastern college championships, and have won six Atlantic 10/Yankee Conference titles, five Boardwalk Bowls and nine ECAC ''Team of the Year'' Awards.

Tubby Raymond's career record stands at 300–119–3, a winning percentage of .714. He is one of only two college division coaches ever to win consecutive American Coaches Association Coach of the Year Awards. He was named NCAA Division II Coach of the Year by ABC Sports and Chevrolet in 1979, following his third national championship season. He is all told, a seven-time honoree as AFCA College Division District II, now I–AA Region I, Coach of the Year; and he has been twice named as the New York Writers Association ECAC I–AA Coach of the Year. In 1998, Coach Raymond received the Vince Lombardi Foundation Lifetime Achievement Award, and in 2000, he was recognized by Sports Illustrated as one of Delaware's top 10 sports figures of the 20th Century.

Most incredibly of all, all the records and championships and statistics, as phenomenal as they are, don't tell the full story of Tubby Raymond's stature and influence on his players, the University, his sport or our State as a whole. Coach Raymond is a leader far beyond the walls of Delaware Stadium; he is respected, admired and beloved by his fellow Delawareans, even those who like to call their own plays from the stands, and even by rival coaches and opposing players. He is an institution, in a word, a legend; in fact, I would say that Tubby Raymond defines the standard of ''living legend'' in my State.

To top it off, Tubby is a good golfer, though like most of us not as good as he would like to be, and he is also an artist of considerable renown. One of the many ways Tubby expresses his bond to his players has been by painting a portrait of a senior member of the team each week of the season through most of his career. Other Raymond originals have benefited charity auctions and decorated Delaware football media guides. In fact, Tubby's artistic talents have attracted only slightly less national attention than his coaching skills; his paintings have been featured on Good Morning America, NBC Nightly News, Sports Illustrated, CNN and Fox Sports.

To save the best for last, Tubby Raymond is a family man. He lives with his wife, Diane, and daughter, Michelle, and is also the proud father of three grown children from his first marriage to Sue Raymond, who died in 1990. His son, Chris, is a former coach made good as an officer with J.P. Morgan; his daughter, Debbie, is a psychologist; and his son, David, became well known himself to sports fans as the Phillie Phanatic, mascot of the Philadelphia Phillies, and now owns Raymond Entertainment.

It is my privilege to share Delaware's pride in Harold ''Tubby'' Raymond with the Senate and with the Nation today. He is a legendary coach, an inspiring leader, a good friend and a remarkable human being, and to put it simply, we love him.●

HONORING POLICE OFFICER DANNY FAULKNER

● Mr. SPECTER. Mr. President, on Sunday, December 9, 2001, at 12 Noon, a commemorative plaque will be cemented into the sidewalk at the southeast corner of 13th and Locust Streets in Philadelphia, PA to mark the 20th anniversary of the murder of Police Officer Danny Faulkner at that site.

Officer Faulkner lost his life protecting the people of Philadelphia from the scourge of violent crime. Our society owes a great debt of gratitude to the Thin Blue Line, the police officers of America who fight criminal violence on the streets of our Nation 24 hours a day, 7 days a week and 52 weeks of the year.

From my experience as District Attorney of Philadelphia, I know the extraordinary risks faced by law enforcement officers. One of the most difficult aspects of my District Attorney's duties was the attendance at the funerals of police officers who were killed in the line of duty.

Following the terrorist attack on September 11, America has been focused on the courage and bravery of the police and firefighters. There is now a better understanding of the risks and performance of firefighters and police for their heroic efforts on September 11.

The commemoration of the 20th anniversary of Officer Faulkner's murder should inspire us to redouble our efforts to fight all forms of criminal violence, including terrorism, and to pay tribute to the memory of Officer Faulkner and all the police and firefighters of America.●

TRIBUTE TO LIEUTENANT SUZANNE R. DEPRIZIO

● Mr. INOUYE. Mr. President, in my years in the Senate, I have had the opportunity to meet and get to know many of our men and women in uniform. I have always been struck by their enthusiasm, determination, patriotism, and professionalism. Yet sometimes, even in such impressive company, you run across an individual who stands out above the rest. Lt. Suzy DePrizio is one of those standouts.

Lt. DePrizio serves today as the legislative affairs officer for the United States Pacific Command, located in my home State of Hawaii. I've gotten to know Lt. DePrizio on my many trips to visit the command. Lt. DePrizio has constantly provided my staff and me timely, valuable and accurate information on the critical issues of the day. Her energetic determination and competence inspire all those who work with her. I know first hand from my discussions with Admiral Blair, the commander of the Pacific Command, what a high regard the entire staff of PACOM has for this tremendously talented young officer. No matter how difficult the challenge, Suzy was always up to the task. Her behind-the-scenes efforts to prepare for congressional testimony were recognized by those of us in this business as exemplary. The CINC was always well prepared because of her efforts.

I also know from many of my colleagues that traveled into the Pacific region how smoothly their travel went because of her coordination and attention to detail. I would always tell them, ''ask for Suzy, she'll get the job done right.'' Of course, she always did.

As Lt. Deprizio prepares to leave active duty in the Navy for a civilian career, I salute her for a job well done. On behalf of the entire U.S. Congress, I want to thank America for sending us proud and patriotic professionals such as Lt. Deprizio. She is certainly among our Nations's finest, and she gave tenfold compared to what she received.

In Hawaii, we have many traditions and blessings, one of which is the spirit of Aloha,—not just hello or goodbye or love, but the spirit of giving. When you put it together with the word 'aina, it becomes the Hawaiian phrase for patriotism. And, if there ever was an officer who had the spirit of aloha' aina for the Congress, the Armed forces and for America, it is Lt. Suzy DePrizio. In that spirit, we send her on her way, wishing her fair winds and following seas in everything she does.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 3:33 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 3338. An act making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes.

H.R. 2722. An act to implement a system of requirements on the importation of diamonds, and for other purposes.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 77. Concurrent resolution expressing the sense of the Congress regarding the efforts of people of the United States of Korean ancestry to reunite with their family members in North Korea.

MEASURES REFERRED

The following bill was read the first and the second times by unanimous consent, and referred as indicated:

H.R. 3338. An act making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; to the Committee on Appropriations.

The following concurrent resolution was read, and referred as indicated:

H. Con. Res. 77. Concurrent resolution expressing the sense of the Congress regarding the efforts of people of the United States of Korean ancestry to reunite with their family members in North Korea; to the Committee on Foreign Relations.

MEASURES PLACED ON THE CALENDAR

The following bill was read the second time, and placed on the calendar:

H.R. 2983. An act to extend indemnification authority under section 170 of the Atomic Energy Act of 1954, and for other purposes.

MEASURES READ THE FIRST TIME

The following bills were read the first time:

H.R. 2722. An act to implement a system of requirements on the importation of diamonds, and for other purposes.

H.R. 3189. An act to extend the Export Administration Act until April 20, 2002.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–4597. A communication from the Acting Director of the Office of National Drug Control Policy, Executive Office of the President, transmitting, pursuant to law, a report on the Accounting of Drug Control Funds for Fiscal Year 2000; to the Committee on the Judiciary.

EC–4598. A communication from the Chairman of the Board of Governors of the Federal Reserve System, transmitting, the semiannual report of the Office of the Inspector General for the period beginning April 1 through September 30, 2001; to the Committee on Governmental Affairs.

EC–4599. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 14–167, ''Chesapeake Regional Olympic Games Authority Act of 2001''; to the Committee on Governmental Affairs.

EC–4600. A communication from the Under Secretary of Defense, Acquisition, Technology and Logistics, transmitting, pursuant to law, twenty-nine quarterly exception Selected Acquisition Reports for the period ending September 30, 2001; to the Committee on Armed Services.

EC–4601. A communication from the Secretary of the Navy, transmitting, pursuant to law, a report relative to the LPD 17 Program Life Cycle Cost Estimate; to the Committee on Armed Services.

EC–4602. A communication from the President of the United States, transmitting, pursuant to law, a six-month periodic report on the national emergency with respect to Burma that was declared in Executive Order 13047 of May 20, 1997; to the Committee on Banking, Housing, and Urban Affairs.

EC–4603. A communication from the Board of the Federal Reserve System, the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, and the Office of Thrift Supervision, transmitting jointly, pursuant to law, a report on Review of Regulations Affecting Online Delivery of Financial Products and Services; to the Committee on Banking, Housing, and Urban Affairs.

EC–4604. A communication from the Assistant to the Federal Reserve Board, transmitting, pursuant to law, the report of a rule entitled ''Regulations H and Y—Risk-Based Capital Guidelines; Capital Adequacy Guidelines; Capital Treatment of Recourse, Direct Credit Substitutes and Residual Interests in Asset Securitizations'' (Doc. No. R–1055) received on November 27, 2001; to the Committee on Banking, Housing, and Urban Affairs.

EC–4605. A communication from the President of the United States (received and referred on November 29, 2001), transmitting, consistent with the War Powers Act, a report relative to NATO-led international security force in Kosovo (KFOR); to the Committee on Foreign Relations.

EC–4606. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, a certification of a proposed license for the export of defense articles to India; to the Committee on Foreign Relations.

EC–4607. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, a certification of a proposed license for the export of defense articles or services sold commercially under a contract in the amount of $50,000,000 or more to the United Kingdom; to the Committee on Foreign Relations.

EC–4608. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, a certification of a proposed manufacturing license agreement with Japan; to the Committee on Foreign Relations.

EC–4609. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, a certification of a proposed manufacturing license agreement with the United Kingdom; to the Committee on Foreign Relations.

EC–4610. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, a certification of a proposed license for the export of defense articles or services sold commercially under a contract in the amount of $50,000,000 or more to Japan; to the Committee on Foreign Relations.

EC–4611. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, a certification of a proposed license for the export of defense articles or services sold commercially under a contract in the amount of $50,000,000 or more to France; to the Committee on Foreign Relations.

EC–4612. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Methoxyfenozide: Pesticide Tolerances for Emergency Exemptions'' (FRL6806–4) received on November 16, 2001; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4613. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Imidacloprid; Pesticide Tolerances for Emergency Exemptions'' (FRL6806–9) received on November 16, 2001; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4614. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Chlororthalonil; Pesticide Tolerances for Emergency Exemptions'' (FRL6807–1) received on November 16, 2001; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4615. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''NESHAP: for Pesticide Active Ingredient Production'' (FRL7106–6) received on November 20, 2001; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4616. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''NESHAP: Pesticide Active Ingredient Production'' (FRL7106–1) received on November 20, 2001; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4617. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Azoxystrobin: Pesticide Tolerances for Emergency Exemptions'' (FRL6809–3) received on November 20, 2001; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4618. A communication from the Acting Assistant Director of Communications, Bureau of Land Management, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Interim Final Supplementary Rules on Bureau of Land Management Public Lands within the Imperial Sand Dunes Recreation Area'' received on November 19, 2001; to the Committee on Energy and Natural Resources.

EC–4619. A communication from the Acting Director of the Office of Surface Mining, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Civil Penalty Adjustments'' (RIN1029–AC00) received on November 19, 2001; to the Committee on Energy and Natural Resources.

EC–4620. A communication from the Acting Director of the Office of Surface Mining, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Illinois Regulatory Program'' (IL–100–FOR) received on November 19, 2001; to the Committee on Energy and Natural Resources.

EC–4621. A communication from the Acting Director of the Office of Surface Mining, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Montana Regulatory Program'' (MT–022–FOR) received on November 19, 2001; to the Committee on Energy and Natural Resources.

EC–4622. A communication from the Assistant Secretary of the Interior, Bureau of Land Management, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Mineral Materials Disposal'' (RIN1044–AD29) received on November 19, 2001; to the Committee on Energy and Natural Resources.

EC–4623. A communication from the Assistant General Counsel for Regulatory Law, Office of Procurement and Assistance Policy, Department of Energy, transmitting, pursuant to law, the report of a rule entitled ''Management of Report Deliverables'' (FAL 2001–04) received on November 20, 2001; to the Committee on Energy and Natural Resources.

EC–4624. A communication from the Assistant General Counsel for Regulatory Law, Office of Procurement and Assistance Policy, Department of Energy, transmitting, pursuant to law, the report of a rule entitled ''Energy Conservation Program for Consumer Products: Amendment to the Definition of 'Electric Refrigerator'" (RIN1902–AB03) received on November 20, 2001; to the Committee on Energy and Natural Resources.

EC–4625. A communication from the Assistant General Counsel for Regulatory Law, Office of Procurement and Assistance Policy, Department of Energy, transmitting, pursuant to law, the report of a rule entitled ''Energy Efficiency Program for Certain Commercial and Industrial Equipment: Extension of Time for Electric Motor Manufacturers To Certify Compliance With Energy Efficiency Standards'' (RIN1904–AB11) received on November 20, 2001; to the Committee on Energy and Natural Resources.

EC–4626. A communication from the Assistant General Counsel for Regulatory Law, Office of Procurement and Assistance Policy, Department of Energy, transmitting, pursuant to law, the report of a rule entitled ''Security Requirements for Protected Disclosures Under Section 3164 of the National Defense Authorization Act for Fiscal Year 2000'' (RIN1992–AA26) received on November 20, 2001; to the Committee on Energy and Natural Resources.

EC–4627. A communication from the Assistant General Counsel for Regulatory Law, Office of Procurement and Assistance Policy, Department of Energy, transmitting, pursuant to law, the report of a rule entitled ''General Guidelines for the Recommendation of Sites for Nuclear Waste Repositories; Yucca Mountain Site Suitability Guidelines'' (RIN1901–AA72) received on November 20, 2001; to the Committee on Energy and Natural Resources.

EC–4628. A communication from the Attorney-Advisor of the National Highway Traffic Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Insurer Reporting Requirements; List of Insurers Required to File Reports'' (RIN2127–AI07) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4629. A communication from the Senior Regulations Analyst, Office of the Secretary of Transportation, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Procedures for Compensation of Air Carriers'' (RIN2105–AD06) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4630. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Regulations: New Rochelle Harbor, NY'' ((RIN2115–AE47)(2001–0118)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4631. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Regulated Navigation Areas; New York Marine Inspection Zone and Captain of the Port Zone'' ((RIN2115–AE84)(2001–0002)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4632. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations; Prince Williams Sound Captain of the Port Zone, Alaska'' ((RIN2115–AA97)(2001–0142)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4633. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Regulations; Inner Harbor Navigation Canal, LA'' ((RIN2115–AE47)(2001–0115)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4634. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Regulations: Newton Creek, Dutch Kills, English Kills and their Tributaries, NY'' ((RIN2115–AE47)(2001–0116)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4635. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Regulations: Dorchester Bay, MA'' ((RIN2115–AE47)(2001–0113)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4636. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Regulations; Bayou Lafourche, LA'' ((RIN2115–AE47)(2001–0117)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4637. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Regulations: Harlem River, NY'' ((RIN2115–AE47)(2001–0114)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4638. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Regulated Navigation Areas; Boston Marine Inspection Zone and Captain of the Port Zone'' ((RIN2115–AE84)(2001–0004)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4639. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Regulated Navigation Area; Savannah River, Georgia'' ((RIN2115–AE84)(2001–0005)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4640. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Regulated Navigation Areas; New York Marine Inspection Zone and Captain of the Port Zone'' ((RIN2115–AE84)(2001–0003)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4641. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations; Route 1 Bascule Bridge, Mystic River, Mystic, CT'' ((RIN2115–AA97)(2001–0140)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4642. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations; Gulf of Alaska, Southeast of Narrow Cape, Kodiak Island, AK'' ((RIN2115–AA97)(2001–0141)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4643. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations; Port Valdez, Alaska'' ((RIN2115–AA97)(2001–0143)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4644. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations; Trans-Alaska Pipeline Valdez terminal complex, Valdez, Alaska'' ((RIN2115–AA97)(2001–0144)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4645. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations; Lake Michigan, Chicago, IL'' ((RIN2115–AA97)(2001–0138)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4646. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations; Los Angeles Harbor, Los Angeles, CA and Avila Beach, CA'' ((RIN2115–AA97)(2001–0139)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4647. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Regatta

Regulations: SLR; Charleston Christmas Boat Parade and Fireworks Display, Charleston Harbor, Charleston, SC'' ((RIN2115–AE46)(2001–0034)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4648. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Regatta Regulations; SLR; Waverly Hotel Fireworks Display, Biscayne Bay, Miami, FL'' ((RIN2115–AE46)(2001–0035)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4649. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Regulations: Harlem River, Newtown Creek, NY'' ((RIN2115–AE47)(2001–0112)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4650. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Regulations; SR 84 Bridge, South Fork of the New River, mile 4.4, Ft. Lauderdale, Broward County, Florida'' ((RIN2115–AE47)(2001–0111)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4651. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations; Verrazano Narrows Bridge, New York'' ((RIN2115–AA97)(2001–0135)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4652. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations; San Francisco Bay, San Francisco, CA and Oakland, CA'' ((RIN2115–AA97)(2001–0136)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4653. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations; Sault Locks, St. Mary's River, Sault Ste. Marie, MI'' ((RIN2115–AA97)(2001–0137)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4654. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Certification of Navigation Lights for Uninspected Commercial Vessels and Recreational Vessels'' (RIN2115–AF70) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4655. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations; The Icebreaker Youth Rowing Championship—Boston Harbor, Boston, Massachusetts'' ((RIN2115–AA97)(2001–0145)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4656. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations; San Diego Bay'' ((RIN2115–AA97)(2001–0119)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4657. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations; Old Lyme Fireworks Display, Old Lyme, CT'' ((RIN2115–AA97)(2001–0098)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4658. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations; Coast Guard Force Protection for Station Jonesport, Jonesport, Maine; Coast Guard Group Southwest Harbor, Maine; and Station Rockland, Rockland Harbor, Maine'' ((RIN2115–AA97)(2001–0122)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4659. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Regulations; Ouachita River, LA'' ((RIN2115–AE47)(2001–0108)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4660. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Regulations: New Jersey Intracoastal Waterway, Cape Mary Canal'' ((RIN2115–AE47)(2001–0107)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4661. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Regulations; Shaw Cove, CT'' ((RIN2115–AE47)(2001–0105)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4662. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Regulations; Lake Washington, WA'' ((RIN2115–AE47)(2001–01069)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4663. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations; Port of Jacksonville and Port Canaveral, FL'' ((RIN2115–AA97)(2001–0117)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4664. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations: Selfridge Army National Guard Base, MI'' ((RIN2115–AA97)(2001–0116)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4665. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Regulations; Hampton River, NH'' ((RIN2115–AE47)(2001–0102)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4666. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Regulations; Chehalis River, WA'' ((RIN2115–AE47)(2001–0103)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4667. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations; DOD Barge Flotilla, Cumberland City, TN to Alexandria, LA'' ((RIN2115–AA97)(2001–0121)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4668. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations; Delaware Bay and River'' ((RIN2115–AA97)(2001–0123)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4669. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations; Naval Force Protection, Bath Iron Works, Kennebec River, Bath, Maine'' ((RIN2115–AA97)(2001–0120)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4670. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations; Gulf of Alaska, Southeast of Narrow Cape, Kodiak Island, Alaska'' ((RIN2115–AA97)(2001–0118)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4671. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Regulations; Duwamish Waterway, WA'' ((RIN2115–AE47)(2001–0101)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4672. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations: San Francisco, CA'' ((RIN2115–AA97)(2001–0133)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4673. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations; Newport Naval Station, Newport, RI'' ((RIN2115–AA97)(2001–0124)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4674. A communication from the Chief of Regulations and Administrative Law,

United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations: Port of New York/New Jersey'' ((RIN2115–AA97)(2001–0125)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4675. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations; Various Areas on the Island of Oahu, Maui, Hawaii, and Kauai, HI'' ((RIN2115–AA97)(2001–0134)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4676. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations; New York Marine Inspection Zone and Captain of the Port Zone'' ((RIN2115–AA97)(2001–0132)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4677. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Regulations: Hutchinson River, Eastchester Creek, NY'' ((RIN2115–AE47)(2001–0110)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4678. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Regulations: Southern Branch of the Elizabeth River, Atlantic Intracoastal Waterway, Chesapeake, Virginia'' ((RIN2115–AE47)(2001–0109)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4679. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations; Lake Erie, Monroe, Michigan'' ((RIN2115–AA97)(2001–0128)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4680. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations; Lake St. Clair, Grosse Pointe Yacht Club, Grosse, Point Shores, MI'' ((RIN2115–AA97)(2001–0127)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4681. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations; Lake Erie, Toledo, Ohio'' ((RIN2115–AA97)(2001–0126)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4682. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations; Lake Michigan, Kewaunee, Wisconsin'' ((RIN2115–AA97)(2001–0131)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4683. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations; Lake Michigan, Point Beach Nuclear Power, Plant WI'' ((RIN2115–AA97)(2001–0130)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4684. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations; Lake Erie, Perry, Ohio'' ((RIN2115–AA97)(2001–0129)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4685. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Boeing Model 727 Series Airplanes'' ((RIN2120–AA64)(2001–0544)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4686. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Raytheon Model Beech 400A Series Airplanes'' ((RIN2120–AA64)(2001–0543)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4687. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Pratt and Whitney PW4000 Series Turbofan Engines'' ((RIN2120–AA64)(2001–0542)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4688. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Fairchild Aircraft, Inc. Models SA226 and SA227 Series Airplanes'' ((RIN2120–AA64)(2001–0541)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4689. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Fokker Model F28 Mark 1000, 2000, 3000, and 4000 Series Airplanes'' ((RIN2120–AA64)(2001–0540)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4690. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Boeing Model 757 Series Airplanes'' ((RIN2120–AA64)(2001–0545)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4691. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Robinson Helicopter Company Model R44 Helicopters'' ((RIN2120–AA64)(2001–0550)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4692. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Empresa Brasileira de Aeronautica SA EMB 120 Series Airplanes'' ((RIN2120–AA64)(2001–0549)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4693. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: McDonnell Douglas Model DC 9 Series Airplanes and MD 88 Airplanes'' ((RIN2120–AA64)(2001–0548)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4694. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Airbus Model A319 and A320 Series Airplanes'' ((RIN2120–AA64)(2001–0546)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4695. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Raytheon Aircraft Company Model 99, 99A, 99A (FACH), A99, A99A, B99 and C99 Airplanes'' ((RIN2120–AA64)(2001–0507)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4696. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Boeing Model 747 Series Airplanes'' ((RIN2120–AA64)(2001–0511)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4697. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Bell Helicopter Textron Canada Model 222, 222B, 222U, 230, and 430 Helicopters'' ((RIN2120–AA64)(2001–0510)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4698. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Raytheon Aircraft Company Beech Models F33A, A36, B36TC, 58/58A, C90A, B200, and 1900D Airplanes'' ((RIN2120–AA64)(2001–0505)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4699. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Pilatus Aircraft LTD Models PC 12 and PC 12–45 Airplanes'' ((RIN2120–AA64)(2001–0506)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4700. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: BMW Rolls Royce GmbH Models BR700, 710A1–10 and BR700 710A2–20 Turbofan Engines'' ((RIN2120–AA64)(2001–0512)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4701. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation,

transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Dowty Aerospace Propellers Model R381/6–123 F/5 Propellers'' ((RIN2120–AA64)(2001–0513)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4702. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Bombardier Model DHC 8–100, 200, and 300 Series Airplanes'' ((RIN2120–AA64)(2001–0514)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4703. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Boeing Model 777–200 Series Airplanes'' ((RIN2120–AA64)(2001–0515)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4704. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Boeing Model 747 Series Airplanes'' ((RIN2120–AA64)(2001–0508)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4705. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Standard Instrument Approach Procedures; Miscellaneous Amendments (55); Amdt. No. 2073'' ((RIN2120–AA65)(2001–0054)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4706. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Eurocopter France Model AS 365N3 Helicopters'' ((RIN2120–AA64)(2001–0516)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4707. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Israel Aircraft Industries, Ltd., Model 1125 Westwind Astra Series Airplanes'' ((RIN2120–AA64)(2001–0517)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4708. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establish Class E Airspace; Charlottesville, VA'' ((RIN2120–AA66)(2001–0156)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4709. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: McDonnell Douglas Model DC 9 81, 82, 83, and 87 Series Airplanes, and Model MD 88 Airplanes'' ((RIN2120–AA64)(2001–0509)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4710. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''IFR Altitudes; Miscellaneous Amendments (32); Amdt. No. 431'' ((RIN2120–AA63)(2001–0006)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4711. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Standard Instrument Approach Procedures; Miscellaneous Amendments (14); Amdt. No. 2071'' ((RIN2120–AA65)(2001–0005)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4712. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Standard Instrument Approach Procedures; Miscellaneous Amendments (28); Amdt. No. 2072'' ((RIN2120–AA65)(2001–0057)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4713. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Eurocopter France Model SA315B, SA316C, SA318B, SA318C, SA319B, SE3160, and SA316B Helicopters'' ((RIN2120–AA64)(2001–0539)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4714. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Sikorsky Aircraft Corporation Model S–76B and S–76C Helicopters; request for comments'' ((RIN2120–AA64)(2001–0538)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4715. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class E2 Airspace; Greenwood, MS; correction'' ((RIN2120–AA66)(2001–0171)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4716. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Boeing Model 727 Series Airplanes'' ((RIN2120–AA64)(2001–0556)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4717. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Airbus Model A300 B2 and B4 Series Airplanes'' ((RIN2120–AA64)(2001–0553)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. JEFFORDS, from the Committee on Environment and Public Works:

Special Report entitled ''Report to the Senate on Activities of the Committee on Environment and Public Works for the One Hundred Sixth Congress'' (Rept. No. 107–100).

By Mr. LIEBERMAN, from the Committee on Governmental Affairs, with an amendment in the nature of a substitute and an amendment to the title:

H.R. 1499: A bill to amend the District of Columbia College Access Act of 1999 to permit individuals who graduated from a secondary school prior to 1998 and individuals who enroll in an institution of higher education more than 3 years after graduating from a secondary school to participate in the tuition assistance programs under such Act, and for other purposes. (Rept. No. 107–101).

By Mr. LIEBERMAN, from the Committee on Governmental Affairs, without amendment:

H.R. 2061: A bill to amend the charter of Southeastern University of the District of Columbia. (Rept. No. 107–102).

H.R. 2199: A bill to amend the National Capital Revitalization and Self-Government Improvement Act of 1997 to permit any Federal law enforcement agency to enter into a cooperative agreement with the Metropolitan Police Department of the District of Columbia to assist the Department in carrying out crime prevention and law enforcement activities in the District of Columbia if deemed appropriate by the Chief of the Department and the United States Attorney for the District of Columbia, and for other purposes. (Rept. No. 107–103).

By Mr. LEAHY, from the Committee on the Judiciary, without amendment and with a preamble:

H. CON. RES. 88: A concurrent resolution expressing the sense of the Congress that the President should issue a proclamation recognizing a National Lao-Hmong Recognition Day.

S. RES. 140: A resolution designating the week beginning September 15, 2002, as ''National Civic Participation Week''.

By Mr. LEAHY, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

S. 304: A bill to reduce illegal drug use and trafficking and to help provide appropriate drug education, prevention, and treatment programs.

By Mr. LEAHY, from the Committee on the Judiciary, without amendment:

S. 986: A bill to allow media coverage of court proceedings.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. LEVIN for the Committee on Armed Services.

Army nominations beginning Col. Elder Granger and ending Col. George W. Weightman, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on September 4, 2001.

Army nominations beginning Colonel Byron S. Bagby and ending Colonel Howard W. Yellen, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on September 5, 2001.

Army nomination of Brig. Gen. Lester Martinez-Lopez.

Army nomination of Maj. Gen. Dennis D. Cavin.

Air Force nomination of Maj. Gen. Bruce A. Wright.

Air Force nomination of Lt. Gen. Donald G. Cook.

Mr. LEVIN. Mr. President, for the Committee on Armed Services I report favorably the following nomination lists which were printed in the RECORDS on the dates indicated, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar that these nominations lie at the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

Army nominations beginning ROBERT A. JOHNSON and ending JOHN T. WASHINGTON III, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on October 25, 2001.

Air Force nominations beginning CESARIO F. FERRER JR. and ending RAYMOND Y. HOWELL, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on October 30, 2001.

Army nominations beginning SAMUEL CALDERON and ending FRANK E. WISMER III, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on October 30, 2001.

Navy nominations beginning BRADFORD W. BAKER and ending DAVID J. WICKERSHAM, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on October 30, 2001.

Army nomination of Carol E. Pilat.

Army nomination of Iluminada S. Calicdan.

Army nomination of *James W. Ware.

Army nomination of Mee S. Paek.

Army nominations beginning MARION S. CORNWELL and ending GARY L. WHITE, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on November 15, 2001.

Army nominations beginning CHERYL A. ADAMS and ending DEBBIE T. WINTERS, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on November 15, 2001.

Army nominations beginning WILLIE J. ATKINSON and ending WILLEM P. VANDEMERWE, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on November 15, 2001.

Army nominations beginning DAVID S. ALLEMAN and ending WILLIAM P. YEOMANS, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on November 15, 2001.

Army nominations beginning LYNN F. ABRAMS and ending BURKHARDT H. ZORN, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on November 15, 2001.

Army nominations beginning CHARLES B. COLISON and ending ARLENE SPIRER, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on November 15, 2001.

By Mr. HOLLINGS for the Committee on Commerce, Science, and Transportation.

*R. David Paulison, of Florida, to be Administrator of the United States Fire Administration, Federal Emergency Management Agency.

*Conrad Lautenbacher, Jr., of Virginia, to be Under Secretary of Commerce for Oceans and Atmosphere.

*William Schubert, of Texas, to be Administrator of the Maritime Administration.

*Arden Bement, Jr., of Indiana, to be Director of the National Institute of Standards and Technology.

Mr. HOLLINGS. Mr. President, for the Committee on Commerce, Science, and Transportation I report favorably the following nomination lists which were printed in the RECORDS on the dates indicated, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar that these nominations lie at the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

Coast Guard nominations beginning Anita K. Abbott and ending Steven G. Wood, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on October 30, 2001.

Coast Guard nominations beginning Albert R. Agnich and ending Jose M. Zuniga, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on October 30, 2001.

By Mr. LEAHY for the Committee on the Judiciary.

Harris L. Hartz, of New Mexico, to be United States Circuit Judge for the Tenth Circuit.

Danny C. Reeves, of Kentucky, to be United States District Judge for the Eastern District of Kentucky.

John D. Bates, of Maryland, to be United States District Judge for the District of Columbia.

Kurt D. Engelhardt, of Louisiana, to be United States District Judge for the Eastern District of Louisiana.

Joe L. Heaton, of Oklahoma, to be United States District Judge for the Western District of Oklahoma.

William P. Johnson, of New Mexico, to be United States District Judge for the District of New Mexico.

Thomas L. Sansonetti, of Wyoming, to be an Assistant Attorney General.

James Edward Rogan, of California, to be Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

Edward Hachiro Kubo, Jr., of Hawaii, to be United States Attorney for the District of Hawaii for the term of four years.

Sheldon J. Sperling, of Oklahoma, to be United States Attorney for the Eastern District of Oklahoma for the term of four years.

Frederick J. Martone, of Arizona, to be United States District Judge for the District of Arizona.

Julie A. Robinson, of Kansas, to be United States District Judge for the District of Kansas.

Clay D. Land, of Georgia, to be United States District Judge for the Middle District of Georgia.

David E. O'Meilia, of Oklahoma, to be United States Attorney for the Northern District of Oklahoma for the term of four years.

David R. Dugas, of Louisiana, to be United States Attorney for the Middle District of Louisiana for the term of four years.

James A. McDevitt, of Washington, to be United States Attorney for the Eastern District of Washington, for the term of four years.

Johnny Keane Sutton, of Texas, to be United States Attorney for the Western District of Texas, for the term of four years.

Richard S. Thompson, of Georgia, to be United States Attorney for the Southern District of Georgia, for the term of four years.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Ms. CANTWELL:

S. 1742. A bill to prevent the crime of identity theft, mitigate the harm to individuals victimized by identity theft, and for other purposes; to the Committee on the Judiciary.

By Mr. HOLLINGS (for himself, Mrs. BOXER, and Mr. WYDEN):

S. 1743. A bill to create a temporary reinsurance mechanism to enhance the availability of terrorism insurance; to the Committee on Commerce, Science, and Transportation.

By Mr. McCAIN:

S. 1744. A bill to ensure the continued financial capacity of insurers to provide coverage for risks from terrorism; to the Committee on Commerce, Science, and Transportation.

By Mrs. LINCOLN (for herself and Mr. COCHRAN):

S. 1745. A bill to delay until at least January 1, 2003, any changes in medicaid regulations that modify the medicaid upper payment limit for non-State Government-owned or operated hospitals; to the Committee on Finance.

By Mr. REID (for himself, Mrs. CLINTON, Mr. LIEBERMAN, and Mr. JEFFORDS):

S. 1746. A bill to amend the Atomic Energy Act of 1954 and the Energy Reorganization Act of 1974 to strengthen security at sensitive nuclear facilities; to the Committee on Environment and Public Works.

By Mr. HARKIN (for himself and Mr. SPECTER):

S. 1747. A bill to provide funding to improve the security of the American people by protecting against the threat of bioterrorism; to the Committee on Health, Education, Labor, and Pensions.

ADDITIONAL COSPONSORS

S. 281

At the request of Mr. HAGEL, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 281, a bill to authorize the design and construction of a temporary education center at the Vietnam Veterans Memorial.

S. 611

At the request of Ms. MIKULSKI, the name of the Senator from Virginia (Mr. ALLEN) was added as a cosponsor of S. 611, a bill to amend title II of the Social Security Act to provide that the reduction in social security benefits which are required in the case of spouses and surviving spouses who are also receiving certain Government pensions shall be equal to the amount by which two-thirds of the total amount of the combined monthly benefit (before reduction) and monthly pension exceeds $1,200, adjusted for inflation.

S. 683

At the request of Mr. SANTORUM, the name of the Senator from Oklahoma (Mr. INHOFE) was added as a cosponsor of S. 683, a bill to amend the Internal Revenue Code of 1986 to allow individuals a refundable credit against income tax for the purchase of private health insurance, and to establish State health insurance safety-net programs.

S. 948

At the request of Mr. LOTT, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 948, a bill to amend title 23, United States Code, to require the Secretary

of Transportation to carry out a grant program for providing financial assistance for local rail line relocation projects, and for other purposes.

S. 1042

At the request of Mr. INOUYE, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 1042, a bill to amend title 38, United States Code, to improve benefits for Filipino veterans of World War II, and for other purposes.

S. 1142

At the request of Mr. LIEBERMAN, the name of the Senator from Virginia (Mr. ALLEN) was added as a cosponsor of S. 1142, a bill to amend the Internal Revenue Code of 1986 to repeal the minimum tax preference for exclusion for incentive stock options.

S. 1478

At the request of Mr. BINGAMAN, his name was added as a cosponsor of S. 1478, a bill to amend the Animal Welfare Act to improve the treatment of certain animals, and for other purposes.

S. 1643

At the request of Mrs. MURRAY, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 1643, a bill to provide Federal reimbursement to State and local governments for a limited sales, use and retailers' occupation tax holiday.

S. 1646

At the request of Mr. BINGAMAN, the name of the Senator from Colorado (Mr. CAMPBELL) was added as a cosponsor of S. 1646, a bill to identify certain routes in the States of Texas, Oklahoma, Colorado, and New Mexico as part of the Ports-to-Plains Corridor, a high priority corridor on the National Highway System.

S. 1678

At the request of Mr. MCCAIN, the names of the Senator from South Carolina (Mr. THURMOND), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Alabama (Mr. SHELBY), the Senator from Massachusetts (Mr. KERRY), the Senator from Nebraska (Mr. HAGEL), the Senator from Nevada (Mr. REID), the Senator from Indiana (Mr. LUGAR), the Senator from Indiana (Mr. BAYH), the Senator from Virginia (Mr. WARNER), the Senator from Maine (Ms . COLLINS), the Senator from Utah (Mr. HATCH), the Senator from North Carolina (Mr. HELMS), the Senator from Virginia (Mr. ALLEN), the Senator from Illinois (Mr. FITZGERALD), the Senator from Alaska (Mr. STEVENS), the Senator from Kansas (Mr. ROBERTS), the Senator from Nevada (Mr. ENSIGN), the Senator from Colorado (Mr. CAMPBELL), the Senator from Georgia (Mr. MILLER), and the Senator from Kentucky (Mr. BUNNING) were added as cosponsors of S. 1678, a bill to amend the Internal Revenue Code of 1986 to provide that a member of the uniformed services or the Foreign Service shall be treated as using a principal residence while away from home on qualified official extended duty in determining the exclusion of gain from the sale of such residence.

S. 1707

At the request of Mr. JEFFORDS, the names of the Senator from New Jersey (Mr. TORRICELLI), the Senator from Washington (Ms. CANTWELL), the Senator from South Dakota (Mr. JOHNSON), the Senator from Vermont (Mr. LEAHY), the Senator from Nevada (Mr. ENSIGN), and the Senator from Massachusetts (Mr. KENNEDY) were added as cosponsors of S. 1707, a bill to amend title XVIII of the Social Security Act to specify the update for payments under the medicare physician fee schedule for 2002 and to direct the Medicare Payment Advisory Commission to conduct a study on replacing the use of the sustainable growth rate as a factor in determining such update in subsequent years.

S. CON. RES. 66

At the request of Mr. STEVENS, the name of the Senator from New Jersey (Mr. TORRICELLI) was added as a cosponsor of S. Con. Res. 66, a concurrent resolution to express the sense of the Congress that the Public Safety Officer Medal of Valor should be awarded to public safety officers killed in the line of duty in the aftermath of the terrorist attacks of September 11, 2001.

AMENDMENT NO. 2157

At the request of Mr. MCCAIN, the names of the Senator from South Carolina (Mr. THURMOND), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Alabama (Mr. SHELBY), the Senator from Massachusetts (Mr. KERRY), the Senator from Nebraska (Mr. HAGEL), the Senator from Nevada (Mr. REID), the Senator from Indiana (Mr. LUGAR), the Senator from Indiana (Mr. BAYH), the Senator from Virginia (Mr. WARNER), the Senator from Maine (Ms. COLLINS), the Senator from Utah (Mr. HATCH), the Senator from North Carolina (Mr. HELMS), the Senator from Virginia (Mr. ALLEN), the Senator from Illinois (Mr. FITZGERALD), the Senator from Alaska (Mr. STEVENS), the Senator from Kansas (Mr. ROBERTS), the Senator from Nevada (Mr. ENSIGN), the Senator from Colorado (Mr. CAMPBELL), the Senator from Georgia (Mr. MILLER), and the Senator from Kentucky (Mr. BUNNING) were added as cosponsors of amendment No. 2157 intended to be proposed to H.R. 3090, a bill to provide tax incentives for economic recovery.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Ms. CANTWELL:

S. 1742. A bill to prevent the crime of identity theft, mitigate the harm to individuals victimized by identity theft, and for other purposes; to the Committee on the Judiciary.

Ms. CANTWELL. Mr. President I rise today to introduce legislation that will help victims of identity theft recover from the injuries to their good name and good credit, the Reclaim Your Identity Act of 2001. Earlier this year, Washington State enacted a law to provide needed help to victims of identity theft that I believe serves as a good model for federal legislation. It gives victims of identity theft the tools they need to restore their good credit rating, requires businesses to make available records relevant to a victim's ability to restore his or her credit, and enables a victim to have fraudulent charges blocked from reporting in their consumer credit report. Currently, Federal law addresses the crime of identity theft, providing penalties for the perpetrator, but no specific assistance to the victim trying to recover their identity. Today I am introducing legislation modeled on the state of Washington law that will do just that, help the victim restore their credit rating and their good name.

We need to do more to fight identity theft, a crime the Federal Trade Commission has described as the Nation's fastest growing. Last year there were over 500,000 new victims of identity theft and, according to the Department of Treasury, reports of identity theft to perpetrate fraud against financial institutions grew by 50 percent from 1999 to 2000. From March 2001 to June 2001, the number of ID theft victims contacting the FTC jumped from 45,500 to 69,400—a 50 percent increase in just three months. One in five Americans or a member of their families has been a victim of identity theft. Those numbers underscore why I am introducing this legislation today. The problem is particularly apparent in my State of Washington, which ranks in the top 10 for identity theft per capita.

Identity theft is not a violent crime, but its victims suffer real harm and need help to recover their good credit and good name. On average, it takes 12 months for a victim to learn that he or she has been a victim of identity theft. It takes another 175 hours and $808 of out-of-pocket expenses to clear their names. Today, victims of identity theft are forced to become their own sleuths to clear their names, and all too often they do so without the help or support of the businesses that allowed the identity theft to take place. Believe it or not, when your identity is stolen, many businesses won't give you the records you need to reclaim your identity. My bill puts people first by requiring businesses to cooperate with victims.

We already require this in Washington State, thanks to the hard work of Attorney General Chris Gregoire and others. Now we need to take this good idea to the national level and make it work on behalf of many others. When your TV is stolen, you know it was taken from your living room. But when your identity is stolen, it could be stolen from anywhere, and businesses from every State could be involved. That's why we need a Federal solution to this problem.

The Reclaim Your Identity Act empowers consumers by establishing a transparent process victims can use to

reclaim their identity. Under this bill, a victim of identity theft will have the right to request records related to a fraud based on an identity theft from businesses after proving their identity with a copy of the police report or the Federal Trade Commission standardized Identity Theft Affidavit or any other affidavit of fact of the business' choosing. The business must then provide, at no charge, copies of those business records to the victim or a law enforcement agency or officer designated by the victim within 10 days of the victim's request. This will make sure that the victims, or law enforcement investigating an identity theft on behalf of a victim, will be able to obtain the credit applications and other records a business may have that is evidence of the fraud. As a protective measure, the bill gives businesses the option to decline to disclose records where it believes the request is based on a misrepresentation of facts. Further, a business is exempt from liability for any disclosure undertaken in good faith to further a prosecution of identity theft or assist the victim.

In addition, this bill reinstates consumers' right to sue credit-reporting agencies that allow identity theft to harm their good name. On November 12, the Supreme Court ruled that a California woman couldn't sue a credit reporting agency because she filed her claim more than two years after her identity had been stolen and that the two-year statute of limitations ran from the time of the crime. The woman didn't even know her identity had been stolen until two years after the crime had been committed. In the wake of the court decision, Congress must revise the statute of limitations so that common sense prevails and that the clock doesn't begin ticking until victims know that they have been harmed.

The Reclaim Your Identity Act also amends the Internet False Identification Prevention Act to expand the jurisdiction and membership of the coordinating committee currently studying enforcement of Federal identity theft law to examine State and local enforcement problems and identify ways the federal government can assist state and local law enforcement in addressing identity theft and related crimes. In the wake of the September 11 attacks we are painfully aware that identity theft can threaten more than our pocket books. This legislation also requires the Federal coordinating committee to look at how the Federal Government can improve the sharing of information on terrorists and terrorist activity as it relates to identity theft. Further, by giving consumers and law enforcement additional tools to fight identity theft, this bill will make it harder for terrorists to steal identities to hide their true identity.

Importantly, this bill also requires credit-reporting agencies to protect a consumers' good name from bad credit generated by fraud. The Reclaim Your Identity Act amends the Fair Credit Reporting Act to require consumer credit reporting agencies to block information that appears on a victim's credit report as a result of identity theft provided the victim did not knowingly obtain goods, services or money as a result of the blocked transaction.

Businesses too are victims of the fraud perpetrated in conjunction with identity theft. This legislation also provides businesses with new tools to pursue identity thieves by amending Title 18 to make identity theft under State law a predicate for federal RICO violation. This will allow individuals and businesses pursuing a perpetrator of identity theft to seek treble damages and help prosecutors recover stolen assets for businesses victimized by identity theft.

The Reclaim Your Identity Act also gives States additional legal tools by providing that State Attorneys General may bring a suit in Federal court on behalf of State citizens for violation of the Act.

Identity theft and the fraud that can result is on the rise. We have the laws to discourage identity theft, but it is difficult behavior to attack. We have to give the tools to the victims to regain control of their financial life. The Consumers Union, Identity Theft Resource Center, and Privacy Rights Clearinghouse all support this legislation. The Reclaim Your Identity Act of 2001 will help victims of identity theft recover their identity and restore their good credit. I look forward to working with my colleagues to promptly enact this bill into law.

By Mr. HOLLINGS (for himself, Mrs. BOXER, and Mr. WYDEN):

S. 1743. A bill to create a temporary reinsurance mechanism to enhance the availability of terrorism insurance; to the Committee on Commerce, Science, and Transportation.

Mr. HOLLINGS. Mr. President, in light of the need to provide additional capacity and reassurance to the insurance industry for terrorism risks without burdening the taxpayer, balanced with the need to protect consumers from excessive increased in commercial insurance rates, I rise today to introduce the National Terrorism Reinsurance Fund Act.

This legislation will create a fund from assessments on the commercial insurance industry as a whole to for the purpose of providing a temporary backstop for terrorism losses for primary insurance companies doing business in the U.S. The Fund and assessment mechanisms would provide the first $50 billion of protection for the insurance industry. In addition to this fund, the bill provides a program to provide direct Federal aid on a temporary basis for losses over $50 billion, in order to increase insurance market capacity and ensure the availability of reinsurance in relation to acts of terrorism. The overall program is to last for 3 years only and is to be administered by the Secretary of Commerce.

All terrorism-related events causing losses beyond $50 billion will be governed by a direct Federal grant program. Once a company has incurred losses of more than 10 percent of its premiums from the previous year, it can apply for assistance from the Fund and the Federal Government. For the first year, the government will cover up to 90 percent of a company's losses. For the second and third years, the government will cover up to 80 percent of that company's losses. This aid will be applicable up to losses of $100 billion. For events casing losses beyond this amount, the Secretary is required to seek guidance from Congress. Additionally, provisions have been included to ensure the industry shoulders the appropriate financial responsibility and to prevent unreasonable increases in insurance rates.

Simply put the legislation accomplishes the following goals: 1. it provides insurance companies the assistance they need to continue writing terrorism coverage; 2. it ensures the availability of insurance coverage for American businesses and consumers; 3. it avoids an unnecessary and potentially massive bailout of an insurance industry by forcing them to use their own resources to ensure the availability of terrorism reinsurance while setting direct Federal aid at levels sufficient to account for the industry's current positive capitalization; and 4. it strikes the right balance regarding the interests of industry, taxpayers and the consumers of insurance and the marketplace in general.

I look forward to working with other Senators to obtain swift passage of this important legislation.

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1743

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 "National Terrorism Reinsurance Fund Act".

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

Sec. 1. Short title; table of contents.
Sec. 2. Findings.
Sec. 3. Purpose.
Sec. 4. National terrorism reinsurance program.
Sec. 5. Fund operations.
Sec. 6. Coverage provided.
Sec. 7. Secretary to determine if loss is attributable to terrorism.
Sec. 8. Mandatory coverage by property and casualty insurers for acts of terrorism.
Sec. 9. Pass-throughs and other rate increases.
Sec. 10. Credit for reinsurance.
Sec. 11. Administrative provisions.
Sec. 12. Inapplicability of certain laws.
Sec. 13. Sunset provision.
Sec. 14. Definitions.

SEC. 2. FINDINGS.

The Congress finds the following:

(1) The terrorist attacks on the World Trade Center and Pentagon on September 11, 2001, have inflicted possibly the largest loss ever incurred by insurers and reinsurers.

(2) The magnitude of the loss, and its impact on the current capacity of the reinsurance market, threaten the ability of the property and casualty insurance market to provide coverage to building owners, businesses, and American citizens.

(3) It is necessary to create a temporary reinsurance mechanism to augment the capacity of private insurers to provide insurance for terrorism related risks.

SEC. 3. PURPOSE.

The purpose of this Act is to facilitate the coverage by property and casualty insurers of the peril for losses due to acts of terrorism by providing additional reinsurance capacity for loss or damage due to acts of terrorism occurring within the United States, its territories, and possessions.

SEC. 4. NATIONAL TERRORISM REINSURANCE PROGRAM.

(a) IN GENERAL.—The Secretary of Commerce shall establish and administer a program to provide reinsurance to participating insurers for losses due to acts of terrorism.

(b) ADVISORY COMMITTEE; MEMBERSHIP.—There is established an advisory committee to provide advice and counsel to the Secretary in carrying out the program of reinsurance established by the Secretary. The advisory committee shall consist of 10 members, as follows:

(1) 3 representatives of the property and casualty insurance industry, appointed by the Secretary.

(2) A representative of property and casualty insurance agents, appointed by the Secretary.

(3) A representative of consumers of property-casualty insurance, appointed by the Secretary.

(4) A representative of a recognized national credit rating agency, appointed by the Secretary.

(5) A representative of the banking or real estate industry, appointed by the Secretary.

(6) 2 representatives of the National Association of Insurance Commissioners, designated by that organization.

(7) A representative of the Department of the Treasury, designated by the Secretary of the Treasury.

(c) NATIONAL TERRORISM REINSURANCE FUND.—

(1) ESTABLISHMENT.—To carry out the reinsurance program, the Secretary shall establish a National Terrorism Reinsurance Fund which shall be available, without fiscal year limitations—

(A) to make such payments as may, from time to time, be required under reinsurance contracts under this Act;

(B) to pay such administrative expenses as may be necessary or appropriate to carry out the purposes of this Act, but such expenses may not exceed $5,000,000 for each of fiscal years 2002, 2003, and 2004; and

(C) to repay to the Secretary of the Treasury such sums, including interest thereon, as may be borrowed from the Treasury for purposes of this Act.

(2) CREDITS TO FUND.—The Fund shall be credited with—

(A) reinsurance premiums, fees, and other charges which may be paid or collected in connection with reinsurance provided under this Act;

(B) interest which may be earned on investments of the Fund;

(C) receipts from any other source which may, from time to time, be credited to the Fund; and

(D) Funds borrowed by the Secretary from the Treasury.

(3) INVESTMENT IN OBLIGATIONS ISSUED OR GUARANTEED BY UNITED STATES.—If the Secretary determines that the moneys of the Fund are in excess of current needs, he may request the investment of such amounts as he deems advisable by the Secretary of the Treasury in obligations issued or guaranteed by the United States.

(4) LOANS TO FUND.—The Secretary of the Treasury shall grant loans to the Fund in the manner and to the extent provided in this Act.

(d) UNDERWRITING STANDARDS.—In order to carry out the responsibilities of the Secretary under this Act and protect the Fund, the Secretary shall establish minimum underwriting standards for participating insurers.

(e) MONITORING OF TERRORISM INSURANCE RATES.—

(1) SECRETARY TO ESTABLISH SPECIAL COMMITTEE ON RATES.—The Secretary shall establish a special committee on rates, the size and membership of which shall be determined by the Secretary, except that the committee shall, at a minimum, include—

(A) representatives of providers of insurance for losses due to acts of terrorism;

(B) representatives of purchasers of such insurance;

(C) at least 2 representatives of NAIC; and

(D) at least 2 independent insurance actuaries.

(2) DUTIES.—The special committee on rates shall meet at the call of the Secretary and shall—

(A) review reports filed with the Secretary by State insurance regulatory authorities;

(B) collect data on rate disclosure practices of participating insurers for insurance for covered lines and for losses due to acts of terrorism; and

(C) provide such advice and counsel to the Secretary as the Secretary may require.

SEC. 5. FUND OPERATIONS.

(a) FUNDING BY PREMIUM.—

(1) IN GENERAL.—For the year beginning January 1, 2002, and each subsequent year of operation, participating insurers shall pay into the Fund an annual reinsurance contract premium of not less than 3 percent of their respective gross direct written premiums for covered lines for the calendar year. The annual premium shall be paid in installments at the end of each calendar quarter. The reinsurance contract premium and any annual assessment may be recovered by a participating insurer from its covered lines policyholders as a direct surcharge calculated as a uniform percentage of premium.

(2) ADDITIONAL CREDIT RISK PREMIUM.—If the Secretary determines that a participating insurer has a credit rating that is lower than the second from highest credit rating awarded by nationally recognized credit rating agencies, the Secretary may charge an additional credit risk premium, of up to 0.5 percent of gross direct written premiums for covered lines received by that insurer, to compensate the Fund for credit risk associated with providing reinsurance to that insurer.

(b) INITIAL CAPITAL.—

(1) LOAN.—The Fund shall have an initial capital of $2,000,000,000, which the Secretary shall borrow from the Treasury of the United States. Upon application by the Secretary, the Secretary of the Treasury shall transfer that amount to the Fund, out of amounts in the Treasury not otherwise appropriated, at standard market rates.

(2) REPAYMENT OF START-UP LOAN.—The Secretary shall use premiums received from assessments in calendar year 2002 to repay the loan provided to the Fund under paragraph (1).

(c) SHORTFALL LOANS.—

(1) IN GENERAL.—If the Secretary determines that the balance in the accounts of the Fund is insufficient to cover anticipated claims, administrative expenses, and maintain adequate reserves for any other reason, after taking into account premiums assessed under subsection (a) and any other amounts receivable, the Secretary shall borrow from the Treasury an amount sufficient to satisfy the obligations of the Fund and to maintain a positive balance of $2,000,000,000 in the accounts of the Fund. Upon application by the Secretary, the Secretary of the Treasury shall transfer to the Fund, out of amounts in the Treasury not otherwise appropriated, the requested amount as an interest-bearing loan.

(2) INTEREST RATE.—The rate of interest on any loan made to the Fund under paragraph (1) shall be established by the Secretary of the Treasury and based on the weighted average credit rating of the Fund before the loss that made the loan necessary.

(3) $50 BILLION LOAN LIMIT.—Notwithstanding any other provision of this Act, the total amount of loans outstanding at any time from the Treasury to the Fund may not exceed the amount by which $50,000,000,000 exceeds the Fund's assets.

(4) REPAYMENT OF LOANS BY ASSESSMENT.—Any loan under paragraph (1) shall be repaid from reserves of the Fund, assessments of participating insurers, or a combination thereof. If an assessment is necessary, the maximum annual assessment under this subsection shall be not more than 3 percent of the direct written premium for covered lines. The reinsurance contract premium and any annual assessment may be recovered by a participating insurer from its covered lines policyholders as a direct surcharge calculated as a uniform percentage of premium.

SEC. 6. COVERAGE PROVIDED.

(a) IN GENERAL.—The Fund shall provide reinsurance for losses resulting from acts of terrorism covered by reinsurance contracts entered into between the Fund and participating insurers that write covered lines of insurance within the meaning of section 14(5)(A) or that have elected, under section 14(5)(C), to voluntarily include another line of insurance.

(b) RETENTION.—The Fund shall reimburse participating insurers for losses resulting from acts of terrorism on direct losses in any calendar year in excess of 10 percent of a participating insurer's average gross direct written premiums and policyholders' surplus for covered lines for the most recently ended calendar year for which data are available, based on each participating insurer's annual statement for that calendar year as reported to NAIC.

(c) REIMBURSEMENT AMOUNT.—If a participating insurer demonstrates to the satisfaction of the Secretary that it has paid claims for losses resulting from acts of terrorism equal to or in excess of the amount of retention required by subsection (b), then the Fund shall reimburse the participating insurer for—

(1) 90 percent of its covered losses in calendar year 2002; and

(2) a percentage of its covered losses in calendar years beginning after calendar year 2002 equal to—

(A) 90 percent if the insurer pays an assessment equal to 4 percent of the insurer's average gross direct written premiums and policyholders' surplus for the most recently ended calendar year;

(B) 80 percent if the insurer pays an assessment equal to 3 percent of the insurer's average gross direct written premiums and policyholders' surplus for the most recently ended calendar year; and

(C) 70 percent if the insurer pays an assessment equal to 2 percent of the insurer's average gross direct written premiums and policyholders' surplus for the most recently ended calendar year.

(d) $50,000,000,000 LIMIT.—Except as provided in subsection (e), the Fund may not reimburse participating insurers for covered losses in excess of a total Fund reimbursement amount for all participating insurers of $50,000,000,000.

(e) LOSSES EXCEEDING $50,000,000,000 LIMIT.—If the Secretary determines that reimbursable losses in a calendar year from an event exceed $50,000,000,000, the Secretary—

(1) shall pay, out of amounts in the Treasury not otherwise appropriated—

(A) 90 percent of the covered losses occurring in calendar year 2002 in excess, in the aggregate, of $50,000,000,000 but not in excess of $100,000,000; and

(B) 80 percent of the covered losses occurring in calendar year 2003 or 2004 in excess, in the aggregate, of $50,000,000,000 but not in excess of $100,000,000; and

(2) shall notify the Congress of that determination and transmit to the Congress recommendations for responding to the insufficiency of available amounts to cover reimbursable losses.

(f) REPORTS TO STATE REGULATOR; CERTIFICATION.—

(1) REPORTING TERRORISM COVERAGE.—A participating insurer shall—

(A) report the amount of its terrorism insurance coverage to the insurance regulatory authority for each State in which it does business; and

(B) obtain a certification from the State that it is not providing terrorism insurance coverage in excess of its capacity under State solvency requirements.

(2) REPORTS TO SECRETARY.—The State regulator shall furnish a copy of the certification received under paragraph (1) to the Secretary.

SEC. 7. SECRETARY TO DETERMINE IF LOSS IS ATTRIBUTABLE TO TERRORISM.

(a) INITIAL DETERMINATION.—If a participating insurer files a claim for reimbursement from the Fund, the Secretary shall make an initial determination as to whether the losses or expected losses were caused by an act of terrorism.

(b) NOTICE AND HEARING.—The Secretary shall give public notice of the initial determination and afford all interested parties an opportunity to be heard on the question of whether the losses or expected losses were caused by an act of terrorism.

(c) FINAL DETERMINATION.—Within 30 days after the Secretary's initial determination, the Secretary shall make a final determination as to whether the losses or expected losses were caused by an act of terrorism.

(d) STANDARD OF REVIEW.—The Secretary's determination shall be upheld upon judicial review if based upon substantial evidence.

SEC. 8. MANDATORY COVERAGE BY PROPERTY AND CASUALTY INSURERS FOR ACTS OF TERRORISM.

(a) IN GENERAL.—An insurer that provides lines of coverage described in section 14(5)(A) or 14(5)(B) may not—

(1) exclude or limit coverage in those lines for losses from acts of terrorism in the United States, its territories, and possessions in property and casualty insurance policy forms; or

(2) deny or cancel coverage solely due to the risk of losses from acts of terrorism in the United States.

(b) TERMS AND CONDITIONS.—Insurance against losses from acts of terrorism in the United States shall be covered with the same deductibles, limits, terms, and conditions as the standard provisions of the policy for noncatastrophic perils.

SEC. 9. PASS-THROUGHS AND OTHER RATE INCREASES.

(a) LIMITATION ON RATE INCREASES FOR COVERED RISKS.—Except as provided in subsection (b), a participating insurer that provides lines of coverage described in section 14(5)(A) or 14(5)(B) may not increase annual rates on covered risks during any period in which the insurer participates in the Fund by a percent in excess of the sum of—

(1) the percent used to determine the insurer's assessment under section 5(a)(1); and

(2) if there is an assessment against the insurer under section 5(c)(4), a percent equivalent to the percent assessment of the insurer's gross direct written premium for covered lines.

(b) TERRORISM-RELATED INCREASES IN EXCESS OF PASS-THROUGHS.—

(1) REPORTS BY INSURERS.—Not less than 30 days before the date on which a participating insurer increases the premium rate for insurance on any covered line of insurance described in section 14(5) based, in whole or in part, on risk associated with insurance against losses due to acts of terrorism, the insurer shall file a report with the State insurance regulatory authority for the State in which the premium increase is effective that—

(A) explains the need for the increased premium; and

(B) identifies the portion of the increase properly attributable to risk associated with insurance offered by that insurer against losses due to acts of terrorism; and

(C) demonstrates, by substantial evidence, why that portion of the increase is warranted.

(2) REPORTS BY STATE REGULATORS.—Within 15 days after a State insurance regulatory authority receives a report from an insurer required by paragraph (1), the authority—

(A) shall transmit a copy of the report to the Secretary;

(B) may include a determination with respect to whether an insurer has met the requirement of paragraph (1)C); and

(C) may include with the report any commentary or analysis it deems appropriate.

SEC. 10. CREDIT FOR REINSURANCE.

Each State shall afford an insurer obtaining reinsurance from the Fund credit for such reinsurance on the same basis and to the same extent that credit for reinsurance would be available to that insurer under applicable State law when reinsurance is obtained from an assuming insurer licensed or accredited in that State.

SEC. 11. ADMINISTRATIVE PROVISIONS; REPORTS AND ANALYSIS.

(a) IN GENERAL.—In carrying out this Act, the Secretary may—

(1) issue such rules and regulations as may be necessary to administer this Act;

(2) enter into reinsurance contracts, adjust and pay claims as provided in this Act, and carry out the activities necessary to implement this Act;

(3) set forth the coverage provided by the Fund to accomplish the purposes of this Act;

(4) provide for an audit of the books and records of the Fund by the General Accounting Office;

(5) take appropriate action to collect premiums or assessments under this Act; and

(6) audit the reports, claims, books, and records of participating insurers.

(b) REPORTS FROM INSURERS.—Participating insurers shall submit reports on a quarterly or other basis (as required by the Secretary) to the Secretary, the Federal Trade Commission, and the General Accounting Office setting forth rates, premiums, risk analysis, coverage, reserves, claims made for reimbursement from the Fund, and such additional financial and actuarial information as the Secretary may require regarding lines of coverage described in section 14(5)(A) or 14(5)(B).

(c) FTC ANALYSIS AND ENFORCEMENT.—The Federal Trade Commission shall review the reports submitted under subsection (b), treating the information contained in the reports as privileged and confidential, for the purpose of determining whether any insurer is engaged in unfair methods of competition or unfair or deceptive acts or practices in or affecting commerce (within the meaning of section 5 of the Federal Trade Commission Act (15 U.S.C. 45)).

(d) GAO REVIEW.—The Comptroller General shall provide for review and analysis of the reports submitted under subsection (b), and, if necessary, provide of audit of reimbursement claims filed by insurers with the Fund.

(e) REPORTS BY SECRETARY.—No later than March 31st of each calendar year, the Secretary shall transmit to the Senate Committee on Commerce, Science, and Technology and the House of Representatives Committee on Commerce an annual report on insurance rate increases for the preceding calendar year in the United States based upon the reports received by the Secretary under this Act. The Secretary may include in the report a recommendation for legislation to impose Federal regulation of insurance rates on covered lines of insurance if the Secretary determines that premium rates for insurance on covered lines of insurance are—

(A) unreasonable; and

(B) attributable to insurance for losses from acts of terrorism.

SEC. 12. INAPPLICABILITY OF CERTAIN LAWS.

(a) IN GENERAL.—State laws relating to insurance rates, insurance policy forms, insurance rates on any covered lines of insurance described in section 14(5)(A) or 14(5)(B), insurer financial requirements, and insurer licensing do not apply to contracts entered into by the Fund. The Fund is not subject to State tax and is exempt from Federal income tax. The reinsurance contract premium paid and assessments collected by insurers shall not be subject to local, State, or Federal tax. The reinsurance contract premium and assessments recovered from policyholders shall not be subject to local, State, or Federal tax.

(b) EXCEPTION FOR UNFAIR TRADE PRACTICE LAWS.—Notwithstanding subsection (a), nothing in this Act supersedes or preempts a State law that prohibits unfair methods of competition in commerce, unfair or deceptive acts or practices in commerce, or unfair insurance claims practices.

SEC. 13. SUNSET PROVISION.

(a) ASSESSMENT AND COLLECTION OF PREMIUMS.—The Secretary shall continue the premium assessment and collection operations of the Fund under this Act as long as loans due from the Fund to the United States Treasury are outstanding.

(b) PROVISION OF REINSURANCE.—The Secretary shall suspend other operations of the Fund for new contract years on the close of business on December 31, 2004, and may suspend the offering of reinsurance contracts for new contract years at any time before that date if the Secretary determines that the reinsurance provided by the Fund is no longer needed for covered lines due to market conditions.

(c) REVIEW OF PRIVATE REINSURANCE AVAILABILITY.—The Secretary shall review the cost and availability of private reinsurance for acts of terrorism at least annually and shall report the findings and any recommendations to Congress by June 1 of each year the Fund is in operation.

(d) DISSOLUTION OF FUND.—

(1) DISTRIBUTION FOR RESERVES.—When the Secretary determines that all Fund operations have been terminated, the Secretary

shall dissolve the Fund. Any unencumbered Fund assets remaining after the satisfaction of all outstanding claims, loans from the Treasury, and other liabilities of the Fund shall be distributed, on a pro rata basis based on premiums paid, to any insurer that—

(A) participated in the Fund during its operation; and

(B) demonstrates, to the satisfaction of the Secretary, that any amount received as a distribution from the Fund will be permanently credited to a reserve account maintained by that insurer against claims for industrywide aggregate losses of $2,000,000,000 from—

(i) acts of terrorism in the United States; or

(ii) the effects of earthquakes, volcanic eruptions, tsunamis, or hurricanes.

(2) RETENTION REQUIREMENT FOR TAPPING RESERVE.—Amounts credited to a reserve under paragraph (a) may not be used by an insurer to pay claims until the insurer has paid claims for losses resulting from acts or events described in paragraph (1)(B) in excess of 10 percent of that insurer's average gross direct written premiums and policyholders' surplus for covered lines for the most recently ended calendar year for which data are available.

(3) OFFICER AND DIRECTOR PENALTIES FOR MISUSE OF RESERVES.—Any officer or director of an insurer who knowingly authorizes or directs the use of any amount received from the Fund under paragraph (1) for any purpose other than an appropriate use of amounts in the reserve to which the amount is credited shall be guilty of a Class E felony and sentenced in accordance with the provisions of section 3551 of title 18, United States Code.

(4) RESIDUAL DISTRIBUTION TO TREASURY.—Any unencumbered Fund assets remaining after the distribution under paragraph (1) shall be covered into the Treasury of the United States as miscellaneous receipts.

SEC. 14. DEFINITIONS.

In this Act:

(1) SECRETARY.—Except where otherwise specifically provided, the term ''Secretary'' means the Secretary of Commerce.

(2) NAIC.—The term ''NAIC'' means the National Association of Insurance Commissioners.

(3) FUND.—The term ''Fund'' means the National Terrorism Reinsurance Fund established under section 4.

(4) PARTICIPATING INSURER.—The term ''participating insurer'' means every property and casualty insurer writing on a direct basis a covered line or lines of insurance in any jurisdiction of the United States, its territories, or possessions, including residual market insurers.

(5) COVERED LINE.—

(A) IN GENERAL.—The term ''covered line'' means any one or a combination of the following, written on a direct basis, as reported by property and casualty insurers in required financial reports on Statutory Page 14 of the NAIC Annual Statement Blank:

(i) Fire.

(ii) Allied lines.

(iii) Commercial multiple peril.

(iv) Ocean marine.

(v) Inland marine.

(vi) Workers compensation.

(vii) Products liability.

(viii) Commercial auto no-fault (personal injury protection), other commercial auto liability, or commercial auto physical damage.

(ix) Aircraft (all peril).

(x) Fidelity and surety.

(xi) Burglary and theft.

(xii) Boiler and machinery.

(xiii) Any other line of insurance that is reported by property and casualty insurers in required financial reports on Statutory Page 14 of the NAIC Annual Statement Blank which is voluntarily elected by an participating insurer to be included in its reinsurance contract with the Fund.

(B) OTHER LINES.—For purposes of clause (xiii), the lines of business that may be voluntarily selected are the following:

(i) Farmowners multiple peril.

(ii) Homeowners multiple peril.

(iii) Mortgage guaranty.

(iv) Financial guaranty.

(v) Private passenger automobile insurance.

(C) ELECTION.—The election to voluntarily include another line of insurance, if made, must apply to all affiliated insurers that are members of an insurer group. Any voluntary election is on a one-time basis and is irrevocable.

(6) LOSSES.—The term ''losses'' means direct incurred losses from an act of terrorism for covered lines, plus defense and cost containment expenses. Notwithstanding the preceding sentence, a loss shall not be recognized as a loss for the purpose of determining the amount of an insurer's retention or reimbursement under this Act unless the claim for the loss has been paid within 12 months after the terrorism event occurs and other loss adjustments.

(7) COVERED LOSSES.—The term ''covered losses'' means direct losses in excess of the participating insurer's retention.

(8) TERRORISM; ACT OF TERRORISM.—

(A) IN GENERAL.—The terms ''terrorism'' and ''act of terrorism'' mean any act, certified by the Secretary in concurrence with the Secretary of State and the Attorney General, as a violent act or act dangerous to human life, property or infrastructure, within the United States, its territories and possessions, that is committed by an individual or individuals acting on behalf of foreign agents or foreign interests (other than a foreign government) as part of an effort to coerce or intimidate the civilian population of the United States or to influence the policy or affect the conduct of the United States government.

(B) ACTS OF WAR.—No act shall be certified as an act of terrorism if the act is committed in the course of a war declared by the Congress of the United States or by a foreign government.

(C) FINALITY OF CERTIFICATION.—Any certification, or determination not to certify, by the Secretary under subparagraph (A) is final and not subject to judicial review.

(9) INSURER.—

(A) IN GENERAL.—The term ''insurer'' means an entity writing covered lines on a direct basis and licensed as a property and casualty insurer, risk retention group, or other entity authorized by law as a residual market mechanism providing property or casualty coverage in at least one jurisdiction of the United States, its territories, or possessions.

(B) VOLUNTARY PARTICIPATION.—A State workers' compensation, auto, or property insurance Fund may voluntarily participate as an insurer.

(10) CONTRACT YEAR.—The term ''contract year'' means the period of time that obligations exist between a participating insurer and the Fund for a given annual reinsurance contract.

(11) RETENTION.—The term ''retention'' means the level of direct losses retained by a participating insurer for which the insurer is not entitled to reimbursement by the Fund.

By Mr. MCCAIN:

S. 1744. A bill to ensure the continued financial capacity of insurers to provide coverage for risks from terrorism; to the Committee on Commerce, Science, and Transportation.

Mr. MCCAIN. Mr. President, while there are few people in the Senate more skeptical than I of providing Federal assistance to corporations or involving the Federal Government in private industry, the proposed wholesale cancellation of terrorism insurance coverage following the devastating events of September 11, dictates that Congress act before the end of this session to ensure that this coverage continues to be available and affordable. Since 1945 when Congress delegated the responsibility of regulating insurance to the States, the Federal Government has honored this delegation and, with the encouragement of state regulators, kept out of the business of insurance.

In a recent letter to Treasury Secretary O'Neill, however, the National Association of Insurance Commissioners, NAIC, implored the Federal Government for help. ''What has not been widely reported is that insurers are now issuing notices of non-renewal and filing across-the-board property and casualty exclusions for terrorist risk with state insurance regulators,'' the NAIC wrote. ''[W]e need the Federal Government to act soon to give certainty to this situation * * * further delay inadvertently could cause greater market disruption, thus making the need for quick action imperative.'' I agree.

The bill I am introducing today draws from the many good ideas proposed by members of Congress and by the Administration to deal with the imminent cancellation of terrorism insurance coverage, and attempts also to address concerns raised with each of these proposals. It is by no means a perfect bill and I look forward to working with the Administration, my colleagues, state insurance commissioners, and other interested parties to improve it. While rough, the bill does reflect, however, what I believe to be the core principles that should be included in any legislation designed to keep terrorism insurance affordable and available. These principles include making Federal intervention short-term; deferring to states on questions of rate regulation; requiring insurance companies and the insurance industry to bear enough risk to promote responsible claims handling and to ensure that incentives to protect against acts of terrorism are in place; fairly allocating the costs of a terrorist event among insurance companies, and between policy holders and taxpayers; and generally prohibiting the award of punitive damages in claims arising from acts of terrorism.

There has been much debate about whether the taxpayers should bear the cost in the short-term of another terrorist event, or whether this cost should be borne by policy holders. The answer, perhaps, is that the cost should be shared. I propose in this bill that federal assistance up to $50 billion be paid back by commercial property and

casualty policy holders through a capped surcharge on their premiums. For Federal assistance between $50 billion and $100 billion, which would be required only in the case of a truly catastrophic, perhaps cataclysmic event, however, the bill does not require repayment.

The following is a summary of the major provision of this bill. I look forward to working to improve it and to passage of needed legislation on terrorism insurance before the end of this session.

The bill provides a Federal backstop for certain insured losses due to acts of terrorism up to $100 billion per year in 2002 and 2003. The Federal Government would get involved, however, only if there is an act of terrorism during these years that exceeded individual company retentions. If a commercial insurer reaches these retention levels, the federal government would provide assistance for 80 percent of the companies' losses above the retention.

To provide uniformity, the bill preempts state definitions of ''terrorism'' and delegates to the Secretary of Commerce the responsibility of determining whether or not an act of terrorism has occurred.

Federal assistance is available only to companies whose annual terrorism-related losses in certain lines of commercial property and casualty insurance exceed the greater of $10 million or 5 percent of gross direct written premium in the previous year.

Only companies that meet the company retention trigger can obtain assistance from the Federal Government. Outlays for losses up to $50 billion are repaid by insurance policy holders through a surcharge imposed by the Secretary of Commerce on covered lines and collected by commercial insurers. These surcharges cannot exceed 6 percent of annual premiums, and the Secretary has the discretion to adjust the surcharge to reflect different risks in urban and rural areas.

Federal outlays up to $50 billion are paid back over time by commercial property and casualty policy holders. Federal outlays for losses over $50 billion are not recoverable.

Rate regulation is left to the states.

Except with respect to claims against terrorists and their conspirators, punitive damages cannot be recovered in claims arising out of acts of terrorism.

By Mr. REID (for himself, Mrs. CLINTON, Mr. LIEBERMAN and Mr. JEFFORDS):

S. 1746. A bill to amend the Atomic Energy Act of 1954 and the Energy Reorganization Act of 1974 to strengthen security at sensitive nuclear facilities; to the Committee on Environment and Public Works.

Mr. REID. Mr. President, I would like to discuss an issue of great importance to our Nation, the safety of our Nation's nuclear power plants.

The tragedy of September 11 taught us many things: It taught us the importance of our first responders. It taught us the vulnerability of our Nation's buildings and the strength of our Nation's resolve. Finally, it taught us that we must be prepared for today's threats because they could become tomorrow's attacks.

We must not fail to take what we have learned and apply it to the vulnerabilities of our Nation's energy and transportation infrastructure.

Less than 1 week ago, the President signed a new law to increase the safety at our Nation's airports.

That act turned the first page in a long struggle to secure our Nation's infrastructure.

Today, I am introducing legislation with Senator CLINTON, Senator LIEBERMAN, and Senator JEFFORDS to write the next chapter, which covers commercial nuclear facilities.

I am pleased that Congressman MARKEY and Congresswoman LOWEY will introduce a companion bill in the House of Representatives.

Nuclear facilities provide us with needed electricity, but, in light of the events of September 11, they also present a security risk that we simply must address.

When plants are failing nearly half their security evaluations, we need to do more than update the curriculum. We need a whole new system.

There are some plants that do a good job, but it is not enough to have peaks of success, we need a new high plateau that secures all plants. We can accomplish that by establishing a new nuclear security force.

Our bill also requires the Nuclear Regulatory Commission to take a new look at the threats posed by terrorists.

This is the foundation that will support the efforts of the nuclear security force and overall plant security.

Our bill also establishes a rigorous training and evaluation program for the nuclear security force.

A new office will be established within the Nuclear Regulatory Commission with a dedicated team of mock terrorists whose only jobs is to perfect their skills in challenging the security guards.

When professional sports teams practice, the don't do it against amateur athletes playing in the park. They train against other professionals. Nuclear Security personnel should also.

Our bill will honor the sacrifice of our Nation's emergency responders by ensuring that emergency response plans are in place and work as we expect them to.

Finally, we will require stockpiles of medicine to help out in the event of a release of radioactive material from a nuclear facility.

These potassium iodide tablets block the absorption of harmful iodine in the thyroid gland.

The American people told us how they wanted their airlines and airports protected. The Congress and the President listened and acted.

We will work to make sure their questions about the safety of all our Nation's nuclear power plants are also answered.

This bill starts that process.

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. 1746

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 ''Nuclear Security Act of 2001''.

SEC. 2. DEFINITIONS.

Section 11 of the Atomic Energy Act of 1954 (42 U.S.C. 2014) is amended—

(1) by redesignating subsection jj. as subsection ii.; and

(2) by adding at the end the following:

''jj. DESIGN BASIS THREAT.—The term 'design basis threat' means the design basis threat established by the Commission under section 73.1 of title 10, Code of Federal Regulations (or any successor regulation developed under section 170C).

''kk. SENSITIVE NUCLEAR FACILITY.—The term 'sensitive nuclear facility' means—

''(1) a commercial nuclear power plant and associated spent fuel storage facility;

''(2) a decommissioned nuclear power plant and associated spent fuel storage facility;

''(3) a category I fuel cycle facility;

''(4) a gaseous diffusion plant; and

''(5) any other facility licensed by the Commission, or used in the conduct of an activity licensed by the Commission, that the Commission determines should be treated as a sensitive nuclear facility under section 170C.''.

SEC. 3. NUCLEAR SECURITY.

(a) IN GENERAL.—Chapter 14 of the Atomic Energy Act of 1954 (42 U.S.C. 2201 et seq.) is amended by adding at the end the following:

''SEC. 170C. PROTECTION OF SENSITIVE NUCLEAR FACILITIES AGAINST THE DESIGN BASIS THREAT.

''(a) DEFINITIONS.—In this section:

''(1) NUCLEAR SECURITY FORCE.—The term 'nuclear security force' means the nuclear security force established under subsection (b)(1).

''(2) FUND.—The term 'Fund' means the Nuclear Security Fund established under subsection (f).

''(3) QUALIFICATION STANDARD.—The term 'qualification standard' means a qualification standard established under subsection (e)(2)(A).

''(4) SECURITY PLAN.—The term 'security plan' means a security plan developed under subsection (b)(2).

''(b) NUCLEAR SECURITY.—The Commission shall—

''(1) establish a nuclear security force, the members of which shall be employees of the Commission, to provide for the security of all sensitive nuclear facilities against the design basis threat; and

''(2) develop and implement a security plan for each sensitive nuclear facility to ensure the security of all sensitive nuclear facilities against the design basis threat.

''(c) DESIGN BASIS THREAT.—

''(1) IN GENERAL.—Not later than 90 days after the date of enactment of this section, and at least once every 3 years thereafter, the Commission, in consultation with the Assistant to the President for Homeland Security, the Attorney General, the Secretary of Defense, and other Federal, State, and local agencies, as appropriate, shall revise the design basis threat to include—

''(A) threats equivalent to—

''(i) the events of September 11, 2001;

''(ii) a physical, cyber, biochemical, or other terrorist threat;

''(iii) an attack on a facility by multiple coordinated teams of a large number of individuals;

''(iv) assistance in an attack from several persons employed at the facility;

''(v) a suicide attack;

''(vi) a water-based or air-based threat;

''(vii) the use of explosive devices of considerable size and other modern weaponry;

''(viii) an attack by persons with a sophisticated knowledge of the operations of a sensitive nuclear facility; and

''(ix) fire, especially a fire of long duration; and

''(B) any other threat that the Commission determines should be included as an element of the design basis threat.

''(2) REPORTS.—The Commission shall submit to Congress a report on each revision made under paragraph (1).

''(d) SECURITY PLANS.—

''(1) IN GENERAL.—Not later than 180 days after the date of enactment of this section, the Commission shall develop a security plan for each sensitive nuclear facility to ensure the protection of each sensitive nuclear facility against the design basis threat.

''(2) ELEMENTS OF THE PLAN.—A security plan shall prescribe—

''(A) the deployment of the nuclear security force, including—

''(i) numbers of the members of the nuclear security force at each sensitive nuclear facility;

''(ii) tactics of the members of the nuclear security force at each sensitive nuclear facility; and

''(iii) capabilities of the members of the nuclear security force at each sensitive nuclear facility;

''(B) other protective measures, including—

''(i) designs of critical control systems at each sensitive nuclear facility;

''(ii) restricted personnel access to each sensitive nuclear facility;

''(iii) perimeter site security, internal site security, and fire protection barriers;

''(iv) increases in protection for spent fuel storage areas;

''(v) placement of spent fuel in dry cask storage; and

''(vi) background security checks for employees and prospective employees; and

''(C) a schedule for completing the requirements of the security plan not later than 18 months after the date of enactment of this section.

''(3) ADDITIONAL REQUIREMENTS.—A holder of a license for a sensitive nuclear facility under section 103 or 104 or the State or local government in which a sensitive nuclear facility is located may petition the Commission for additional requirements in the security plan for the sensitive nuclear facility.

''(4) IMPLEMENTATION OF SECURITY PLAN.—Not later than 270 days after the date of enactment of this section, the Commission, in consultation with a holder of a license for a sensitive nuclear facility under section 103 or 104, shall, by direct action of the Commission or by order requiring action by the licensee, implement the security plan for the sensitive nuclear facility in accordance with the schedule under paragraph (2)(C).

''(5) SUFFICIENCY OF SECURITY PLAN.—If at any time the Commission determines that the implementation of the requirements of the security plan for a sensitive nuclear facility is insufficient to ensure the security of the sensitive nuclear facility against the design basis threat, the Commission shall immediately submit to Congress and the President a classified report that—

''(A) identifies the vulnerability of the sensitive nuclear facility; and

''(B) recommends actions by Federal, State, or local agencies to eliminate the vulnerability.

''(e) NUCLEAR SECURITY FORCE.—

''(1) IN GENERAL.—Not later than 90 days after the date of enactment of this section, the Commission, in consultation with other Federal agencies, as appropriate, shall establish a program for the hiring and training of the nuclear security force.

''(2) HIRING.—

''(A) QUALIFICATION STANDARDS.—Not later than 30 days after the date of enactment of this section, the Commission shall establish qualification standards that individuals shall be required to meet to be hired by the Commission as members of the nuclear security force.

''(B) EXAMINATION.—The Commission shall develop and administer a nuclear security force personnel examination for use in determining the qualification of individuals seeking employment as members of the nuclear security force.

''(C) CRIMINAL AND SECURITY BACKGROUND CHECKS.—The Commission shall require that an individual to be hired as a member of the nuclear security force undergo a criminal and security background check.

''(D) DISQUALIFICATION OF INDIVIDUALS WHO PRESENT NATIONAL SECURITY RISKS.—The Commission, in consultation with the heads of other Federal agencies, as appropriate, shall establish procedures, in addition to any background check conducted under subparagraph (B), to ensure that no individual who presents a threat to national security is employed as a member of the nuclear security force.

''(3) ANNUAL PROFICIENCY REVIEW.—

''(A) IN GENERAL.—The Commission shall provide that an annual evaluation of each member of the nuclear security force is conducted and documented.

''(B) REQUIREMENTS FOR CONTINUATION.—An individual employed as a member of the nuclear security force may not continue to be employed in that capacity unless the evaluation under subparagraph (A) demonstrates that the individual—

''(i) continues to meet all qualification standards;

''(ii) has a satisfactory record of performance and attention to duty; and

''(iii) has the knowledge and skills necessary to vigilantly and effectively provide for the security of a sensitive nuclear facility against the design basis threat.

''(4) TRAINING.—

''(A) IN GENERAL.—The Commission shall provide for the training of each member of the nuclear security force to ensure each member has the knowledge and skills necessary to provide for the security of a sensitive nuclear facility against the design basis threat.

''(B) TRAINING PLAN.—Not later than 60 days after the date of enactment of this section, the Commission shall develop a plan for the training of members of the nuclear security force.

''(C) USE OF OTHER AGENCIES.—The Commission may enter into a memorandum of understanding or other arrangement with any other Federal agency with appropriate law enforcement responsibilities, to provide personnel, resources, or other forms of assistance in the training of members of the nuclear security force.

''(f) NUCLEAR SECURITY FUND.—

''(1) ESTABLISHMENT.—There is established in the Treasury of the United States a fund to be known as the 'Nuclear Security Fund', which shall be used by the Commission to administer programs under this section to provide for the security of sensitive nuclear facilities.

''(2) DEPOSITS IN THE FUND.—The Commission shall deposit in the Fund—

''(A) the amount of fees collected under paragraph (5); and

''(B) amounts appropriated under subsection (g).

''(3) INVESTMENT OF AMOUNTS.—

''(A) IN GENERAL.—The Secretary of the Treasury shall invest such portion of the Fund as is not, in the judgment of the Secretary of the Treasury, required to meet current withdrawals. Investments may be made only in interest-bearing obligations of the United States.

''(B) ACQUISITION OF OBLIGATIONS.—For the purpose of investments under subparagraph (A), obligations may be acquired—

''(i) on original issue at the issue price; or

''(ii) by purchase of outstanding obligations at the market price.

''(C) SALE OF OBLIGATIONS.—Any obligation acquired by the Fund may be sold by the Secretary of the Treasury at the market price.

''(D) CREDITS TO FUND.—The interest on, and the proceeds from the sale or redemption of, any obligations held in the Fund shall be credited to and form a part of the Fund.

''(4) USE OF AMOUNTS IN THE FUND.—The Commission shall use amounts in the Fund to pay the costs of—

''(A) salaries, training, and other expenses of the nuclear security force; and

''(B) developing and implementing security plans.

''(5) FEE.—To ensure that adequate amounts are available to provide assistance under paragraph (4), the Commission shall assess licensees a fee in an amount determined by the Commission, not to exceed 1 mill per kilowatt-hour of electricity generated by a sensitive nuclear facility.

''(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.''.

(b) IMPLEMENTATION.—The Commission shall complete the full implementation of the amendment made by subsection (a) as soon as practicable after the date of enactment of this Act, but in no event later than 270 days after the date of enactment of this Act.

(c) TECHNICAL AND CONFORMING AMENDMENT.—The table of contents for chapter 14 of the Atomic Energy Act of 1954 (42 U.S.C. prec. 2011) is amended by adding at the end the following:

''Sec. 170B. Uranium supply.

''Sec. 170C. Protection of sensitive nuclear facilities against the design basis threat.''.

SEC. 4. OPERATION SAFEGUARDS AND RESPONSE UNIT.

Section 204 of the Energy Reorganization Act of 1974 (42 U.S.C. 5844) is amended by adding at the end the following:

''(d) OPERATION SAFEGUARDS AND RESPONSE UNIT.—

''(1) DEFINITIONS.—In this subsection:

''(A) ASSISTANT DIRECTOR.—The term 'Assistant Director' means the Assistant Director for Operation Safeguards and Response.

''(B) DESIGN BASIS THREAT.—The term 'design basis threat' has the meaning given the term in section 11 of the Atomic Energy Act of 1954 (42 U.S.C. 2014).

''(C) SENSITIVE NUCLEAR FACILITY.—The term 'sensitive nuclear facility' has the meaning given the term in section 11 of the Atomic Energy Act of 1954 (42 U.S.C. 2014).

''(D) UNIT.—The term 'Unit' means the Operation Safeguards and Response Unit established under paragraph (2)(A).

''(2) ESTABLISHMENT OF UNIT.—

''(A) IN GENERAL.—There is established within the Office of Nuclear Material Safety and Safeguards the Operation Safeguards and Response Unit.

''(B) HEAD OF UNIT.—The Unit shall be headed by the Assistant Director for Operation Safeguards and Response.

''(C) DUTIES.—The Assistant Director shall—

''(i) establish a program for the conduct of operation safeguards and response evaluations under paragraph (3); and

''(ii) establish a program for the conduct of emergency response exercises under paragraph (4).

''(D) MOCK TERRORIST TEAM.—The personnel of the Unit shall include a Mock Terrorist Team comprised of—

''(i) not fewer than 20 individuals with advanced knowledge of special weapons and tactics comparable to special operations forces of the Armed Forces;

''(ii) at least 1 nuclear engineer;

''(iii) for each evaluation at a sensitive nuclear facility under paragraph (3), at least 1 individual with knowledge of the operations of the sensitive nuclear facility who is capable of actively disrupting the normal operations of the sensitive nuclear facility; and

''(iv) any other individual that the Assistant Director determines should be a member of the Mock Terrorist Team.

''(3) OPERATION SAFEGUARDS AND RESPONSE EVALUATIONS.—

''(A) IN GENERAL.—Not later than 1 year after the date of enactment of this subsection, the Assistant Director shall establish an operation safeguards and response evaluation program to assess the ability of each sensitive nuclear facility to defend against the design basis threat.

''(B) FREQUENCY OF EVALUATIONS.—Not less often than once every 2 years, the Assistant Director shall conduct and document operation safeguards and response evaluations at each sensitive nuclear facility to assess the ability of the members of the nuclear security force at the sensitive nuclear facility to defend against the design basis threat.

''(C) ACTIVITIES.—The evaluation shall include 2 or more force-on-force exercises by the Mock Terrorist Team against the sensitive nuclear facility that simulate air, water, and land assaults (as appropriate).

''(D) CRITERIA.—The Assistant Director shall establish criteria for judging the success of the evaluations.

''(E) CORRECTIVE ACTION.—If a sensitive nuclear facility fails to complete successfully an operation safeguards and response evaluation, the Commission shall require additional operation safeguards and response evaluations not less often than once every 6 months until the sensitive nuclear facility successfully completes an operation safeguards and response evaluation.

''(F) REPORTS.—Not less often than once every year, the Commission shall submit to Congress and the President a report that describes the results of each operation safeguards and response evaluation under this paragraph for the previous year.

''(4) EMERGENCY RESPONSE EXERCISES.—

''(A) IN GENERAL.—Not later than 1 year after the date of enactment of this subsection, the Assistant Director, in consultation with the Assistant to the President for Homeland Security, the Director of the Federal Emergency Management Agency, the Attorney General, and other Federal, State, and local agencies, as appropriate, shall establish an emergency response program to evaluate the ability of Federal, State, and local emergency response personnel within a 50-mile radius of a sensitive nuclear facility to respond to a radiological emergency at the sensitive nuclear facility.

''(B) FREQUENCY.—Not less often than once every 3 years, the Assistant Director shall conduct emergency response exercises to evaluate the ability of Federal, State, and local emergency response personnel within a 50-mile radius of a sensitive nuclear facility to respond to a radiological emergency at the sensitive nuclear facility.

''(C) ACTIVITIES.—The response exercises shall evaluate—

''(i) the response capabilities, response times, and coordination and communication capabilities of the response personnel;

''(ii) the effectiveness and adequacy of emergency response plans, including evacuation plans; and

''(iii) the ability of response personnel to distribute potassium iodide or other prophylactic medicines in an expeditious manner.

''(D) REVISION OF EMERGENCY RESPONSE PLANS.—The Commission shall revise the emergency response plan for a sensitive nuclear facility to correct for any deficiencies identified by an evaluation under this paragraph.

''(E) REPORTS.—Not less often than once every year, the Commission shall submit to Congress and the President a report that describes—

''(i) the results of each emergency response exercise under this paragraph conducted in the previous year; and

''(ii) each revision of an emergency response plan made under subparagraph (D) for the previous year.''.

SEC. 5. POTASSIUM IODIDE STOCKPILES.

Section 170 of the Atomic Energy Act of 1954 (42 U.S.C. 2210) is amended by adding at the end the following:

''u. Not later than 180 days after the date of enactment of this subsection, the Commission, in consultation with the Director of the Federal Emergency Management Agency, the Secretary of Health and Human Services, and other Federal, State, and local agencies, as appropriate, shall—

''(1) ensure that sufficient stockpiles of potassium iodide tablets have been established at public facilities (such as schools and hospitals) within at least a 50-mile radius of all sensitive nuclear facilities;

''(2) develop plans for the prompt distribution of the stockpiles described in paragraph (1) to all individuals located within at least a 50-mile radius of a sensitive nuclear facility in the event of a release of radionuclides; and

''(3) submit to Congress a report—

''(A) certifying that stockpiles have been established as described in paragraph (1); and

''(B) including the plans described in paragraph (2).''.

SEC. 6. DEFENSE OF FACILITIES.

(a) IN GENERAL.—In a case in which a state of war or national emergency exists, the Commission shall—

(1) request the Governor of each State in which a sensitive nuclear facility is located to deploy the National Guard to each sensitive nuclear facility in that State; and

(2) request the President to—

(A) deploy the Coast Guard to sensitive nuclear facilities on the coastline of the United States; and

(B) restrict air space in the vicinity of sensitive nuclear facilities in the United States.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

AMENDMENTS SUBMITTED AND PROPOSED

SA 2170. Mr. DASCHLE (for Mr. HATCH (for himself and Mr. BAUCUS)) proposed an amendment to the bill H.R. 10, to provide for pension reform, and for other purposes.

SA 2171. Mr. LOTT (for himself, Mr. MURKOWSKI, and Mr. BROWNBACK) proposed an amendment to amendment SA 2170 submitted by Mr. Daschle and intended to be proposed to the bill (H.R. 10) supra.

SA 2172. Mr. HOLLINGS submitted an amendment intended to be proposed by him to the bill S. 1743, to create a temporary reinsurance mechanism to enhance the availability of terrorism insurance; which was referred to the Committee on Commerce, Science, and Transportation.

SA 2173. Mr. BURNS submitted an amendment intended to be proposed by him to the bill H.R. 10, to provide for pension reform, and for other purposes; which was ordered to lie on the table.

SA 2174. Mr. BURNS submitted an amendment intended to be proposed by him to the bill H.R. 10, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 2170. Mr. DASCHLE (for Mr. HATCH (for himself and Mr. BAUCUS)) proposed an amendment to the bill H.R. 10, to provide for pension reform, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Railroad Retirement and Survivors' Improvement Act of 2001''.

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

Sec. 1. Short title; table of contents.

TITLE I—AMENDMENTS TO RAILROAD RETIREMENT ACT OF 1974

Sec. 101. Expansion of widow's and widower's benefits.
Sec. 102. Retirement age restoration.
Sec. 103. Vesting requirement.
Sec. 104. Repeal of railroad retirement maximum.
Sec. 105. Investment of railroad retirement assets.
Sec. 106. Elimination of supplemental annuity account.
Sec. 107. Transfer authority revisions.
Sec. 108. Annual ratio projections and certifications by the Railroad Retirement Board.

TITLE II—AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986

Sec. 201. Amendments to the Internal Revenue Code of 1986.
Sec. 202. Exemption from tax for National Railroad Retirement Investment Trust.
Sec. 203. Repeal of supplemental annuity tax.
Sec. 204. Employer, employee representative, and employee tier 2 tax rate adjustments.

TITLE I—AMENDMENTS TO RAILROAD RETIREMENT ACT OF 1974

SEC. 101. EXPANSION OF WIDOW'S AND WIDOWER'S BENEFITS.

(a) IN GENERAL.—Section 4(g) of the Railroad Retirement Act of 1974 (45 U.S.C. 231c(g)) is amended by adding at the end the following new subdivision:

''(10)(i) If for any month the unreduced annuity provided under this section for a widow or widower is less than the widow's or widower's initial minimum amount computed pursuant to paragraph (ii) of this subdivision, the unreduced annuity shall be increased to that initial minimum amount. For the purposes of this subdivision, the unreduced annuity is the annuity without regard to any deduction on account of work,

without regard to any reduction for entitlement to an annuity under section 2(a)(1) of this Act, without regard to any reduction for entitlement to a benefit under title II of the Social Security Act, and without regard to any reduction for entitlement to a public service pension pursuant to section 202(e)(7), 202(f)(2), or 202(g)(4) of the Social Security Act.

''(ii) For the purposes of this subdivision, the widow or widower's initial minimum amount is the amount of the unreduced annuity computed at the time an annuity is awarded to that widow or widower, except that—

''(A) in subsection (g)(1)(i) '100 per centum' shall be substituted for '50 per centum'; and

''(B) in subsection (g)(2)(ii) '130 per centum' shall be substituted for '80 per centum' both places it appears.

''(iii) If a widow or widower who was previously entitled to a widow's or widower's annuity under section 2(d)(1)(ii) of this Act becomes entitled to a widow's or widower's annuity under section 2(d)(1)(i) of this Act, a new initial minimum amount shall be computed at the time of award of the widow's or widower's annuity under section 2(d)(1)(i) of this Act.''.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by this section shall take effect on the first day of the first month that begins more than 30 days after enactment, and shall apply to annuity amounts accruing for months after the effective date in the case of annuities awarded—

(A) on or after that date; and

(B) before that date, but only if the annuity amount under section 4(g) of the Railroad Retirement Act of 1974 (45 U.S.C. 231c(g)) was computed under such section, as amended by the Omnibus Budget Reconciliation Act of 1981 (Public Law 97–35; 95 Stat. 357).

(2) SPECIAL RULE FOR ANNUITIES AWARDED BEFORE THE EFFECTIVE DATE.—In applying the amendment made by this section to annuities awarded before the effective date, the calculation of the initial minimum amount under new section 4(g)(10)(ii) of the Railroad Retirement Act of 1974 (45 U.S.C. 231c(g)(10)(ii)), as added by subsection (a), shall be made as of the date of the award of the widow's or widower's annuity.

SEC. 102. RETIREMENT AGE RESTORATION.

(a) EMPLOYEE ANNUITIES.—Section 3(a)(2) of the Railroad Retirement Act of 1974 (45 U.S.C. 231b(a)(2)) is amended by inserting after ''(2)'' the following new sentence: ''For purposes of this subsection, individuals entitled to an annuity under section 2(a)(1)(ii) of this Act shall, except for the purposes of recomputations in accordance with section 215(f) of the Social Security Act, be deemed to have attained retirement age (as defined by section 216(l) of the Social Security Act).''.

(b) SPOUSE AND SURVIVOR ANNUITIES.—Section 4(a)(2) of the Railroad Retirement Act of 1974 (45 U.S.C. 231c(a)(2)) is amended by striking ''if an'' and all that follows through ''section 2(c)(1) of this Act'' and inserting ''a spouse entitled to an annuity under section 2(c)(1)(ii)(B) of this Act''.

(c) CONFORMING REPEALS.—Sections 3(a)(3), 4(a)(3), and 4(a)(4) of the Railroad Retirement Act of 1974 (45 U.S.C. 231b(a)(3), 231c(a)(3), and 231c(a)(4)) are repealed.

(d) EFFECTIVE DATES.—

(1) GENERALLY.—Except as provided in paragraph (2), the amendments made by this section shall apply to annuities that begin to accrue on or after January 1, 2002.

(2) EXCEPTION.—The amount of the annuity provided for a spouse under section 4(a) of the Railroad Retirement Act of 1974 (45 U.S.C. 231c(a)) shall be computed under section 4(a)(3) of such Act, as in effect on December 31, 2001, if the annuity amount provided under section 3(a) of such Act (45 U.S.C. 231b(a)) for the individual on whose employment record the spouse annuity is based was computed under section 3(a)(3) of such Act, as in effect on December 31, 2001.

SEC. 103. VESTING REQUIREMENT.

(a) CERTAIN ANNUITIES FOR INDIVIDUALS.—Section 2(a) of the Railroad Retirement Act of 1974 (45 U.S.C. 231a(a)) is amended—

(1) by inserting in subdivision (1) ''(or, for purposes of paragraphs (i), (iii), and (v), five years of service, all of which accrues after December 31, 1995)'' after ''ten years of service''; and

(2) by adding at the end the following new subdivision:

''(4) An individual who is entitled to an annuity under paragraph (v) of subdivision (1), but who does not have at least ten years of service, shall, prior to the month in which the individual attains age 62, be entitled only to an annuity amount computed under section 3(a) of this Act (without regard to section 3(a)(2) of this Act) or section 3(f)(3) of this Act. Upon attainment of age 62, such an individual may also be entitled to an annuity amount computed under section 3(b), but such annuity amount shall be reduced for early retirement in the same manner as if the individual were entitled to an annuity under section 2(a)(1)(iii).''.

(b) COMPUTATION RULE FOR INDIVIDUALS' ANNUITIES.—Section 3(a) of the Railroad Retirement Act of 1974 (45 U.S.C. 231b(a)), as amended by section 102 of this Act, is further amended by adding at the end the following new subdivision:

''(3) If an individual entitled to an annuity under section 2(a)(1)(i) or (iii) of this Act on the basis of less than ten years of service is entitled to a benefit under section 202(a), section 202(b), or section 202(c) of the Social Security Act which began to accrue before the annuity under section 2(a)(1)(i) or (iii) of this Act, the annuity amount provided such individual under this subsection, shall be computed as though the annuity under this Act began to accrue on the later of (A) the date on which the benefit under section 202(a), section 202(b), or section 202(c) of the Social Security Act began, or (B) the date on which the individual first met the conditions for entitlement to an age reduced annuity under this Act other than the conditions set forth in sections 2(e)(1) and 2(e)(2) of this Act and the requirement that an application be filed.''.

(c) SURVIVORS' ANNUITIES.—Section 2(d)(1) of the Railroad Retirement Act of 1974 (45 U.S.C. 231a(d)(1)) is amended by inserting ''(or five years of service, all of which accrues after December 31, 1995)'' after ''ten years of service''.

(d) LIMITATION ON ANNUITY AMOUNTS.—Section 2 of the Railroad Retirement Act of 1974 (45 U.S.C. 231a) is amended by adding at the end the following new subsection:

''(i) An individual entitled to an annuity under this section who has completed five years of service, all of which accrues after 1995, but who has not completed ten years of service, and the spouse, divorced spouse, and survivors of such individual, shall not be entitled to an annuity amount provided under section 3(a), section 4(a), or section 4(f) of this Act unless the individual, or the individual's spouse, divorced spouse, or survivors, would be entitled to a benefit under title II of the Social Security Act on the basis of the individual's employment record under both this Act and title II of the Social Security Act.''.

(e) COMPUTATION RULE FOR SPOUSES' ANNUITIES.—Section 4(a) of the Railroad Retirement Act of 1974 (45 U.S.C. 231c(a)), as amended by section 102 of this Act, is further amended by adding at the end the following new subdivision:

''(3) If a spouse entitled to an annuity under section 2(c)(1)(ii)(A), section 2(c)(1)(ii)(C), or section 2(c)(2) of this Act or a divorced spouse entitled to an annuity under section 2(c)(4) of this Act on the basis of the employment record of an employee who will have completed less than 10 years of service is entitled to a benefit under section 202(a), section 202(b), or section 202(c) of the Social Security Act which began to accrue before the annuity under section 2(c)(1)(ii)(A), section 2(c)(1)(ii)(C), section 2(c)(2), or section 2(c)(4) of this Act, the annuity amount provided under this subsection shall be computed as though the annuity under this Act began to accrue on the later of (A) the date on which the benefit under section 202(a), section 202(b), or section 202(c) of the Social Security Act began or (B) the first date on which the annuitant met the conditions for entitlement to an age reduced annuity under this Act other than the conditions set forth in sections 2(e)(1) and 2(e)(2) of this Act and the requirement that an application be filed.''.

(f) APPLICATION DEEMING PROVISION.—Section 5(b) of the Railroad Retirement Act of 1974 (45 U.S.C. 231d(b)) is amended by striking the second sentence and inserting the following new sentence: ''An application filed with the Board for an employee annuity, spouse annuity, or divorced spouse annuity on the basis of the employment record of an employee who will have completed less than ten years of service shall be deemed to be an application for any benefit to which such applicant may be entitled under this Act or section 202(a), section 202(b), or section 202(c) of the Social Security Act. An application filed with the Board for an annuity on the basis of the employment record of an employee who will have completed ten years of service shall, unless the applicant specified otherwise, be deemed to be an application for any benefit to which such applicant may be entitled under this Act or title II of the Social Security Act.''.

(g) CREDITING SERVICE UNDER THE SOCIAL SECURITY ACT.—Section 18(2) of the Railroad Retirement Act of 1974 (45 U.S.C. 231q(2)) is amended—

(1) by inserting ''(or less than five years of service, all of which accrues after December 31, 1995)'' after ''ten years of service'' every place it appears; and

(2) by inserting ''(or five or more years of service, all of which accrues after December 31, 1995)'' after ''ten or more years of service''.

(h) AUTOMATIC BENEFIT ELIGIBILITY ADJUSTMENTS.—Section 19 of the Railroad Retirement Act of 1974 (45 U.S.C. 231r) is amended—

(1) by inserting ''(or five or more years of service, all of which accrues after December 31, 1995)'' after ''ten years of service'' in subsection (c); and

(2) by inserting ''(or five or more years of service, all of which accrues after December 31, 1995)'' after ''ten years of service'' in subsection (d)(2).

(i) CONFORMING AMENDMENTS.—

(1) Section 6(e)(1) of the Railroad Retirement Act of 1974 (45 U.S.C. 231e(1)) is amended by inserting ''(or five or more years of service, all of which accrues after December 31, 1995)'' after ''ten years of service''.

(2) Section 7(b)(2)(A) of the Railroad Retirement Act of 1974 (45 U.S.C. 231f(b)(2)(A)) is amended by inserting ''(or five or more years of service, all of which accrues after December 31, 1995)'' after ''ten years of service''.

(3) Section 205(i) of the Social Security Act (42 U.S.C. 405(i)) is amended by inserting ''(or

five or more years of service, all of which accrues after December 31, 1995)'' after ''ten years of service''.

(4) Section 6(b)(2) of the Railroad Retirement Act of 1974 (45 U.S.C. 231e(b)(2)) is amended by inserting ''(or five or more years of service, all of which accrues after December 31, 1995)'' after ''ten years of service'' the second place it appears.

(j) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 2002.

SEC. 104. REPEAL OF RAILROAD RETIREMENT MAXIMUM.

(a) EMPLOYEE ANNUITIES.—

(1) IN GENERAL.—Section 3(f) of the Railroad Retirement Act of 1974 (45 U.S.C. 231b(f)) is amended—

(A) by striking subdivision (1); and

(B) by redesignating subdivisions (2) and (3) as subdivisions (1) and (2), respectively.

(2) CONFORMING AMENDMENTS.—

(A) The first sentence of section 3(f)(1) of the Railroad Retirement Act of 1974 (45 U.S.C. 231b(f)(1)), as redesignated by paragraph (1)(B), is amended by striking '', without regard to the provisions of subdivision (1) of this subsection,''.

(B) Paragraphs (i) and (ii) of section 7(d)(2) of the Railroad Retirement Act of 1974 (45 U.S.C. 231f(d)(2)) are each amended by striking ''section 3(f)(3)'' and inserting ''section 3(f)(2)''.

(b) SPOUSE AND SURVIVOR ANNUITIES.—Section 4 of the Railroad Retirement Act of 1974 (45 U.S.C. 231c) is amended by striking subsection (c).

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 2002, and shall apply to annuity amounts accruing for months after December 2001.

SEC. 105. INVESTMENT OF RAILROAD RETIREMENT ASSETS.

(a) ESTABLISHMENT OF NATIONAL RAILROAD RETIREMENT INVESTMENT TRUST.—Section 15 of the Railroad Retirement Act of 1974 (45 U.S.C. 231n) is amended by inserting after subsection (i) the following new subsection:

''(j) NATIONAL RAILROAD RETIREMENT INVESTMENT TRUST.—

''(1) ESTABLISHMENT.—The National Railroad Retirement Investment Trust (hereinafter in this subsection referred to as the 'Trust') is hereby established as a trust domiciled in the District of Columbia and shall, to the extent not inconsistent with this Act, be subject to the laws of the District of Columbia applicable to such trusts. The Trust shall manage and invest its assets in the manner set forth in this subsection.

''(2) NOT A FEDERAL AGENCY OR INSTRUMENTALITY.—The Trust is not a department, agency, or instrumentality of the Government of the United States and shall not be subject to title 31, United States Code.

''(3) BOARD OF TRUSTEES.—

''(A) GENERALLY.—

''(i) MEMBERSHIP.—The Trust shall have a Board of Trustees, consisting of 7 members. Three shall represent the interests of labor, 3 shall represent the interests of management, and 1 shall be an independent Trustee. The members of the Board of Trustees shall not be considered officers or employees of the Government of the United States.

''(ii) SELECTION.—

''(I) The 3 members representing the interests of labor shall be selected by the joint recommendation of labor organizations, national in scope, organized in accordance with section 2 of the Railway Labor Act, and representing at least ⅔ of all active employees, represented by such national labor organizations, covered under this Act.

''(II) The 3 members representing the interests of management shall be selected by the joint recommendation of carriers as defined in section 1 of the Railway Labor Act employing at least ⅔ of all active employees covered under this Act.

''(III) The independent member shall be selected by a majority of the other 6 members of the Board of Trustees.

A member of the Board of Trustees may be removed in the same manner and by the same constituency that selected that member.

''(iii) DISPUTE RESOLUTION.—In the event that the parties specified in subclause (I), (II), or (III) of the previous clause cannot agree on the selection of Trustees within 60 days of the date of enactment or 60 days from any subsequent date that a position of the Board of Trustees becomes vacant, an impartial umpire to decide such dispute shall, on the petition of a party to the dispute, be appointed by the District Court of the United States for the District of Columbia.

''(B) QUALIFICATIONS.—Members of the Board of Trustees shall be appointed only from among persons who have experience and expertise in the management of financial investments and pension plans. No member of the Railroad Retirement Board shall be eligible to be a member of the Board of Trustees.

''(C) TERMS.—Except as provided in this subparagraph, each member shall be appointed for a 3-year term. The initial members appointed under this paragraph shall be divided into equal groups so nearly as may be, of which one group will be appointed for a 1-year term, one for a 2-year term, and one for a 3-year term. The Trustee initially selected pursuant to clause (ii)(III) shall be appointed to a 3-year term. A vacancy in the Board of Trustees shall not affect the powers of the Board of Trustees and shall be filled in the same manner as the selection of the member whose departure caused the vacancy. Upon the expiration of a term of a member of the Board of Trustees, that member shall continue to serve until a successor is appointed.

''(4) POWERS OF THE BOARD OF TRUSTEES.—The Board of Trustees shall—

''(A) retain independent advisers to assist it in the formulation and adoption of its investment guidelines;

''(B) retain independent investment managers to invest the assets of the Trust in a manner consistent with such investment guidelines;

''(C) invest assets in the Trust, pursuant to the policies adopted in subparagraph (A);

''(D) pay administrative expenses of the Trust from the assets in the Trust; and

''(E) transfer money to the disbursing agent or as otherwise provided in section 7(b)(4), to pay benefits payable under this Act from the assets of the Trust.

''(5) REPORTING REQUIREMENTS AND FIDUCIARY STANDARDS.—The following reporting requirements and fiduciary standards shall apply with respect to the Trust:

''(A) DUTIES OF THE BOARD OF TRUSTEES.—The Trust and each member of the Board of Trustees shall discharge their duties (including the voting of proxies) with respect to the assets of the Trust solely in the interest of the Railroad Retirement Board and through it, the participants and beneficiaries of the programs funded under this Act—

''(i) for the exclusive purpose of—

''(I) providing benefits to participants and their beneficiaries; and

''(II) defraying reasonable expenses of administering the functions of the Trust;

''(ii) with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims;

''(iii) by diversifying investments so as to minimize the risk of large losses and to avoid disproportionate influence over a particular industry or firm, unless under the circumstances it is clearly prudent not to do so; and

''(iv) in accordance with Trust governing documents and instruments insofar as such documents and instruments are consistent with this Act.

''(B) PROHIBITIONS WITH RESPECT TO MEMBERS OF THE BOARD OF TRUSTEES.—No member of the Board of Trustees shall—

''(i) deal with the assets of the Trust in the trustee's own interest or for the trustee's own account;

''(ii) in an individual or in any other capacity act in any transaction involving the assets of the Trust on behalf of a party (or represent a party) whose interests are adverse to the interests of the Trust, the Railroad Retirement Board, or the interests of participants or beneficiaries; or

''(iii) receive any consideration for the trustee's own personal account from any party dealing with the assets of the Trust.

''(C) EXCULPATORY PROVISIONS AND INSURANCE.—Any provision in an agreement or instrument that purports to relieve a trustee from responsibility or liability for any responsibility, obligation, or duty under this Act shall be void: *Provided, however*, That nothing shall preclude—

''(i) the Trust from purchasing insurance for its trustees or for itself to cover liability or losses occurring by reason of the act or omission of a trustee, if such insurance permits recourse by the insurer against the trustee in the case of a breach of a fiduciary obligation by such trustee;

''(ii) a trustee from purchasing insurance to cover liability under this section from and for his own account; or

''(iii) an employer or an employee organization from purchasing insurance to cover potential liability of one or more trustees with respect to their fiduciary responsibilities, obligations, and duties under this section.

''(D) BONDING.—Every trustee and every person who handles funds or other property of the Trust (hereafter in this subsection referred to as 'Trust official') shall be bonded. Such bond shall provide protection to the Trust against loss by reason of acts of fraud or dishonesty on the part of any Trust official, directly or through the connivance of others, and shall be in accordance with the following:

''(i) The amount of such bond shall be fixed at the beginning of each fiscal year of the Trust by the Railroad Retirement Board. Such amount shall not be less than 10 percent of the amount of the funds handled. In no case shall such bond be less than $1,000 nor more than $500,000, except that the Railroad Retirement Board, after consideration of the record, may prescribe an amount in excess of $500,000, subject to the 10 per centum limitation of the preceding sentence.

''(ii) It shall be unlawful for any Trust official to receive, handle, disburse, or otherwise exercise custody or control of any of the funds or other property of the Trust without being bonded as required by this subsection and it shall be unlawful for any Trust official, or any other person having authority to direct the performance of such functions, to permit such functions, or any of them, to be performed by any Trust official, with respect to whom the requirements of this subsection have not been met.

''(iii) It shall be unlawful for any person to procure any bond required by this subsection from any surety or other company or

through any agent or broker in whose business operations such person has any control or significant financial interest, direct or indirect.

''(E) AUDIT AND REPORT.—

''(i) The Trust shall annually engage an independent qualified public accountant to audit the financial statements of the Trust.

''(ii) The Trust shall submit an annual management report to the Congress not later than 180 days after the end of the Trust's fiscal year. A management report under this subsection shall include—

''(I) a statement of financial position;

''(II) a statement of operations;

''(III) a statement of cash flows;

''(IV) a statement on internal accounting and administrative control systems;

''(V) the report resulting from an audit of the financial statements of the Trust conducted under clause (i); and

''(VI) any other comments and information necessary to inform the Congress about the operations and financial condition of the Trust.

''(iii) The Trust shall provide the President, the Railroad Retirement Board, and the Director of the Office of Management and Budget a copy of the management report when it is submitted to Congress.

''(F) ENFORCEMENT.—The Railroad Retirement Board may bring a civil action—

''(i) to enjoin any act or practice by the Trust, its Board of Trustees, or its employees or agents that violates any provision of this Act; or

''(ii) to obtain other appropriate relief to redress such violations, or to enforce any provisions of this Act.

''(6) RULES AND ADMINISTRATIVE POWERS.—The Board of Trustees shall have the authority to make rules to govern its operations, employ professional staff, and contract with outside advisers, including the Railroad Retirement Board, to provide legal, accounting, investment advisory, or other services necessary for the proper administration of this subsection. In the case of contracts with investment advisory services, compensation for such services may be on a fixed contract fee basis or on such other terms and conditions as are customary for such services.

''(7) QUORUM.—Five members of the Board of Trustees constitute a quorum to do business. Investment guidelines must be adopted by a unanimous vote of the entire Board of Trustees. All other decisions of the Board of Trustees shall be decided by a majority vote of the quorum present. All decisions of the Board of Trustees shall be entered upon the records of the Board of Trustees.

''(8) FUNDING.—The expenses of the Trust and the Board of Trustees incurred under this subsection shall be paid from the Trust.''.

(b) CONFORMING AND TECHNICAL AMENDMENTS GOVERNING INVESTMENTS.—Section 15(e) of the Railroad Retirement Act of 1974 (45 U.S.C. 231n(e)) is amended—

(1) in the first sentence, by striking '', the Dual Benefits Payments Account'' and all that follows through ''may be made only'' in the second sentence and inserting ''and the Dual Benefits Payments Account as are not transferred to the National Railroad Retirement Investment Trust as the Board may determine'';

(2) by striking ''the Second Liberty Bond Act, as amended'' and inserting ''chapter 31 of title 31''; and

(3) by striking ''the foregoing requirements'' and inserting ''the requirements of this subsection''.

(c) MEANS OF FINANCING.—For all purposes of the Congressional Budget Act of 1974, the Balanced Budget and Emergency Deficit Control Act of 1985, and chapter 11 of title 31, United States Code, and notwithstanding section 20 of the Office of Management and Budget Circular No. A-11, the purchase or sale of non-Federal assets (other than gains or losses from such transactions) by the National Railroad Retirement Investment Trust shall be treated as a means of financing.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the first day of the month that begins more than 30 days after enactment.

SEC. 106. ELIMINATION OF SUPPLEMENTAL ANNUITY ACCOUNT.

(a) SOURCE OF PAYMENTS.—Section 7(c)(1) of the Railroad Retirement Act of 1974 (45 U.S.C. 231f(c)(1)) is amended by striking ''payments of supplemental annuities under section 2(b) of this Act shall be made from the Railroad Retirement Supplemental Account, and''.

(b) ELIMINATION OF ACCOUNT.—Section 15(c) of the Railroad Retirement Act of 1974 (45 U.S.C. 231n(c)) is repealed.

(c) AMENDMENT TO RAILROAD RETIREMENT ACCOUNT.—Section 15(a) of the Railroad Retirement Act of 1974 (45 U.S.C. 231n(a)) is amended by striking '', except those portions of the amounts covered into the Treasury under sections 3211(b),'' and all that follows through the end of the subsection and inserting a period.

(d) TRANSFER.—

(1) DETERMINATION.—As soon as possible after December 31, 2001, the Railroad Retirement Board shall—

(A) determine the amount of funds in the Railroad Retirement Supplemental Account under section 15(c) of the Railroad Retirement Act of 1974 (45 U.S.C. 231n(c)) as of the date of such determination; and

(B) direct the Secretary of the Treasury to transfer such funds to the National Railroad Retirement Investment Trust under section 15(j) of such Act (as added by section 105).

(2) TRANSFER BY THE SECRETARY OF THE TREASURY.—The Secretary of the Treasury shall make the transfer described in paragraph (1).

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—Subject to paragraph (2), the amendments made by subsections (a), (b), and (c) shall take effect January 1, 2002.

(2) ACCOUNT IN EXISTENCE UNTIL TRANSFER MADE.—The Railroad Retirement Supplemental Account under section 15(c) of the Railroad Retirement Act of 1974 (45 U.S.C. 231n(c)) shall continue to exist until the date that the Secretary of the Treasury makes the transfer described in subsection (d)(2).

SEC. 107. TRANSFER AUTHORITY REVISIONS.

(a) RAILROAD RETIREMENT ACCOUNT.—Section 15 of the Railroad Retirement Act of 1974 (45 U.S.C. 231n) is amended by adding after subsection (j) the following new subsection:

''(k) TRANSFERS TO THE TRUST.—The Board shall, upon establishment of the National Railroad Retirement Investment Trust and from time to time thereafter, direct the Secretary of the Treasury to transfer, in such manner as will maximize the investment returns to the Railroad Retirement system, that portion of the Railroad Retirement Account that is not needed to pay current administrative expenses of the Board to the National Railroad Retirement Investment Trust. The Secretary shall make that transfer.''.

(b) TRANSFERS FROM THE NATIONAL RAILROAD RETIREMENT INVESTMENT TRUST.—Section 15 of the Railroad Retirement Act of 1974 (45 U.S.C. 231n), as amended by subsection (a), is further amended by adding after subsection (k) the following new subsection:

''(l) NATIONAL RAILROAD RETIREMENT INVESTMENT TRUST.—The National Railroad Retirement Investment Trust shall from time to time transfer to the disbursing agent described in section 7(b)(4) or as otherwise directed by the Railroad Retirement Board pursuant to section 7(b)(4), such amounts as may be necessary to pay benefits under this Act (other than benefits paid from the Social Security Equivalent Benefit Account or the Dual Benefit Payments Account).''.

(c) SOCIAL SECURITY EQUIVALENT BENEFIT ACCOUNT.—

(1) TRANSFERS TO TRUST.—Section 15A(d)(2) of the Railroad Retirement Act of 1974 (45 U.S.C. 231n–1(d)(2)) is amended to read as follows:

''(2) Upon establishment of the National Railroad Retirement Investment Trust and from time to time thereafter, the Board shall direct the Secretary of the Treasury to transfer, in such manner as will maximize the investment returns to the Railroad Retirement system, the balance of the Social Security Equivalent Benefit Account not needed to pay current benefits and administrative expenses required to be paid from that Account to the National Railroad Retirement Investment Trust, and the Secretary shall make that transfer. Any balance transferred under this paragraph shall be used by the National Railroad Retirement Investment Trust only to pay benefits under this Act or to purchase obligations of the United States that are backed by the full faith and credit of the United States pursuant to chapter 31 of title 31, United States Code. The proceeds of sales of, and the interest income from, such obligations shall be used by the Trust only to pay benefits under this Act.''.

(2) TRANSFERS TO DISBURSING AGENT.—Section 15A(c)(1) of the Railroad Retirement Act of 1974 (45 U.S.C. 231n–1(c)(1)) is amended by adding at the end the following new sentence: ''The Secretary shall from time to time transfer to the disbursing agent under section 7(b)(4) amounts necessary to pay those benefits.''.

(3) CONFORMING AMENDMENT.—Section 15A(d)(1) of the Railroad Retirement Act of 1974 (45 U.S.C. 231n–1(d)(1)) is amended by striking the second and third sentences.

(d) DUAL BENEFITS PAYMENTS ACCOUNT.—Section 15(d)(1) of the Railroad Retirement Act of 1974 (45 U.S.C. 231n(d)(1)) is amended by adding at the end the following new sentence: ''The Secretary of the Treasury shall from time to time transfer from the Dual Benefits Payments Account to the disbursing agent under section 7(b)(4) amounts necessary to pay benefits payable from that Account.''.

(e) CERTIFICATION BY THE BOARD AND PAYMENT.—Paragraph (4) of section 7(b) of the Railroad Retirement Act of 1974 (45 U.S.C. 231f(b)(4)) is amended to read as follows:

''(4)(A) The Railroad Retirement Board, after consultation with the Board of Trustees of the National Railroad Retirement Investment Trust and the Secretary of the Treasury, shall enter into an arrangement with a nongovernmental financial institution to serve as disbursing agent for benefits payable under this Act who shall disburse consolidated benefits under this Act to each recipient. Pending the taking effect of that arrangement, benefits shall be paid as under the law in effect prior to the enactment of the Railroad Retirement and Survivors' Improvement Act of 2001.

''(B) The Board shall from time to time certify—

''(i) to the Secretary of the Treasury the amounts required to be transferred from the Social Security Equivalent Benefit Account and the Dual Benefits Payments Account to the disbursing agent to make payments of benefits and the Secretary of the Treasury shall transfer those amounts;

''(ii) to the Board of Trustees of the National Railroad Retirement Investment Trust the amounts required to be transferred from the National Railroad Retirement Investment Trust to the disbursing agent to make payments of benefits and the Board of Trustees shall transfer those amounts; and

''(iii) to the disbursing agent the name and address of each individual entitled to receive a payment, the amount of such payment, and the time at which the payment should be made.''.

(f) BENEFIT PAYMENTS.—Section 7(c)(1) of the Railroad Retirement Act of 1974 (45 U.S.C. 231f(c)(1)) is amended—

(1) by striking ''from the Railroad Retirement Account'' and inserting ''by the disbursing agent under subsection (b)(4) from money transferred to it from the National Railroad Retirement Investment Trust or the Social Security Equivalent Benefit Account, as the case may be''; and

(2) by inserting ''by the disbursing agent under subsection (b)(4) from money transferred to it'' after ''Public Law 93–445 shall be made''.

(g) TRANSITIONAL RULE FOR EXISTING OBLIGATION.—In making transfers under sections 15(k) and 15A(d)(2) of the Railroad Retirement Act of 1974, as amended by subsections (a) and (c), respectively, the Railroad Retirement Board shall consult with the Secretary of the Treasury to design an appropriate method to transfer obligations held as of the date of enactment of this Act or to convert such obligations to cash at the discretion of the Railroad Retirement Board prior to transfer. The National Railroad Retirement Investment Trust may hold to maturity any obligations so received or may redeem them prior to maturity, as the Trust deems appropriate.

SEC. 108. ANNUAL RATIO PROJECTIONS AND CERTIFICATIONS BY THE RAILROAD RETIREMENT BOARD.

(a) PROJECTIONS.—Section 22(a)(1) of the Railroad Retirement Act of 1974 (45 U.S.C. 231u(a)(1)) is amended—

(1) by inserting after the first sentence the following new sentence: ''On or before May 1 of each year beginning in 2003, the Railroad Retirement Board shall compute its projection of the account benefits ratio and the average account benefits ratio (as defined by section 3241(c) of the Internal Revenue Code of 1986) for each of the next succeeding five fiscal years.''; and

(2) by striking ''the projection prepared pursuant to the preceding sentence'' and inserting ''the projections prepared pursuant to the preceding two sentences''.

(b) CERTIFICATIONS.—The Railroad Retirement Act of 1974 (45 U.S.C. 231 et seq.) is amended by adding at the end the following new section:

''COMPUTATION AND CERTIFICATION OF ACCOUNT BENEFIT RATIOS

''SEC. 23. (a) INITIAL COMPUTATION AND CERTIFICATION.—On or before November 1, 2003, the Railroad Retirement Board shall—

''(1) compute the account benefits ratios for each of the most recent 10 preceding fiscal years, and

''(2) certify the account benefits ratios for each such fiscal year to the Secretary of the Treasury.

''(b) COMPUTATIONS AND CERTIFICATIONS AFTER 2003.—On or before November 1 of each year after 2003, the Railroad Retirement Board shall—

''(1) compute the account benefits ratio for the fiscal year ending in such year, and

''(2) certify the account benefits ratio for such fiscal year to the Secretary of the Treasury.

''(c) DEFINITION.—As used in this section, the term 'account benefits ratio' has the meaning given that term in section 3241(c) of the Internal Revenue Code of 1986.''.

TITLE II—AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986

SEC. 201. AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986.

Except as otherwise provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

SEC. 202. EXEMPTION FROM TAX FOR NATIONAL RAILROAD RETIREMENT INVESTMENT TRUST.

Subsection (c) of section 501 is amended by adding at the end the following new paragraph:

''(28) The National Railroad Retirement Investment Trust established under section 15(j) of the Railroad Retirement Act of 1974.''.

SEC. 203. REPEAL OF SUPPLEMENTAL ANNUITY TAX.

(a) REPEAL OF TAX ON EMPLOYEE REPRESENTATIVES.—Section 3211 is amended by striking subsection (b).

(b) REPEAL OF TAX ON EMPLOYERS.—Section 3221 is amended by striking subsections (c) and (d) and by redesignating subsection (e) as subsection (c).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to calendar years beginning after December 31, 2001.

SEC. 204. EMPLOYER, EMPLOYEE REPRESENTATIVE, AND EMPLOYEE TIER 2 TAX RATE ADJUSTMENTS.

(a) RATE OF TAX ON EMPLOYERS.—Subsection (b) of section 3221 is amended to read as follows:

''(b) TIER 2 TAX.—

''(1) IN GENERAL.—In addition to other taxes, there is hereby imposed on every employer an excise tax, with respect to having individuals in his employ, equal to the applicable percentage of the compensation paid during any calendar year by such employer for services rendered to such employer.

''(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the term 'applicable percentage' means—

''(A) 15.6 percent in the case of compensation paid during 2002,

''(B) 14.2 percent in the case of compensation paid during 2003, and

''(C) in the case of compensation paid during any calendar year after 2003, the percentage determined under section 3241 for such calendar year.''.

(b) RATE OF TAX ON EMPLOYEE REPRESENTATIVES.—Section 3211, as amended by section 203, is amended by striking subsection (a) and inserting the following new subsections:

''(a) TIER 1 TAX.—In addition to other taxes, there is hereby imposed on the income of each employee representative a tax equal to the applicable percentage of the compensation received during any calendar year by such employee representative for services rendered by such employee representative. For purposes of the preceding sentence, the term 'applicable percentage' means the percentage equal to the sum of the rates of tax in effect under subsections (a) and (b) of section 3101 and subsections (a) and (b) of section 3111 for the calendar year.

''(b) TIER 2 TAX.—

''(1) IN GENERAL.—In addition to other taxes, there is hereby imposed on the income of each employee representative a tax equal to the applicable percentage of the compensation received during any calendar year by such employee representatives for services rendered by such employee representative.

''(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the term 'applicable percentage' means—

''(A) 14.75 percent in the case of compensation received during 2002,

''(B) 14.20 percent in the case of compensation received during 2003, and

''(C) in the case of compensation received during any calendar year after 2003, the percentage determined under section 3241 for such calendar year.

''(c) CROSS REFERENCE.—

''For application of different contribution bases with respect to the taxes imposed by subsections (a) and (b), see section 3231(e)(2).''.

(c) RATE OF TAX ON EMPLOYEES.—Subsection (b) of section 3201 is amended to read as follows:

''(b) TIER 2 TAX.—

''(1) IN GENERAL.—In addition to other taxes, there is hereby imposed on the income of each employee a tax equal to the applicable percentage of the compensation received during any calendar year by such employee for services rendered by such employee.

''(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the term 'applicable percentage' means—

''(A) 4.90 percent in the case of compensation received during 2002 or 2003, and

''(B) in the case of compensation received during any calendar year after 2003, the percentage determined under section 3241 for such calendar year.''.

(d) DETERMINATION OF RATE.—Chapter 22 is amended by adding at the end the following new subchapter:

''Subchapter E—Tier 2 Tax Rate Determination

''Sec. 3241. Determination of tier 2 tax rate based on average account benefits ratio.

''SEC. 3241. DETERMINATION OF TIER 2 TAX RATE BASED ON AVERAGE ACCOUNT BENEFITS RATIO.

''(a) IN GENERAL.—For purposes of sections 3201(b), 3211(b), and 3221(b), the applicable percentage for any calendar year is the percentage determined in accordance with the table in subsection (b).

''(b) TAX RATE SCHEDULE.—

''Average account benefits ratio		Applicable percentage for sections 3211(b) and 3221(b)	Applicable percentage for section 3201(b)
At least	But less than		
	2.5	22.1	4.9
2.5	3.0	18.1	4.9
3.0	3.5	15.1	4.9
3.5	4.0	14.1	4.9
4.0	6.1	13.1	4.9
6.1	6.5	12.6	4.4
6.5	7.0	12.1	3.9
7.0	7.5	11.6	3.4
7.5	8.0	11.1	2.9
8.0	8.5	10.1	1.9
8.5	9.0	9.1	0.9
9.0		8.2	0

''(c) DEFINITIONS RELATED TO DETERMINATION OF RATES OF TAX.—

''(1) AVERAGE ACCOUNT BENEFITS RATIO.—For purposes of this section, the term 'average account benefits ratio' means, with respect to any calendar year, the average determined by the Secretary of the account benefits ratios for the 10 most recent fiscal years ending before such calendar year. If the amount determined under the preceding sentence is not a multiple of 0.1, such amount shall be increased to the next highest multiple of 0.1.

''(2) ACCOUNT BENEFITS RATIO.—For purposes of this section, the term 'account benefits ratio' means, with respect to any fiscal year, the amount determined by the Railroad Retirement Board by dividing the fair market value of the assets in the Railroad Retirement Account and of the National

Railroad Retirement Investment Trust (and for years before 2002, the Social Security Equivalent Benefits Account) as of the close of such fiscal year by the total benefits and administrative expenses paid from the Railroad Retirement Account and the National Railroad Retirement Investment Trust during such fiscal year.

''(d) NOTICE.—No later than December 1 of each calendar year, the Secretary shall publish a notice in the Federal Register of the rates of tax determined under this section which are applicable for the following calendar year.''.

(e) CONFORMING AMENDMENTS.—

(1) Section 24(d)(3)(A)(iii) is amended by striking ''section 3211(a)(1)'' and inserting ''section 3211(a)''.

(2) Section 72(r)(2)(B)(i) is amended by striking ''3211(a)(2)'' and inserting ''3211(b)''.

(3) Paragraphs (2)(A)(iii)(II) and (4)(A) of section 3231(e) are amended by striking ''3211(a)(1)'' and inserting ''3211(a)''.

(4) Section 3231(e)(2)(B)(ii)(I) is amended by striking ''3211(a)(2)'' and inserting ''3211(b)''.

(5) The table of subchapters for chapter 22 is amended by adding at the end the following new item:

''Subchapter E. Tier 2 tax rate determination.''.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to calendar years beginning after December 31, 2001.

Amend the title so as to read: ''An Act to modernize the financing of the railroad retirement system and to provide enhanced benefits to employees and beneficiaries.''.

SA 2171. Mr. LOTT (for himself, Mr. MURKOWSKI, and Mr. BROWNBACK) proposed an amendment to amendment SA 2170 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 10) to provide for pension reform, and for other purposes; as follows:

At the appropriate place, insert the following and redesignate accordingly:

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Securing America's Future Energy Act of 2001'' or the ''SAFE Act of 2001''.

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

Sec. 1. Short title and table of contents.
Sec. 2. Energy policy.

DIVISION A

Sec. 100. Short title.

TITLE I—ENERGY CONSERVATION

Subtitle A—Reauthorization of Federal Energy Conservation Programs

Sec. 101. Authorization of appropriations.

Subtitle B—Federal Leadership in Energy Conservation

Sec. 121. Federal facilities and national energy security.
Sec. 122. Enhancement and extension of authority relating to Federal energy savings performance contracts.
Sec. 123. Clarification and enhancement of authority to enter utility incentive programs for energy savings.
Sec. 124. Federal central air conditioner and heat pump efficiency.
Sec. 125. Advanced building efficiency testbed.
Sec. 126. Use of interval data in Federal buildings.
Sec. 127. Review of Energy Savings Performance Contract program.
Sec. 128. Capitol complex.

Subtitle C—State Programs

Sec. 131. Amendments to State energy programs.
Sec. 132. Reauthorization of energy conservation program for schools and hospitals.
Sec. 133. Amendments to Weatherization Assistance Program.
Sec. 134. LIHEAP.
Sec. 135. High performance public buildings.

Subtitle D—Energy Efficiency for Consumer Products

Sec. 141. Energy Star program.
Sec. 141A. Energy sun renewable and alternative energy program.
Sec. 142. Labeling of energy efficient appliances.
Sec. 143. Appliance standards.

Subtitle E—Energy Efficient Vehicles

Sec. 151. High occupancy vehicle exception.
Sec. 152. Railroad efficiency.
Sec. 153. Biodiesel fuel use credits.
Sec. 154. Mobile to stationary source trading.

Subtitle F—Other Provisions

Sec. 161. Review of regulations to eliminate barriers to emerging energy technology.
Sec. 162. Advanced idle elimination systems.
Sec. 163. Study of benefits and feasibility of oil bypass filtration technology.
Sec. 164. Gas flare study.
Sec. 165. Telecommuting study.

TITLE II—AUTOMOBILE FUEL ECONOMY

Sec. 201. Average fuel economy standards for nonpassenger automobiles.
Sec. 202. Consideration of prescribing different average fuel economy standards for nonpassenger automobiles.
Sec. 203. Dual fueled automobiles.
Sec. 204. Fuel economy of the Federal fleet of automobiles.
Sec. 205. Hybrid vehicles and alternative vehicles.
Sec. 206. Federal fleet petroleum-based non-alternative fuels.
Sec. 207. Study of feasibility and effects of reducing use of fuel for automobiles.

TITLE III—NUCLEAR ENERGY

Sec. 301. License period.
Sec. 302. Cost recovery from Government agencies.
Sec. 303. Depleted uranium hexafluoride.
Sec. 304. Nuclear Regulatory Commission meetings.
Sec. 305. Cooperative research and development and special demonstration projects for the uranium mining industry.
Sec. 306. Maintenance of a viable domestic uranium conversion industry.
Sec. 307. Paducah decontamination and decommissioning plan.
Sec. 308. Study to determine feasibility of developing commercial nuclear energy production facilities at existing department of energy sites.
Sec. 309. Prohibition of commercial sales of uranium by the United States until 2009.

TITLE IV—HYDROELECTRIC ENERGY

Sec. 401. Alternative conditions and fishways.
Sec. 402. FERC data on hydroelectric licensing.

TITLE V—FUELS

Sec. 501. Tank draining during transition to summertime RFG.
Sec. 502. Gasoline blendstock requirements.
Sec. 503. Boutique fuels.
Sec. 504. Funding for MTBE contamination.

TITLE VI—RENEWABLE ENERGY

Sec. 601. Assessment of renewable energy resources.
Sec. 602. Renewable energy production incentive.
Sec. 603. Study of ethanol from solid waste loan guarantee program.
Sec. 604. Study of renewable fuel content.

TITLE VII—PIPELINES

Sec. 701. Prohibition on certain pipeline route.
Sec. 702. Historic pipelines.

TITLE VIII—MISCELLANEOUS PROVISIONS

Sec. 801. Waste reduction and use of alternatives.
Sec. 802. Annual report on United States energy independence.
Sec. 803. Study of aircraft emissions.

DIVISION B

Sec. 2001. Short title.
Sec. 2002. Findings.
Sec. 2003. Purposes.
Sec. 2004. Goals.
Sec. 2005. Definitions.
Sec. 2006. Authorizations.
Sec. 2007. Balance of funding priorities.

TITLE I—ENERGY CONSERVATION AND ENERGY EFFICIENCY

Subtitle A—Alternative Fuel Vehicles

Sec. 2101. Short title.
Sec. 2102. Definitions.
Sec. 2103. Pilot program.
Sec. 2104. Reports to Congress.
Sec. 2105. Authorization of appropriations.

Subtitle B—Distributed Power Hybrid Energy Systems

Sec. 2121. Findings.
Sec. 2122. Definitions.
Sec. 2123. Strategy.
Sec. 2124. High power density industry program.
Sec. 2125. Micro-cogeneration energy technology.
Sec. 2126. Program plan.
Sec. 2127. Report.
Sec. 2128. Voluntary consensus standards.

Subtitle C—Secondary Electric Vehicle Battery Use

Sec. 2131. Definitions.
Sec. 2132. Establishment of secondary electric vehicle battery use program.
Sec. 2133. Authorization of appropriations.

Subtitle D—Green School Buses

Sec. 2141. Short title.
Sec. 2142. Establishment of pilot program.
Sec. 2143. Fuel cell bus development and demonstration program.
Sec. 2144. Authorization of appropriations.

Subtitle E—Next Generation Lighting Initiative

Sec. 2151. Short title.
Sec. 2152. Definition.
Sec. 2153. Next Generation Lighting Initiative.
Sec. 2154. Study.
Sec. 2155. Grant program.

Subtitle F—Department of Energy Authorization of Appropriations

Sec. 2161. Authorization of appropriations.

Subtitle G—Environmental Protection Agency Office of Air and Radiation Authorization of Appropriations

Sec. 2171. Short title.
Sec. 2172. Authorization of appropriations.
Sec. 2173. Limits on use of funds.
Sec. 2174. Cost sharing.
Sec. 2175. Limitation on demonstration and commercial applications of energy technology.
Sec. 2176. Reprogramming.
Sec. 2177. Budget request format.
Sec. 2178. Other provisions.

Subtitle H—National Building Performance Initiative

Sec. 2181. National Building Performance Initiative.

TITLE II—RENEWABLE ENERGY

Subtitle A—Hydrogen

Sec. 2201. Short title.
Sec. 2202. Purposes.
Sec. 2203. Definitions.
Sec. 2204. Reports to Congress.
Sec. 2205. Hydrogen research and development.
Sec. 2206. Demonstrations.
Sec. 2207. Technology transfer.
Sec. 2208. Coordination and consultation.
Sec. 2209. Advisory Committee.
Sec. 2210. Authorization of appropriations.
Sec. 2211. Repeal.

Subtitle B—Bioenergy

Sec. 2221. Short title.
Sec. 2222. Findings.
Sec. 2223. Definitions.
Sec. 2224. Authorization.
Sec. 2225. Authorization of appropriations.

Subtitle C—Transmission Infrastructure Systems

Sec. 2241. Transmission infrastructure systems research, development, demonstration, and commercial application.
Sec. 2242. Program plan.
Sec. 2243. Report.

Subtitle D—Department of Energy Authorization of Appropriations

Sec. 2261. Authorization of appropriations.

TITLE III—NUCLEAR ENERGY

Subtitle A—University Nuclear Science and Engineering

Sec. 2301. Short title.
Sec. 2302. Findings.
Sec. 2303. Department of Energy program.
Sec. 2304. Authorization of appropriations.

Subtitle B—Advanced Fuel Recycling Technology Research and Development Program

Sec. 2321. Program.

Subtitle C—Department of Energy Authorization of Appropriations

Sec. 2341. Nuclear Energy Research Initiative.
Sec. 2342. Nuclear Energy Plant Optimization program.
Sec. 2343. Nuclear energy technologies.
Sec. 2344. Authorization of appropriations.

TITLE IV—FOSSIL ENERGY

Subtitle A—Coal

Sec. 2401. Coal and related technologies programs.

Subtitle B—Oil and Gas

Sec. 2421. Petroleum-oil technology.
Sec. 2422. Gas.
Sec. 2423. Natural gas and oil deposits report.
Sec. 2424. Oil shale research.

Subtitle C—Ultra-Deepwater and Unconventional Drilling

Sec. 2441. Short title.
Sec. 2442. Definitions.
Sec. 2443. Ultra-deepwater program.
Sec. 2444. National Energy Technology Laboratory.
Sec. 2445. Advisory Committee.
Sec. 2446. Research Organization.
Sec. 2447. Grants.
Sec. 2448. Plan and funding.
Sec. 2449. Audit.
Sec. 2450. Fund.
Sec. 2451. Sunset.

Subtitle D—Fuel Cells

Sec. 2461. Fuel cells.

Subtitle E—Department of Energy Authorization of Appropriations

Sec. 2481. Authorization of appropriations.

TITLE V—SCIENCE

Subtitle A—Fusion Energy Sciences

Sec. 2501. Short title.
Sec. 2502. Findings.
Sec. 2503. Plan for fusion experiment.
Sec. 2504. Plan for fusion energy sciences program.
Sec. 2505. Authorization of appropriations.

Subtitle B—Spallation Neutron Source

Sec. 2521. Definition.
Sec. 2522. Authorization of appropriations.
Sec. 2523. Report.
Sec. 2524. Limitations.

Subtitle C—Facilities, Infrastructure, and User Facilities

Sec. 2541. Definition.
Sec. 2542. Facility and infrastructure support for nonmilitary energy laboratories.
Sec. 2543. User facilities.

Subtitle D—Advisory Panel on Office of Science

Sec. 2561. Establishment.
Sec. 2562. Report.

Subtitle E—Department of Energy Authorization of Appropriations

Sec. 2581. Authorization of appropriations.

TITLE VI—MISCELLANEOUS

Subtitle A—General Provisions for the Department of Energy

Sec. 2601. Research, development, demonstration, and commercial application of energy technology programs, projects, and activities.
Sec. 2602. Limits on use of funds.
Sec. 2603. Cost sharing.
Sec. 2604. Limitation on demonstration and commercial application of energy technology.
Sec. 2605. Reprogramming.

Subtitle B—Other Miscellaneous Provisions

Sec. 2611. Notice of reorganization.
Sec. 2612. Limits on general plant projects.
Sec. 2613. Limits on construction projects.
Sec. 2614. Authority for conceptual and construction design.
Sec. 2615. National Energy Policy Development Group mandated reports.
Sec. 2616. Periodic reviews and assessments.

DIVISION D

Sec. 4101. Capacity building for energy-efficient, affordable housing.
Sec. 4102. Increase of CDBG public services cap for energy conservation and efficiency activities.
Sec. 4103. FHA mortgage insurance incentives for energy efficient housing.
Sec. 4104. Public housing capital fund.
Sec. 4105. Grants for energy-conserving improvements for assisted housing.
Sec. 4106. North American Development Bank.

DIVISION E

Sec. 5000. Short title.
Sec. 5001. Findings.
Sec. 5002. Definitions.
Sec. 5003. Clean coal power initiative.
Sec. 5004. Cost and performance goals.
Sec. 5005. Authorization of appropriations.
Sec. 5006. Project criteria.
Sec. 5007. Study.
Sec. 5008. Clean coal centers of excellence.

DIVISION F

Sec. 6000. Short title.

TITLE I—GENERAL PROTECTIONS FOR ENERGY SUPPLY AND SECURITY

Sec. 6101. Study of existing rights-of-way on Federal lands to determine capability to support new pipelines or other transmission facilities.
Sec. 6102. Inventory of energy production potential of all Federal public lands.
Sec. 6103. Review of regulations to eliminate barriers to emerging energy technology.
Sec. 6104. Interagency agreement on environmental review of interstate natural gas pipeline projects.
Sec. 6105. Enhancing energy efficiency in management of Federal lands.
Sec. 6106. Efficient infrastructure development.

TITLE II—OIL AND GAS DEVELOPMENT

Subtitle A—Offshore Oil and Gas

Sec. 6201. Short title.
Sec. 6202. Lease sales in Western and Central Planning Area of the Gulf of Mexico.
Sec. 6203. Savings clause.
Sec. 6204. Analysis of Gulf of Mexico field size distribution, international competitiveness, and incentives for development.

Subtitle B—Improvements to Federal Oil and Gas Management

Sec. 6221. Short title.
Sec. 6222. Study of impediments to efficient lease operations.
Sec. 6223. Elimination of unwarranted denials and stays.
Sec. 6224. Limitations on cost recovery for applications.
Sec. 6225. Consultation with Secretary of Agriculture.

Subtitle C—Miscellaneous

Sec. 6231. Offshore subsalt development.
Sec. 6232. Program on oil and gas royalties in kind.
Sec. 6233. Marginal well production incentives.
Sec. 6234. Reimbursement for costs of NEPA analyses, documentation, and studies.
Sec. 6235. Encouragement of State and provincial prohibitions on offshore drilling in the Great Lakes.

TITLE III—GEOTHERMAL ENERGY DEVELOPMENT

Sec. 6301. Royalty reduction and relief.
Sec. 6302. Exemption from royalties for direct use of low temperature geothermal energy resources.
Sec. 6303. Amendments relating to leasing on Forest Service lands.
Sec. 6304. Deadline for determination on pending noncompetitive lease applications.
Sec. 6305. Opening of public lands under military jurisdiction.
Sec. 6306. Application of amendments.
Sec. 6307. Review and report to Congress.
Sec. 6308. Reimbursement for costs of NEPA analyses, documentation, and studies.

TITLE IV—HYDROPOWER

Sec. 6401. Study and report on increasing electric power production capability of existing facilities.
Sec. 6402. Installation of powerformer at Folsom power plant, California.
Sec. 6403. Study and implementation of increased operational efficiencies in hydroelectric power projects.
Sec. 6404. Shift of project loads to off-peak periods.

TITLE V—ARCTIC COASTAL PLAIN DOMESTIC ENERGY

Sec. 6501. Short title.
Sec. 6502. Definitions.
Sec. 6503. Leasing program for lands within the Coastal Plain.
Sec. 6504. Lease sales.
Sec. 6505. Grant of leases by the Secretary.
Sec. 6506. Lease terms and conditions.
Sec. 6507. Coastal Plain environmental protection.

Sec. 6508. Expedited judicial review.
Sec. 6509. Rights-of-way across the Coastal Plain.
Sec. 6510. Conveyance.
Sec. 6511. Local government impact aid and community service assistance.
Sec. 6512. Revenue allocation.

TITLE VI—CONSERVATION OF ENERGY BY THE DEPARTMENT OF THE INTERIOR

Sec. 6601. Energy conservation by the Department of the Interior.
Sec. 6602. Amendment to Buy Indian Act.

TITLE VII—COAL

Sec. 6701. Limitation on fees with respect to coal lease applications and documents.
Sec. 6702. Mining plans.
Sec. 6703. Payment of advance royalties under coal leases.
Sec. 6704. Elimination of deadline for submission of coal lease operation and reclamation plan.

TITLE VIII—INSULAR AREAS ENERGY SECURITY

Sec. 6801. Insular areas energy security.

DIVISION G

Sec. 7101. Buy American.

SEC. 2. ENERGY POLICY.

It shall be the sense of the Congress that the United States should take all actions necessary in the areas of conservation, efficiency, alternative source, technology development, and domestic production to reduce the United States dependence on foreign energy sources from 56 percent to 45 percent by January 1, 2012, and to reduce United States dependence on Iraqi energy sources from 700,000 barrels per day to 250,000 barrels per day by January 1, 2012.

DIVISION A

SEC. 100. SHORT TITLE.

This division may be cited as the ''Energy Advancement and Conservation Act of 2001''.

TITLE I—ENERGY CONSERVATION

Subtitle A—Reauthorization of Federal Energy Conservation Programs

SEC. 101. AUTHORIZATION OF APPROPRIATIONS.

Section 660 of the Department of Energy Organization Act (42 U.S.C. 7270) is amended as follows:

(1) By inserting ''(a)'' before ''Appropriations''.

(2) By inserting at the end the following new subsection:

''(b) There are hereby authorized to be appropriated to the Department of Energy for fiscal year 2002, $950,000,000; for fiscal year 2003, $1,000,000,000; for fiscal year 2004, $1,050,000,000; for fiscal year 2005, $1,100,000,000; and for fiscal year 2006, $1,150,000,000, to carry out energy efficiency activities under the following laws, such sums to remain available until expended:

''(1) Energy Policy and Conservation Act, including section 256(d)(42 U.S.C. 6276(d)) (promote export of energy efficient products), sections 321 through 346 (42 U.S.C. 6291–6317) (appliances program).

''(2) Energy Conservation and Production Act, including sections 301 through 308 (42 U.S.C. 6831–6837) (energy conservation standards for new buildings).

''(3) National Energy Conservation Policy Act, including sections 541–551 (42 U.S.C. 8251–8259) (Federal Energy Management Program).

''(4) Energy Policy Act of 1992, including sections 103 (42 U.S.C. 13458) (energy efficient lighting and building centers), 121 (42 U.S.C. 6292 note) (energy efficiency labeling for windows and window systems), 125 (42 U.S.C. 6292 note) (energy efficiency information for commercial office equipment), 126 (42 U.S.C. 6292 note) (energy efficiency information for luminaires), 131 (42 U.S.C. 6348) (energy efficiency in industrial facilities), and 132 (42 U.S.C. 6349) (process-oriented industrial energy efficiency).''.

Subtitle B—Federal Leadership in Energy Conservation

SEC. 121. FEDERAL FACILITIES AND NATIONAL ENERGY SECURITY.

(a) PURPOSE.—Section 542 of the National Energy Conservation Policy Act (42 U.S.C. 8252) is amended by inserting '', and generally to promote the production, supply, and marketing of energy efficiency products and services and the production, supply, and marketing of unconventional and renewable energy resources'' after ''by the Federal Government''.

(b) ENERGY MANAGEMENT REQUIREMENTS.—Section 543 of the National Energy Conservation Policy Act (42 U.S.C. 8253) is amended as follows:

(1) In subsection (a)(1), by striking ''during the fiscal year 1995'' and all that follows through the end and inserting ''during—

''(1) fiscal year 1995 is at least 10 percent;
''(2) fiscal year 2000 is at least 20 percent;
''(3) fiscal year 2005 is at least 30 percent;
''(4) fiscal year 2010 is at least 35 percent;
''(5) fiscal year 2015 is at least 40 percent; and
''(6) fiscal year 2020 is at least 45 percent,

less than the energy consumption per gross square foot of its Federal buildings in use during fiscal year 1985. To achieve the reductions required by this paragraph, an agency shall make maximum practicable use of energy efficiency products and services and unconventional and renewable energy resources, using guidelines issued by the Secretary under subsection (d) of this section.''.

(2) In subsection (d), by inserting ''Such guidelines shall include appropriate model technical standards for energy efficiency and unconventional and renewable energy resources products and services. Such standards shall reflect, to the extent practicable, evaluation of both currently marketed and potentially marketable products and services that could be used by agencies to improve energy efficiency and increase unconventional and renewable energy resources.'' after ''implementation of this part.''.

(3) By adding at the end the following new subsection:

''(e) STUDIES.—To assist in developing the guidelines issued by the Secretary under subsection (d) and in furtherance of the purposes of this section, the Secretary shall conduct studies to identify and encourage the production and marketing of energy efficiency products and services and unconventional and renewable energy resources. To conduct such studies, and to provide grants to accelerate the use of unconventional and renewable energy, there are authorized to be appropriated to the Secretary $20,000,000 for each of the fiscal years 2003 through 2010.''.

(c) DEFINITION.—Section 551 of the National Energy Conservation Policy Act (42 U.S.C. 8259) is amended as follows:

(1) By striking ''and'' at the end of paragraph (8).

(2) By striking the period at the end of paragraph (9) and inserting ''; and''.

(3) By adding at the end the following new paragraph:

''(10) the term 'unconventional and renewable energy resources' includes renewable energy sources, hydrogen, fuel cells, cogeneration, combined heat and power, heat recovery (including by use of a Stirling heat engine), and distributed generation.''.

(d) EXCLUSIONS FROM REQUIREMENT.—The National Energy Conservation Policy Act (42 U.S.C. 7201 and following) is amended as follows:

(1) In section 543(a)—

(A) by striking ''(1) Subject to paragraph (2)'' and inserting ''Subject to subsection (c)''; and

(B) by striking ''(2) An agency'' and all that follows through ''such exclusion.''.

(2) By amending subsection (c) of such section 543 to read as follows:

''(c) EXCLUSIONS.—(1) A Federal building may be excluded from the requirements of subsections (a) and (b) only if—

''(A) the President declares the building to require exclusion for national security reasons; and

''(B) the agency responsible for the building has—

''(i) completed and submitted all federally required energy management reports; and

''(ii) achieved compliance with the energy efficiency requirements of this Act, the Energy Policy Act of 1992, Executive Orders, and other Federal law;

''(iii) implemented all practical, life cycle cost-effective projects in the excluded building.

''(2) The President shall only declare buildings described in paragraph (1)(A) to be excluded, not ancillary or nearby facilities that are not in themselves national security facilities.''.

(3) In section 548(b)(1)(A)—

(A) by striking ''copy of the''; and

(B) by striking ''sections 543(a)(2) and 543(c)(3)'' and inserting ''section 543(c)''.

(e) ACQUISITION REQUIREMENT.—Section 543(b) of such Act is amended—

(1) in paragraph (1), by striking ''(1) Not'' and inserting ''(1) Except as provided in paragraph (5), not''; and

(2) by adding at the end the following new paragraph:

''(5)(A)(i) Agencies shall select only Energy Star products when available when acquiring energy-using products. For product groups where Energy Star labels are not yet available, agencies shall select products that are in the upper 25 percent of energy efficiency as designated by FEMP. In the case of electric motors of 1 to 500 horsepower, agencies shall select only premium efficiency motors that meet a standard designated by the Secretary, and shall replace (not rewind) failed motors with motors meeting such standard. The Secretary shall designate such standard within 90 days of the enactment of paragraph, after considering recommendations by the National Electrical Manufacturers Association. The Secretary of Energy shall develop guidelines within 180 days after the enactment of this paragraph for exemptions to this section when equivalent products do not exist, are impractical, or do not meet the agency mission requirements.

''(ii) The Administrator of the General Services Administration and the Secretary of Defense (acting through the Defense Logistics Agency), with assistance from the Administrator of the Environmental Protection Agency and the Secretary of Energy, shall create clear catalogue listings that designate Energy Star products in both print and electronic formats. After any existing federal inventories are exhausted, Administrator of the General Services Administration and the Secretary of Defense (acting through the Defense Logistics Agency) shall only replace inventories with energy-using products that are Energy Star, products that are rated in the top 25 percent of energy efficiency, or products that are exempted as designated by FEMP and defined in clause (i).

''(iii) Agencies shall incorporate energy-efficient criteria consistent with Energy Star and other FEMP designated energy efficiency levels into all guide specifications and project specifications developed for new construction and renovation, as well as into product specification language developed for

Basic Ordering Agreements, Blanket Purchasing Agreements, Government Wide Acquisition Contracts, and all other purchasing procedures.

''(iv) The legislative branch shall be subject to this subparagraph to the same extent and in the same manner as are the Federal agencies referred to in section 521(1).

''(B) Not later than 6 months after the date of the enactment of this paragraph, the Secretary of Energy shall establish guidelines defining the circumstances under which an agency shall not be required to comply with subparagraph (A). Such circumstances may include the absence of Energy Star products, systems, or designs that serve the purpose of the agency, issues relating to the compatibility of a product, system, or design with existing buildings or equipment, and excessive cost compared to other available and appropriate products, systems, or designs.

''(C) Subparagraph (A) shall apply to agency acquisitions occurring on or after October 1, 2002.''.

(f) METERING.—Section 543 of such Act (42 U.S.C. 8254) is amended by adding at the end the following new subsection:

''(f) METERING.—(1) By October 1, 2004, all Federal buildings including buildings owned by the legislative branch and the Federal court system and other energy-using structures shall be metered or submetered in accordance with guidelines established by the Secretary under paragraph (2).

''(2) Not later than 6 months after the date of the enactment of this subsection, the Secretary, in consultation with the General Services Administration and representatives from the metering industry, energy services industry, national laboratories, colleges of higher education, and federal facilities energy managers, shall establish guidelines for agencies to carry out paragraph (1). Such guidelines shall take into consideration each of the following:

''(A) Cost.

''(B) Resources, including personnel, required to maintain, interpret, and report on data so that the meters are continually reviewed.

''(C) Energy management potential.

''(D) Energy savings.

''(E) Utility contract aggregation.

''(F) Savings from operations and maintenance.

''(3) A building shall be exempt from the requirement of this section to the extent that compliance is deemed impractical by the Secretary. A finding of impracticability shall be based on the same factors as identified in subsection (c) of this section.''.

(g) RETENTION OF ENERGY SAVINGS.—Section 546 of such Act (42 U.S.C. 8256) is amended by adding at the end the following new subsection:

''(e) RETENTION OF ENERGY SAVINGS.—An agency may retain any funds appropriated to that agency for energy expenditures, at buildings subject to the requirements of section 543(a) and (b), that are not made because of energy savings. Except as otherwise provided by law, such funds may be used only for energy efficiency or unconventional and renewable energy resources projects.''.

(h) REPORTS.—Section 548 of such Act (42 U.S.C. 8258) is amended as follows:

(1) In subsection (a)—

(A) by inserting ''in accordance with guidelines established by and'' after ''to the Secretary,'';

(B) by striking ''and'' at the end of paragraph (1);

(C) by striking the period at the end of paragraph (2) and inserting a semicolon; and

(D) by adding at the end the following new paragraph:

''(3) an energy emergency response plan developed by the agency.''.

(2) In subsection (b)—

(A) by striking ''and'' at the end of paragraph (3);

(B) by striking the period at the end of paragraph (4) and inserting ''; and''; and

(C) by adding at the end the following new paragraph:

''(5) all information transmitted to the Secretary under subsection (a).''.

(3) By amending subsection (c) to read as follows:

''(c) AGENCY REPORTS TO CONGRESS.—Each agency shall annually report to the Congress, as part of the agency's annual budget request, on all of the agency's activities implementing any Federal energy management requirement.''.

(i) INSPECTOR GENERAL ENERGY AUDITS.—Section 160(c) of the Energy Policy Act of 1992 (42 U.S.C. 8262f(c)) is amended by striking ''is encouraged to conduct periodic'' and inserting ''shall conduct periodic''.

(j) FEDERAL ENERGY MANAGEMENT REVIEWS.—Section 543 of the National Energy Conservation Policy Act (42 U.S.C. 8253) is amended by adding at the end the following:

''(g) PRIORITY RESPONSE REVIEWS.—Each agency shall—

''(1) not later than 9 months after the date of the enactment of this subsection, undertake a comprehensive review of all practicable measures for—

''(A) increasing energy and water conservation, and

''(B) using renewable energy sources; and

''(2) not later than 180 days after completing the review, develop plans to achieve not less than 50 percent of the potential efficiency and renewable savings identified in the review.

The agency shall implement such measures as soon thereafter as is practicable, consistent with compliance with the requirements of this section.''.

SEC. 122. ENHANCEMENT AND EXTENSION OF AUTHORITY RELATING TO FEDERAL ENERGY SAVINGS PERFORMANCE CONTRACTS.

(a) EXPANSION OF DEFINITION OF ENERGY SAVINGS TO INCLUDE WATER AND REPLACEMENT FACILITIES.—

(1) ENERGY SAVINGS.—Section 804(2) of the National Energy Conservation Policy Act (42 U.S.C. 8287c(2)) is amended to read as follows:

''(2) The term 'energy savings' means a reduction in the cost of energy or water, from a base cost established through a methodology set forth in the contract, used in an existing federally owned building or buildings or other federally owned facilities as a result of—

''(i) the lease or purchase of operating equipment, improvements, altered operation and maintenance, or technical services;

''(ii) the increased efficient use of existing energy sources by solar and ground source geothermal resources, cogeneration or heat recovery (including by the use of a Stirling heat engine), excluding any cogeneration process for other than a federally owned building or buildings or other federally owned facilities; or

''(iii) the increased efficient use of existing water sources.

(2) ENERGY SAVINGS CONTRACT.—Section 804(3) of the National Energy Conservation Policy Act (42 U.S.C. 8287c(3)) is amended to read as follows:

''(3) The terms 'energy savings contract' and 'energy savings performance contract' mean a contract which provides for the performance of services for the design, acquisition, installation, testing, operation, and, where appropriate, maintenance and repair, of an identified energy or water conservation measure or series of measures at one or more locations.''.

(3) ENERGY OR WATER CONSERVATION MEASURE.—Section 804(4) of the National Energy Conservation Policy Act (42 U.S.C. 8287c(4)) is amended to read as follows:

''(4) The term 'energy or water conservation measure' means—

''(A) an energy conservation measure, as defined in section 551(4) (42 U.S.C. 8259(4)); or

''(B) a water conservation measure that improves water efficiency, is life cycle cost effective, and involves water conservation, water recycling or reuse, improvements in operation or maintenance efficiencies, retrofit activities, or other related activities, not at a Federal hydroelectric facility.''.

(4) CONFORMING AMENDMENT.—Section 801(a)(2)(C) of the National Energy Conservation Policy Act (42 U.S.C. 8287(a)(2)(C)) is amended by inserting ''or water'' after ''financing energy''.

(b) EXTENSION OF AUTHORITY.—Section 801(c) of the National Energy Conservation Policy Act (42 U.S.C. 8287(c)) is repealed.

(c) CONTRACTING AND AUDITING.—Section 801(a)(2) of the National Energy Conservation Policy Act (42 U.S.C. 8287(a)(2)) is amended by adding at the end the following new subparagraph:

''(E) A Federal agency shall engage in contracting and auditing to implement energy savings performance contracts as necessary and appropriate to ensure compliance with the requirements of this Act, particularly the energy efficiency requirements of section 543.''.

SEC. 123. CLARIFICATION AND ENHANCEMENT OF AUTHORITY TO ENTER UTILITY INCENTIVE PROGRAMS FOR ENERGY SAVINGS.

Section 546(c) of the National Energy Conservation Policy Act (42 U.S.C. 8256(c)) is amended as follows:

(1) In paragraph (3) by adding at the end the following: ''Such a utility incentive program may include a contract or contract term designed to provide for cost-effective electricity demand management, energy efficiency, or water conservation.''.

(2) By adding at the end of the following new paragraphs:

''(6) Federal agencies are encouraged to participate in State or regional demand side reduction programs, including those operated by wholesale market institutions such as independent system operators, regional transmission organizations and other entities. The availability of such programs, and the savings resulting from such participation, should be included in the evaluation of energy options for Federal facilities.''.

SEC. 124. FEDERAL CENTRAL AIR CONDITIONER AND HEAT PUMP EFFICIENCY.

(a) REQUIREMENT.—Federal agencies shall be required to acquire central air conditioners and heat pumps that meet or exceed the standards established under subsection (b) or (c) in the case of all central air conditioners and heat pumps acquired after the date of the enactment of this Act.

(b) STANDARDS.—The standards referred to in subsection (a) are the following:

(1) For air-cooled air conditioners with cooling capacities of less than 65,000 Btu/hour, a Seasonal Energy Efficiency Ratio of 12.0.

(2) For air-source heat pumps with cooling capacities less than 65,000 Btu/hour, a Seasonal Energy Efficiency Ratio of 12 SEER, and a Heating Seasonal Performance Factor of 7.4.

(c) MODIFIED STANDARDS.—The Secretary of Energy may establish, after appropriate notice and comment, revised standards providing for reduced energy consumption or increased energy efficiency of central air conditioners and heat pumps acquired by the Federal Government, but may not establish standards less rigorous than those established by subsection (b).

(d) DEFINITIONS.—For purposes of this section, the terms ''Energy Efficiency Ratio'',

''Seasonal Energy Efficiency Ratio'', ''Heating Seasonal Performance Factor'', and ''Coefficient of Performance'' have the meanings used for those terms in Appendix M to Subpart B of Part 430 of title 10 of the Code of Federal Regulations, as in effect on May 24, 2001.

(e) EXEMPTIONS.—An agency shall be exempt from the requirements of this section with respect to air conditioner or heat pump purchases for particular uses where the agency head determines that purchase of a air conditioner or heat pump for such use would be impractical. A finding of impracticability shall be based on whether—

(1) the energy savings pay-back period for such purchase would be less than 10 years;

(2) space constraints or other technical factors would make compliance with this section cost-prohibitive; or

(3) in the case of the Departments of Defense and Energy, compliance with this section would be inconsistent with the proper discharge of national security functions.

SEC. 125. ADVANCED BUILDING EFFICIENCY TESTBED.

(a) ESTABLISHMENT.—The Secretary of Energy shall establish an Advanced Building Efficiency Testbed program for the development, testing, and demonstration of advanced engineering systems, components, and materials to enable innovations in building technologies. The program shall evaluate government and industry building efficiency concepts, and demonstrate the ability of next generation buildings to support individual and organizational productivity and health as well as flexibility and technological change to improve environmental sustainability.

(b) PARTICIPANTS.—The program established under subsection (a) shall be led by a university having demonstrated experience with the application of intelligent workplaces and advanced building systems in improving the quality of built environments. Such university shall also have the ability to combine the expertise from more than 12 academic fields, including electrical and computer engineering, computer science, architecture, urban design, and environmental and mechanical engineering. Such university shall partner with other universities and entities who have established programs and the capability of advancing innovative building efficiency technologies.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Energy to carry out this section $18,000,000 for fiscal year 2002, to remain available until expended, of which $6,000,000 shall be provided to the lead university described in subsection (b), and the remainder shall be provided equally to each of the other participants referred to in subsection (b).

SEC. 126. USE OF INTERVAL DATA IN FEDERAL BUILDINGS.

Section 543 of the National Energy Conservation Policy Act (42 U.S.C. 8253) is amended by adding at the end the following new subsection:

''(h) USE OF INTERVAL DATA IN FEDERAL BUILDINGS.—Not later than January 1, 2003, each agency shall utilize, to the maximum extent practicable, for the purposes of efficient use of energy and reduction in the cost of electricity consumed in its Federal buildings, interval consumption data that measure on a real time or daily basis consumption of electricity in its Federal buildings. To meet the requirements of this subsection each agency shall prepare and submit at the earliest opportunity pursuant to section 548(a) to the Secretary, a plan describing how the agency intends to meet such requirements, including how it will designate personnel primarily responsible for achieving such requirements, and otherwise implement this subsection.''.

SEC. 127. REVIEW OF ENERGY SAVINGS PERFORMANCE CONTRACT PROGRAM.

Within 180 days after the date of the enactment of this Act, the Secretary of Energy shall complete a review of the Energy Savings Performance Contract program to identify statutory, regulatory, and administrative obstacles that prevent Federal agencies from fully utilizing the program. In addition, this review shall identify all areas for increasing program flexibility and effectiveness, including audit and measurement verification requirements, accounting for energy use in determining savings, contracting requirements, and energy efficiency services covered. The Secretary shall report these findings to the Committee on Energy and Commerce of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, and shall implement identified administrative and regulatory changes to increase program flexibility and effectiveness to the extent that such changes are consistent with statutory authority.

SEC. 128. CAPITOL COMPLEX.

(a) ENERGY INFRASTRUCTURE.—The Architect of the Capitol, building on the Master Plan Study completed in July 2000, shall commission a study to evaluate the energy infrastructure of the Capital Complex to determine how the infrastructure could be augmented to become more energy efficient, using unconventional and renewable energy resources, in a way that would enable the Complex to have reliable utility service in the event of power fluctuations, shortages, or outages.

(b) AUTHORIZATION.—There is authorized to be appropriated to the Architect of the Capitol to carry out this section, not more than $2,000,000 for fiscal years after the enactment of this Act.

Subtitle C—State Programs

SEC. 131. AMENDMENTS TO STATE ENERGY PROGRAMS.

(a) STATE ENERGY CONSERVATION PLANS.—Section 362 of the Energy Policy and Conservation Act (42 U.S.C. 6322) is amended by inserting at the end the following new subsection:

''(g) The Secretary shall, at least once every 3 years, invite the Governor of each State to review and, if necessary, revise the energy conservation plan of such State submitted under subsection (b) or (e). Such reviews should consider the energy conservation plans of other States within the region, and identify opportunities and actions carried out in pursuit of common energy conservation goals.''.

(b) STATE ENERGY EFFICIENCY GOALS.—Section 364 of the Energy Policy and Conservation Act (42 U.S.C. 6324) is amended by inserting ''Each State energy conservation plan with respect to which assistance is made available under this part on or after the date of the enactment of Energy Advancement and Conservation Act of 2001, shall contain a goal, consisting of an improvement of 25 percent or more in the efficiency of use of energy in the State concerned in the calendar year 2010 as compared to the calendar year 1990, and may contain interim goals.'' after ''contain interim goals.''.

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 365(f) of the Energy Policy and Conservation Act (42 U.S.C. 6325(f)) is amended by striking ''for fiscal years 1999 through 2003 such sums as may be necessary'' and inserting ''$75,000,000 for fiscal year 2002, $100,000,000 for fiscal years 2003 and 2004, $125,000,000 for fiscal year 2005''.

SEC. 132. REAUTHORIZATION OF ENERGY CONSERVATION PROGRAM FOR SCHOOLS AND HOSPITALS.

Section 397 of the Energy Policy and Conservation Act (42 U.S.C. 6371f) is amended by striking ''2003'' and inserting ''2010''.

SEC. 133. AMENDMENTS TO WEATHERIZATION ASSISTANCE PROGRAM.

Section 422 of the Energy Conservation and Production Act (42 U.S.C. 6872) is amended by striking ''for fiscal years 1999 through 2003 such sums as may be necessary'' and inserting ''$273,000,000 for fiscal year 2002, $325,000,000 for fiscal year 2003, $400,000,000 for fiscal year 2004, and $500,000,000 for fiscal year 2005''.

SEC. 134. LIHEAP.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 2602(b) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621(b)) is amended by striking the first sentence and inserting the following: ''There are authorized to be appropriated to carry out the provisions of this title (other than section 2607A), $3,400,000,000 for each of fiscal years 2001 through 2005.''.

(b) GAO STUDY.—The Comptroller General of the United States shall conduct a study to determine—

(1) the extent to which Low-Income Home Energy Assistance (LIHEAP) and other government energy subsidies paid to consumers discourage or encourage energy conservation and energy efficiency investments when compared to structures of the same physical description and occupancy in compatible geographic locations;

(2) the extent to which education could increase the conservation of low-income households who opt to receive supplemental income instead of Low-Income Home Energy Assistance funds;

(3) the benefit in energy efficiency and energy savings that can be achieved through the annual maintenance of heating and cooling appliances in the homes of those receiving Low-Income Home Energy Assistance funds; and

(4) the loss of energy conservation that results from structural inadequacies in a structure that is unhealthy, not energy efficient, and environmentally unsound and that receives Low-Income Home Energy Assistance funds for weatherization.

SEC. 135. HIGH PERFORMANCE PUBLIC BUILDINGS.

(a) PROGRAM ESTABLISHMENT AND ADMINISTRATION.—

(1) ESTABLISHMENT.—There is established in the Department of Energy the High Performance Public Buildings Program (in this section referred to as the ''Program'').

(2) IN GENERAL.—The Secretary of Energy may, through the Program, make grants—

(A) to assist units of local government in the production, through construction or renovation of buildings and facilities they own and operate, of high performance public buildings and facilities that are healthful, productive, energy efficient, and environmentally sound;

(B) to State energy offices to administer the program of assistance to units of local government pursuant to this section; and

(C) to State energy offices to promote participation by units of local government in the Program.

(3) GRANTS TO ASSIST UNITS OF LOCAL GOVERNMENT.—Grants under paragraph (2)(A) for new public buildings shall be used to achieve energy efficiency performance that reduces energy use at least 30 percent below that of a public building constructed in compliance with standards prescribed in Chapter 8 of the 2000 International Energy Conservation Code, or a similar State code intended to achieve substantially equivalent results.

Grants under paragraph (2)(A) for existing public buildings shall be used to achieve energy efficiency performance that reduces energy use below the public building baseline consumption, assuming a 3-year, weather-normalized average for calculating such baseline. Grants under paragraph (2)(A) shall be made to units of local government that have—

(A) demonstrated a need for such grants in order to respond appropriately to increasing population or to make major investments in renovation of public buildings; and

(B) made a commitment to use the grant funds to develop high performance public buildings in accordance with a plan developed and approved pursuant to paragraph (5)(A).

(4) OTHER GRANTS.—

(A) GRANTS FOR ADMINISTRATION.—Grants under paragraph (2)(B) shall be used to evaluate compliance by units of local government with the requirements of this section, and in addition may be used for—

(i) distributing information and materials to clearly define and promote the development of high performance public buildings for both new and existing facilities;

(ii) organizing and conducting programs for local government personnel, architects, engineers, and others to advance the concepts of high performance public buildings;

(iii) obtaining technical services and assistance in planning and designing high performance public buildings; and

(iv) collecting and monitoring data and information pertaining to the high performance public building projects.

(B) GRANTS TO PROMOTE PARTICIPATION.—Grants under paragraph (2)(C) may be used for promotional and marketing activities, including facilitating private and public financing, promoting the use of energy service companies, working with public building users, and communities, and coordinating public benefit programs.

(5) IMPLEMENTATION.—

(A) PLANS.—A grant under paragraph (2)(A) shall be provided only to a unit of local government that, in consultation with its State office of energy, has developed a plan that the State energy office determines to be feasible and appropriate in order to achieve the purposes for which such grants are made.

(B) SUPPLEMENTING GRANT FUNDS.—State energy offices shall encourage qualifying units of local government to supplement their grant funds with funds from other sources in the implementation of their plans.

(b) ALLOCATION OF FUNDS.—

(1) IN GENERAL.—Except as provided in paragraph (3), funds appropriated to carry out this section shall be provided to State energy offices.

(2) PURPOSES.—Except as provided in paragraph (3), funds appropriated to carry out this section shall be allocated as follows:

(A) Seventy percent shall be used to make grants under subsection (a)(2)(A).

(B) Fifteen percent shall be used to make grants under subsection (a)(2)(B).

(C) Fifteen percent shall be used to make grants under subsection (a)(2)(C).

(3) OTHER FUNDS.—The Secretary of Energy may retain not to exceed $300,000 per year from amounts appropriated under subsection (c) to assist State energy offices in coordinating and implementing the Program. Such funds may be used to develop reference materials to further define the principles and criteria to achieve high performance public buildings.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Energy to carry out this section such sums as may be necessary for each of the fiscal years 2002 through 2010.

(d) REPORT TO CONGRESS.—The Secretary of Energy shall conduct a biennial review of State actions implementing this section, and the Secretary shall report to Congress on the results of such reviews. In conducting such reviews, the Secretary shall assess the effectiveness of the calculation procedures used by the States in establishing eligibility of units of local government for funding under this section, and may assess other aspects of the State program to determine whether they have been effectively implemented.

(e) DEFINITIONS.—For purposes of this section:

(1) HIGH PERFORMANCE PUBLIC BUILDING.—The term ''high performance public building'' means a public building which, in its design, construction, operation, and maintenance, maximizes use of unconventional and renewable energy resources and energy efficiency practices, is cost-effective on a life cycle basis, uses affordable, environmentally preferable, durable materials, enhances indoor environmental quality, protects and conserves water, and optimizes site potential.

(2) RENEWABLE ENERGY.—The term ''renewable energy'' means energy produced by solar, wind, geothermal, hydroelectric, or biomass power.

(3) UNCONVENTIONAL AND RENEWABLE ENERGY RESOURCES.—The term ''unconventional and renewable energy resources'' means renewable energy, hydrogen, fuel cells, cogeneration, combined heat and power, heat recovery (including by use of a Stirling heat engine), and distributed generation.

Subtitle D—Energy Efficiency for Consumer Products

SEC. 141. ENERGY STAR PROGRAM.

(a) AMENDMENT.—The Energy Policy and Conservation Act (42 U.S.C. 6201 and following) is amended by inserting the following after section 324:

''SEC. 324A. ENERGY STAR PROGRAM.

''(a) IN GENERAL.—There is established at the Department of Energy and the Environmental Protection Agency a program to identify and promote energy-efficient products and buildings in order to reduce energy consumption, improve energy security, and reduce pollution through labeling of products and buildings that meet the highest energy efficiency standards. Responsibilities under the program shall be divided between the Department of Energy and the Environmental Protection Agency consistent with the terms of agreements between the two agencies. The Administrator and the Secretary shall—

''(1) promote Energy Star compliant technologies as the preferred technologies in the marketplace for achieving energy efficiency and to reduce pollution;

''(2) work to enhance public awareness of the Energy Star label; and

''(3) preserve the integrity of the Energy Star label.

For the purposes of carrying out this section, there is authorized to be appropriated for fiscal years 2002 through 2006 such sums as may be necessary, to remain available until expended.

''(b) STUDY OF CERTAIN PRODUCTS AND BUILDINGS.—Within 180 days after the date of the enactment of this section, the Secretary and the Administrator, consistent with the terms of agreements between the two agencies (including existing agreements with respect to which agency shall handle a particular product or building), shall determine whether the Energy Star label should be extended to additional products and buildings, including the following:

''(1) Air cleaners.

''(2) Ceiling fans.

''(3) Light commercial heating and cooling products.

''(4) Reach-in refrigerators and freezers.

''(5) Telephony.

''(6) Vending machines.

''(7) Residential water heaters.

''(8) Refrigerated beverage merchandisers.

''(9) Commercial ice makers.

''(10) School buildings.

''(11) Retail buildings.

''(12) Health care facilities.

''(13) Homes.

''(14) Hotels and other commercial lodging facilities.

''(15) Restaurants and other food service facilities.

''(16) Solar water heaters.

''(17) Building-integrated photovoltaic systems.

''(18) Reflective pigment coatings.

''(19) Windows.

''(20) Boilers.

''(21) Devices to extend the life of motor vehicle oil.

''(c) COOL ROOFING.—In determining whether the Energy Star label should be extended to roofing products, the Secretary and the Administrator shall work with the roofing products industry to determine the appropriate solar reflective index of roofing products.''.

(b) TABLE OF CONTENTS AMENDMENT.—The table of contents of the Energy Policy and Conservation Act is amended by inserting after the item relating to section 324 the following new item:

''Sec. 324A. Energy Star program.''.

SEC. 141A. ENERGY SUN RENEWABLE AND ALTERNATIVE ENERGY PROGRAM.

(a) AMENDMENT.—The Energy Policy and Conservation Act (42 U.S.C. 6201 and following) is amended by inserting the following after section 324A:

''SEC. 324B. ENERGY SUN RENEWABLE AND ALTERNATIVE ENERGY PROGRAM.

''(a) PROGRAM.—There is established at the Environmental Protection Agency and the Department of Energy a government-industry partnership program to identify and promote the purchase of renewable and alternative energy products, to recognize companies that purchase renewable and alternative energy products for the environmental and energy security benefits of such purchases, and to educate consumers about the environmental and energy security benefits of renewable and alternative energy. Responsibilities under the program shall be divided between the Environmental Protection Agency and the Department of Energy consistent with the terms of agreements between the two agencies. The Administrator of the Environmental Protection Agency and the Secretary of Energy—

''(1) establish an Energy Sun label for renewable and alternative energy products and technologies that the Administrator or the Secretary (consistent with the terms of agreements between the two agencies regarding responsibility for specific product categories) determine to have substantial environmental and energy security benefits and commercial marketability.

''(2) establish an Energy Sun Company program to recognize private companies that draw a substantial portion of their energy from renewable and alternative sources that provide substantial environmental and energy security benefits, as determined by the Administrator or the Secretary.

''(3) promote Energy Sun compliant products and technologies as the preferred products and technologies in the marketplace for reducing pollution and achieving energy security; and

''(4) work to enhance public awareness and preserve the integrity of the Energy Sun label.

For the purposes of carrying out this section, there is authorized to be appropriated $10,000,000 for each of fiscal years 2002 through 2006.

''(b) STUDY OF CERTAIN PRODUCTS, TECHNOLOGIES, AND BUILDINGS.—Within 18 months after the enactment of this section, the Administrator and the Secretary, consistent with the terms of agreements between the two agencies, shall conduct a study to determine whether the Energy Sun label should be authorized for products, technologies, and buildings in the following categories:

''(1) Passive solar, solar thermal, concentrating solar energy, solar water heating, and related solar products and building technologies.

''(2) Solar photovoltaics and other solar electric power generation technologies.

''(3) Wind.

''(4) Geothermal.

''(5) Biomass.

''(6) Distributed energy (including, but not limited to, microturbines, combined heat and power, fuel cells, and stirling heat engines).

''(7) Green power or other renewables and alternative based electric power products (including green tag credit programs) sold to retail consumers of electricity.

''(8) Homes.

''(9) School buildings.

''(10) Retail buildings.

''(11) Health care facilities.

''(12) Hotels and other commercial lodging facilities.

''(13) Restaurants and other food service facilities.

''(14) Rest area facilities along interstate highways.

''(15) Sports stadia, arenas, and concert facilities.

''(16) Any other product, technology or building category, the accelerated recognition of which the Administrator or the Secretary determines to be necessary or appropriate for the achievement of the purposes of this section.

Nothing in this subsection shall be construed to limit the discretion of the Administrator or the Secretary under subsection (a)(1) to include in the Energy Sun program additional products, technologies, and buildings not listed in this subsection. Participation by private-sector entities in programs or studies authorized by this section shall be (A) voluntary, and (B) by permission of the Administrator or Secretary, on terms and conditions the Administrator or the Secretary (consistent with agreements between the agencies) deems necessary or appropriate to carry out the purposes and requirements of this section.

''(c) DEFINITION.—For the purposes of this section, the term 'renewable and alternative energy' shall have the same meaning as the term 'unconventional and renewable energy resources' in Section 551 of the National Energy Conservation Policy Act (42 U.S.C. 8259).''.

(b) TABLE OF CONTENTS AMENDMENT.—The table of contents of the Energy Policy and Conservation Act is amended by inserting after the item relating to section 324A the following new item:

''Sec. 324B. Energy Sun renewable and alternative energy program.''.

SEC. 142. LABELING OF ENERGY EFFICIENT APPLIANCES.

(a) STUDY.—Section 324(e) of the Energy Policy and Conservation Act (42 U.S.C. 6294(e)) is amended as follows:

(1) By inserting ''(1)'' before ''The Secretary, in consultation''.

(2) By redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively.

(3) By adding the following new paragraph at the end:

''(2) The Secretary shall make recommendations to the Commission within 180 days of the date of the enactment of this paragraph regarding labeling of consumer products that are not covered products in accordance with this section, where such labeling is likely to assist consumers in making purchasing decisions and is technologically and economically feasible.''.

(b) NONCOVERED PRODUCTS.—Section 324(a)(2) of the Energy Policy and Conservation Act (42 U.S.C. 6294(a)(2)) is amended by adding the following at the end:

''(F) Not later than 1 year after the date of the enactment of this subparagraph, the Commission shall initiate a rulemaking to prescribe labeling rules under this section applicable to consumer products that are not covered products if it determines that labeling of such products is likely to assist consumers in making purchasing decisions and is technologically and economically feasible.

''(G) Not later than 3 months after the date of the enactment of this subparagraph, the Commission shall initiate a rulemaking to consider the effectiveness of the current consumer products labeling program in assisting consumers in making purchasing decisions and improving energy efficiency and to consider changes to the label that would improve the effectiveness of the label. Such rulemaking shall be completed within 15 months of the date of the enactment of this subparagraph.''.

SEC. 143. APPLIANCE STANDARDS.

(a) STANDARDS FOR HOUSEHOLD APPLIANCES IN STANDBY MODE.—(1) Section 325 of the Energy Policy and Conservation Act (42 U.S.C. 6295) is amended by adding at the end the following:

''(u) STANDBY MODE ELECTRIC ENERGY CONSUMPTION BY HOUSEHOLD APPLIANCES.—(1) In this subsection:

''(A) The term 'household appliance' means any device that uses household electric current, operates in a standby mode, and is identified by the Secretary as a major consumer of electricity in standby mode, except digital televisions, digital set top boxes, digital video recorders, any product recognized under the Energy Star program, any product that was on the date of the enactment of this Act subject to an energy conservation standard under this section, and any product regarding which the Secretary finds that the expected additional cost to the consumer of purchasing such product as a result of complying with a standard established under this section is not economically justified within the meaning of subsection (o).

''(B) The term 'standby mode' means a mode in which a household appliance consumes the least amount of electric energy that the household appliance is capable of consuming without being completely switched off (provided that, the amount of electric energy consumed in such mode is substantially less than the amount the household appliance would consume in its normal operational mode).

''(C) The term 'major consumer of electricity in standby mode' means a product for which a standard prescribed under this section would result in substantial energy savings as compared to energy savings achieved or expected to be achieved by standards established by the Secretary under subsections (o) and (p) of this section for products that were, at the time of the enactment of this subsection, covered products under this section.

''(2)(A) Except as provided in subparagraph (B), a household appliance that is manufactured in, or imported for sale in, the United States on or after the date that is 2 years after the date of the enactment of this subsection shall not consume in standby mode more than 1 watt.

''(B) In the case of analog televisions, the Secretary shall prescribe, on or after the date that is 2 years after the date of the enactment of this subsection, in accordance with subsections (o) and (p) of section 325, an energy conservation standard that is technologically feasible and economically justified under section 325(o)(2)(A) (in lieu of the 1 watt standard under subparagraph (A)).

''(3)(A) A manufacturer or importer of a household appliance may submit to the Secretary an application for an exemption of the household appliance from the standard under paragraph (2).

''(B) The Secretary shall grant an exemption for a household appliance for which an application is made under subparagraph (A) if the applicant provides evidence showing that, and the Secretary determines that—

''(i) it is not technically feasible to modify the household appliance to enable the household appliance to meet the standard;

''(ii) the standard is incompatible with an energy efficiency standard applicable to the household appliance under another subsection; or

''(iii) the cost of electricity that a typical consumer would save in operating the household appliance meeting the standard would not equal the increase in the price of the household appliance that would be attributable to the modifications that would be necessary to enable the household appliance to meet the standard by the earlier of—

''(I) the date that is 7 years after the date of purchase of the household appliance; or

''(II) the end of the useful life of the household appliance.

''(C) If the Secretary determines that it is not technically feasible to modify a household appliance to meet the standard under paragraph (2), the Secretary shall establish a different standard for the household appliance in accordance with the criteria under subsection (l).

''(4)(A) Not later than 1 year after the date of the enactment of this subsection, the Secretary shall establish a test procedure for determining the amount of consumption of power by a household appliance operating in standby mode.

''(B) In establishing the test procedure, the Secretary shall consider—

''(i) international test procedures under development;

''(ii) test procedures used in connection with the Energy Star program; and

''(iii) test procedures used for measuring power consumption in standby mode in other countries.

''(5) FURTHER REDUCTION OF STANDBY POWER CONSUMPTION.—The Secretary shall provide technical assistance to manufacturers in achieving further reductions in standby mode electric energy consumption by household appliances.

''(v) STANDBY MODE ELECTRIC ENERGY CONSUMPTION BY DIGITAL TELEVISIONS, DIGITAL SET TOP BOXES, AND DIGITAL VIDEO RECORDERS.—The Secretary shall initiate on January 1, 2007 a rulemaking to prescribe, in accordance with subsections (o) and (p), an energy conservation standard of standby mode electric energy consumption by digital television sets, digital set top boxes, and digital video recorders. The Secretary shall issue a final rule prescribing such standards not later than 18 months thereafter. In determining whether a standard under this section is technologically feasible and economically justified under section 325(o)(2)(A), the Secretary shall consider the potential effects on market penetration by digital products covered under this section, and shall consider any recommendations by the FCC regarding such effects.''.

(2) Section 325(o)(3) of the Energy Policy and Conservation Act (42 U.S.C. 6295(n)(1)) is

amended by inserting at the end of the paragraph the following: ''Notwithstanding any provision of this part, the Secretary shall not amend a standard established under subsection (u) or (v) of this section.''.

(b) STANDARDS FOR NONCOVERED PRODUCTS.—Section 325(m) of the Energy Policy and Conservation Act (42 U.S.C. 6295(m)) is amended as follows:

(1) Inserting ''(1)'' before ''After''.

(2) Inserting the following at the end:

''(2) Not later than 1 year after the date of the enactment of the Energy Advancement and Conservation Act of 2001, the Secretary shall conduct a rulemaking to determine whether consumer products not classified as a covered product under section 322(a)(1) through (18) meet the criteria of section 322(b)(1) and is a major consumer of electricity. If the Secretary finds that a consumer product not classified as a covered product meets the criteria of section 322(b)(1), he shall prescribe, in accordance with subsections (o) and (p), an energy conservation standard for such consumer product, if such standard is reasonably probable to be technologically feasible and economically justified within the meaning of subsection (o)(2)(A). As used in this paragraph, the term 'major consumer of electricity' means a product for which a standard prescribed under this section would result in substantial aggregate energy savings as compared to energy savings achieved or expected to be achieved by standards established by the Secretary under paragraphs (o) and (p) of this section for products that were, at the time of the enactment of this paragraph, covered products under this section.''.

(c) CONSUMER EDUCATION ON ENERGY EFFICIENCY BENEFITS OF AIR CONDITIONING, HEATING AND VENTILATION MAINTENANCE.—Section 337 of the Energy Policy and Conservation Act (42 U.S.C. 6307) is amended by adding the following new subsection after subsection (b):

''(c) HVAC MAINTENANCE.—For the purpose of ensuring that installed air conditioning and heating systems operate at their maximum rated efficiency levels, the Secretary shall, within 180 days of the date of the enactment of this subsection, develop and implement a public education campaign to educate homeowners and small business owners concerning the energy savings resulting from regularly scheduled maintenance of air conditioning, heating, and ventilating systems. In developing and implementing this campaign, the Secretary shall consider support by the Department of public education programs sponsored by trade and professional and energy efficiency organizations. The public service information shall provide sufficient information to allow consumers to make informed choices from among professional, licensed (where State or local licensing is required) contractors. There are authorized to be appropriated to carry out this subsection $5,000,000 for fiscal years 2002 and 2003 in addition to amounts otherwise appropriated in this part.''.

(d) EFFICIENCY STANDARDS FOR FURNACE FANS, CEILING FANS, AND COLD DRINK VENDING MACHINES.—

(1) DEFINITIONS.—Section 321 of the Energy Policy and Conservation Act (42 U.S.C. 6291) is amended by adding the following at the end thereof:

''(32) The term 'residential furnace fan' means an electric fan installed as part of a furnace for purposes of circulating air through the system air filters, the heat exchangers or heating elements of the furnace, and the duct work.

''(33) The terms 'residential central air conditioner fan' and 'heat pump circulation fan' mean an electric fan installed as part of a central air conditioner or heat pump for purposes of circulating air through the system air filters, the heat exchangers of the air conditioner or heat pump, and the duct work.

''(34) The term 'suspended ceiling fan' means a fan intended to be mounted to a ceiling outlet box, ceiling building structure, or to a vertical rod suspended from the ceiling, and which as blades which rotate below the ceiling and consists of an electric motor, fan blades (which rotate in a direction parallel to the floor), an optional lighting kit, and one or more electrical controls (integral or remote) governing fan speed and lighting operation.

''(35) The term 'refrigerated bottled or canned beverage vending machine' means a machine that cools bottled or canned beverages and dispenses them upon payment.''.

(2) TESTING REQUIREMENTS.—Section 323 of the Energy Policy and Conservation Act (42 U.S.C. 6293) is amended by adding the following at the end thereof:

''(f) ADDITIONAL CONSUMER PRODUCTS.—The Secretary shall within 18 months after the date of the enactment of this subsection prescribe testing requirements for residential furnace fans, residential central air conditioner fans, heat pump circulation fans, suspended ceiling fans, and refrigerated bottled or canned beverage vending machines. Such testing requirements shall be based on existing test procedures used in industry to the extent practical and reasonable. In the case of residential furnace fans, residential central air conditioner fans, heat pump circulation fans, and suspended ceiling fans, such test procedures shall include efficiency at both maximum output and at an output no more than 50 percent of the maximum output.''.

(3) STANDARDS FOR ADDITIONAL CONSUMER PRODUCTS.—Section 325 of the Energy Policy and Conservation Act (42 U.S.C. 6295) is amended by adding the following at the end thereof:

''(w) RESIDENTIAL FURNACE FANS, CENTRAL AIR AND HEAT PUMP CIRCULATION FANS, SUSPENDED CEILING FANS, AND VENDING MACHINES.—(1) The Secretary shall, within 18 months after the date of the enactment of this subsection, assess the current and projected future market for residential furnace fans, residential central air conditioner and heat pump circulation fans, suspended ceiling fans, and refrigerated bottled or canned beverage vending machines. This assessment shall include an examination of the types of products sold, the number of products in use, annual sales of these products, energy used by these products sold, the number of products in use, annual sales of these products, energy used by these products, estimates of the potential energy savings from specific technical improvements to these products, and an examination of the cost-effectiveness of these improvements. Prior to the end of this time period, the Secretary shall hold an initial scoping workshop to discuss and receive input to plans for developing minimum efficiency standards for these products.

''(2) The Secretary shall within 24 months after the date on which testing requirements are prescribed by the Secretary pursuant to section 323(f), prescribe, by rule, energy conservation standards for residential furnace fans, residential central air conditioner and heat pump circulation fans, suspended ceiling fans, and refrigerated bottled or canned beverage vending machines. In establishing these standards, the Secretary shall use the criteria and procedures contained in subsections (l) and (m). Any standard prescribed under this section shall apply to products manufactured 36 months after the date such rule is published.''.

(4) LABELING.—Section 324(a) of the Energy Policy and Conservation Act (42 U.S.C. 6294(a)) is amended by adding the following at the end thereof:

''(5) The Secretary shall within 6 months after the date on which energy conservation standards are prescribed by the Secretary for covered products referred to in section 325(w), prescribe, by rule, labeling requirements for such products. These requirements shall take effect on the same date as the standards prescribed pursuant to section 325(w).''.

(5) COVERED PRODUCTS.—Section 322(a) of the Energy Policy and Conservation Act (42 U.S.C. 6292(a)) is amended by redesignating paragraph (19) as paragraph (20) and by inserting after paragraph (18) the following:

''(19) Beginning on the effective date for standards established pursuant to subsection (v) of section 325, each product referred to in such subsection (v).''.

Subtitle E—Energy Efficient Vehicles

SEC. 151. HIGH OCCUPANCY VEHICLE EXCEPTION.

(a) IN GENERAL.—Notwithstanding section 102(a)(1) of title 23, United States Code, a State may, for the purpose of promoting energy conservation, permit a vehicle with fewer than 2 occupants to operate in high occupancy vehicle lanes if such vehicle is a hybrid vehicle or is fueled by an alternative fuel.

(b) HYBRID VEHICLE DEFINED.—In this section, the term ''hybrid vehicle'' means a motor vehicle—

(1) which draws propulsion energy from onboard sources of stored energy which are both—

(A) an internal combustion or heat engine using combustible fuel; and

(B) a rechargeable energy storage system;

(2) which, in the case of a passenger automobile or light truck—

(A) for 2002 and later model vehicles, has received a certificate of conformity under section 206 of the Clean Air Act (42 U.S.C. 7525) and meets or exceeds the equivalent qualifying California low emission vehicle standard under section 243(e)(2) of the Clean Air Act (42 U.S.C. 7583(e)(2)) for that make and model year; and

(B) for 2004 and later model vehicles, has received a certificate that such vehicle meets the Tier II emission level established in regulations prescribed by the Administrator of the Environmental Protection Agency under section 202(i) of the Clean Air Act (42 U.S.C. 7521(i)) for that make and model year vehicle; and

(3) which is made by a manufacturer.

(c) ALTERNATIVE FUEL DEFINED.—In this section, the term ''alternative fuel'' has the meaning such term has under section 301(2) of the Energy Policy Act of 1992 (42 U.S.C. 13211(2)).

SEC. 152. RAILROAD EFFICIENCY.

(a) LOCOMOTIVE TECHNOLOGY DEMONSTRATION.—The Secretary of Energy shall establish a public-private research partnership with railroad carriers, locomotive manufacturers, and a world-class research and test center dedicated to the advancement of railroad technology, efficiency, and safety that is owned by the Federal Railroad Administration and operated in the private sector, for the development and demonstration of locomotive technologies that increase fuel economy and reduce emissions.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Energy $25,000,000 for fiscal year 2002, $30,000,000 for fiscal year 2003, and $35,000,000 for fiscal year 2004 for carrying out this section.

SEC. 153. BIODIESEL FUEL USE CREDITS.

Section 312(c) of the Energy Policy Act of 1992 (42 U.S.C. 13220(c)) is amended—

(1) by striking ''NOT'' in the subsection heading; and

(2) by striking ''not''.

SEC. 154. MOBILE TO STATIONARY SOURCE TRADING.

Within 90 days after the enactment of this section, the Administrator of the Environmental Protection Agency is directed to commence a review of the Agency's policies regarding the use of mobile to stationary source trading of emission credits under the Clean Air Act to determine whether such trading can provide both nonattainment and attainment areas with additional flexibility in achieving and maintaining healthy air quality and increasing use of alternative fuel and advanced technology vehicles, thereby reducing United States dependence on foreign oil.

Subtitle F—Other Provisions

SEC. 161. REVIEW OF REGULATIONS TO ELIMINATE BARRIERS TO EMERGING ENERGY TECHNOLOGY.

(a) IN GENERAL.—Each Federal agency shall carry out a review of its regulations and standards to determine those that act as a barrier to market entry for emerging energy-efficient technologies, including, but not limited to, fuel cells, combined heat and power, and distributed generation (including small-scale renewable energy).

(b) REPORT TO CONGRESS.—No later than 18 months after the date of the enactment of this section, each agency shall provide a report to Congress and the President detailing all regulatory barriers to emerging energy-efficient technologies, along with actions the agency intends to take, or has taken, to remove such barriers.

(c) PERIODIC REVIEW.—Each agency shall subsequently review its regulations and standards in the manner specified in this section no less frequently than every 5 years, and report their findings to Congress and the President. Such reviews shall include a detailed analysis of all agency actions taken to remove existing barriers to emerging energy technologies.

SEC. 162. ADVANCED IDLE ELIMINATION SYSTEMS.

(a) DEFINITIONS.—

(1) ADVANCED IDLE ELIMINATION SYSTEM.—The term ''advanced idle elimination system'' means a device or system of devices that is installed at a truck stop or other location (for example, a loading, unloading, or transfer facility) where vehicles (such as trucks, trains, buses, boats, automobiles, and recreational vehicles) are parked and that is designed to provide to the vehicle the services (such as heat, air conditioning, and electricity) that would otherwise require the operation of the auxiliary or drive train engine or both while the vehicle is stationary and parked.

(2) EXTENDED IDLING.—The term ''extended idling'' means the idling of a motor vehicle for a period greater than 60 minutes.

(b) RECOGNITION OF BENEFITS OF ADVANCED IDLE ELIMINATION SYSTEMS.—Within 90 days after the date of the enactment of this subsection, the Administrator of the Environmental Protection Agency is directed to commence a review of the Agency's mobile source air emissions models used under the Clean Air Act to determine whether such models accurately reflect the emissions resulting from extended idling of heavy-duty trucks and other vehicles and engines, and shall update those models as the Administrator deems appropriate. Additionally, within 90-days after the date of the enactment of this subsection, the Administrator shall commence a review as to the appropriate emissions reductions credit that should be allotted under the Clean Air Act for the use of advanced idle elimination systems, and whether such credits should be subject to an emissions trading system, and shall revise Agency regulations and guidance as the Administrator deems appropriate.

SEC. 163. STUDY OF BENEFITS AND FEASIBILITY OF OIL BYPASS FILTRATION TECHNOLOGY.

(a) STUDY.—The Secretary of Energy and the Administrator of the Environmental Protection Agency shall jointly conduct a study of oil bypass filtration technology in motor vehicle engines. The study shall analyze and quantify the potential benefits of such technology in terms of reduced demand for oil and the potential environmental benefits of the technology in terms of reduced waste and air pollution. The Secretary and the Administrator shall also examine the feasibility of using such technology in the Federal motor vehicle fleet.

(b) REPORT.—Not later than 6 months after the enactment of this Act, the Secretary of Energy and the Administrator of the Environmental Protection Agency shall jointly submit a report containing the results of the study conducted under subsection (a) to the Committee on Energy and Commerce of the United States House of Representatives and to the Committee on Energy and Natural Resources of the United States Senate.

SEC. 164. GAS FLARE STUDY.

(a) STUDY.—The Secretary of Energy shall conduct a study of the economic feasibility of installing small cogeneration facilities utilizing excess gas flares at petrochemical facilities to provide reduced electricity costs to customers living within 3 miles of the petrochemical facilities. The Secretary shall solicit public comment to assist in preparing the report required under subsection (b).

(b) REPORT.—Not later than 18 months after the date of the enactment of this Act, the Secretary of Energy shall transmit a report to the Congress on the results of the study conducted under subsection (a).

SEC. 165. TELECOMMUTING STUDY.

(a) STUDY REQUIRED.—The Secretary, in consultation with Commission, and the NTIA, shall conduct a study of the energy conservation implications of the widespread adoption of telecommuting in the United States.

(b) REQUIRED SUBJECTS OF STUDY.—The study required by subsection (a) shall analyze the following subjects in relation to the energy saving potential of telecommuting:

(1) Reductions of energy use and energy costs in commuting and regular office heating, cooling, and other operations.

(2) Other energy reductions accomplished by telecommuting.

(3) Existing regulatory barriers that hamper telecommuting, including barriers to broadband telecommunications services deployment.

(4) Collateral benefits to the environment, family life, and other values.

(c) REPORT REQUIRED.—The Secretary shall submit to the President and the Congress a report on the study required by this section not later than 6 months after the date of the enactment of this Act. Such report shall include a description of the results of the analysis of each of the subject described in subsection (b).

(d) DEFINITIONS.—As used in this section:

(1) SECRETARY.—The term ''Secretary'' means the Secretary of Energy.

(2) COMMISSION.—The term ''Commission'' means the Federal Communications Commission.

(3) NTIA.—The term ''NTIA'' means the National Telecommunications and Information Administration of the Department of Commerce.

(4) TELECOMMUTING.—The term ''telecommuting'' means the performance of work functions using communications technologies, thereby eliminating or substantially reducing the need to commute to and from traditional worksites.

TITLE II—AUTOMOBILE FUEL ECONOMY

SEC. 201. AVERAGE FUEL ECONOMY STANDARDS FOR NONPASSENGER AUTOMOBILES.

Section 32902(a) of title 49, United States Code, is amended—

(1) by inserting ''(1)'' after ''NONPASSENGER AUTOMOBILES.—''; and

(2) by adding at the end the following:

''(2) The Secretary shall prescribe under paragraph (1) average fuel economy standards for automobiles (except passenger automobiles) manufactured in model years 2004 through 2010 that are calculated to ensure that the aggregate amount of gasoline projected to be used in those model years by automobiles to which the standards apply is at least 5 billion gallons less than the aggregate amount of gasoline that would be used in those model years by such automobiles if they achieved only the fuel economy required under the average fuel economy standard that applies under this subsection to automobiles (except passenger automobiles) manufactured in model year 2002.''.

SEC. 202. CONSIDERATION OF PRESCRIBING DIFFERENT AVERAGE FUEL ECONOMY STANDARDS FOR NONPASSENGER AUTOMOBILES.

(a) IN GENERAL.—The Secretary of Transportation shall, in prescribing average fuel economy standards under section 32902(a) of title 49, United States Code, for automobiles (except passenger automobiles) manufactured in model year 2004, consider the potential benefits of—

(1) establishing a weight-based system for automobiles, that is based on the inertia weight, curb weight, gross vehicle weight rating, or another appropriate measure of such automobiles; and

(2) prescribing different fuel economy standards for automobiles that are subject to the weight-based system.

(b) SPECIFIC CONSIDERATIONS.—In implementing this section the Secretary—

(1) shall consider any recommendations made in the National Academy of Sciences study completed pursuant to the Department of Transportation and Related Agencies Appropriations Act, 2000 (Public Law 106–346; 114 Stat. 2763 et seq.); and

(2) shall evaluate the merits of any weight-based system in terms of motor vehicle safety, energy conservation, and competitiveness of and employment in the United States automotive sector, and if a weight-based system is established by the Secretary a manufacturer may trade credits between or among the automobiles (except passenger automobiles) manufactured by the manufacturer.

SEC. 203. DUAL FUELED AUTOMOBILES.

(a) PURPOSES.—The purposes of this section are—

(1) to extend the manufacturing incentives for dual fueled automobiles, as set forth in subsections (b) and (d) of section 32905 of title 49, United States Code, through the 2008 model year; and

(2) to similarly extend the limitation on the maximum average fuel economy increase for such automobiles, as set forth in subsection (a)(1) of section 32906 of title 49, United States Code.

(b) AMENDMENTS.—

(1) MANUFACTURING INCENTIVES.—Section 32905 of title 49, United States Code, is amended as follows:

(A) Subsections (b) and (d) are each amended by striking ''model years 1993–2004'' and inserting ''model years 1993–2008''.

(B) Subsection (f) is amended by striking ''Not later than December 31, 2001, the Secretary'' and inserting ''Not later than December 31, 2005, the Secretary''.

(C) Subsection (f)(1) is amended by striking ''model year 2004'' and inserting ''model year 2008''.

(D) Subsection (g) is amended by striking ''Not later than September 30, 2000'' and inserting ''Not later than September 30, 2004''.

(2) MAXIMUM FUEL ECONOMY INCREASE.—Subsection (a)(1) of section 32906 of title 49, United States Code, is amended as follows:

(A) Subparagraph (A) is amended by striking ''the model years 1993–2004'' and inserting ''model years 1993–2008''.

(B) Subparagraph (B) is amended by striking ''the model years 2005–2008'' and inserting ''model years 2009–2012''.

SEC. 204. FUEL ECONOMY OF THE FEDERAL FLEET OF AUTOMOBILES.

Section 32917 of title 49, United States Code, is amended to read as follows:

''§ 32917. Standards for executive agency automobiles

''(a) BASELINE AVERAGE FUEL ECONOMY.—The head of each executive agency shall determine, for all automobiles in the agency's fleet of automobiles that were leased or bought as a new vehicle in fiscal year 1999, the average fuel economy for such automobiles. For the purposes of this section, the average fuel economy so determined shall be the baseline average fuel economy for the agency's fleet of automobiles.

''(b) INCREASE OF AVERAGE FUEL ECONOMY.—The head of an executive agency shall manage the procurement of automobiles for that agency in such a manner that—

''(1) not later than September 30, 2003, the average fuel economy of the new automobiles in the agency's fleet of automobiles is not less than 1 mile per gallon higher than the baseline average fuel economy determined under subsection (a) for that fleet; and

''(2) not later than September 30, 2005, the average fuel economy of the new automobiles in the agency's fleet of automobiles is not less than 3 miles per gallon higher than the baseline average fuel economy determined under subsection (a) for that fleet.

''(c) CALCULATION OF AVERAGE FUEL ECONOMY.—Average fuel economy shall be calculated for the purposes of this section in accordance with guidance which the Secretary of Transportation shall prescribe for the implementation of this section.

''(d) DEFINITIONS.—In this section:

''(1) The term 'automobile' does not include any vehicle designed for combat-related missions, law enforcement work, or emergency rescue work.

''(2) The term 'executive agency' has the meaning given that term in section 105 of title 5.

''(3) The term 'new automobile', with respect to the fleet of automobiles of an executive agency, means an automobile that is leased for at least 60 consecutive days or bought, by or for the agency, after September 30, 1999.''.

SEC. 205. HYBRID VEHICLES AND ALTERNATIVE VEHICLES.

(a) IN GENERAL.—Section 303(b)(1) of the Energy Policy Act of 1992 is amended by adding the following at the end: ''Of the total number of vehicles acquired by a Federal fleet in fiscal years 2004 and 2005, at least 5 percent of the vehicles in addition to those covered by the preceding sentence shall be alternative fueled vehicles or hybrid vehicles and in fiscal year 2006 and thereafter at least 10 percent of the vehicles in addition to those covered by the preceding sentence shall be alternative fueled vehicles or hybrid vehicles.''.

(b) DEFINITION.—Section 301 of such Act is amended by striking ''and'' at the end of paragraph (13), by striking the period at the end of paragraph (14) and inserting ''; and'' and by adding at the end the following:

''(15) The term 'hybrid vehicle' means a motor vehicle which draws propulsion energy from onboard sources of stored energy which are both—

''(A) an internal combustion or heat engine using combustible fuel; and

''(B) a rechargeable energy storage system.''.

SEC. 206. FEDERAL FLEET PETROLEUM-BASED NONALTERNATIVE FUELS.

(a) IN GENERAL.—Title III of the Energy Policy Act of 1992 (42 U.S.C. 13212 et seq.) is amended as follows:

(1) By adding at the end thereof the following:

''SEC. 313. CONSERVATION OF PETROLEUM-BASED FUELS BY THE FEDERAL GOVERNMENT FOR LIGHT-DUTY MOTOR VEHICLES.

''(a) PURPOSES.—The purposes of this section are to complement and supplement the requirements of section 303 of this Act that Federal fleets, as that term is defined in section 303(b)(3), acquire in the aggregate a minimum percentage of alternative fuel vehicles, to encourage the manufacture and sale or lease of such vehicles nationwide, and to achieve, in the aggregate, a reduction in the amount of the petroleum-based fuels (other than the alternative fuels defined in this title) used by new light-duty motor vehicles acquired by the Federal Government in model years 2004 through 2010 and thereafter.

''(b) IMPLEMENTATION.—In furtherance of such purposes, such Federal fleets in the aggregate shall reduce the purchase of petroleum-based nonalternative fuels for such fleets beginning October 1, 2003, through September 30, 2009, from the amount purchased for such fleets over a comparable period since enactment of this Act, as determined by the Secretary, through the annual purchase, in accordance with section 304, and the use of alternative fuels for the light-duty motor vehicles of such Federal fleets, so as to achieve levels which reflect total reliance by such fleets on the consumptive use of alternative fuels consistent with the provisions of section 303(b) of this Act. The Secretary shall, within 120 days after the enactment of this section, promulgate, in consultation with the Administrator of the General Services Administration and the Director of the Office of Management and Budget and such other heads of entities referenced in section 303 within the executive branch as such Director may designate, standards for the full and prompt implementation of this section by such entities. The Secretary shall monitor compliance with this section and such standards by all such fleets and shall report annually to the Congress, based on reports by the heads of such fleets, on the extent to which the requirements of this section and such standards are being achieved. The report shall include information on annual reductions achieved of petroleum-based fuels and the problems, if any, encountered in acquiring alternative fuels and in requiring their use.''.

(2) By amending section 304(b) of such Act to read as follows:

''(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary or, as appropriate, the head of each Federal fleet subject to the provisions of this section and section 313 of this Act, such sums as may be necessary to achieve the purposes of section 313(a) and the provisions of this section. Such sums shall remain available until expended.''.

(b) CLERICAL AMENDMENT.—The table of contents in section 1(b) of such Act is amended by adding at the end of the items relating to title III the following:

''Sec. 313. Conservation of petroleum-based fuels by the Federal Government for light-duty motor vehicles.''.

SEC. 207. STUDY OF FEASIBILITY AND EFFECTS OF REDUCING USE OF FUEL FOR AUTOMOBILES.

(a) IN GENERAL.—Not later than 30 days after the date of the enactment of this Act, the Secretary of Transportation shall enter into an arrangement with the National Academy of Sciences under which the Academy shall study the feasibility and effects of reducing by model year 2010, by a significant percentage, the use of fuel for automobiles.

(b) SUBJECTS OF STUDY.—The study under this section shall include—

(1) examination of, and recommendation of alternatives to, the policy under current Federal law of establishing average fuel economy standards for automobiles and requiring each automobile manufacturer to comply with average fuel economy standards that apply to the automobiles it manufactures;

(2) examination of how automobile manufacturers could contribute toward achieving the reduction referred to in subsection (a);

(3) examination of the potential of fuel cell technology in motor vehicles in order to determine the extent to which such technology may contribute to achieving the reduction referred to in subsection (a); and

(4) examination of the effects of the reduction referred to in subsection (a) on—

(A) gasoline supplies;

(B) the automobile industry, including sales of automobiles manufactured in the United States;

(C) motor vehicle safety; and

(D) air quality.

(c) REPORT.—The Secretary shall require the National Academy of Sciences to submit to the Secretary and the Congress a report on the findings, conclusion, and recommendations of the study under this section by not later than 1 year after the date of the enactment of this Act.

TITLE III—NUCLEAR ENERGY

SEC. 301. LICENSE PERIOD.

Section 103 c. of the Atomic Energy Act of 1954 (42 U.S.C. 2133(c)) is amended—

(1) by striking ''c. Each such'' and inserting the following:

''c. LICENSE PERIOD.—

''(1) IN GENERAL.—Each such''; and

(2) by adding at the end the following:

''(2) COMBINED LICENSES.—In the case of a combined construction and operating license issued under section 185 b., the initial duration of the license may not exceed 40 years from the date on which the Commission finds, before operation of the facility, that the acceptance criteria required by section 185 b. are met.''.

SEC. 302. COST RECOVERY FROM GOVERNMENT AGENCIES.

Section 161 w. of the Atomic Energy Act of 1954 (42 U.S.C. 2201(w)) is amended—

(1) by striking ''for or is issued'' and all that follows through ''1702'' and inserting ''to the Commission for, or is issued by the Commission, a license or certificate'';

(2) by striking ''483a'' and inserting ''9701''; and

(3) by striking '', of applicants for, or holders of, such licenses or certificates''.

SEC. 303. DEPLETED URANIUM HEXAFLUORIDE.

Section 1(b) of Public Law 105–204 is amended by striking ''fiscal year 2002'' and inserting ''fiscal year 2005''.

SEC. 304. NUCLEAR REGULATORY COMMISSION MEETINGS.

If a quorum of the Nuclear Regulatory Commission gathers to discuss official Commission business the discussions shall be recorded, and the Commission shall notify the public of such discussions within 15 days after they occur. The Commission shall promptly make a transcript of the recording available to the public on request, except to

the extent that public disclosure is exempted or prohibited by law. This section shall not apply to a meeting, within the meaning of that term under section 552b(a)(2) of title 5, United States Code.

SEC. 305. COOPERATIVE RESEARCH AND DEVELOPMENT AND SPECIAL DEMONSTRATION PROJECTS FOR THE URANIUM MINING INDUSTRY.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary $10,000,000 for each of fiscal years 2002, 2003, and 2004 for—

(1) cooperative, cost-shared, agreements between the Department of Energy and domestic uranium producers to identify, test, and develop improved in situ leaching mining technologies, including low-cost environmental restoration technologies that may be applied to sites after completion of in situ leaching operations; and

(2) funding for competitively selected demonstration projects with domestic uranium producers relating to—

(A) enhanced production with minimal environmental impacts;

(B) restoration of well fields; and

(C) decommissioning and decontamination activities.

(b) DOMESTIC URANIUM PRODUCER.—For purposes of this section, the term ''domestic uranium producer'' has the meaning given that term in section 1018(4) of the Energy Policy Act of 1992 (42 U.S.C. 2296b–7(4)), except that the term shall not include any producer that has not produced uranium from domestic reserves on or after July 30, 1998.

SEC. 306. MAINTENANCE OF A VIABLE DOMESTIC URANIUM CONVERSION INDUSTRY.

There are authorized to be appropriated to the Secretary $800,000 for contracting with the Nation's sole remaining uranium converter for the purpose of performing research and development to improve the environmental and economic performance of United States uranium conversion operations.

SEC. 307. PADUCAH DECONTAMINATION AND DECOMMISSIONING PLAN.

The Secretary of Energy shall prepare and submit a plan to Congress within 180 days after the date of the enactment of this Act that establishes scope, cost, schedule, sequence of activities, and contracting strategy for—

(1) the decontamination and decommissioning of the Department of Energy's surplus buildings and facilities at the Paducah Gaseous Diffusion Plant that have no future anticipated reuse; and

(2) the remediation of Department of Energy Material Storage Areas at the Paducah Gaseous Diffusion Plant.

Such plan shall inventory all surplus facilities and buildings, and identify and rank health and safety risks associated with such facilities and buildings. Such plan shall inventory all Department of Energy Material Storage Areas, and identify and rank health and safety risks associated with such Department of Energy Material Storage Areas. The Department of Energy shall incorporate these risk factors in designing the sequence and schedule for the plan. Such plan shall identify funding requirements that are in addition to the expected outlays included in the Department of Energy's Environmental Management Plan for the Paducah Gaseous Diffusion Plan.

SEC. 308. STUDY TO DETERMINE FEASIBILITY OF DEVELOPING COMMERCIAL NUCLEAR ENERGY PRODUCTION FACILITIES AT EXISTING DEPARTMENT OF ENERGY SITES.

(a) IN GENERAL.—The Secretary of Energy shall conduct a study to determine the feasibility of developing commercial nuclear energy production facilities at Department of Energy sites in existence on the date of the enactment of this Act, including—

(1) options for how and where nuclear power plants can be developed on existing Department of Energy sites;

(2) estimates on cost savings to the Federal Government that may be realized by locating new nuclear power plants on Federal sites;

(3) the feasibility of incorporating new technology into nuclear power plants located on Federal sites;

(4) potential improvements in the licensing and safety oversight procedures of nuclear power plants located on Federal sites;

(5) an assessment of the effects of nuclear waste management policies and projects as a result of locating nuclear power plants located on Federal sites; and

(6) any other factors that the Secretary believes would be relevant in making the determination.

(b) REPORT.—Not later than 90 days after the date of the enactment of this Act, the Secretary shall submit to Congress a report describing the results of the study under subsection (a).

SEC. 309. PROHIBITION OF COMMERCIAL SALES OF URANIUM BY THE UNITED STATES UNTIL 2009.

Section 3112 of the USEC Privatization Act (42 U.S.C. 2297h–10) is amended by adding at the end the following new subsection:

''(g) PROHIBITION ON SALES.—With the exception of sales pursuant to subsection (b)(2) (42 U.S.C.2297h-10(b)(2)), notwithstanding any other provision of law, the United States Government shall not sell or transfer any uranium (including natural uranium concentrates, natural uranium hexafluoride, enriched uranium, depleted uranium, or uranium in any other form) through March 23, 2009 (except sales or transfers for use by the Tennessee Valley Authority in relation to the Department of Energy's HEU or Tritium programs, or the Department or Energy research reactor sales program, or any depleted uranium hexaflouride to be transferred to a designated Department of Energy contractor in conjunction with the planned construction of the Depleted Uranium Hexaflouride conversion plants in Portsmouth, Ohio, and Paducah, Kentucky, to any natural uranium transferred to the U.S. Enrichment Corporation from the Department of Energy to replace contaminated uranium received from the Department of Energy when the U.S. Enrichment Corporation was privatized in July, 1998, or for emergency purposes in the event of a disruption in supply to end users in the United States). The aggregate of sales or transfers of uranium by the United States Government after March 23, 2009, shall not exceed 3,000,000 pounds U_3O_8 per calendar year.''.

TITLE IV—HYDROELECTRIC ENERGY

SEC. 401. ALTERNATIVE CONDITIONS AND FISHWAYS.

(a) ALTERNATIVE MANDATORY CONDITIONS.—Section 4 of the Federal Power Act (16 U.S.C. 797) is amended by adding at the end the following:

''(h)(1) Whenever any person applies for a license for any project works within any reservation of the United States, and the Secretary of the department under whose supervision such reservation falls deems a condition to such license to be necessary under the first proviso of subsection (e), the license applicant or any other party to the licensing proceeding may propose an alternative condition.

''(2) Notwithstanding the first proviso of subsection (e), the Secretary of the department under whose supervision the reservation falls shall accept the proposed alternative condition referred to in paragraph (1), and the Commission shall include in the license such alternative condition, if the Secretary of the appropriate department determines, based on substantial evidence provided by the party proposing such alternative condition, that the alternative condition—

''(A) provides no less protection for the reservation than provided by the condition deemed necessary by the Secretary; and

''(B) will either—

''(i) cost less to implement, or

''(ii) result in improved operation of the project works for electricity production,

as compared to the condition deemed necessary by the Secretary.

''(3) Within 1 year after the enactment of this subsection, each Secretary concerned shall, by rule, establish a process to expeditiously resolve conflicts arising under this subsection.''.

(b) ALTERNATIVE FISHWAYS.—Section 18 of the Federal Power Act (16 U.S.C. 811) is amended by—

(1) inserting ''(a)'' before the first sentence; and

(2) adding at the end the following:

''(b)(1) Whenever the Commission shall require a licensee to construct, maintain, or operate a fishway prescribed by the Secretary of the Interior or the Secretary of Commerce under this section, the licensee or any other party to the proceeding may propose an alternative to such prescription to construct, maintain, or operate a fishway.

''(2) Notwithstanding subsection (a), the Secretary of the Interior or the Secretary of Commerce, as appropriate, shall accept and prescribe, and the Commission shall require, the proposed alternative referred to in paragraph (1), if the Secretary of the appropriate department determines, based on substantial evidence provided by the party proposing such alternative, that the alternative—

''(A) will be no less effective than the fishway initially prescribed by the Secretary, and

''(B) will either—

''(i) cost less to implement, or

''(ii) result in improved operation of the project works for electricity production,

as compared to the fishway initially prescribed by the Secretary.

''(3) Within 1 year after the enactment of this subsection, the Secretary of the Interior and the Secretary of Commerce shall each, by rule, establish a process to expeditiously resolve conflicts arising under this subsection.''.

SEC. 402. FERC DATA ON HYDROELECTRIC LICENSING.

(a) DATA COLLECTION PROCEDURES.—The Federal Energy Regulatory Commission shall revise its procedures regarding the collection of data in connection with the Commission's consideration of hydroelectric licenses under the Federal Power Act. Such revised data collection procedures shall be designed to provide the Commission with complete and accurate information concerning the time and costs to parties involved in the licensing process. Such data shall be available for each significant stage in the licensing process and shall be designed to identify projects with similar characteristics so that analyses can be made of the time and costs involved in licensing proceedings based upon the different characteristics of those proceedings.

(b) REPORTS.—Within 6 months after the date of the enactment of this Act, the Commission shall notify the Committee on Energy and Commerce of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate of the progress made by the Commission under subsection (a), and within 1 year after such date of the enactment, the Commission shall submit a report

to such Committees specifying the measures taken by the Commission pursuant to subsection (a).

TITLE V—FUELS

SEC. 501. TANK DRAINING DURING TRANSITION TO SUMMERTIME RFG.

Not later than 60 days after the enactment of the Act, the Administrator of the Environmental Protection Agency shall commence a rulemaking to determine whether modifications to the regulations set forth in 40 CFR Section 80.78 and any associated regulations regarding the transition to high ozone season reformulated gasoline are necessary to ensure that the transition to high ozone season reformulated gasoline is conducted in a manner that minimizes disruptions to the general availability and affordability of gasoline, and maximizes flexibility with regard to the draining and inventory management of gasoline storage tanks located at refineries, terminals, wholesale and retail outlets, consistent with the goals of the Clean Air Act. The Administrator shall propose and take final action in such rulemaking to ensure that any modifications are effective and implemented at least 60 days prior to the beginning of the high ozone season for the year 2002.

SEC. 502. GASOLINE BLENDSTOCK REQUIREMENTS.

Not later than 60 days after the enactment of this Act, the Administrator of the Environmental Protection Agency shall commence a rulemaking to determine whether modifications to product transfer documentation, accounting, compliance calculation, and other requirements contained in the regulations of the Administrator set forth in section 80.102 of title 40 of the Code of Federal Regulations relating to gasoline blendstocks are necessary to facilitate the movement of gasoline and gasoline feedstocks among different regions throughout the country and to improve the ability of petroleum refiners and importers to respond to regional gasoline shortages and prevent unreasonable short-term price increases. The Administrator shall take into consideration the extent to which such requirements have been, or will be, rendered unnecessary or inefficient by reason of subsequent environmental safeguards that were not in effect at the time the regulations in section 80.102 of title 40 of the Code of Federal Regulations were promulgated. The Administrator shall propose and take final action in such rulemaking to ensure that any modifications are effective and implemented at least 60 days prior to the beginning of the high ozone season for the year 2002.

SEC. 503. BOUTIQUE FUELS.

(a) JOINT STUDY.—The Administrator of the Environmental Protection Agency and the Secretary of Energy shall jointly conduct a study of all Federal, State, and local requirements regarding motor vehicle fuels, including requirements relating to reformulated gasoline, volatility (Reid Vapor Pressure), oxygenated fuel, diesel fuel and other requirements that vary from State to State, region to region, or locality to locality. The study shall analyze—

(1) the effect of the variety of such requirements on the price of motor vehicle fuels to the consumer;

(2) the availability and affordability of motor vehicle fuels in different States and localities;

(3) the effect of Federal, State, and local regulations, including multiple fuel requirements, on domestic refineries and the fuel distribution system;

(4) the effect of such requirements on local, regional, and national air quality requirements and goals;

(5) the effect of such requirements on vehicle emissions;

(6) the feasibility of developing national or regional fuel specifications for the contiguous United States that would—

(A) enhance flexibility in the fuel distribution infrastructure and improve fuel fungibility;

(B) reduce price volatility and costs to consumers and producers;

(C) meet local, regional, and national air quality requirements and goals; and

(D) provide increased gasoline market liquidity;

(7) the extent to which the Environmental Protection Agency's Tier II requirements for conventional gasoline may achieve in future years the same or similar air quality results as State reformulated gasoline programs and State programs regarding gasoline volatility (RVP); and

(8) the feasibility of providing incentives to promote cleaner burning fuel.

(b) REPORT.—By December 31, 2001, the Administrator of the Environmental Protection Agency and the Secretary of Energy shall submit a report to the Congress containing the results of the study conducted under subsection (a). Such report shall contain recommendations for legislative and administrative actions that may be taken to simplify the national distribution system for motor vehicle fuel, make such system more cost-effective, and reduce the costs and increase the availability of motor vehicle fuel to the end user while meeting the requirements of the Clean Air Act. Such recommendations shall take into account the need to provide lead time for refinery and fuel distribution system modifications necessary to assure adequate fuel supply for all States.

SEC. 504. FUNDING FOR MTBE CONTAMINATION.

Notwithstanding any other provision of law, there is authorized to be appropriated to the Administrator of the Environmental Protection Agency from the Leaking Underground Storage Trust Fund not more than $200,000,000 to be used for taking such action, limited to assessment, corrective action, inspection of underground storage tank systems, and groundwater monitoring in connection with MTBE contamination, as the Administrator deems necessary to protect human health and the environment from releases of methyl tertiary butyl ether (MTBE) from underground storage tanks.

TITLE VI—RENEWABLE ENERGY

SEC. 601. ASSESSMENT OF RENEWABLE ENERGY RESOURCES.

(a) RESOURCE ASSESSMENT.—Not later than 1 year after the date of the enactment of this Act, and each year thereafter, the Secretary of Energy shall publish an assessment by the National Laboratories of all renewable energy resources available within the United States.

(b) CONTENTS OF REPORT.—The report published under subsection (a) shall contain each of the following:

(1) A detailed inventory describing the available amount and characteristics of solar, wind, biomass, geothermal, hydroelectric and other renewable energy sources.

(2) Such other information as the Secretary of Energy believes would be useful in developing such renewable energy resources, including descriptions of surrounding terrain, population and load centers, nearby energy infrastructure, location of energy and water resources, and available estimates of the costs needed to develop each resource.

SEC. 602. RENEWABLE ENERGY PRODUCTION INCENTIVE.

Section 1212 of the Energy Policy Act of 1992 (42 U.S.C. 13317) is amended as follows:

(1) In subsection (a) by striking ''and which satisfies'' and all that follows through ''Secretary shall establish.'' and inserting ''. The Secretary shall establish other procedures necessary for efficient administration of the program. The Secretary shall not establish any criteria or procedures that have the effect of assigning to proposals a higher or lower priority for eligibility or allocation of appropriated funds on the basis of the energy source proposed.''.

(2) In subsection (b)—

(A) by striking ''a State or any political'' and all that follows through ''nonprofit electrical cooperative'' and inserting ''an electricity-generating cooperative exempt from taxation under section 501(c)(12) or section 1381(a)(2)(C) of the Internal Revenue Code of 1986, a public utility described in section 115 of such Code, a State, Commonwealth, territory, or possession of the United States or the District of Columbia, or a political subdivision thereof, or an Indian tribal government or subdivision thereof,''; and

(B) By inserting ''landfill gas,'' after ''wind, biomass,''.

(3) In subsection (c) by striking ''during the 10-fiscal year period beginning with the first full fiscal year occurring after the enactment of this section'' and inserting ''before October 1, 2013''.

(4) In subsection (d) by inserting ''or in which the Secretary finds that all necessary Federal and State authorizations have been obtained to begin construction of the facility'' after ''eligible for such payments''.

(5) In subsection (e)(1) by inserting ''landfill gas,'' after ''wind, biomass,''.

(6) In subsection (f) by striking ''the expiration of'' and all that follows through ''of this section'' and inserting ''September 30, 2023''.

(7) In subsection (g)—

(A) by striking ''1993, 1994, and 1995'' and inserting ''2003 through 2023''; and

(B) by inserting ''Funds may be appropriated pursuant to this subsection to remain available until expended.'' after ''purposes of this section.''.

SEC. 603. STUDY OF ETHANOL FROM SOLID WASTE LOAN GUARANTEE PROGRAM.

The Secretary of Energy shall conduct a study of the feasibility of providing guarantees for loans by private banking and investment institutions for facilities for the processing and conversion of municipal solid waste and sewage sludge into fuel ethanol and other commercial byproducts, and not later than 90 days after the date of the enactment of this Act shall transmit to the Congress a report on the results of the study.

SEC. 604. STUDY OF RENEWABLE FUEL CONTENT.

(a) STUDY.—The Administrator of the Environmental Protection Agency and the Secretary of Energy shall jointly conduct a study of the feasibility of developing a requirement that motor vehicle fuel sold or introduced into commerce in the United States in calendar year 2002 or any calendar year thereafter by a refiner, blender, or importer shall, on a 6-month average basis, be comprised of a quantity of renewable fuel, measured in gasoline-equivalent gallons. As part of this study, the Administrator and Secretary shall evaluate the use of a banking and trading credit system and the feasibility and desirability of requiring an increasing percentage of renewable fuel to be phased in over a 15-year period.

(b) REPORT TO CONGRESS.—Not later than 6 months after the date of the enactment of this Act, the Administrator and the Secretary shall transmit to the Congress a report on the results of the study conducted under this section.

TITLE VII—PIPELINES

SEC. 701. PROHIBITION ON CERTAIN PIPELINE ROUTE.

No license, permit, lease, right-of-way, authorization or other approval required under

Federal law for the construction of any pipeline to transport natural gas from lands within the Prudhoe Bay oil and gas lease area may be granted for any pipeline that follows a route that traverses—

(1) the submerged lands (as defined by the Submerged Lands Act) beneath, or the adjacent shoreline of, the Beaufort Sea; and

(2) enters Canada at any point north of 68 degrees North latitude.

SEC. 702. HISTORIC PIPELINES.

Section 7 of the Natural Gas Act (15 U.S.C. 717(f)) is amended by adding at the end the following new subsection:

''(i) Notwithstanding the National Historic Preservation Act, a transportation facility shall not be eligible for inclusion on the National Register of Historic Places unless—

''(1) the Commission has permitted the abandonment of the transportation facility pursuant to subsection (b) of this section, or

''(2) the owner of the facility has given written consent to such eligibility.

Any transportation facility deemed eligible for inclusion on the National Register of Historic Places prior to the date of the enactment of this subsection shall no longer be eligible unless the owner of the facility gives written consent to such eligibility.''.

TITLE VIII—MISCELLANEOUS PROVISIONS

SEC. 801. WASTE REDUCTION AND USE OF ALTERNATIVES.

(a) GRANT AUTHORITY.—The Secretary of Energy is authorized to make a single grant to a qualified institution to examine and develop the feasibility of burning post-consumer carpet in cement kilns as an alternative energy source. The purposes of the grant shall include determining—

(1) how post-consumer carpet can be burned without disrupting kiln operations;

(2) the extent to which overall kiln emissions may be reduced; and

(3) how this process provides benefits to both cement kiln operations and carpet suppliers.

(b) QUALIFIED INSTITUTION.—For the purposes of subsection (a), a qualified institution is a research-intensive institution of higher learning with demonstrated expertise in the fields of fiber recycling and logistical modeling of carpet waste collection and preparation.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Energy for carrying out this section $275,000 for fiscal year 2002, to remain available until expended.

SEC. 802. ANNUAL REPORT ON UNITED STATES ENERGY INDEPENDENCE.

(a) REPORT.—The Secretary of Energy, in consultation with the heads of other relevant Federal agencies, shall include in each report under section 801(c) of the Department of Energy Organization Act a section which evaluates the progress the United States has made toward obtaining the goal of not more than 50 percent dependence on foreign oil sources by 2010.

(b) ALTERNATIVES.—The information required under this section to be included in the reports under section 801(c) of the Department of Energy Organization Act shall include a specification of what legislative or administrative actions must be implemented to meet this goal and set forth a range of options and alternatives with a cost/benefit analysis for each option or alternative together with an estimate of the contribution each option or alternative could make to reduce foreign oil imports. The Secretary shall solicit information from the public and request information from the Energy Information Agency and other agencies to develop the information required under this section. The information shall indicate, in detail, options and alternatives to—

(1) increase the use of renewable domestic energy sources, including conventional and nonconventional sources;

(2) conserve energy resources, including improving efficiencies and decreasing consumption; and

(3) increase domestic production and use of oil, natural gas, nuclear, and coal, including any actions necessary to provide access to, and transportation of, these energy resources.

SEC. 803. STUDY OF AIRCRAFT EMISSIONS.

The Secretary of Transportation and the Administrator of the Environmental Protection Agency shall jointly commence a study within 60 days after the enactment of this Act to investigate the impact of aircraft emissions on air quality in areas that are considered to be in nonattainment for the national ambient air quality standard for ozone. As part of this study, the Secretary and the Administrator shall focus on the impact of emissions by aircraft idling at airports and on the contribution of such emissions as a percentage of total emissions in the nonattainment area. Within 180 days of the commencement of the study, the Secretary and the Administrator shall submit a report to the Committees on Energy and Commerce and Transportation and Infrastructure of the United States House of Representatives and to the Committees on Environment and Public Works and Commerce, Science, and Transportation of the United States Senate containing the results of the study and recommendations with respect to a plan to maintain comprehensive data on aircraft emissions and methods by which such emissions may be reduced, without increasing individual aircraft noise, in order to assist in the attainment of the national ambient air quality standards.

DIVISION B

SEC. 2001. SHORT TITLE.

This division may be cited as the ''Comprehensive Energy Research and Technology Act of 2001''.

SEC. 2002. FINDINGS.

The Congress finds that—

(1) the Nation's prosperity and way of life are sustained by energy use;

(2) the growing imbalance between domestic energy production and consumption means that the Nation is becoming increasingly reliant on imported energy, which has the potential to undermine the Nation's economy, standard of living, and national security;

(3) energy conservation and energy efficiency help maximize the use of available energy resources, reduce energy shortages, lower the Nation's reliance on energy imports, mitigate the impacts of high energy prices, and help protect the environment and public health;

(4) development of a balanced portfolio of domestic energy supplies will ensure that future generations of Americans will have access to the energy they need;

(5) energy efficiency technologies, renewable and alternative energy technologies, and advanced energy systems technologies will help diversify the Nation's energy portfolio with few adverse environmental impacts and are vital to delivering clean energy to fuel the Nation's economic growth;

(6) development of reliable, affordable, and environmentally sound energy efficiency technologies, renewable and alternative energy technologies, and advanced energy systems technologies will require maintenance of a vibrant fundamental scientific knowledge base and continued scientific and technological innovations that can be accelerated by Federal funding, whereas commercial deployment of such systems and technologies are the responsibility of the private sector;

(7) Federal funding should focus on those programs, projects, and activities that are long-term, high-risk, noncommercial, and well-managed, and that provide the potential for scientific and technological advances; and

(8) public-private partnerships should be encouraged to leverage scarce taxpayer dollars.

SEC. 2003. PURPOSES.

The purposes of this division are to—

(1) protect and strengthen the Nation's economy, standard of living, and national security by reducing dependence on imported energy;

(2) meet future needs for energy services at the lowest total cost to the Nation, including environmental costs, giving balanced and comprehensive consideration to technologies that improve the efficiency of energy end uses and that enhance energy supply;

(3) reduce the air, water, and other environmental impacts (including emissions of greenhouse gases) of energy production, distribution, transportation, and use through the development of environmentally sustainable energy systems;

(4) consider the comparative environmental impacts of the energy saved or produced by specific programs, projects, or activities;

(5) maintain the technological competitiveness of the United States and stimulate economic growth through the development of advanced energy systems and technologies;

(6) foster international cooperation by developing international markets for domestically produced sustainable energy technologies, and by transferring environmentally sound, advanced energy systems and technologies to developing countries to promote sustainable development;

(7) provide sufficient funding of programs, projects, and activities that are performance-based and modeled as public-private partnerships, as appropriate; and

(8) enhance the contribution of a given program, project, or activity to fundamental scientific knowledge.

SEC. 2004. GOALS.

(a) IN GENERAL.—Subject to subsection (b), in order to achieve the purposes of this division under section 2003, the Secretary should conduct a balanced energy research, development, demonstration, and commercial application portfolio of programs guided by the following goals to meet the purposes of this division under section 2003.

(1) ENERGY CONSERVATION AND ENERGY EFFICIENCY.—

(A) For the Building Technology, State and Community Sector, the program should develop technologies, housing components, designs, and production methods that will, by 2010—

(i) reduce the monthly energy cost of new housing by 20 percent, compared to the cost as of the date of the enactment of this Act;

(ii) cut the environmental impact and energy use of new housing by 50 percent, compared to the impact and use as of the date of the enactment of this Act; and

(iii) improve durability and reduce maintenance costs by 50 percent compared to the durability and costs as of the date of the enactment of this Act.

(B) For the Industry Sector, the program should, in cooperation with the affected industries, improve the energy intensity of the major energy-consuming industries by at least 25 percent by 2010, compared to the energy intensity as of the date of the enactment of this Act.

(C) For Power Technologies, the program should, in cooperation with the affected industries—

(i) develop a microturbine (40 to 300 kilowatt) that is more than 40 percent more efficient by 2006, and more than 50 percent more efficient by 2010, compared to the efficiency as of the date of the enactment of this Act; and

(ii) develop advanced materials for combustion systems that reduce emissions of nitrogen oxides by 30 to 50 percent while increasing efficiency 5 to 10 percent by 2007, compared to such emissions as of the date of the enactment of this Act.

(D) For the Transportation Sector, the program should, in cooperation with affected industries—

(i) develop a production prototype passenger automobile that has fuel economy equivalent to 80 miles per gallon of gasoline by 2004;

(ii) develop class 7 and 8 heavy duty trucks and buses with ultra low emissions and the ability to use an alternative fuel that has an average fuel economy equivalent to—

(I) 10 miles per gallon of gasoline by 2007; and

(II) 13 miles per gallon of gasoline by 2010;

(iii) develop a production prototype of a passenger automobile with zero equivalent emissions that has an average fuel economy of 100 miles per gallon of gasoline by 2010; and

(iv) improve, by 2010, the average fuel economy of trucks—

(I) in classes 1 and 2 by 300 percent; and

(II) in classes 3 through 6 by 200 percent,

compared to the fuel economy as of the date of the enactment of this Act.

(2) RENEWABLE ENERGY.—

(A) For Hydrogen Research, to carry out the Spark M. Matsunaga Hydrogen Research, Development, and Demonstration Act of 1990, as amended by subtitle A of title II of this division.

(B) For bioenergy:

(i) The program should reduce the cost of bioenergy relative to other energy sources to enable the United States to triple bioenergy use by 2010.

(ii) For biopower systems, the program should reduce the cost of such systems to enable commercialization of integrated power-generating technologies that employ gas turbines and fuel cells integrated with bioenergy gasifiers within 5 years after the date of the enactment of this Act.

(iii) For biofuels, the program should accelerate research, development, and demonstration on advanced enzymatic hydrolysis technology for making ethanol from cellulosic feedstock, with the goal that between 2010 and 2015 ethanol produced from energy crops would be fully competitive in terms of price with gasoline as a neat fuel, in either internal combustion engines or fuel cell vehicles.

(C) For Geothermal Technology Development, the program should focus on advanced concepts for the long term. The first priority should be high-grade enhanced geothermal systems; the second priority should be lower grade, hot dry rock, and geopressured systems; and the third priority should be support of field demonstrations of enhanced geothermal systems technology, including sites in lower grade areas to demonstrate the benefits of reservoir concepts to different conditions.

(D) For Hydropower, the program should provide a new generation of turbine technologies that will increase generating capacity and will be less damaging to fish and aquatic ecosystems.

(E) For Concentrating Solar Power, the program should strengthen ongoing research, development, and demonstration combining high-efficiency and high-temperature receivers with advanced thermal storage and power cycles, with the goal of making solar-only power (including baseload solar power) widely competitive with fossil fuel power by 2015. The program should limit or halt its research and development on power-tower and power-trough technologies because further refinements to these concepts will not further their deployment, and should assess the market prospects for solar dish/engine technologies to determine whether continued research and development is warranted.

(F) For Photovoltaic Energy Systems, the program should pursue research, development, and demonstration that will, by 2005, increase the efficiency of thin film modules from the current 7 percent to 11 percent in multi-million watt production; reduce the direct manufacturing cost of photovoltaic modules by 30 percent from the current $2.50 per watt to $1.75 per watt by 2005; and establish greater than a 20-year lifetime of photovoltaic systems by improving the reliability and lifetime of balance-of-system components and reducing recurring cost by 40 percent. The program's top priority should be the development of sound manufacturing technologies for thin-film modules, and the program should make a concerted effort to integrate fundamental research and basic engineering research.

(G) For Solar Building Technology Research, the program should complete research and development on new polymers and manufacturing processes to reduce the cost of solar water heating by 50 percent by 2004, compared to the cost as of the date of the enactment of this Act.

(H) For Wind Energy Systems, the program should reduce the cost of wind energy to three cents per kilowatt-hour at Class 6 (15 miles-per-hour annual average) wind sites by 2004, and 4 cents per kilowatt-hour in Class 4 (13 miles-per-hour annual average) wind sites by 2015, and further if required so that wind power can be widely competitive with fossil-fuel-based electricity in a restructured electric industry. Program research on advanced wind turbine technology should focus on turbulent flow studies, durable materials to extend turbine life, blade efficiency, and higher efficiency operation in low quality wind regimes.

(I) For Electric Energy Systems and Storage, including High Temperature Superconducting Research and Development, Energy Storage Systems, and Transmission Reliability, the program should develop high capacity superconducting transmission lines and generators, highly reliable energy storage systems, and distributed generating systems to accommodate multiple types of energy sources under common interconnect standards.

(J) For the International Renewable Energy and Renewable Energy Production Incentive programs, and Renewable Program Support, the program should encourage the commercial application of renewable energy technologies by developed and developing countries, State and local governmental entities and nonprofit electric cooperatives, and by the competitive domestic market.

(3) NUCLEAR ENERGY.—

(A) For university nuclear science and engineering, the program should carry out the provisions of subtitle A of title III of this division.

(B) For fuel cycle research, development, and demonstration, the program should carry out the provisions of subtitle B of title III of this division.

(C) For the Nuclear Energy Research Initiative, the program should accomplish the objectives of section 2341(b) of this Act.

(D) For the Nuclear Energy Plant Optimization Program, the program should accomplish the objectives of section 2342(b) of this Act.

(E) For Nuclear Energy Technologies, the program should carry out the provisions of section 2343 of this Act.

(F) For Advanced Radioisotope Power Systems, the program should ensure that the United States has adequate capability to power future satellite and space missions.

(4) FOSSIL ENERGY.—

(A) For core fossil energy research and development, the program should achieve the goals outlined by the Department's Vision 21 Program. This research should address fuel-flexible gasification and turbines, fuel cells, advanced-combustion systems, advanced fuels and chemicals, advanced modeling and systems analysis, materials and heat exchangers, environmental control technologies, gas-stream purification, gas-separation technology, and sequestration research and development focused on cost-effective novel concepts for capturing, reusing or storing, or otherwise mitigating carbon and other greenhouse gas emissions.

(B) For offshore oil and natural gas resources, the program should investigate and develop technologies to—

(i) extract methane hydrates in coastal waters of the United States, in accordance with the provisions of the Methane Hydrate Research and Development Act of 2000; and

(ii) develop natural gas and oil reserves in the ultra-deepwater of the Central and Western Gulf of Mexico. Research and development on ultra-deepwater resource recovery shall focus on improving the safety and efficiency of such recovery and of sub-sea production technology used for such recovery, while lowering costs.

(C) For transportation fuels, the program should support a comprehensive transportation fuels strategy to increase the price elasticity of oil supply and demand by focusing research on reducing the cost of producing transportation fuels from natural gas and indirect liquefaction of coal.

(5) SCIENCE.—The Secretary, through the Office of Science, should—

(A) develop and maintain a robust portfolio of fundamental scientific and energy research, including High Energy and Nuclear Physics, Biological and Environmental Research, Basic Energy Sciences (including Materials Sciences, Chemical Sciences, Engineering and Geosciences, and Energy Biosciences), Advanced Scientific Computing, Energy Research and Analysis, Multiprogram Energy Laboratories-Facilities Support, Fusion Energy Sciences, and Facilities and Infrastructure;

(B) maintain, upgrade, and expand, as appropriate, and in accordance with the provisions of this division, the scientific user facilities maintained by the Office of Science, and ensure that they are an integral part of the Department's mission for exploring the frontiers of fundamental energy sciences; and

(C) ensure that its fundamental energy sciences programs, where appropriate, help inform the applied research and development programs of the Department.

(b) REVIEW AND ASSESSMENT.—The Secretary shall perform an assessment that establishes measurable cost and performance-based goals, or that modifies the goals under subsection (a), as appropriate, for 2005, 2010, 2015, and 2020 for each of the programs authorized by this division that would enable each such program to meet the purposes of this division under section 2003. Such assessment shall be based on the latest scientific and technical knowledge, and shall also take into consideration, as appropriate, the comparative environmental impacts (including emissions of greenhouse gases) of the energy saved or produced by specific programs.

(c) CONSULTATION.—In establishing the measurable cost and performance-based

goals under subsection (b), the Secretary shall consult with the private sector, institutions of higher learning, national laboratories, environmental organizations, professional and technical societies, and any other persons as the Secretary considers appropriate.

(d) SCHEDULE.—The Secretary shall—

(1) issue and publish in the Federal Register a set of draft measurable cost and performance-based goals for the programs authorized by this division for public comment—

(A) in the case of a program established before the date of the enactment of this Act, not later than 120 days after the date of the enactment of this Act; and

(B) in the case of a program not established before the date of the enactment of this Act, not later than 120 days after the date of establishment of the program;

(2) not later than 60 days after the date of publication under paragraph (1), after taking into consideration any public comments received, transmit to the Congress and publish in the Federal Register the final measurable cost and performance-based goals; and

(3) update all such cost and performance-based goals on a biennial basis.

SEC. 2005. DEFINITIONS.

For purposes of this division, except as otherwise provided—

(1) the term ''Administrator'' means the Administrator of the Environmental Protection Agency;

(2) the term ''appropriate congressional committees'' means—

(A) the Committee on Science and the Committee on Appropriations of the House of Representatives; and

(B) the Committee on Energy and Natural Resources and the Committee on Appropriations of the Senate;

(3) the term ''Department'' means the Department of Energy; and

(4) the term ''Secretary'' means the Secretary of Energy.

SEC. 2006. AUTHORIZATIONS.

Authorizations of appropriations under this division are for environmental research and development, scientific and energy research, development, and demonstration, and commercial application of energy technology programs, projects, and activities.

SEC. 2007. BALANCE OF FUNDING PRIORITIES.

(a) SENSE OF CONGRESS.—It is the sense of the Congress that the funding of the various programs authorized by titles I through IV of this division should remain in the same proportion to each other as provided in this division, regardless of the total amount of funding made available for those programs.

(b) REPORT TO CONGRESS.—If for fiscal year 2002, 2003, or 2004 the amounts appropriated in general appropriations Acts for the programs authorized in titles I through IV of this division are not in the same proportion to one another as are the authorizations for such programs in this division, the Secretary and the Administrator shall, within 60 days after the date of the enactment of the last general appropriations Act appropriating amounts for such programs, transmit to the appropriate congressional committees a report describing the programs, projects, and activities that would have been funded if the proportions provided for in this division had been maintained in the appropriations. The amount appropriated for the program receiving the highest percentage of its authorized funding for a fiscal year shall be used as the baseline for calculating the proportional deficiencies of appropriations for other programs in that fiscal year.

TITLE I—ENERGY CONSERVATION AND ENERGY EFFICIENCY

Subtitle A—Alternative Fuel Vehicles

SEC. 2101. SHORT TITLE.

This subtitle may be cited as the ''Alternative Fuel Vehicle Acceleration Act of 2001''.

SEC. 2102. DEFINITIONS.

For the purposes of this subtitle, the following definitions apply:

(1) ALTERNATIVE FUEL VEHICLE.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the term ''alternative fuel vehicle'' means a motor vehicle that is powered—

(i) in whole or in part by electricity, including electricity supplied by a fuel cell;

(ii) by liquefied natural gas;

(iii) by compressed natural gas;

(iv) by liquefied petroleum gas;

(v) by hydrogen;

(vi) by methanol or ethanol at no less than 85 percent by volume; or

(vii) by propane.

(B) EXCLUSIONS.—The term ''alternative fuel vehicle'' does not include—

(i) any vehicle designed to operate solely on gasoline or diesel derived from fossil fuels, regardless of whether it can also be operated on an alternative fuel; or

(ii) any vehicle that the Secretary determines, by rule, does not yield substantial environmental benefits over a vehicle operating solely on gasoline or diesel derived from fossil fuels.

(2) PILOT PROGRAM.—The term ''pilot program'' means the competitive grant program established under section 2103.

(3) ULTRA-LOW SULFUR DIESEL VEHICLE.—The term ''ultra-low sulfur diesel vehicle'' means a vehicle powered by a heavy-duty diesel engine that—

(A) is fueled by diesel fuel which contains sulfur at not more than 15 parts per million; and

(B) emits not more than the lesser of—

(i) for vehicles manufactured in—

(I) model years 2001 through 2003, 3.0 grams per brake horsepower-hour of nonmethane hydrocarbons and oxides of nitrogen and .01 grams per brake horsepower-hour of particulate matter; and

(II) model years 2004 through 2006, 2.5 grams per brake horsepower-hour of nonmethane hydrocarbons and oxides of nitrogen and .01 grams per brake horsepower-hour of particulate matter; or

(ii) the emissions of nonmethane hydrocarbons, oxides of nitrogen, and particulate matter of the best performing technology of ultra-low sulfur diesel vehicles of the same type that are commercially available.

SEC. 2103. PILOT PROGRAM.

(a) ESTABLISHMENT.—The Secretary shall establish a competitive grant pilot program to provide not more than 15 grants to State governments, local governments, or metropolitan transportation authorities to carry out a project or projects for the purposes described in subsection (b).

(b) GRANT PURPOSES.—Grants under this section may be used for the following purposes:

(1) The acquisition of alternative fuel vehicles, including—

(A) passenger vehicles;

(B) buses used for public transportation or transportation to and from schools;

(C) delivery vehicles for goods or services;

(D) ground support vehicles at public airports, including vehicles to carry baggage or push airplanes away from terminal gates; and

(E) motorized two-wheel bicycles, scooters, or other vehicles for use by law enforcement personnel or other State or local government or metropolitan transportation authority employees.

(2) The acquisition of ultra-low sulfur diesel vehicles.

(3) Infrastructure necessary to directly support an alternative fuel vehicle project funded by the grant, including fueling and other support equipment.

(4) Operation and maintenance of vehicles, infrastructure, and equipment acquired as part of a project funded by the grant.

(c) APPLICATIONS.—

(1) REQUIREMENTS.—The Secretary shall issue requirements for applying for grants under the pilot program. At a minimum, the Secretary shall require that applications be submitted by the head of a State or local government or a metropolitan transportation authority, or any combination thereof, and shall include—

(A) at least one project to enable passengers or goods to be transferred directly from one alternative fuel vehicle or ultra-low sulfur diesel vehicle to another in a linked transportation system;

(B) a description of the projects proposed in the application, including how they meet the requirements of this subtitle;

(C) an estimate of the ridership or degree of use of the projects proposed in the application;

(D) an estimate of the air pollution emissions reduced and fossil fuel displaced as a result of the projects proposed in the application, and a plan to collect and disseminate environmental data, related to the projects to be funded under the grant, over the life of the projects;

(E) a description of how the projects proposed in the application will be sustainable without Federal assistance after the completion of the term of the grant;

(F) a complete description of the costs of each project proposed in the application, including acquisition, construction, operation, and maintenance costs over the expected life of the project;

(G) a description of which costs of the projects proposed in the application will be supported by Federal assistance under this subtitle; and

(H) documentation to the satisfaction of the Secretary that diesel fuel containing sulfur at not more than 15 parts per million is available for carrying out the projects, and a commitment by the applicant to use such fuel in carrying out the projects.

(2) PARTNERS.—An applicant under paragraph (1) may carry out projects under the pilot program in partnership with public and private entities.

(d) SELECTION CRITERIA.—In evaluating applications under the pilot program, the Secretary shall consider each applicant's previous experience with similar projects and shall give priority consideration to applications that—

(1) are most likely to maximize protection of the environment;

(2) demonstrate the greatest commitment on the part of the applicant to ensure funding for the proposed projects and the greatest likelihood that each project proposed in the application will be maintained or expanded after Federal assistance under this subtitle is completed; and

(3) exceed the minimum requirements of subsection (c)(1)(A).

(e) PILOT PROJECT REQUIREMENTS.—

(1) MAXIMUM AMOUNT.—The Secretary shall not provide more than $20,000,000 in Federal assistance under the pilot program to any applicant.

(2) COST SHARING.—The Secretary shall not provide more than 50 percent of the cost, incurred during the period of the grant, of any project under the pilot program.

(3) MAXIMUM PERIOD OF GRANTS.—The Secretary shall not fund any applicant under the pilot program for more than 5 years.

(4) DEPLOYMENT AND DISTRIBUTION.—The Secretary shall seek to the maximum extent practicable to achieve nationwide deployment of alternative fuel vehicles through the pilot program, and shall ensure a broad geographic distribution of project sites.

(5) TRANSFER OF INFORMATION AND KNOWLEDGE.—The Secretary shall establish mechanisms to ensure that the information and knowledge gained by participants in the pilot program are transferred among the pilot program participants and to other interested parties, including other applicants that submitted applications.

(f) SCHEDULE.—

(1) PUBLICATION.—Not later than 3 months after the date of the enactment of this Act, the Secretary shall publish in the Federal Register, Commerce Business Daily, and elsewhere as appropriate, a request for applications to undertake projects under the pilot program. Applications shall be due within 6 months of the publication of the notice.

(2) SELECTION.—Not later than 6 months after the date by which applications for grants are due, the Secretary shall select by competitive, peer review all applications for projects to be awarded a grant under the pilot program.

(g) LIMIT ON FUNDING.—The Secretary shall provide not less than 20 percent and not more than 25 percent of the grant funding made available under this section for the acquisition of ultra-low sulfur diesel vehicles.

SEC. 2104. REPORTS TO CONGRESS.

(a) INITIAL REPORT.—Not later than 2 months after the date grants are awarded under this subtitle, the Secretary shall transmit to the appropriate congressional committees a report containing—

(1) an identification of the grant recipients and a description of the projects to be funded;

(2) an identification of other applicants that submitted applications for the pilot program; and

(3) a description of the mechanisms used by the Secretary to ensure that the information and knowledge gained by participants in the pilot program are transferred among the pilot program participants and to other interested parties, including other applicants that submitted applications.

(b) EVALUATION.—Not later than 3 years after the date of the enactment of this Act, and annually thereafter until the pilot program ends, the Secretary shall transmit to the appropriate congressional committees a report containing an evaluation of the effectiveness of the pilot program, including an assessment of the benefits to the environment derived from the projects included in the pilot program as well as an estimate of the potential benefits to the environment to be derived from widespread application of alternative fuel vehicles and ultra-low sulfur diesel vehicles.

SEC. 2105. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary $200,000,000 to carry out this subtitle, to remain available until expended.

Subtitle B—Distributed Power Hybrid Energy Systems

SEC. 2121. FINDINGS.

The Congress makes the following findings:

(1) Our ability to take advantage of our renewable, indigenous resources in a cost-effective manner can be greatly advanced through systems that compensate for the intermittent nature of these resources through distributed power hybrid systems.

(2) Distributed power hybrid systems can—

(A) shelter consumers from temporary energy price volatility created by supply and demand mismatches;

(B) increase the reliability of energy supply; and

(C) address significant local differences in power and economic development needs and resource availability that exist throughout the United States.

(3) Realizing these benefits will require a concerted and integrated effort to remove market barriers to adopting distributed power hybrid systems by—

(A) developing the technological foundation that enables designing, testing, certifying, and operating distributed power hybrid systems; and

(B) providing the policy framework that reduces such barriers.

(4) While many of the individual distributed power hybrid systems components are either available or under development in existing private and public sector programs, the capabilities to integrate these components into workable distributed power hybrid systems that maximize benefits to consumers in a safe manner often are not coherently being addressed.

SEC. 2122. DEFINITIONS.

For purposes of this subtitle—

(1) the term ''distributed power hybrid system'' means a system using 2 or more distributed power sources, operated together with associated supporting equipment, including storage equipment, and software necessary to provide electric power onsite and to an electric distribution system; and

(2) the term ''distributed power source'' means an independent electric energy source of usually 10 megawatts or less located close to a residential, commercial, or industrial load center, including—

(A) reciprocating engines;

(B) turbines;

(C) microturbines;

(D) fuel cells;

(E) solar electric systems;

(F) wind energy systems;

(G) biopower systems;

(H) geothermal power systems; or

(I) combined heat and power systems.

SEC. 2123. STRATEGY.

(a) REQUIREMENT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall develop and transmit to the Congress a distributed power hybrid systems strategy showing—

(1) needs best met with distributed power hybrid systems configurations, especially systems including one or more solar or renewable power sources; and

(2) technology gaps and barriers (including barriers to efficient connection with the power grid) that hamper the use of distributed power hybrid systems.

(b) ELEMENTS.—The strategy shall provide for development of—

(1) system integration tools (including databases, computer models, software, sensors, and controls) needed to plan, design, build, and operate distributed power hybrid systems for maximum benefits;

(2) tests of distributed power hybrid systems, power parks, and microgrids, including field tests and cost-shared demonstrations with industry;

(3) design tools to characterize the benefits of distributed power hybrid systems for consumers, to reduce testing needs, to speed commercialization, and to generate data characterizing grid operations, including interconnection requirements;

(4) precise resource assessment tools to map local resources for distributed power hybrid systems; and

(5) a comprehensive research, development, demonstration, and commercial application program to ensure the reliability, efficiency, and environmental integrity of distributed energy resources, focused on filling gaps in distributed power hybrid systems technologies identified under subsection (a)(2), which may include—

(A) integration of a wide variety of advanced technologies into distributed power hybrid systems;

(B) energy storage devices;

(C) environmental control technologies;

(D) interconnection standards, protocols, and equipment; and

(E) ancillary equipment for dispatch and control.

(c) IMPLEMENTATION AND INTEGRATION.—The Secretary shall implement the strategy transmitted under subsection (a) and the research program under subsection (b)(5). Activities pursuant to the strategy shall be integrated with other activities of the Department's Office of Power Technologies.

SEC. 2124. HIGH POWER DENSITY INDUSTRY PROGRAM.

(a) IN GENERAL.—The Secretary shall develop and implement a comprehensive research, development, demonstration, and commercial application program to improve energy efficiency, reliability, and environmental responsibility in high power density industries, such as data centers, server farms, telecommunications facilities, and heavy industry.

(b) AREAS.—In carrying out this section, the Secretary shall consider technologies that provide—

(1) significant improvement in efficiency of high power density facilities, and in data and telecommunications centers, using advanced thermal control technologies;

(2) significant improvements in air-conditioning efficiency in facilities such as data centers and telecommunications facilities;

(3) significant advances in peak load reduction; and

(4) advanced real time metering and load management and control devices.

(c) IMPLEMENTATION AND INTEGRATION.—Activities pursuant to this program shall be integrated with other activities of the Department's Office of Power Technologies.

SEC. 2125. MICRO-COGENERATION ENERGY TECHNOLOGY.

The Secretary shall make competitive, merit-based grants to consortia of private sector entities for the development of micro-cogeneration energy technology. The consortia shall explore the creation of small-scale combined heat and power through the use of residential heating appliances. There are authorized to be appropriated to the Secretary $20,000,000 to carry out this section, to remain available until expended.

SEC. 2126. PROGRAM PLAN.

Within 4 months after the date of the enactment of this Act, the Secretary, in consultation with other appropriate Federal agencies, shall prepare and transmit to the Congress a 5-year program plan to guide activities under this subtitle. In preparing the program plan, the Secretary shall consult with appropriate representatives of the distributed energy resources, power transmission, and high power density industries to prioritize appropriate program areas. The Secretary shall also seek the advice of utilities, energy services providers, manufacturers, institutions of higher learning, other appropriate State and local agencies, environmental organizations, professional and technical societies, and any other persons the Secretary considers appropriate.

SEC. 2127. REPORT.

Two years after date of the enactment of this Act and at 2-year intervals thereafter, the Secretary, jointly with other appropriate Federal agencies, shall transmit a report to Congress describing the progress made to achieve the purposes of this subtitle.

SEC. 2128. VOLUNTARY CONSENSUS STANDARDS.

Not later than 2 years after the date of the enactment of this Act, the Secretary, in consultation with the National Institute of

Standards and Technology, shall work with the Institute of Electrical and Electronic Engineers and other standards development organizations toward the development of voluntary consensus standards for distributed energy systems for use in manufacturing and using equipment and systems for connection with electric distribution systems, for obtaining electricity from, or providing electricity to, such systems.

Subtitle C—Secondary Electric Vehicle Battery Use

SEC. 2131. DEFINITIONS.

For purposes of this subtitle, the term—

(1) ''battery'' means an energy storage device that previously has been used to provide motive power in a vehicle powered in whole or in part by electricity; and

(2) ''associated equipment'' means equipment located at the location where the batteries will be used that is necessary to enable the use of the energy stored in the batteries.

SEC. 2132. ESTABLISHMENT OF SECONDARY ELECTRIC VEHICLE BATTERY USE PROGRAM.

(a) PROGRAM.—The Secretary shall establish and conduct a research, development, and demonstration program for the secondary use of batteries where the original use of such batteries was in transportation applications. Such program shall be—

(1) designed to demonstrate the use of batteries in secondary application, including utility and commercial power storage and power quality;

(2) structured to evaluate the performance, including longevity of useful service life and costs, of such batteries in field operations, and evaluate the necessary supporting infrastructure, including disposal and reuse of batteries; and

(3) coordinated with ongoing secondary battery use programs underway at the national laboratories and in industry.

(b) SOLICITATION.—(1) Not later than 6 months after the date of the enactment of this Act, the Secretary shall solicit proposals to demonstrate the secondary use of batteries and associated equipment and supporting infrastructure in geographic locations throughout the United States. The Secretary may make additional solicitations for proposals if the Secretary determines that such solicitations are necessary to carry out this section.

(2)(A) Proposals submitted in response to a solicitation under this section shall include—

(i) a description of the project, including the batteries to be used in the project, the proposed locations and applications for the batteries, the number of batteries to be demonstrated, and the type, characteristics, and estimated life-cycle costs of the batteries compared to other energy storage devices currently used;

(ii) the contribution, if any, of State or local governments and other persons to the demonstration project;

(iii) the type of associated equipment to be demonstrated and the type of supporting infrastructure to be demonstrated; and

(iv) any other information the Secretary considers appropriate.

(B) If the proposal includes a lease arrangement, the proposal shall indicate the terms of such lease arrangement for the batteries and associated equipment.

(c) SELECTION OF PROPOSALS.—(1)(A) The Secretary shall, not later than 3 months after the closing date established by the Secretary for receipt of proposals under subsection (b), select at least 5 proposals to receive financial assistance under this section.

(B) No one project selected under this section shall receive more than 25 percent of the funds authorized under this section. No more than 3 projects selected under this section shall demonstrate the same battery type.

(2) In selecting a proposal under this section, the Secretary shall consider—

(A) the ability of the proposer to acquire the batteries and associated equipment and to successfully manage and conduct the demonstration project, including the reporting requirements set forth in paragraph (3)(B);

(B) the geographic and climatic diversity of the projects selected;

(C) the long-term technical and competitive viability of the batteries to be used in the project and of the original manufacturer of such batteries;

(D) the suitability of the batteries for their intended uses;

(E) the technical performance of the battery, including the expected additional useful life and the battery's ability to retain energy;

(F) the environmental effects of the use of and disposal of the batteries proposed to be used in the project selected;

(G) the extent of involvement of State or local government and other persons in the demonstration project and whether such involvement will—

(i) permit a reduction of the Federal cost share per project; or

(ii) otherwise be used to allow the Federal contribution to be provided to demonstrate a greater number of batteries; and

(H) such other criteria as the Secretary considers appropriate.

(3) CONDITIONS.—The Secretary shall require that—

(A) as a part of a demonstration project, the users of the batteries provide to the proposer information regarding the operation, maintenance, performance, and use of the batteries, and the proposer provide such information to the battery manufacturer, for 3 years after the beginning of the demonstration project;

(B) the proposer provide to the Secretary such information regarding the operation, maintenance, performance, and use of the batteries as the Secretary may request during the period of the demonstration project; and

(C) the proposer provide at least 50 percent of the costs associated with the proposal.

SEC. 2133. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary, from amounts authorized under section 2161(a), for purposes of this subtitle—

(1) $1,000,000 for fiscal year 2002;

(2) $7,000,000 for fiscal year 2003; and

(3) $7,000,000 for fiscal year 2004.

Such appropriations may remain available until expended.

Subtitle D—Green School Buses

SEC. 2141. SHORT TITLE.

This subtitle may be cited as the ''Clean Green School Bus Act of 2001''.

SEC. 2142. ESTABLISHMENT OF PILOT PROGRAM.

(a) ESTABLISHMENT.—The Secretary shall establish a pilot program for awarding grants on a competitive basis to eligible entities for the demonstration and commercial application of alternative fuel school buses and ultra-low sulfur diesel school buses.

(b) REQUIREMENTS.—Not later than 3 months after the date of the enactment of this Act, the Secretary shall establish and publish in the Federal register grant requirements on eligibility for assistance, and on implementation of the program established under subsection (a), including certification requirements to ensure compliance with this subtitle.

(c) SOLICITATION.—Not later than 6 months after the date of the enactment of this Act, the Secretary shall solicit proposals for grants under this section.

(d) ELIGIBLE RECIPIENTS.—A grant shall be awarded under this section only—

(1) to a local governmental entity responsible for providing school bus service for one or more public school systems; or

(2) jointly to an entity described in paragraph (1) and a contracting entity that provides school bus service to the public school system or systems.

(e) TYPES OF GRANTS.—

(1) IN GENERAL.—Grants under this section shall be for the demonstration and commercial application of technologies to facilitate the use of alternative fuel school buses and ultra-low sulfur diesel school buses in lieu of buses manufactured before model year 1977 and diesel-powered buses manufactured before model year 1991.

(2) NO ECONOMIC BENEFIT.—Other than the receipt of the grant, a recipient of a grant under this section may not receive any economic benefit in connection with the receipt of the grant.

(3) PRIORITY OF GRANT APPLICATIONS.—The Secretary shall give priority to awarding grants to applicants who can demonstrate the use of alternative fuel buses and ultra-low sulfur diesel school buses in lieu of buses manufactured before model year 1977.

(f) CONDITIONS OF GRANT.—A grant provided under this section shall include the following conditions:

(1) All buses acquired with funds provided under the grant shall be operated as part of the school bus fleet for which the grant was made for a minimum of 5 years.

(2) Funds provided under the grant may only be used—

(A) to pay the cost, except as provided in paragraph (3), of new alternative fuel school buses or ultra-low sulfur diesel school buses, including State taxes and contract fees; and

(B) to provide—

(i) up to 10 percent of the price of the alternative fuel buses acquired, for necessary alternative fuel infrastructure if the infrastructure will only be available to the grant recipient; and

(ii) up to 15 percent of the price of the alternative fuel buses acquired, for necessary alternative fuel infrastructure if the infrastructure will be available to the grant recipient and to other bus fleets.

(3) The grant recipient shall be required to provide at least the lesser of 15 percent of the total cost of each bus received or $15,000 per bus.

(4) In the case of a grant recipient receiving a grant to demonstrate ultra-low sulfur diesel school buses, the grant recipient shall be required to provide documentation to the satisfaction of the Secretary that diesel fuel containing sulfur at not more than 15 parts per million is available for carrying out the purposes of the grant, and a commitment by the applicant to use such fuel in carrying out the purposes of the grant.

(g) BUSES.—Funding under a grant made under this section may be used to demonstrate the use only of new alternative fuel school buses or ultra-low sulfur diesel school buses—

(1) with a gross vehicle weight of greater than 14,000 pounds;

(2) that are powered by a heavy duty engine;

(3) that, in the case of alternative fuel school buses, emit not more than—

(A) for buses manufactured in model years 2001 and 2002, 2.5 grams per brake horsepower-hour of nonmethane hydrocarbons and oxides of nitrogen and .01 grams per brake horsepower-hour of particulate matter; and

(B) for buses manufactured in model years 2003 through 2006, 1.8 grams per brake horsepower-hour of nonmethane hydrocarbons and oxides of nitrogen and .01 grams per brake horsepower-hour of particulate matter; and

(4) that, in the case of ultra-low sulfur diesel school buses, emit not more than—

(A) for buses manufactured in model years 2001 through 2003, 3.0 grams per brake horsepower-hour of nonmethane hydrocarbons and oxides of nitrogen and .01 grams per brake horsepower-hour of particulate matter; and

(B) for buses manufactured in model years 2004 through 2006, 2.5 grams per brake horsepower-hour of nonmethane hydrocarbons and oxides of nitrogen and .01 grams per brake horsepower-hour of particulate matter,

except that under no circumstances shall buses be acquired under this section that emit nonmethane hydrocarbons, oxides of nitrogen, or particulate matter at a rate greater than the best performing technology of ultra-low sulfur diesel school buses commercially available at the time the grant is made.

(h) DEPLOYMENT AND DISTRIBUTION.—The Secretary shall seek to the maximum extent practicable to achieve nationwide deployment of alternative fuel school buses through the program under this section, and shall ensure a broad geographic distribution of grant awards, with a goal of no State receiving more than 10 percent of the grant funding made available under this section for a fiscal year.

(i) LIMIT ON FUNDING.—The Secretary shall provide not less than 20 percent and not more than 25 percent of the grant funding made available under this section for any fiscal year for the acquisition of ultra-low sulfur diesel school buses.

(j) DEFINITIONS.—For purposes of this section—

(1) the term ''alternative fuel school bus'' means a bus powered substantially by electricity (including electricity supplied by a fuel cell), or by liquefied natural gas, compressed natural gas, liquefied petroleum gas, hydrogen, propane, or methanol or ethanol at no less than 85 percent by volume; and

(2) the term ''ultra-low sulfur diesel school bus'' means a school bus powered by diesel fuel which contains sulfur at not more than 15 parts per million.

SEC. 2143. FUEL CELL BUS DEVELOPMENT AND DEMONSTRATION PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—The Secretary shall establish a program for entering into cooperative agreements with private sector fuel cell bus developers for the development of fuel cell-powered school buses, and subsequently with not less than 2 units of local government using natural gas-powered school buses and such private sector fuel cell bus developers to demonstrate the use of fuel cell-powered school buses.

(b) COST SHARING.—The non-Federal contribution for activities funded under this section shall be not less than—

(1) 20 percent for fuel infrastructure development activities; and

(2) 50 percent for demonstration activities and for development activities not described in paragraph (1).

(c) FUNDING.—No more than $25,000,000 of the amounts authorized under section 2144 may be used for carrying out this section for the period encompassing fiscal years 2002 through 2006.

(d) REPORTS TO CONGRESS.—Not later than 3 years after the date of the enactment of this Act, and not later than October 1, 2006, the Secretary shall transmit to the appropriate congressional committees a report that—

(1) evaluates the process of converting natural gas infrastructure to accommodate fuel cell-powered school buses; and

(2) assesses the results of the development and demonstration program under this section.

SEC. 2144. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary for carrying out this subtitle, to remain available until expended—

(1) $40,000,000 for fiscal year 2002;

(2) $50,000,000 for fiscal year 2003;

(3) $60,000,000 for fiscal year 2004;

(4) $70,000,000 for fiscal year 2005; and

(5) $80,000,000 for fiscal year 2006.

Subtitle E—Next Generation Lighting Initiative

SEC. 2151. SHORT TITLE.

This subtitle may be cited as ''Next Generation Lighting Initiative Act''.

SEC. 2152. DEFINITION.

In this subtitle, the term ''Lighting Initiative'' means the ''Next Generation Lighting Initiative'' established under section 2153(a).

SEC. 2153. NEXT GENERATION LIGHTING INITIATIVE.

(a) ESTABLISHMENT.—The Secretary is authorized to establish a lighting initiative to be known as the ''Next Generation Lighting Initiative'' to research, develop, and conduct demonstration activities on advanced lighting technologies, including white light emitting diodes.

(b) RESEARCH OBJECTIVES.—The research objectives of the Lighting Initiative shall be to develop, by 2011, advanced lighting technologies that, compared to incandescent and fluorescent lighting technologies as of the date of the enactment of this Act, are—

(1) longer lasting;

(2) more energy-efficient; and

(3) cost-competitive.

SEC. 2154. STUDY.

(a) IN GENERAL.—Not later than 6 months after the date of the enactment of this Act, the Secretary, in consultation with other Federal agencies, as appropriate, shall complete a study on strategies for the development and commercial application of advanced lighting technologies. The Secretary shall request a review by the National Academies of Sciences and Engineering of the study under this subsection, and shall transmit the results of the study to the appropriate congressional committees.

(b) REQUIREMENTS.—The study shall—

(1) develop a comprehensive strategy to implement the Lighting Initiative; and

(2) identify the research and development, manufacturing, deployment, and marketing barriers that must be overcome to achieve a goal of a 25 percent market penetration by advanced lighting technologies into the incandescent and fluorescent lighting market by the year 2012.

(c) IMPLEMENTATION.—As soon as practicable after the review of the study under subsection (a) is transmitted to the Secretary by the National Academies of Sciences and Engineering, the Secretary shall adapt the implementation of the Lighting Initiative taking into consideration the recommendations of the National Academies of Sciences and Engineering.

SEC. 2155. GRANT PROGRAM.

(a) IN GENERAL.—Subject to section 2603 of this Act, the Secretary may make merit-based competitive grants to firms and research organizations that conduct research, development, and demonstration projects related to advanced lighting technologies.

(b) ANNUAL REVIEW.—

(1) IN GENERAL.—An annual independent review of the grant-related activities of firms and research organizations receiving a grant under this section shall be conducted by a committee appointed by the Secretary under the Federal Advisory Committee Act (5 U.S.C. App.), or, at the request of the Secretary, a committee appointed by the National Academies of Sciences and Engineering.

(2) REQUIREMENTS.—Using clearly defined standards established by the Secretary, the review shall assess technology advances and progress toward commercialization of the grant-related activities of firms or research organizations during each fiscal year of the grant program.

(c) TECHNICAL AND FINANCIAL ASSISTANCE.—The national laboratories and other Federal agencies, as appropriate, shall cooperate with and provide technical and financial assistance to firms and research organizations conducting research, development, and demonstration projects carried out under this subtitle.

Subtitle F—Department of Energy Authorization of Appropriations

SEC. 2161. AUTHORIZATION OF APPROPRIATIONS.

(a) OPERATION AND MAINTENANCE.—In addition to amounts authorized to be appropriated under section 2105, section 2125, and section 2144, there are authorized to be appropriated to the Secretary for subtitle B, subtitle C, subtitle E, and for Energy Conservation operation and maintenance (including Building Technology, State and Community Sector (Nongrants), Industry Sector, Transportation Sector, Power Technologies, and Policy and Management) $625,000,000 for fiscal year 2002, $700,000,000 for fiscal year 2003, and $800,000,000 for fiscal year 2004, to remain available until expended.

(b) LIMITS ON USE OF FUNDS.—None of the funds authorized to be appropriated in subsection (a) may be used for—

(1) Building Technology, State and Community Sector—

(A) Residential Building Energy Codes;

(B) Commercial Building Energy Codes;

(C) Lighting and Appliance Standards;

(D) Weatherization Assistance Program; or

(E) State Energy Program; or

(2) Federal Energy Management Program.

Subtitle G—Environmental Protection Agency Office of Air and Radiation Authorization of Appropriations

SEC. 2171. SHORT TITLE.

This subtitle may be cited as the ''Environmental Protection Agency Office of Air and Radiation Authorization Act of 2001''.

SEC. 2172. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Administrator for Office of Air and Radiation Climate Change Protection Programs $121,942,000 for fiscal year 2002, $126,800,000 for fiscal year 2003, and $131,800,000 for fiscal year 2004 to remain available until expended, of which—

(1) $52,731,000 for fiscal year 2002, $54,800,000 for fiscal year 2003, and $57,000,000 for fiscal year 2004 shall be for Buildings;

(2) $32,441,000 for fiscal year 2002, $33,700,000 for fiscal year 2003, and $35,000,000 for fiscal year 2004 shall be for Transportation;

(3) $27,295,000 for fiscal year 2002, $28,400,000 for fiscal year 2003, and $29,500,000 for fiscal year 2004 shall be for Industry;

(4) $1,700,000 for fiscal year 2002, $1,800,000 for fiscal year 2003, and $1,900,000 for fiscal year 2004 shall be for Carbon Removal;

(5) $2,500,000 for fiscal year 2002, $2,600,000 for fiscal year 2003, and $2,700,000 for fiscal year 2004 shall be for State and Local Climate; and

(6) $5,275,000 for fiscal year 2002, $5,500,000 for fiscal year 2003, and $5,700,000 for fiscal year 2004 shall be for International Capacity Building.

SEC. 2173. LIMITS ON USE OF FUNDS.

(a) PRODUCTION OR PROVISION OF ARTICLES OR SERVICES.—None of the funds authorized to be appropriated by this subtitle may be used to produce or provide articles or services for the purpose of selling the articles or services to a person outside the Federal Government, unless the Administrator determines that comparable articles or services

are not available from a commercial source in the United States.

(b) REQUESTS FOR PROPOSALS.—None of the funds authorized to be appropriated by this subtitle may be used by the Environmental Protection Agency to prepare or initiate Requests for Proposals for a program if the program has not been authorized by Congress.

SEC. 2174. COST SHARING.

(a) RESEARCH AND DEVELOPMENT.—Except as otherwise provided in this subtitle, for research and development programs carried out under this subtitle, the Administrator shall require a commitment from non-Federal sources of at least 20 percent of the cost of the project. The Administrator may reduce or eliminate the non-Federal requirement under this subsection if the Administrator determines that the research and development is of a basic or fundamental nature.

(b) DEMONSTRATION AND COMMERCIAL APPLICATION.—Except as otherwise provided in this subtitle, the Administrator shall require at least 50 percent of the costs directly and specifically related to any demonstration or commercial application project under this subtitle to be provided from non-Federal sources. The Administrator may reduce the non-Federal requirement under this subsection if the Administrator determines that the reduction is necessary and appropriate considering the technological risks involved in the project and is necessary to meet the objectives of this subtitle.

(c) CALCULATION OF AMOUNT.—In calculating the amount of the non-Federal commitment under subsection (a) or (b), the Administrator may include personnel, services, equipment, and other resources.

SEC. 2175. LIMITATION ON DEMONSTRATION AND COMMERCIAL APPLICATIONS OF ENERGY TECHNOLOGY.

The Administrator shall provide funding for scientific or energy demonstration or commercial application of energy technology programs, projects, or activities of the Office of Air and Radiation only for technologies or processes that can be reasonably expected to yield new, measurable benefits to the cost, efficiency, or performance of the technology or process.

SEC. 2176. REPROGRAMMING.

(a) AUTHORITY.—The Administrator may use amounts appropriated under this subtitle for a program, project, or activity other than the program, project, or activity for which such amounts were appropriated only if—

(1) the Administrator has transmitted to the appropriate congressional committees a report described in subsection (b) and a period of 30 days has elapsed after such committees receive the report;

(2) amounts used for the program, project, or activity do not exceed—

(A) 105 percent of the amount authorized for the program, project, or activity; or

(B) $250,000 more than the amount authorized for the program, project, or activity,

whichever is less; and

(3) the program, project, or activity has been presented to, or requested of, the Congress by the Administrator.

(b) REPORT.—(1) The report referred to in subsection (a) is a report containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of the proposed action.

(2) In the computation of the 30-day period under subsection (a), there shall be excluded any day on which either House of Congress is not in session because of an adjournment of more than 3 days to a day certain.

(c) LIMITATIONS.—(1) In no event may the total amount of funds obligated pursuant to this subtitle exceed the total amount authorized to be appropriated by this subtitle.

(2) Funds appropriated pursuant to this subtitle may not be used for an item for which Congress has declined to authorize funds.

SEC. 2177. BUDGET REQUEST FORMAT.

The Administrator shall provide to the appropriate congressional committees, to be transmitted at the same time as the Environmental Protection Agency's annual budget request submission, a detailed justification for budget authorization for the programs, projects, and activities for which funds are authorized by this subtitle. Each such document shall include, for the fiscal year for which funding is being requested and for the 2 previous fiscal years—

(1) a description of, and funding requested or allocated for, each such program, project, or activity;

(2) an identification of all recipients of funds to conduct such programs, projects, and activities; and

(3) an estimate of the amounts to be expended by each recipient of funds identified under paragraph (2).

SEC. 2178. OTHER PROVISIONS.

(a) ANNUAL OPERATING PLAN AND REPORTS.—The Administrator shall provide simultaneously to the Committee on Science of the House of Representatives—

(1) any annual operating plan or other operational funding document, including any additions or amendments thereto; and

(2) any report relating to the environmental research or development, scientific or energy research, development, or demonstration, or commercial application of energy technology programs, projects, or activities of the Environmental Protection Agency,

provided to any committee of Congress.

(b) NOTICE OF REORGANIZATION.—The Administrator shall provide notice to the appropriate congressional committees not later than 15 days before any reorganization of any environmental research or development, scientific or energy research, development, or demonstration, or commercial application of energy technology program, project, or activity of the Office of Air and Radiation.

Subtitle H—National Building Performance Initiative

SEC. 2181. NATIONAL BUILDING PERFORMANCE INITIATIVE.

(a) INTERAGENCY GROUP.—Not later than 3 months after the date of the enactment of this Act, the Director of the Office of Science and Technology Policy shall establish an Interagency Group responsible for the development and implementation of a National Building Performance Initiative to address energy conservation and research and development and related issues. The National Institute of Standards and Technology shall provide necessary administrative support for the Interagency Group.

(b) PLAN.—Not later than 9 months after the date of the enactment of this Act, the Interagency Group shall transmit to the Congress a multiyear implementation plan describing the Federal role in reducing the costs, including energy costs, of using, owning, and operating commercial, institutional, residential, and industrial buildings by 30 percent by 2020. The plan shall include—

(1) research, development, and demonstration of systems and materials for new construction and retrofit, on the building envelope and components; and

(2) the collection and dissemination in a usable form of research results and other pertinent information to the design and construction industry, government officials, and the general public.

(c) NATIONAL BUILDING PERFORMANCE ADVISORY COMMITTEE.—A National Building Performance Advisory Committee shall be established to advise on creation of the plan, review progress made under the plan, advise on any improvements that should be made to the plan, and report to the Congress on actions that have been taken to advance the Nation's capability in furtherance of the plan. The members shall include representatives of a broad cross-section of interests such as the research, technology transfer, architectural, engineering, and financial communities; materials and systems suppliers; State, county, and local governments; the residential, multifamily, and commercial sectors of the construction industry; and the insurance industry.

(d) REPORT.—The Interagency Group shall, within 90 days after the end of each fiscal year, transmit a report to the Congress describing progress achieved during the preceding fiscal year by government at all levels and by the private sector, toward implementing the plan developed under subsection (b), and including any amendments to the plan.

TITLE II—RENEWABLE ENERGY

Subtitle A—Hydrogen

SEC. 2201. SHORT TITLE.

This subtitle may be cited as the ''Robert S. Walker and George E. Brown, Jr. Hydrogen Energy Act of 2001''.

SEC. 2202. PURPOSES.

Section 102(b) of the Spark M. Matsunaga Hydrogen Research, Development, and Demonstration Act of 1990 is amended to read as follows:

''(b) PURPOSES.—The purposes of this Act are—

''(1) to direct the Secretary to conduct research, development, and demonstration activities leading to the production, storage, transportation, and use of hydrogen for industrial, commercial, residential, transportation, and utility applications;

''(2) to direct the Secretary to develop a program of technology assessment, information dissemination, and education in which Federal, State, and local agencies, members of the energy, transportation, and other industries, and other entities may participate; and

''(3) to develop methods of hydrogen production that minimize adverse environmental impacts, with emphasis on efficient and cost-effective production from renewable energy resources.''.

SEC. 2203. DEFINITIONS.

Section 102(c) of the Spark M. Matsunaga Hydrogen Research, Development, and Demonstration Act of 1990 is amended—

(1) by redesignating paragraphs (1) through (3) as paragraphs (2) through (4), respectively; and

(2) by inserting before paragraph (2), as so redesignated by paragraph (1) of this section, the following new paragraph:

''(1) 'advisory committee' means the advisory committee established under section 108;''.

SEC. 2204. REPORTS TO CONGRESS.

Section 103 of the Spark M. Matsunaga Hydrogen Research, Development, and Demonstration Act of 1990 is amended to read as follows:

''SEC. 103. REPORTS TO CONGRESS.

''(a) REQUIREMENT.—Not later than 1 year after the date of the enactment of the Robert S. Walker and George E. Brown, Jr. Hydrogen Energy Act of 2001, and biennially thereafter, the Secretary shall transmit to Congress a detailed report on the status and progress of the programs and activities authorized under this Act.

''(b) CONTENTS.—A report under subsection (a) shall include, in addition to any views and recommendations of the Secretary—

''(1) an assessment of the extent to which the program is meeting the purposes specified in section 102(b);

''(2) a determination of the effectiveness of the technology assessment, information dissemination, and education program established under section 106;

''(3) an analysis of Federal, State, local, and private sector hydrogen-related research, development, and demonstration activities to identify productive areas for increased intergovernmental and private-public sector collaboration; and

''(4) recommendations of the advisory committee for any improvements needed in the programs and activities authorized by this Act.''.

SEC. 2205. HYDROGEN RESEARCH AND DEVELOPMENT.

Section 104 of the Spark M. Matsunaga Hydrogen Research, Development, and Demonstration Act of 1990 is amended to read as follows:

''SEC. 104. HYDROGEN RESEARCH AND DEVELOPMENT.

''(a) ESTABLISHMENT OF PROGRAM.—The Secretary shall conduct a hydrogen research and development program relating to production, storage, transportation, and use of hydrogen, with the goal of enabling the private sector to demonstrate the technical feasibility of using hydrogen for industrial, commercial, residential, transportation, and utility applications.

''(b) ELEMENTS.—In conducting the program authorized by this section, the Secretary shall—

''(1) give particular attention to developing an understanding and resolution of critical technical issues preventing the introduction of hydrogen as an energy carrier into the marketplace;

''(2) initiate or accelerate existing research and development in critical technical issues that will contribute to the development of more economical hydrogen production, storage, transportation, and use, including critical technical issues with respect to production (giving priority to those production techniques that use renewable energy resources as their primary source of energy for hydrogen production), liquefaction, transmission, distribution, storage, and use (including use of hydrogen in surface transportation); and

''(3) survey private sector and public sector hydrogen research and development activities worldwide, and take steps to ensure that research and development activities under this section do not—

''(A) duplicate any available research and development results; or

''(B) displace or compete with the privately funded hydrogen research and development activities of United States industry.

''(c) EVALUATION OF TECHNOLOGIES.—The Secretary shall evaluate, for the purpose of determining whether to undertake or fund research and development activities under this section, any reasonable new or improved technology that could lead or contribute to the development of economical hydrogen production, storage, transportation, and use.

''(d) RESEARCH AND DEVELOPMENT SUPPORT.—The Secretary is authorized to arrange for tests and demonstrations and to disseminate to researchers and developers information, data, and other materials necessary to support the research and development activities authorized under this section and other efforts authorized under this Act, consistent with section 106 of this Act.

''(e) COMPETITIVE PEER REVIEW.—The Secretary shall carry out or fund research and development activities under this section only on a competitive basis using peer review.

''(f) COST SHARING.—For research and development programs carried out under this section, the Secretary shall require a commitment from non-Federal sources of at least 20 percent of the cost of the project. The Secretary may reduce or eliminate the non-Federal requirement under this subsection if the Secretary determines that the research and development is of a basic or fundamental nature.''.

SEC. 2206. DEMONSTRATIONS.

Section 105 of the Spark M. Matsunaga Hydrogen Research, Development, and Demonstration Act of 1990 is amended—

(1) in subsection (a), by striking '', preferably in self-contained locations,'';

(2) in subsection (b), by striking ''at self-contained sites'' and inserting '', which shall include a fuel cell bus demonstration program to address hydrogen production, storage, and use in transit bus applications''; and

(3) in subsection (c), by inserting ''NON-FEDERAL FUNDING REQUIREMENT.—'' after ''(c)''.

SEC. 2207. TECHNOLOGY TRANSFER.

Section 106 of the Spark M. Matsunaga Hydrogen Research, Development, and Demonstration Act of 1990 is amended to read as follows:

''SEC. 106. TECHNOLOGY ASSESSMENT, INFORMATION DISSEMINATION, AND EDUCATION PROGRAM.

''(a) PROGRAM.—The Secretary shall, in consultation with the advisory committee, conduct a program designed to accelerate wider application of hydrogen production, storage, transportation, and use technologies, including application in foreign countries to increase the global market for the technologies and foster global economic development without harmful environmental effects.

''(b) INFORMATION.—The Secretary, in carrying out the program authorized by subsection (a), shall—

''(1) undertake an update of the inventory and assessment, required under section 106(b)(1) of this Act as in effect before the date of the enactment of the Robert S. Walker and George E. Brown, Jr. Hydrogen Energy Act of 2001, of hydrogen technologies and their commercial capability to economically produce, store, transport, or use hydrogen in industrial, commercial, residential, transportation, and utility sector; and

''(2) develop, with other Federal agencies as appropriate and industry, an information exchange program to improve technology transfer for hydrogen production, storage, transportation, and use, which may consist of workshops, publications, conferences, and a database for the use by the public and private sectors.''.

SEC. 2208. COORDINATION AND CONSULTATION.

Section 107 of the Spark M. Matsunaga Hydrogen Research, Development, and Demonstration Act of 1990 is amended—

(1) by amending paragraph (1) of subsection (a) to read as follows:

''(1) shall establish a central point for the coordination of all hydrogen research, development, and demonstration activities of the Department; and''; and

(2) by amending subsection (c) to read as follows:

''(c) CONSULTATION.—The Secretary shall consult with other Federal agencies as appropriate, and the advisory committee, in carrying out the Secretary's authorities pursuant to this Act.''.

SEC. 2209. ADVISORY COMMITTEE.

Section 108 of the Spark M. Matsunaga Hydrogen Research, Development, and Demonstration Act of 1990 is amended to read as follows:

''SEC. 108. ADVISORY COMMITTEE.

''(a) ESTABLISHMENT.—The Secretary shall enter into appropriate arrangements with the National Academies of Sciences and Engineering to establish an advisory committee consisting of experts drawn from domestic industry, academia, Governmental laboratories, and financial, environmental, and other organizations, as appropriate, to review and advise on the progress made through the programs and activities authorized under this Act.

''(b) COOPERATION.—The heads of Federal agencies shall cooperate with the advisory committee in carrying out this section and shall furnish to the advisory committee such information as the advisory committee reasonably deems necessary to carry out this section.

''(c) REVIEW.—The advisory committee shall review and make any necessary recommendations to the Secretary on—

''(1) the implementation and conduct of programs and activities authorized under this Act; and

''(2) the economic, technological, and environmental consequences of the deployment of hydrogen production, storage, transportation, and use systems.

''(d) RESPONSIBILITIES OF THE SECRETARY.—The Secretary shall consider, but need not adopt, any recommendations of the advisory committee under subsection (c). The Secretary shall provide an explanation of the reasons that any such recommendations will not be implemented and include such explanation in the report to Congress under section 103(a) of this Act.''.

SEC. 2210. AUTHORIZATION OF APPROPRIATIONS.

Section 109 of the Spark M. Matsunaga Hydrogen Research, Development, and Demonstration Act of 1990 is amended to read as follows:

''SEC. 109. AUTHORIZATION OF APPROPRIATIONS.

''(a) RESEARCH AND DEVELOPMENT; ADVISORY COMMITTEE.—There are authorized to be appropriated to the Secretary to carry out sections 104 and 108—

''(1) $40,000,000 for fiscal year 2002;

''(2) $45,000,000 for fiscal year 2003;

''(3) $50,000,000 for fiscal year 2004;

''(4) $55,000,000 for fiscal year 2005; and

''(5) $60,000,000 for fiscal year 2006.

''(b) DEMONSTRATION.—There are authorized to be appropriated to the Secretary to carry out section 105—

''(1) $20,000,000 for fiscal year 2002;

''(2) $25,000,000 for fiscal year 2003;

''(3) $30,000,000 for fiscal year 2004;

''(4) $35,000,000 for fiscal year 2005; and

''(5) $40,000,000 for fiscal year 2006.''.

SEC. 2211. REPEAL.

(a) REPEAL.—Title II of the Hydrogen Future Act of 1996 is repealed.

(b) CONFORMING AMENDMENT.—Section 2 of the Hydrogen Future Act of 1996 is amended by striking ''titles II and III'' and inserting ''title III''.

Subtitle B—Bioenergy

SEC. 2221. SHORT TITLE.

This subtitle may be cited as the ''Bioenergy Act of 2001''.

SEC. 2222. FINDINGS.

Congress finds that bioenergy has potential to help—

(1) meet the Nation's energy needs;

(2) reduce reliance on imported fuels;

(3) promote rural economic development;

(4) provide for productive utilization of agricultural residues and waste materials, and forestry residues and byproducts; and

(5) protect the environment.

SEC. 2223. DEFINITIONS.

For purposes of this subtitle—

(1) the term ''bioenergy'' means energy derived from any organic matter that is available on a renewable or recurring basis, including agricultural crops and trees, wood and wood wastes and residues, plants (including aquatic plants), grasses, residues, fibers, and animal and other organic wastes;

(2) the term ''biofuels'' includes liquid or gaseous fuels, industrial chemicals, or both;

(3) the term ''biopower'' includes the generation of electricity or process steam or both; and

(4) the term ''integrated bioenergy research and development'' includes biopower and biofuels applications.

SEC. 2224. AUTHORIZATION.

The Secretary is authorized to conduct environmental research and development, scientific and energy research, development, and demonstration, and commercial application of energy technology programs, projects, and activities related to bioenergy, including biopower energy systems, biofuels energy systems, and integrated bioenergy research and development.

SEC. 2225. AUTHORIZATION OF APPROPRIATIONS.

(a) BIOPOWER ENERGY SYSTEMS.—There are authorized to be appropriated to the Secretary for Biopower Energy Systems programs, projects, and activities—

(1) $45,700,000 for fiscal year 2002;

(2) $52,500,000 for fiscal year 2003;

(3) $60,300,000 for fiscal year 2004;

(4) $69,300,000 for fiscal year 2005; and

(5) $79,600,000 for fiscal year 2006.

(b) BIOFUELS ENERGY SYSTEMS.—There are authorized to be appropriated to the Secretary for biofuels energy systems programs, projects, and activities—

(1) $53,500,000 for fiscal year 2002;

(2) $61,400,000 for fiscal year 2003;

(3) $70,600,000 for fiscal year 2004;

(4) $81,100,000 for fiscal year 2005; and

(5) $93,200,000 for fiscal year 2006.

(c) INTEGRATED BIOENERGY RESEARCH AND DEVELOPMENT.—There are authorized to be appropriated to the Secretary for integrated bioenergy research and development programs, projects, and activities, $49,000,000 for each of the fiscal years 2002 through 2006. Activities funded under this subsection shall be coordinated with ongoing related programs of other Federal agencies, including the Plant Genome Program of the National Science Foundation. Of the funds authorized under this subsection, at least $5,000,000 for each fiscal year shall be for training and education targeted to minority and social disadvantaged farmers and ranchers.

(d) INTEGRATED APPLICATIONS.—Amounts authorized to be appropriated under this subtitle may be used to assist in the planning, design, and implementation of projects to convert rice straw and barley grain into biopower or biofuels.

Subtitle C—Transmission Infrastructure Systems

SEC. 2241. TRANSMISSION INFRASTRUCTURE SYSTEMS RESEARCH, DEVELOPMENT, DEMONSTRATION, AND COMMERCIAL APPLICATION.

(a) IN GENERAL.—The Secretary shall develop and implement a comprehensive research, development, demonstration, and commercial application program to ensure the reliability, efficiency, and environmental integrity of electrical transmission systems. Such program shall include advanced energy technologies and systems, high capacity superconducting transmission lines and generators, advanced grid reliability and efficiency technologies development, technologies contributing to significant load reductions, advanced metering, load management and control technologies, and technology transfer and education.

(b) TECHNOLOGY.—In carrying out this subtitle, the Secretary may include research, development, and demonstration on and commercial application of improved transmission technologies including the integration of the following technologies into improved transmission systems:

(1) High temperature superconductivity.

(2) Advanced transmission materials.

(3) Self-adjusting equipment, processes, or software for survivability, security, and failure containment.

(4) Enhancements of energy transfer over existing lines.

(5) Any other infrastructure technologies, as appropriate.

SEC. 2242. PROGRAM PLAN.

Within 4 months after the date of the enactment of this Act, the Secretary, in consultation with other appropriate Federal agencies, shall prepare and transmit to Congress a 5-year program plan to guide activities under this subtitle. In preparing the program plan, the Secretary shall consult with appropriate representatives of the transmission infrastructure systems industry to select and prioritize appropriate program areas. The Secretary shall also seek the advice of utilities, energy services providers, manufacturers, institutions of higher learning, other appropriate State and local agencies, environmental organizations, professional and technical societies, and any other persons as the Secretary considers appropriate.

SEC. 2243. REPORT.

Two years after the date of the enactment of this Act, and at 2-year intervals thereafter, the Secretary, in consultation with other appropriate Federal agencies, shall transmit a report to Congress describing the progress made to achieve the purposes of this subtitle and identifying any additional resources needed to continue the development and commercial application of transmission infrastructure technologies.

Subtitle D—Department of Energy Authorization of Appropriations

SEC. 2261. AUTHORIZATION OF APPROPRIATIONS.

(a) OPERATION AND MAINTENANCE.—There are authorized to be appropriated to the Secretary for Renewable Energy operation and maintenance, including activities under subtitle C, Geothermal Technology Development, Hydropower, Concentrating Solar Power, Photovoltaic Energy Systems, Solar Building Technology Research, Wind Energy Systems, High Temperature Superconducting Research and Development, Energy Storage Systems, Transmission Reliability, International Renewable Energy Program, Renewable Energy Production Incentive Program, Renewable Program Support, National Renewable Energy Laboratory, and Program Direction, and including amounts authorized under the amendment made by section 2210 and amounts authorized under section 2225, $535,000,000 for fiscal year 2002, $639,000,000 for fiscal year 2003, and $683,000,000 for fiscal year 2004, to remain available until expended.

(b) WAVE POWERED ELECTRIC GENERATION.—Within the amounts authorized to be appropriated to the Secretary under subsection (a), the Secretary shall carry out a research program, in conjunction with other appropriate Federal agencies, on wave powered electric generation.

(c) ASSESSMENT OF RENEWABLE ENERGY RESOURCES.—

(1) IN GENERAL.—Using funds authorized in subsection (a), of this section, the Secretary shall transmit to the Congress, within 1 year after the date of the enactment of this Act, an assessment of all renewable energy resources available within the United States.

(2) RESOURCE ASSESSMENT.—Such report shall include a detailed inventory describing the available amount and characteristics of solar, wind, biomass, geothermal, hydroelectric, and other renewable energy sources, and an estimate of the costs needed to develop each resource. The report shall also include such other information as the Secretary believes would be useful in siting renewable energy generation, such as appropriate terrain, population and load centers, nearby energy infrastructure, and location of energy resources.

(3) AVAILABILITY.—The information and cost estimates in this report shall be updated annually and made available to the public, along with the data used to create the report.

(4) SUNSET.—This subsection shall expire at the end of fiscal year 2004.

(d) LIMITS ON USE OF FUNDS.—None of the funds authorized to be appropriated in subsection (a) may be used for—

(1) Departmental Energy Management Program; or

(2) Renewable Indian Energy Resources.

TITLE III—NUCLEAR ENERGY

Subtitle A—University Nuclear Science and Engineering

SEC. 2301. SHORT TITLE.

This subtitle may be cited as ''Department of Energy University Nuclear Science and Engineering Act''.

SEC. 2302. FINDINGS.

The Congress finds the following:

(1) United States university nuclear science and engineering programs are in a state of serious decline, with nuclear engineering enrollment at a 35-year low. Since 1980, the number of nuclear engineering university programs has declined nearly 40 percent, and over two-thirds of the faculty in these programs are 45 years of age or older. Also, since 1980, the number of university research and training reactors in the United States has declined by over 50 percent. Most of these reactors were built in the late 1950s and 1960s with 30-year to 40-year operating licenses, and many will require relicensing in the next several years.

(2) A decline in a competent nuclear workforce, and the lack of adequately trained nuclear scientists and engineers, will affect the ability of the United States to solve future nuclear waste storage issues, operate existing and design future fission reactors in the United States, respond to future nuclear events worldwide, help stem the proliferation of nuclear weapons, and design and operate naval nuclear reactors.

(3) The Department of Energy's Office of Nuclear Energy, Science and Technology, a principal Federal agency for civilian research in nuclear science and engineering, is well suited to help maintain tomorrow's human resource and training investment in the nuclear sciences and engineering.

SEC. 2303. DEPARTMENT OF ENERGY PROGRAM.

(a) ESTABLISHMENT.—The Secretary, through the Office of Nuclear Energy, Science and Technology, shall support a program to maintain the Nation's human resource investment and infrastructure in the nuclear sciences and engineering consistent with the Department's statutory authorities related to civilian nuclear research, development, and demonstration and commercial application of energy technology.

(b) DUTIES OF THE OFFICE OF NUCLEAR ENERGY, SCIENCE AND TECHNOLOGY.—In carrying out the program under this subtitle, the Director of the Office of Nuclear Energy, Science and Technology shall—

(1) develop a robust graduate and undergraduate fellowship program to attract new and talented students;

(2) assist universities in recruiting and retaining new faculty in the nuclear sciences and engineering through a Junior Faculty Research Initiation Grant Program;

(3) maintain a robust investment in the fundamental nuclear sciences and engineering through the Nuclear Engineering Education Research Program;

(4) encourage collaborative nuclear research among industry, national laboratories, and universities through the Nuclear Energy Research Initiative;

(5) assist universities in maintaining reactor infrastructure; and

(6) support communication and outreach related to nuclear science and engineering.

(c) MAINTAINING UNIVERSITY RESEARCH AND TRAINING REACTORS AND ASSOCIATED INFRASTRUCTURE.—The Secretary, through the Office of Nuclear Energy, Science and Technology, shall provide for the following university research and training reactor infrastructure maintenance and research activities:

(1) Refueling of university research reactors with low enriched fuels, upgrade of operational instrumentation, and sharing of reactors among universities.

(2) In collaboration with the United States nuclear industry, assistance, where necessary, in relicensing and upgrading university training reactors as part of a student training program.

(3) A university reactor research and training award program that provides for reactor improvements as part of a focused effort that emphasizes research, training, and education.

(d) UNIVERSITY-DOE LABORATORY INTERACTIONS.—The Secretary, through the Office of Nuclear Energy, Science and Technology, shall develop—

(1) a sabbatical fellowship program for university faculty to spend extended periods of time at Department of Energy laboratories in the areas of nuclear science and technology; and

(2) a visiting scientist program in which laboratory staff can spend time in academic nuclear science and engineering departments.

The Secretary may under subsection (b)(1) provide for fellowships for students to spend time at Department of Energy laboratories in the areas of nuclear science and technology under the mentorship of laboratory staff.

(e) OPERATIONS AND MAINTENANCE.—To the extent that the use of a university research reactor is funded under this subtitle, funds authorized under this subtitle may be used to supplement operation of the research reactor during the investigator's proposed effort. The host institution shall provide at least 50 percent of the cost of the reactor's operation.

(f) MERIT REVIEW REQUIRED.—All grants, contracts, cooperative agreements, or other financial assistance awards under this subtitle shall be made only after independent merit review.

(g) REPORT.—Not later than 6 months after the date of the enactment of this Act, the Secretary shall prepare and transmit to the appropriate congressional committees a 5-year plan on how the programs authorized in this subtitle will be implemented. The plan shall include a review of the projected personnel needs in the fields of nuclear science and engineering and of the scope of nuclear science and engineering education programs at the Department and other Federal agencies.

SEC. 2304. AUTHORIZATION OF APPROPRIATIONS.

(a) TOTAL AUTHORIZATION.—The following sums are authorized to be appropriated to the Secretary, to remain available until expended, for the purposes of carrying out this subtitle:

(1) $30,200,000 for fiscal year 2002.
(2) $41,000,000 for fiscal year 2003.
(3) $47,900,000 for fiscal year 2004.
(4) $55,600,000 for fiscal year 2005.
(5) $64,100,000 for fiscal year 2006.

(b) GRADUATE AND UNDERGRADUATE FELLOWSHIPS.—Of the funds authorized by subsection (a), the following sums are authorized to be appropriated to carry out section 2303(b)(1):

(1) $3,000,000 for fiscal year 2002.
(2) $3,100,000 for fiscal year 2003.
(3) $3,200,000 for fiscal year 2004.
(4) $3,200,000 for fiscal year 2005.
(5) $3,200,000 for fiscal year 2006.

(c) JUNIOR FACULTY RESEARCH INITIATION GRANT PROGRAM.—Of the funds authorized by subsection (a), the following sums are authorized to be appropriated to carry out section 2303(b)(2):

(1) $5,000,000 for fiscal year 2002.
(2) $7,000,000 for fiscal year 2003.
(3) $8,000,000 for fiscal year 2004.
(4) $9,000,000 for fiscal year 2005.
(5) $10,000,000 for fiscal year 2006.

(d) NUCLEAR ENGINEERING EDUCATION RESEARCH PROGRAM.—Of the funds authorized by subsection (a), the following sums are authorized to be appropriated to carry out section 2303(b)(3):

(1) $8,000,000 for fiscal year 2002.
(2) $12,000,000 for fiscal year 2003.
(3) $13,000,000 for fiscal year 2004.
(4) $15,000,000 for fiscal year 2005.
(5) $20,000,000 for fiscal year 2006.

(e) COMMUNICATION AND OUTREACH RELATED TO NUCLEAR SCIENCE AND ENGINEERING.—Of the funds authorized by subsection (a), the following sums are authorized to be appropriated to carry out section 2303(b)(5):

(1) $200,000 for fiscal year 2002.
(2) $200,000 for fiscal year 2003.
(3) $300,000 for fiscal year 2004.
(4) $300,000 for fiscal year 2005.
(5) $300,000 for fiscal year 2006.

(f) REFUELING OF UNIVERSITY RESEARCH REACTORS AND INSTRUMENTATION UPGRADES.—Of the funds authorized by subsection (a), the following sums are authorized to be appropriated to carry out section 2303(c)(1):

(1) $6,000,000 for fiscal year 2002.
(2) $6,500,000 for fiscal year 2003.
(3) $7,000,000 for fiscal year 2004.
(4) $7,500,000 for fiscal year 2005.
(5) $8,000,000 for fiscal year 2006.

(g) RELICENSING ASSISTANCE.—Of the funds authorized by subsection (a), the following sums are authorized to be appropriated to carry out section 2303(c)(2):

(1) $1,000,000 for fiscal year 2002.
(2) $1,100,000 for fiscal year 2003.
(3) $1,200,000 for fiscal year 2004.
(4) $1,300,000 for fiscal year 2005.
(5) $1,300,000 for fiscal year 2006.

(h) REACTOR RESEARCH AND TRAINING AWARD PROGRAM.—Of the funds authorized by subsection (a), the following sums are authorized to be appropriated to carry out section 2303(c)(3):

(1) $6,000,000 for fiscal year 2002.
(2) $10,000,000 for fiscal year 2003.
(3) $14,000,000 for fiscal year 2004.
(4) $18,000,000 for fiscal year 2005.
(5) $20,000,000 for fiscal year 2006.

(i) UNIVERSITY-DOE LABORATORY INTERACTIONS.—Of the funds authorized by subsection (a), the following sums are authorized to be appropriated to carry out section 2303(d):

(1) $1,000,000 for fiscal year 2002.
(2) $1,100,000 for fiscal year 2003.
(3) $1,200,000 for fiscal year 2004.
(4) $1,300,000 for fiscal year 2005.
(5) $1,300,000 for fiscal year 2006.

Subtitle B—Advanced Fuel Recycling Technology Research and Development Program

SEC. 2321. PROGRAM.

(a) IN GENERAL.—The Secretary, through the Director of the Office of Nuclear Energy, Science and Technology, shall conduct an advanced fuel recycling technology research and development program to further the availability of proliferation-resistant fuel recycling technologies as an alternative to aqueous reprocessing in support of evaluation of alternative national strategies for spent nuclear fuel and the Generation IV advanced reactor concepts, subject to annual review by the Secretary's Nuclear Energy Research Advisory Committee or other independent entity, as appropriate.

(b) REPORTS.—The Secretary shall report on the activities of the advanced fuel recycling technology research and development program, as part of the Department's annual budget submission.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out this section—

(1) $10,000,000 for fiscal year 2002; and

(2) such sums as are necessary for fiscal year 2003 and fiscal year 2004.

Subtitle C—Department of Energy Authorization of Appropriations

SEC. 2341. NUCLEAR ENERGY RESEARCH INITIATIVE.

(a) PROGRAM.—The Secretary, through the Office of Nuclear Energy, Science and Technology, shall conduct a Nuclear Energy Research Initiative for grants to be competitively awarded and subject to peer review for research relating to nuclear energy.

(b) OBJECTIVES.—The program shall be directed toward accomplishing the objectives of—

(1) developing advanced concepts and scientific breakthroughs in nuclear fission and reactor technology to address and overcome the principal technical and scientific obstacles to the expanded use of nuclear energy in the United States;

(2) advancing the state of nuclear technology to maintain a competitive position in foreign markets and a future domestic market;

(3) promoting and maintaining a United States nuclear science and engineering infrastructure to meet future technical challenges;

(4) providing an effective means to collaborate on a cost-shared basis with international agencies and research organizations to address and influence nuclear technology development worldwide; and

(5) promoting United States leadership and partnerships in bilateral and multilateral nuclear energy research.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out this section—

(1) $60,000,000 for fiscal year 2002; and

(2) such sums as are necessary for fiscal year 2003 and fiscal year 2004.

SEC. 2342. NUCLEAR ENERGY PLANT OPTIMIZATION PROGRAM.

(a) PROGRAM.—The Secretary, through the Office of Nuclear Energy, Science and Technology, shall conduct a Nuclear Energy Plant Optimization research and development program jointly with industry and cost-shared by industry by at least 50 percent and subject to annual review by the Secretary's Nuclear Energy Research Advisory Committee or other independent entity, as appropriate.

(b) OBJECTIVES.—The program shall be directed toward accomplishing the objectives of—

(1) managing long-term effects of component aging; and

(2) improving the efficiency and productivity of existing nuclear power stations.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out this section—

(1) $15,000,000 for fiscal year 2002; and

(2) such sums as are necessary for fiscal years 2003 and 2004.

SEC. 2343. NUCLEAR ENERGY TECHNOLOGIES.

(a) IN GENERAL.—The Secretary, through the Office of Nuclear Energy, Science and

Technology, shall conduct a study of Generation IV nuclear energy systems, including development of a technology roadmap and performance of research and development necessary to make an informed technical decision regarding the most promising candidates for commercial application.

(b) REACTOR CHARACTERISTICS.—To the extent practicable, in conducting the study under subsection (a), the Secretary shall study nuclear energy systems that offer the highest probability of achieving the goals for Generation IV nuclear energy systems, including—

(1) economics competitive with any other generators;

(2) enhanced safety features, including passive safety features;

(3) substantially reduced production of high-level waste, as compared with the quantity of waste produced by reactors in operation on the date of the enactment of this Act;

(4) highly proliferation-resistant fuel and waste;

(5) sustainable energy generation including optimized fuel utilization; and

(6) substantially improved thermal efficiency, as compared with the thermal efficiency of reactors in operation on the date of the enactment of this Act.

(c) CONSULTATION.—In conducting the study under subsection (a), the Secretary shall consult with appropriate representatives of industry, institutions of higher education, Federal agencies, and international, professional, and technical organizations.

(d) REPORT.—

(1) IN GENERAL.—Not later than December 31, 2002, the Secretary shall transmit to the appropriate congressional committees a report describing the activities of the Secretary under this section, and plans for research and development leading to a public/private cooperative demonstration of one or more Generation IV nuclear energy systems.

(2) CONTENTS.—The report shall contain—

(A) an assessment of all available technologies;

(B) a summary of actions needed for the most promising candidates to be considered as viable commercial options within the five to ten years after the date of the report, with consideration of regulatory, economic, and technical issues;

(C) a recommendation of not more than three promising Generation IV nuclear energy system concepts for further development;

(D) an evaluation of opportunities for public/private partnerships;

(E) a recommendation for structure of a public/private partnership to share in development and construction costs;

(F) a plan leading to the selection and conceptual design, by September 30, 2004, of at least one Generation IV nuclear energy system concept recommended under subparagraph (C) for demonstration through a public/private partnership;

(G) an evaluation of opportunities for siting demonstration facilities on Department of Energy land; and

(H) a recommendation for appropriate involvement of other Federal agencies.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out this section and to carry out the recommendations in the report transmitted under subsection (d)—

(1) $20,000,000 for fiscal year 2002; and

(2) such sums as are necessary for fiscal year 2003 and fiscal year 2004.

SEC. 2344. AUTHORIZATION OF APPROPRIATIONS.

(a) OPERATION AND MAINTENANCE.—There are authorized to be appropriated to the Secretary to carry out activities authorized under this title for nuclear energy operation and maintenance, including amounts authorized under sections 2304(a), 2321(c), 2341(c), 2342(c), and 2343(e), and including Advanced Radioisotope Power Systems, Test Reactor Landlord, and Program Direction, $191,200,000 for fiscal year 2002, $199,000,000 for fiscal year 2003, and $207,000,000 for fiscal year 2004, to remain available until expended.

(b) CONSTRUCTION.—There are authorized to be appropriated to the Secretary—

(1) $950,000 for fiscal year 2002, $2,200,000 for fiscal year 2003, $1,246,000 for fiscal year 2004, and $1,699,000 for fiscal year 2005 for completion of construction of Project 99-E-200, Test Reactor Area Electric Utility Upgrade, Idaho National Engineering and Environmental Laboratory; and

(2) $500,000 for fiscal year 2002, $500,000 for fiscal year 2003, $500,000 for fiscal year 2004, and $500,000 for fiscal year 2005, for completion of construction of Project 95-E-201, Test Reactor Area Fire and Life Safety Improvements, Idaho National Engineering and Environmental Laboratory.

(c) LIMITS ON USE OF FUNDS.—None of the funds authorized to be appropriated in subsection (a) may be used for—

(1) Nuclear Energy Isotope Support and Production;

(2) Argonne National Laboratory-West Operations;

(3) Fast Flux Test Facility; or

(4) Nuclear Facilities Management.

TITLE IV—FOSSIL ENERGY

Subtitle A—Coal

SEC. 2401. COAL AND RELATED TECHNOLOGIES PROGRAMS.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary $172,000,000 for fiscal year 2002, $179,000,000 for fiscal year 2003, and $186,000,000 for fiscal year 2004, to remain available until expended, for other coal and related technologies research and development programs, which shall include—

(1) Innovations for Existing Plants;

(2) Integrated Gasification Combined Cycle;

(3) advanced combustion systems;

(4) Turbines;

(5) Sequestration Research and Development;

(6) innovative technologies for demonstration;

(7) Transportation Fuels and Chemicals;

(8) Solid Fuels and Feedstocks;

(9) Advanced Fuels Research; and

(10) Advanced Research.

(b) LIMIT ON USE OF FUNDS.—Notwithstanding subsection (a), no funds may be used to carry out the activities authorized by this section after September 30, 2002, unless the Secretary has transmitted to the Congress the report required by this subsection and 1 month has elapsed since that transmission. The report shall include a plan containing—

(1) a detailed description of how proposals will be solicited and evaluated, including a list of all activities expected to be undertaken;

(2) a detailed list of technical milestones for each coal and related technology that will be pursued;

(3) a description of how the programs authorized in this section will be carried out so as to complement and not duplicate activities authorized under division E.

(c) GASIFICATION.—The Secretary shall fund at least one gasification project with the funds authorized under this section.

Subtitle B—Oil and Gas

SEC. 2421. PETROLEUM-OIL TECHNOLOGY.

The Secretary shall conduct a program of research, development, demonstration, and commercial application on petroleum-oil technology. The program shall address—

(1) Exploration and Production Supporting Research;

(2) Oil Technology Reservoir Management/Extension; and

(3) Effective Environmental Protection.

SEC. 2422. GAS.

The Secretary shall conduct a program of research, development, demonstration, and commercial application on natural gas technologies. The program shall address—

(1) Exploration and Production;

(2) Infrastructure; and

(3) Effective Environmental Protection.

SEC. 2423. NATURAL GAS AND OIL DEPOSITS REPORT.

Two years after the date of the enactment of this Act, and at 2-year intervals thereafter, the Secretary of the Interior, in consultation with other appropriate Federal agencies, shall transmit a report to the Congress assessing the contents of natural gas and oil deposits at existing drilling sites off the coast of Louisiana and Texas.

SEC. 2424. OIL SHALE RESEARCH.

There are authorized to be appropriated to the Secretary of Energy for fiscal year 2002 $10,000,000, to be divided equally between grants for research on Eastern oil shale and grants for research on Western oil shale.

Subtitle C—Ultra-Deepwater and Unconventional Drilling

SEC. 2441. SHORT TITLE.

This subtitle may be cited as the ''Natural Gas and Other Petroleum Research, Development, and Demonstration Act of 2001''.

SEC. 2442. DEFINITIONS.

For purposes of this subtitle—

(1) the term ''deepwater'' means water depths greater than 200 meters but less than 1,500 meters;

(2) the term ''Fund'' means the Ultra-Deepwater and Unconventional Gas Research Fund established under section 2450;

(3) the term ''institution of higher education'' has the meaning given that term in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001);

(4) the term ''Research Organization'' means the Research Organization created pursuant to section 2446(a);

(5) the term ''ultra-deepwater'' means water depths greater than 1,500 meters; and

(6) the term ''unconventional'' means located in heretofore inaccessible or uneconomic formations on land.

SEC. 2443. ULTRA-DEEPWATER PROGRAM.

The Secretary shall establish a program of research, development, and demonstration of ultra-deepwater natural gas and other petroleum exploration and production technologies, in areas currently available for Outer Continental Shelf leasing. The program shall be carried out by the Research Organization as provided in this subtitle.

SEC. 2444. NATIONAL ENERGY TECHNOLOGY LABORATORY.

The National Energy Technology Laboratory and the United States Geological Survey, when appropriate, shall carry out programs of long-term research into new natural gas and other petroleum exploration and production technologies and environmental mitigation technologies for production from unconventional and ultra-deepwater resources, including methane hydrates. Such Laboratory shall also conduct a program of research, development, and demonstration of new technologies for the reduction of greenhouse gas emissions from unconventional and ultra-deepwater natural gas or other petroleum exploration and production activities, including sub-sea floor carbon sequestration technologies.

SEC. 2445. ADVISORY COMMITTEE.

(a) ESTABLISHMENT.—The Secretary shall, within 3 months after the date of the enactment of this Act, establish an Advisory Committee consisting of 7 members, each having extensive operational knowledge of and experience in the natural gas and other petroleum exploration and production industry who are not Federal Government employees or contractors. A minimum of 4 members shall have extensive knowledge of ultra-deepwater natural gas or other petroleum exploration and production technologies, a minimum of 2 members shall have extensive knowledge of unconventional natural gas or other petroleum exploration and production technologies, and at least 1 member shall have extensive knowledge of greenhouse gas emission reduction technologies, including carbon sequestration.

(b) FUNCTION.—The Advisory Committee shall advise the Secretary on the selection of an organization to create the Research Organization and on the implementation of this subtitle.

(c) COMPENSATION.—Members of the Advisory Committee shall serve without compensation but shall receive travel expenses, including per diem in lieu of subsistence, in accordance with applicable provisions under subchapter I of chapter 57 of title 5, United States Code.

(d) ADMINISTRATIVE COSTS.—The costs of activities carried out by the Secretary and the Advisory Committee under this subtitle shall be paid or reimbursed from the Fund.

(e) DURATION OF ADVISORY COMMITTEE.—Section 14 of the Federal Advisory Committee Act shall not apply to the Advisory Committee.

SEC. 2446. RESEARCH ORGANIZATION.

(a) SELECTION OF RESEARCH ORGANIZATION.—The Secretary, within 6 months after the date of the enactment of this Act, shall solicit proposals from eligible entities for the creation of the Research Organization, and within 3 months after such solicitation, shall select an entity to create the Research Organization.

(b) ELIGIBLE ENTITIES.—Entities eligible to create the Research Organization shall—

(1) have been in existence as of the date of the enactment of this Act;

(2) be entities exempt from tax under section 501(c)(3) of the Internal Revenue Code of 1986; and

(3) be experienced in planning and managing programs in natural gas or other petroleum exploration and production research, development, and demonstration.

(c) PROPOSALS.—A proposal from an entity seeking to create the Research Organization shall include a detailed description of the proposed membership and structure of the Research Organization.

(d) FUNCTIONS.—The Research Organization shall—

(1) award grants on a competitive basis to qualified—

(A) research institutions;

(B) institutions of higher education;

(C) companies; and

(D) consortia formed among institutions and companies described in subparagraphs (A) through (C) for the purpose of conducting research, development, and demonstration of unconventional and ultra-deepwater natural gas or other petroleum exploration and production technologies; and

(2) review activities under those grants to ensure that they comply with the requirements of this subtitle and serve the purposes for which the grant was made.

SEC. 2447. GRANTS.

(a) TYPES OF GRANTS.—

(1) UNCONVENTIONAL.—The Research Organization shall award grants for research, development, and demonstration of technologies to maximize the value of the Government's natural gas and other petroleum resources in unconventional reservoirs, and to develop technologies to increase the supply of natural gas and other petroleum resources by lowering the cost and improving the efficiency of exploration and production of unconventional reservoirs, while improving safety and minimizing environmental impacts.

(2) ULTRA-DEEPWATER.—The Research Organization shall award grants for research, development, and demonstration of natural gas or other petroleum exploration and production technologies to—

(A) maximize the value of the Federal Government's natural gas and other petroleum resources in the ultra-deepwater areas;

(B) increase the supply of natural gas and other petroleum resources by lowering the cost and improving the efficiency of exploration and production of ultra-deepwater reservoirs; and

(C) improve safety and minimize the environmental impacts of ultra-deepwater developments.

(3) ULTRA-DEEPWATER ARCHITECTURE.—The Research Organization shall award a grant to one or more consortia described in section 2446(d)(1)(D) for the purpose of developing and demonstrating the next generation architecture for ultra-deepwater production of natural gas and other petroleum in furtherance of the purposes stated in paragraph (2)(A) through (C).

(b) CONDITIONS FOR GRANTS.—Grants provided under this section shall contain the following conditions:

(1) If the grant recipient consists of more than one entity, the recipient shall provide a signed contract agreed to by all participating members clearly defining all rights to intellectual property for existing technology and for future inventions conceived and developed using funds provided under the grant, in a manner that is consistent with applicable laws.

(2) There shall be a repayment schedule for Federal dollars provided for demonstration projects under the grant in the event of a successful commercialization of the demonstrated technology. Such repayment schedule shall provide that the payments are made to the Secretary with the express intent that these payments not impede the adoption of the demonstrated technology in the marketplace. In the event that such impedance occurs due to market forces or other factors, the Research Organization shall renegotiate the grant agreement so that the acceptance of the technology in the marketplace is enabled.

(3) Applications for grants for demonstration projects shall clearly state the intended commercial applications of the technology demonstrated.

(4) The total amount of funds made available under a grant provided under subsection (a)(3) shall not exceed 50 percent of the total cost of the activities for which the grant is provided.

(5) The total amount of funds made available under a grant provided under subsection (a)(1) or (2) shall not exceed 50 percent of the total cost of the activities covered by the grant, except that the Research Organization may elect to provide grants covering a higher percentage, not to exceed 90 percent, of total project costs in the case of grants made solely to independent producers.

(6) An appropriate amount of funds provided under a grant shall be used for the broad dissemination of technologies developed under the grant to interested institutions of higher education, industry, and appropriate Federal and State technology entities to ensure the greatest possible benefits for the public and use of government resources.

(7) Demonstrations of ultra-deepwater technologies for which funds are provided under a grant may be conducted in ultra-deepwater or deepwater locations.

(c) ALLOCATION OF FUNDS.—Funds available for grants under this subtitle shall be allocated as follows:

(1) 15 percent shall be for grants under subsection (a)(1).

(2) 15 percent shall be for grants under subsection (a)(2).

(3) 60 percent shall be for grants under subsection (a)(3).

(4) 10 percent shall be for carrying out section 2444.

SEC. 2448. PLAN AND FUNDING.

(a) TRANSMITTAL TO SECRETARY.—The Research Organization shall transmit to the Secretary an annual plan proposing projects and funding of activities under each paragraph of section 2447(a).

(b) REVIEW.—The Secretary shall have 1 month to review the annual plan, and shall approve the plan, if it is consistent with this subtitle. If the Secretary approves the plan, the Secretary shall provide funding as proposed in the plan.

(c) DISAPPROVAL.—If the Secretary does not approve the plan, the Secretary shall notify the Research Organization of the reasons for disapproval and shall withhold funding until a new plan is submitted which the Secretary approves. Within 1 month after notifying the Research Organization of a disapproval, the Secretary shall notify the appropriate congressional committees of the disapproval.

SEC. 2449. AUDIT.

The Secretary shall retain an independent, commercial auditor to determine the extent to which the funds authorized by this subtitle have been expended in a manner consistent with the purposes of this subtitle. The auditor shall transmit a report annually to the Secretary, who shall transmit the report to the appropriate congressional committees, along with a plan to remedy any deficiencies cited in the report.

SEC. 2450. FUND.

(a) ESTABLISHMENT.—There is established in the Treasury of the United States a fund to be known as the ''Ultra-Deepwater and Unconventional Gas Research Fund'' which shall be available for obligation to the extent provided in advance in appropriations Acts for allocation under section 2447(c).

(b) FUNDING SOURCES.—

(1) LOANS FROM TREASURY.—There are authorized to be appropriated to the Secretary $900,000,000 for the period encompassing fiscal years 2002 through 2009. Such amounts shall be deposited by the Secretary in the Fund, and shall be considered loans from the Treasury. Income received by the United States in connection with any ultra-deepwater oil and gas leases shall be deposited in the Treasury and considered as repayment for the loans under this paragraph.

(2) ADDITIONAL APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as may be necessary for the fiscal years 2002 through 2009, to be deposited in the Fund.

(3) OIL AND GAS LEASE INCOME.—To the extent provided in advance in appropriations Acts, not more than 7.5 percent of the income of the United States from Federal oil and gas leases may be deposited in the Fund for fiscal years 2002 through 2009.

SEC. 2451. SUNSET.

No funds are authorized to be appropriated for carrying out this subtitle after fiscal year 2009. The Research Organization shall be terminated when it has expended all funds made available pursuant to this subtitle.

Subtitle D—Fuel Cells

SEC. 2461. FUEL CELLS.

(a) IN GENERAL.—The Secretary shall conduct a program of research, development, demonstration, and commercial application on fuel cells. The program shall address—

(1) Advanced Research;

(2) Systems Development;

(3) Vision 21-Hybrids; and

(4) Innovative Concepts.

(b) MANUFACTURING PRODUCTION AND PROCESSES.—In addition to the program under subsection (a), the Secretary, in consultation other Federal agencies, as appropriate, shall establish a program for the demonstration of fuel cell technologies, including fuel cell proton exchange membrane technology, for commercial, residential, and transportation applications. The program shall specifically focus on promoting the application of and improved manufacturing production and processes for fuel cell technologies.

(c) AUTHORIZATION OF APPROPRIATIONS.—Within the amounts authorized to be appropriated under section 2481(a), there are authorized to be appropriated to the Secretary for the purpose of carrying out subsection (b), $28,000,000 for each of fiscal years 2002 through 2004.

Subtitle E—Department of Energy Authorization of Appropriations

SEC. 2481. AUTHORIZATION OF APPROPRIATIONS.

(a) OPERATION AND MAINTENANCE.—There are authorized to be appropriated to the Secretary for operation and maintenance for subtitle B and subtitle D, and for Fossil Energy Research and Development Headquarters Program Direction, Field Program Direction, Plant and Capital Equipment, Cooperative Research and Development, Import/Export Authorization, and Advanced Metallurgical Processes $282,000,000 for fiscal year 2002, $293,000,000 for fiscal year 2003, and $305,000,000 for fiscal year 2004, to remain available until expended.

(b) LIMITS ON USE OF FUNDS.—None of the funds authorized to be appropriated in subsection (a) may be used for—

(1) Gas Hydrates.

(2) Fossil Energy Environmental Restoration; or

(3) research, development, demonstration, and commercial application on coal and related technologies, including activities under subtitle A.

TITLE V—SCIENCE

Subtitle A—Fusion Energy Sciences

SEC. 2501. SHORT TITLE.

This subtitle may be cited as the ''Fusion Energy Sciences Act of 2001''.

SEC. 2502. 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 production 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 future should be pursued as part of a balanced national energy plan;

(5) fusion energy is an attractive long-term energy source because of the virtually inexhaustible supply of fuel, and the promise of minimal adverse environmental impact and inherent safety;

(6) the National Research Council, 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 creative innovation of the program, and has confirmed that progress toward the goal of producing practical fusion energy has been excellent, although much scientific and engineering work remains to be done;

(7) each of these reviews stressed the need for a magnetic fusion burning plasma experiment to address key scientific issues and as a necessary step in the development of fusion energy;

(8) the National Research Council 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 constructed by the United States, or even the cost of key participation by the United States in an international effort.

SEC. 2503. PLAN FOR FUSION EXPERIMENT.

(a) PLAN FOR UNITED STATES FUSION EXPERIMENT.—The Secretary, on the basis of full consultation with the Fusion Energy Sciences Advisory Committee and the Secretary of Energy Advisory Board, as appropriate, 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 the Congress by July 1, 2004.

(b) 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.

(c) 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 the Fusion Energy Sciences Advisory Committee and the Secretary of Energy Advisory Board, as appropriate, 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 (b), and an estimate of the cost of United States participation in such an international experiment. The Secretary shall request a review by the National Academies of Sciences and Engineering of a plan developed under this subsection, and shall transmit the plan and the review to the Congress not later than July 1, 2004.

(d) AUTHORIZATION OF RESEARCH AND DEVELOPMENT.—The Secretary, through the Fusion Energy Sciences Program, may conduct any research and development necessary to fully develop the plans described in this section.

SEC. 2504. PLAN FOR FUSION ENERGY SCIENCES PROGRAM.

Not later than 6 months after the date of the 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 experiments described in section 2503. 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 that the selection of and funding for new magnetic and inertial fusion research facilities is based on scientific innovation 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 2503;

(6) to ensure that inertial confinement fusion facilities are utilized to the extent practicable for the purpose of inertial fusion energy research and development;

(7) to develop a roadmap for a fusion-based energy source that shows the important scientific questions, the evolution of confinement configurations, the relation between these two features, and their relation to the fusion energy goal;

(8) to establish several new centers of excellence, selected through a competitive peer-review process and devoted to exploring the frontiers of fusion science;

(9) to ensure that the National Science Foundation, and other agencies, as appropriate, play a role in extending the reach of fusion science and in sponsoring general plasma science; and

(10) to ensure that there be continuing broad assessments of the outlook for fusion energy and periodic external reviews of fusion energy sciences.

SEC. 2505. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary for the development and review, but not for implementation, of the plans described in this subtitle and for activities of the Fusion Energy Sciences Program $320,000,000 for fiscal year 2002 and $335,000,000 for fiscal year 2003, of which up to $15,000,000 for each of fiscal year 2002 and fiscal year 2003 may be used to establish several new centers of excellence, selected through a competitive peer-review process and devoted to exploring the frontiers of fusion science.

Subtitle B—Spallation Neutron Source

SEC. 2521. DEFINITION.

For the purposes of this subtitle, the term ''Spallation Neutron Source'' means Department Project 99–E–334, Oak Ridge National Laboratory, Oak Ridge, Tennessee.

SEC. 2522. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION OF CONSTRUCTION FUNDING.—There are authorized to be appropriated to the Secretary for construction of the Spallation Neutron Source—

(1) $276,300,000 for fiscal year 2002;

(2) $210,571,000 for fiscal year 2003;

(3) $124,600,000 for fiscal year 2004;

(4) $79,800,000 for fiscal year 2005; and

(5) $41,100,000 for fiscal year 2006 for completion of construction.

(b) AUTHORIZATION OF OTHER PROJECT FUNDING.—There are authorized to be appropriated to the Secretary for other project costs (including research and development necessary to complete the project, preoperations costs, and capital equipment not related to construction) of the Spallation Neutron Source $15,353,000 for fiscal year 2002 and $103,279,000 for the period encompassing fiscal years 2003 through 2006, to remain available until expended through September 30, 2006.

SEC. 2523. REPORT.

The Secretary shall report on the Spallation Neutron Source as part of the Department's annual budget submission, including a description of the achievement of milestones, a comparison of actual costs to estimated costs, and any changes in estimated project costs or schedule.

SEC. 2524. LIMITATIONS.

The total amount obligated by the Department, including prior year appropriations, for the Spallation Neutron Source may not exceed—

(1) $1,192,700,000 for costs of construction;

(2) $219,000,000 for other project costs; and

(3) $1,411,700,000 for total project cost.

Subtitle C—Facilities, Infrastructure, and User Facilities

SEC. 2541. DEFINITION.

For purposes of this subtitle—

(1) the term ''nonmilitary energy laboratory'' means—

(A) Ames Laboratory;

(B) Argonne National Laboratory;

(C) Brookhaven National Laboratory;

(D) Fermi National Accelerator Laboratory;

(E) Lawrence Berkeley National Laboratory;

(F) Oak Ridge National Laboratory;

(G) Pacific Northwest National Laboratory;

(H) Princeton Plasma Physics Laboratory;

(I) Stanford Linear Accelerator Center;

(J) Thomas Jefferson National Accelerator Facility; or

(K) any other facility of the Department that the Secretary, in consultation with the Director, Office of Science and the appropriate congressional committees, determines to be consistent with the mission of the Office of Science; and

(2) the term ''user facility'' means—

(A) an Office of Science facility at a nonmilitary energy laboratory that provides special scientific and research capabilities, including technical expertise and support as appropriate, to serve the research needs of the Nation's universities, industry, private laboratories, Federal laboratories, and others, including research institutions or individuals from other nations where reciprocal accommodations are provided to United States research institutions and individuals or where the Secretary considers such accommodation to be in the national interest; and

(B) any other Office of Science funded facility designated by the Secretary as a user facility.

SEC. 2542. FACILITY AND INFRASTRUCTURE SUPPORT FOR NONMILITARY ENERGY LABORATORIES.

(a) FACILITY POLICY.—The Secretary shall develop and implement a least-cost nonmilitary energy laboratory facility and infrastructure strategy for—

(1) maintaining existing facilities and infrastructure, as needed;

(2) closing unneeded facilities;

(3) making facility modifications; and

(4) building new facilities.

(b) PLAN.—The Secretary shall prepare a comprehensive 10-year plan for conducting future facility maintenance, making repairs, modifications, and new additions, and constructing new facilities at each nonmilitary energy laboratory. Such plan shall provide for facilities work in accordance with the following priorities:

(1) Providing for the safety and health of employees, visitors, and the general public with regard to correcting existing structural, mechanical, electrical, and environmental deficiencies.

(2) Providing for the repair and rehabilitation of existing facilities to keep them in use and prevent deterioration, if feasible.

(3) Providing engineering design and construction services for those facilities that require modification or additions in order to meet the needs of new or expanded programs.

(c) REPORT.—

(1) TRANSMITTAL.—Within 1 year after the date of the enactment of this Act, the Secretary shall prepare and transmit to the appropriate congressional committees a report containing the plan prepared under subsection (b).

(2) CONTENTS.—For each nonmilitary energy laboratory, such report shall contain—

(A) the current priority list of proposed facilities and infrastructure projects, including cost and schedule requirements;

(B) a current ten-year plan that demonstrates the reconfiguration of its facilities and infrastructure to meet its missions and to address its long-term operational costs and return on investment;

(C) the total current budget for all facilities and infrastructure funding; and

(D) the current status of each facilities and infrastructure project compared to the original baseline cost, schedule, and scope.

(3) ADDITIONAL ELEMENTS.—The report shall also—

(A) include a plan for new facilities and facility modifications at each nonmilitary energy laboratory that will be required to meet the Department's changing missions of the twenty-first century, including schedules and estimates for implementation, and including a section outlining long-term funding requirements consistent with anticipated budgets and annual authorization of appropriations;

(B) address the coordination of modernization and consolidation of facilities among the nonmilitary energy laboratories in order to meet changing mission requirements; and

(C) provide for annual reports to the appropriate congressional committees on accomplishments, conformance to schedules, commitments, and expenditures.

SEC. 2543. USER FACILITIES.

(a) NOTICE REQUIREMENT.—When the Department makes a user facility available to universities 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 public notice of such availability or such need for input to universities and other potential users.

(b) COMPETITION REQUIREMENT.—When the Department considers the participation of a university or other potential user in the establishment or operation of a user facility, the Department shall employ full and open competition in selecting such a participant.

(c) PROHIBITION.—The Department may not redesignate a user facility, as defined by section 2541(b) as something other than a user facility for avoid the requirements of subsections (a) and (b).

Subtitle D—Advisory Panel on Office of Science

SEC. 2561. ESTABLISHMENT.

The Director of the Office of Science and Technology Policy, in consultation with the Secretary, shall establish an Advisory Panel on the Office of Science comprised of knowledgeable individuals to—

(1) address concerns about the current status and the future of scientific research supported by the Office;

(2) examine alternatives to the current organizational structure of the Office within the Department, taking into consideration existing structures for the support of scientific research in other Federal agencies and the private sector; and

(3) suggest actions to strengthen the scientific research supported by the Office that might be taken jointly by the Department and Congress.

SEC. 2562. REPORT.

Within 6 months after the date of the enactment of this Act, the Advisory Panel shall transmit its findings and recommendations in a report to the Director of the Office of Science and Technology Policy and the Secretary. The Director and the Secretary shall jointly—

(1) consider each of the Panel's findings and recommendations, and comment on each as they consider appropriate; and

(2) transmit the Panel's report and the comments of the Director and the Secretary on the report to the appropriate congressional committees within 9 months after the date of the enactment of this Act.

Subtitle E—Department of Energy Authorization of Appropriations

SEC. 2581. AUTHORIZATION OF APPROPRIATIONS.

(a) OPERATION AND MAINTENANCE.—Including the amounts authorized to be appropriated for fiscal year 2002 under section 2505 for Fusion Energy Sciences and under section 2522(b) for the Spallation Neutron Source, there are authorized to be appropriated to the Secretary for the Office of Science (also including subtitle C, High Energy Physics, Nuclear Physics, Biological and Environmental Research, Basic Energy Sciences (except for the Spallation Neutron Source), Advanced Scientific Computing Research, Energy Research Analysis, Multiprogram Energy Laboratories-Facilities Support, Facilities and Infrastructure, Safeguards and Security, and Program Direction) operation and maintenance $3,299,558,000 for fiscal year 2002, to remain available until expended.

(b) RESEARCH REGARDING PRECIOUS METAL CATALYSIS.—Within the amounts authorized to be appropriated to the Secretary under subsection (a), $5,000,000 for fiscal year 2002 may be used to carry out research in the use of precious metals (excluding platinum, palladium, and rhodium) in catalysis, either directly though national laboratories, or through the award of grants, cooperative agreements, or contracts with public or nonprofit entities.

(c) CONSTRUCTION.—In addition to the amounts authorized to be appropriated under section 2522(a) for construction of the Spallation Neutron Source, there are authorized to be appropriated to the Secretary for Science—

(1) $19,400,000 for fiscal year 2002, $14,800,000 for fiscal year 2003, and $8,900,000 for fiscal year 2004 for completion of constuction of Project 98–G–304, Neutrinos at the Main Injector, Fermi National Accelerator Laboratory;

(2) $11,405,000 for fiscal year 2002 for completion of construction of Project 01-E-300, Laboratory for Comparative and Functional Genomics, Oak Ridge National Laboratory;

(3) $4,000,000 for fiscal year 2002, $8,000,000 for fiscal year 2003, and $2,000,000 for fiscal year 2004 for completion of construction of Project 02-SC-002, Project Engineering Design (PED), Various Locations;

(4) $3,183,000 for fiscal year 2002 for completion of construction of Project 02-SC-002, Multiprogram Energy Laboratories Infrastructure Project Engineering Design (PED), Various Locations; and

(5) $18,633,000 for fiscal year 2002 and $13,029,000 for fiscal year 2003 for completion of construction of Project MEL-001, Multiprogram Energy Laboratories, Infrastructure, Various Locations.

(d) LIMITS ON USE OF FUNDS.—None of the funds authorized to be appropriated in subsection (c) may be used for construction at any national security laboratory as defined in section 3281(1) of the National Defense Authorization Act for Fiscal Year 2000 (50

U.S.C. 2471(1)) or at any nuclear weapons production facility as defined in section 3281(2) of the National Defense Authorization Act for Fiscal Year 2000 (50 U.S.C. 2471(2)).

TITLE VI—MISCELLANEOUS

Subtitle A—General Provisions for the Department of Energy

SEC. 2601. RESEARCH, DEVELOPMENT, DEMONSTRATION, AND COMMERCIAL APPLICATION OF ENERGY TECHNOLOGY PROGRAMS, PROJECTS, AND ACTIVITIES.

(a) AUTHORIZED ACTIVITIES.—Except as otherwise provided in this division, research, development, demonstration, and commercial application programs, projects, and activities for which appropriations are authorized under this division may be carried out under the procedures of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5901 et seq.), the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.), or any other Act under which the Secretary is authorized to carry out such programs, projects, and activities, but only to the extent the Secretary is authorized to carry out such activities under each such Act.

(b) AUTHORIZED AGREEMENTS.—Except as otherwise provided in this division, in carrying out research, development, demonstration, and commercial application programs, projects, and activities for which appropriations are authorized under this division, the Secretary may use, to the extent authorized under applicable provisions of law, contracts, cooperative agreements, cooperative research and development agreements under the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.), grants, joint ventures, and any other form of agreement available to the Secretary.

(c) DEFINITION.—For purposes of this section, the term ''joint venture'' has the meaning given that term under section 2 of the National Cooperative Research and Production Act of 1993 (15 U.S.C. 4301), except that such term may apply under this section to research, development, demonstration, and commercial application of energy technology joint ventures.

(d) PROTECTION OF INFORMATION.—Section 12(c)(7) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a(c)(7)), relating to the protection of information, shall apply to research, development, demonstration, and commercial application of energy technology programs, projects, and activities for which appropriations are authorized under this division.

(e) INVENTIONS.—An invention conceived and developed by any person using funds provided through a grant under this division shall be considered a subject invention for the purposes of chapter 18 of title 35, United States Code (commonly referred to as the Bayh-Dole Act).

(f) OUTREACH.—The Secretary shall ensure that each program authorized by this division includes an outreach component to provide information, as appropriate, to manufacturers, consumers, engineers, architects, builders, energy service companies, universities, facility planners and managers, State and local governments, and other entities.

(g) GUIDELINES AND PROCEDURES.—The Secretary shall provide guidelines and procedures for the transition, where appropriate, of energy technologies from research through development and demonstration to commercial application of energy technology. Nothing in this section shall preclude the Secretary from—

(1) entering into a contract, cooperative agreement, cooperative research and development agreement under the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.), grant, joint venture, or any other form of agreement available to the Secretary under this section that relates to research, development, demonstration, and commercial application of energy technology; or

(2) extending a contract, cooperative agreement, cooperative research and development agreement under the Stevenson-Wydler Technology Innovation Act of 1980, grant, joint venture, or any other form of agreement available to the Secretary that relates to research, development, and demonstration to cover commercial application of energy technology.

(h) APPLICATION OF SECTION.—This section shall not apply to any contract, cooperative agreement, cooperative research and development agreement under the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.), grant, joint venture, or any other form of agreement available to the Secretary that is in effect as of the date of the enactment of this Act.

SEC. 2602. LIMITS ON USE OF FUNDS.

(a) MANAGEMENT AND OPERATING CONTRACTS.—

(1) COMPETITIVE PROCEDURE REQUIREMENT.—None of the funds authorized to be appropriated to the Secretary by this division may be used to award a management and operating contract for a federally owned or operated nonmilitary energy laboratory of the Department unless such contract is awarded using competitive procedures or the Secretary grants, on a case-by-case basis, a waiver to allow for such a deviation. The Secretary may not delegate the authority to grant such a waiver.

(2) CONGRESSIONAL NOTICE.—At least 2 months before a contract award, amendment, or modification for which the Secretary intends to grant such a waiver, the Secretary shall submit to the appropriate congressional committees a report notifying the committees of the waiver and setting forth the reasons for the waiver.

(b) PRODUCTION OR PROVISION OF ARTICLES OR SERVICES.—None of the funds authorized to be appropriated to the Secretary by this division may be used to produce or provide articles or services for the purpose of selling the articles or services to a person outside the Federal Government, unless the Secretary determines that comparable articles or services are not available from a commercial source in the United States.

(c) REQUESTS FOR PROPOSALS.—None of the funds authorized to be appropriated to the Secretary by this division may be used by the Department to prepare or initiate Requests for Proposals for a program if the program has not been authorized by Congress.

SEC. 2603. COST SHARING.

(a) RESEARCH AND DEVELOPMENT.—Except as otherwise provided in this division, for research and development programs carried out under this division, the Secretary shall require a commitment from non-Federal sources of at least 20 percent of the cost of the project. The Secretary may reduce or eliminate the non-Federal requirement under this subsection if the Secretary determines that the research and development is of a basic or fundamental nature.

(b) DEMONSTRATION AND COMMERCIAL APPLICATION.—Except as otherwise provided in this division, the Secretary shall require at least 50 percent of the costs directly and specifically related to any demonstration or commercial application project under this division to be provided from non-Federal sources. The Secretary may reduce the non-Federal requirement under this subsection if the Secretary determines that the reduction is necessary and appropriate considering the technological risks involved in the project and is necessary to meet the objectives of this division.

(c) CALCULATION OF AMOUNT.—In calculating the amount of the non-Federal commitment under subsection (a) or (b), the Secretary may include personnel, services, equipment, and other resources.

SEC. 2604. LIMITATION ON DEMONSTRATION AND COMMERCIAL APPLICATION OF ENERGY TECHNOLOGY.

Except as otherwise provided in this division, the Secretary shall provide funding for scientific or energy demonstration and commercial application of energy technology programs, projects, or activities only for technologies or processes that can be reasonably expected to yield new, measurable benefits to the cost, efficiency, or performance of the technology or process.

SEC. 2605. REPROGRAMMING.

(a) AUTHORITY.—The Secretary may use amounts appropriated under this division for a program, project, or activity other than the program, project, or activity for which such amounts were appropriated only if—

(1) the Secretary has transmitted to the appropriate congressional committees a report described in subsection (b) and a period of 30 days has elapsed after such committees receive the report;

(2) amounts used for the program, project, or activity do not exceed—

(A) 105 percent of the amount authorized for the program, project, or activity; or

(B) $250,000 more than the amount authorized for the program, project, or activity, whichever is less; and

(3) the program, project, or activity has been presented to, or requested of, the Congress by the Secretary.

(b) REPORT.—(1) The report referred to in subsection (a) is a report containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of the proposed action.

(2) In the computation of the 30-day period under subsection (a), there shall be excluded any day on which either House of Congress is not in session because of an adjournment of more than 3 days to a day certain.

(c) LIMITATIONS.—(1) In no event may the total amount of funds obligated by the Secretary pursuant to this division exceed the total amount authorized to be appropriated to the Secretary by this division.

(2) Funds appropriated to the Secretary pursuant to this division may not be used for an item for which Congress has declined to authorize funds.

Subtitle B—Other Miscellaneous Provisions

SEC. 2611. NOTICE OF REORGANIZATION.

The Secretary shall provide notice to the appropriate congressional committees not later than 15 days before any reorganization of any environmental research or development, scientific or energy research, development, or demonstration, or commercial application of energy technology program, project, or activity of the Department.

SEC. 2612. LIMITS ON GENERAL PLANT PROJECTS.

If, at any time during the construction of a civilian environmental research and development, scientific or energy research, development, or demonstration, or commercial application of energy technology project of the Department for which no specific funding level is provided by law, the estimated cost (including any revision thereof) of the project exceeds $5,000,000, the Secretary may not continue such construction unless the Secretary has furnished a complete report to the appropriate congressional committees explaining the project and the reasons for the estimate or revision.

SEC. 2613. LIMITS ON CONSTRUCTION PROJECTS.

(a) LIMITATION.—Except as provided in subsection (b), construction on a civilian environmental research and development, scientific or energy research, development, or

demonstration, or commercial application of energy technology project of the Department for which funding has been specifically provided by law may not be started, and additional obligations may not be incurred in connection with the project above the authorized funding amount, whenever the current estimated cost of the construction project exceeds by more than 10 percent the higher of—

(1) the amount authorized for the project, if the entire project has been funded by the Congress; or

(2) the amount of the total estimated cost for the project as shown in the most recent budget justification data submitted to Congress.

(b) NOTICE.—An action described in subsection (a) may be taken if—

(1) the Secretary has submitted to the appropriate congressional committees a report on the proposed actions and the circumstances making such actions necessary; and

(2) a period of 30 days has elapsed after the date on which the report is received by the committees.

(c) EXCLUSION.—In the computation of the 30-day period described in subsection (b)(2), there shall be excluded any day on which either House of Congress is not in session because of an adjournment of more than 3 days to a day certain.

(d) EXCEPTION.—Subsections (a) and (b) shall not apply to any construction project that has a current estimated cost of less than $5,000,000.

SEC. 2614. AUTHORITY FOR CONCEPTUAL AND CONSTRUCTION DESIGN.

(a) REQUIREMENT FOR CONCEPTUAL DESIGN.—(1) Subject to paragraph (2) and except as provided in paragraph (3), before submitting to Congress a request for funds for a construction project that is in support of a civilian environmental research and development, scientific or energy research, development, or demonstration, or commercial application of energy technology program, project, or activity of the Department, the Secretary shall complete a conceptual design for that project.

(2) If the estimated cost of completing a conceptual design for a construction project exceeds $750,000, the Secretary shall submit to Congress a request for funds for the conceptual design before submitting a request for funds for the construction project.

(3) The requirement in paragraph (1) does not apply to a request for funds for a construction project, the total estimated cost of which is less than $5,000,000.

(b) AUTHORITY FOR CONSTRUCTION DESIGN.—(1) The Secretary may carry out construction design (including architectural and engineering services) in connection with any proposed construction project that is in support of a civilian environmental research and development, scientific or energy research, development, and demonstration, or commercial application of energy technology program, project, or activity of the Department if the total estimated cost for such design does not exceed $250,000.

(2) If the total estimated cost for construction design in connection with any construction project described in paragraph (1) exceeds $250,000, funds for such design must be specifically authorized by law.

SEC. 2615. NATIONAL ENERGY POLICY DEVELOPMENT GROUP MANDATED REPORTS.

(a) THE SECRETARY'S REVIEW OF ENERGY EFFICIENCY RENEWABLE ENERGY, AND ALTERNATIVE ENERGY RESEARCH AND DEVELOPMENT.—Upon completion of the Secretary's review of current funding and historic performance of the Department's energy efficiency, renewable energy, and alternative energy research and development programs in response to the recommendations of the May 16, 2001, Report of the National Energy Policy Development Group, the Secretary shall transmit a report containing the results of such review to the appropriate congressional committees.

(b) REVIEW AND RECOMMENDATIONS ON USING THE NATION'S ENERGY RESOURCES MORE EFFICIENTLY.—Upon completion of the Office of Science and Technology Policy and the President's Council of Advisors on Science and Technology reviewing and making recommendations on using the Nation's energy resources more efficiently, in response to the recommendation of the May 16, 2001, Report of the National Energy Policy Development Group, the Director of the Office of Science and Technology Policy shall transmit a report containing the results of such review and recommendations to the appropriate congressional committees.

SEC. 2616. PERIODIC REVIEWS AND ASSESSMENTS.

The Secretary shall enter into appropriate arrangements with the National Academies of Sciences and Engineering to ensure that there be periodic reviews and assessments of the programs authorized by this division, as well as the measurable cost and performance-based goals for such programs as established under section 2004, and the progress on meeting such goals. Such reviews and assessments shall be conducted at least every 5 years, or more often as the Secretary considers necessary, and the Secretary shall transmit to the appropriate congressional committees reports containing the results of such reviews and assessments.

DIVISION D

SEC. 4101. CAPACITY BUILDING FOR ENERGY-EFFICIENT, AFFORDABLE HOUSING.

Section 4(b) of the HUD Demonstration Act of 1993 (42 U.S.C. 9816 note) is amended—

(1) in paragraph (1), by inserting before the semicolon at the end the following: ", including capabilities regarding the provision of energy efficient, affordable housing and residential energy conservation measures"; and

(2) in paragraph (2), by inserting before the semicolon the following: ", including such activities relating to the provision of energy efficient, affordable housing and residential energy conservation measures that benefit low-income families".

SEC. 4102. INCREASE OF CDBG PUBLIC SERVICES CAP FOR ENERGY CONSERVATION AND EFFICIENCY ACTIVITIES.

Section 105(a)(8) of the Housing and Community Development Act of 1974 (42 U.S.C. 5305(a)(8)) is amended—

(1) by inserting "or efficiency" after "energy conservation";

(2) by striking ", and except that" and inserting "; except that"; and

(3) by inserting before the period at the end the following: "; and except that each percentage limitation under this paragraph on the amount of assistance provided under this title that may be used for the provision of public services is hereby increased by 10 percent, but such percentage increase may be used only for the provision of public services concerning energy conservation or efficiency".

SEC. 4103. FHA MORTGAGE INSURANCE INCENTIVES FOR ENERGY EFFICIENT HOUSING.

(a) SINGLE FAMILY HOUSING MORTGAGE INSURANCE.—Section 203(b)(2) of the National Housing Act (12 U.S.C. 1709(b)(2)) is amended, in the first undesignated paragraph beginning after subparagraph (B)(iii) (relating to solar energy systems)—

(1) by inserting "or paragraph (10)"; and

(2) by striking "20 percent" and inserting "30 percent".

(b) MULTIFAMILY HOUSING MORTGAGE INSURANCE.—Section 207(c) of the National Housing Act (12 U.S.C. 1713(c)) is amended, in the second undesignated paragraph beginning after paragraph (3) (relating to solar energy systems and residential energy conservation measures), by striking "20 percent" and inserting "30 percent".

(c) COOPERATIVE HOUSING MORTGAGE INSURANCE.—Section 213(p) of the National Housing Act (12 U.S.C. 1715e(p)) is amended by striking "20 per centum" and inserting "30 percent".

(d) REHABILITATION AND NEIGHBORHOOD CONSERVATION HOUSING MORTGAGE INSURANCE.—Section 220(d)(3)(B)(iii) of the National Housing Act (12 U.S.C. 1715k(d)(3)(B)(iii)) is amended by striking "20 per centum" and inserting "30 percent".

(e) LOW-INCOME MULTIFAMILY HOUSING MORTGAGE INSURANCE.—Section 221(k) of the National Housing Act (12 U.S.C. 1715l(k)) is amended by striking "20 per centum" and inserting "30 percent".

(f) ELDERLY HOUSING MORTGAGE INSURANCE.—The proviso at the end of section 213(c)(2) of the National Housing Act (12 U.S.C. 1715v(c)(2)) is amended by striking "20 per centum" and inserting "30 percent".

(g) CONDOMINIUM HOUSING MORTGAGE INSURANCE.—Section 234(j) of the National Housing Act (12 U.S.C. 1715y(j)) is amended by striking "20 per centum" and inserting "30 percent".

SEC. 4104. PUBLIC HOUSING CAPITAL FUND.

Section 9(d)(1) of the United States Housing Act of 1937 (42 U.S.C. 1437g(d)(1)) is amended—

(1) in subparagraph (I), by striking "and" at the end;

(2) in subparagraph (K), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(L) improvement of energy and water-use efficiency by installing fixtures and fittings that conform to the American Society of Mechanical Engineers/American National Standards Institute standards A112.19.2-1998 and A112.18.1-2000, or any revision thereto, applicable at the time of installation, and by increasing energy efficiency and water conservation by such other means as the Secretary determines are appropriate.".

SEC. 4105. GRANTS FOR ENERGY-CONSERVING IMPROVEMENTS FOR ASSISTED HOUSING.

Section 251(b)(1) of the National Energy Conservation Policy Act (42 U.S.C. 8231(1)) is amended—

(1) by striking "financed with loans" and inserting "assisted";

(2) by inserting after "1959," the following: "which are eligible multifamily housing projects (as such term is defined in section 512 of the Multifamily Assisted Housing Reform and Affordability Act of 1997 (42 U.S.C. 1437f note)) and are subject to a mortgage restructuring and rental assistance sufficiency plans under such Act,"; and

(3) by inserting after the period at the end of the first sentence the following new sentence: "Such improvements may also include the installation of energy and water conserving fixtures and fittings that conform to the American Society of Mechanical Engineers/American National Standards Institute standards A112.19.2-1998 and A112.18.1-2000, or any revision thereto, applicable at the time of installation.".

SEC. 4106. NORTH AMERICAN DEVELOPMENT BANK.

Part 2 of subtitle D of title V of the North American Free Trade Agreement Implementation Act (22 U.S.C. 290m–290m-3) is amended by adding at the end the following:

"SEC. 545. SUPPORT FOR CERTAIN ENERGY POLICIES.

''Consistent with the focus of the Bank's Charter on environmental infrastructure projects, the Board members representing the United States should use their voice and vote to encourage the Bank to finance projects related to clean and efficient energy, including energy conservation, that prevent, control, or reduce environmental pollutants or contaminants.''.

DIVISION E

SEC. 5000. SHORT TITLE.

This division may be cited as the ''Clean Coal Power Initiative Act of 2001''.

SEC. 5001. FINDINGS.

Congress finds that—

(1) reliable, affordable, increasingly clean electricity will continue to power the growing United States economy;

(2) an increasing use of electrotechnologies, the desire for continuous environmental improvement, a more competitive electricity market, and concerns about rising energy prices add importance to the need for reliable, affordable, increasingly clean electricity;

(3) coal, which, as of the date of the enactment of this Act, accounts for more than ½ of all electricity generated in the United States, is the most abundant fossil energy resource of the United States;

(4) coal comprises more than 85 percent of all fossil resources in the United States and exists in quantities sufficient to supply the United States for 250 years at current usage rates;

(5) investments in electricity generating facility emissions control technology over the past 30 years have reduced the aggregate emissions of pollutants from coal-based generating facilities by 21 percent, even as coal use for electricity generation has nearly tripled;

(6) continuous improvement in efficiency and environmental performance from electricity generating facilities would allow continued use of coal and preserve less abundant energy resources for other energy uses;

(7) new ways to convert coal into electricity can effectively eliminate health-threatening emissions and improve efficiency by as much as 50 percent, but initial deployment of new coal generation methods and equipment entails significant risk that generators may be unable to accept in a newly competitive electricity market; and

(8) continued environmental improvement in coal-based generation and increasing the production and supply of power generation facilities with less air emissions, with the ultimate goal of near-zero emissions, is important and desirable.

SEC. 5002. DEFINITIONS.

In this division:

(1) COST AND PERFORMANCE GOALS.—The term ''cost and performance goals'' means the cost and performance goals established under section 5004.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of Energy.

SEC. 5003. CLEAN COAL POWER INITIATIVE.

(a) IN GENERAL.—The Secretary shall carry out a program under—

(1) this division;

(2) the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5901 et seq.);

(3) the Energy Reorganization Act of 1974 (42 U.S.C. 5801 et seq.); and

(4) title XIII of the Energy Policy Act of 1992 (42 U.S.C. 13331 et seq.),

to achieve cost and performance goals established by the Secretary under section 5004.

SEC. 5004. COST AND PERFORMANCE GOALS.

(a) REVIEW AND ASSESSMENT.—The Secretary shall perform an assessment that establishes measurable cost and performance goals for 2005, 2010, 2015, and 2020 for the programs authorized by this division. Such assessment shall be based on the latest scientific, economic, and technical knowledge.

(b) CONSULTATION.—In establishing the cost and performance goals, the Secretary shall consult with representatives of—

(1) the United States coal industry;

(2) State coal development agencies;

(3) the electric utility industry;

(4) railroads and other transportation industries;

(5) manufacturers of advanced coal-based equipment;

(6) institutions of higher learning, national laboratories, and professional and technical societies;

(7) organizations representing workers;

(8) organizations formed to—

(A) promote the use of coal;

(B) further the goals of environmental protection; and

(C) promote the production and generation of coal-based power from advanced facilities; and

(9) other appropriate Federal and State agencies.

(c) TIMING.—The Secretary shall—

(1) not later than 120 days after the date of the enactment of this Act, issue a set of draft cost and performance goals for public comment; and

(2) not later than 180 days after the date of the enactment of this Act, after taking into consideration any public comments received, submit to the Committee on Energy and Commerce and the Committee on Science of the House of Representatives, and to the Senate, the final cost and performance goals.

SEC. 5005. AUTHORIZATION OF APPROPRIATIONS.

(a) CLEAN COAL POWER INITIATIVE.—Except as provided in subsection (b), there are authorized to be appropriated to the Secretary to carry out the Clean Coal Power Initiative under section 5003 $200,000,000 for each of the fiscal years 2002 through 2011, to remain available until expended.

(b) LIMIT ON USE OF FUNDS.—Notwithstanding subsection (a), no funds may be used to carry out the activities authorized by this Act after September 30, 2002, unless the Secretary has transmitted to the Committee on Energy and Commerce and the Committee on Science of the House of Representatives, and to the Senate, the report required by this subsection and 1 month has elapsed since that transmission. The report shall include, with respect to subsection (a), a 10-year plan containing—

(1) a detailed assessment of whether the aggregate funding levels provided under subsection (a) are the appropriate funding levels for that program;

(2) a detailed description of how proposals will be solicited and evaluated, including a list of all activities expected to be undertaken;

(3) a detailed list of technical milestones for each coal and related technology that will be pursued;

(4) recommendations for a mechanism for recoupment of Federal funding for successful commercial projects; and

(5) a detailed description of how the program will avoid problems enumerated in General Accounting Office reports on the Clean Coal Technology Program, including problems that have resulted in unspent funds and projects that failed either financially or scientifically.

(c) APPLICABILITY.—Subsection (b) shall not apply to any project begun before September 30, 2002.

SEC. 5006. PROJECT CRITERIA.

(a) IN GENERAL.—The Secretary shall not provide funding under this division for any project that does not advance efficiency, environmental performance, and cost competitiveness well beyond the level of technologies that are in operation or have been demonstrated as of the date of the enactment of this Act.

(b) TECHNICAL CRITERIA FOR CLEAN COAL POWER INITIATIVE.—

(1) GASIFICATION.—(A) In allocating the funds authorized under section 5005(a), the Secretary shall ensure that at least 80 percent of the funds are used only for projects on coal-based gasification technologies, including gasification combined cycle, gasification fuel cells, gasification coproduction and hybrid gasification/combustion.

(B) The Secretary shall set technical milestones specifying emissions levels that coal gasification projects must be designed to and reasonably expected to achieve. The milestones shall get more restrictive through the life of the program. The milestones shall be designed to achieve by 2020 coal gasification projects able—

(i) to remove 99 percent of sulfur dioxide;

(ii) to emit no more than .05 lbs of NOx per million BTU;

(iii) to achieve substantial reductions in mercury emissions; and

(iv) to achieve a thermal efficiency of 60 percent (higher heating value).

(2) OTHER PROJECTS.—For projects not described in paragraph (1), the Secretary shall set technical milestones specifying emissions levels that the projects must be designed to and reasonably expected to achieve. The milestones shall get more restrictive through the life of the program. The milestones shall be designed to achieve by 2010 projects able—

(A) to remove 97 percent of sulfur dioxide;

(B) to emit no more than .08 lbs of NOx per million BTU;

(C) to achieve substantial reductions in mercury emissions; and

(D) to achieve a thermal efficiency of 45 percent (higher heating value).

(c) FINANCIAL CRITERIA.—The Secretary shall not provide a funding award under this division unless the recipient has documented to the satisfaction of the Secretary that—

(1) the award recipient is financially viable without the receipt of additional Federal funding;

(2) the recipient will provide sufficient information to the Secretary for the Secretary to ensure that the award funds are spent efficiently and effectively; and

(3) a market exists for the technology being demonstrated or applied, as evidenced by statements of interest in writing from potential purchasers of the technology.

(d) FINANCIAL ASSISTANCE.—The Secretary shall provide financial assistance to projects that meet the requirements of subsections (a), (b), and (c) and are likely to—

(1) achieve overall cost reductions in the utilization of coal to generate useful forms of energy;

(2) improve the competitiveness of coal among various forms of energy in order to maintain a diversity of fuel choices in the United States to meet electricity generation requirements; and

(3) demonstrate methods and equipment that are applicable to 25 percent of the electricity generating facilities that use coal as the primary feedstock as of the date of the enactment of this Act.

(e) FEDERAL SHARE.—The Federal share of the cost of a coal or related technology project funded by the Secretary shall not exceed 50 percent.

(f) APPLICABILITY.—Neither the use of any particular technology, nor the achievement of any emission reduction, by any facility receiving assistance under this title shall be taken into account for purposes of making

any determination under the Clean Air Act in applying the provisions of that Act to a facility not receiving assistance under this title, including any determination concerning new source performance standards, lowest achievable emission rate, best available control technology, or any other standard, requirement, or limitation.

SEC. 5007. STUDY.

(a) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, and once every 2 years thereafter through 2016, the Secretary, in cooperation with other appropriate Federal agencies, shall transmit to the Committee on Energy and Commerce and the Committee on Science of the House of Representatives, and to the Senate, a report containing the results of a study to—

(1) identify efforts (and the costs and periods of time associated with those efforts) that, by themselves or in combination with other efforts, may be capable of achieving the cost and performance goals;

(2) develop recommendations for the Department of Energy to promote the efforts identified under paragraph (1); and

(3) develop recommendations for additional authorities required to achieve the cost and performance goals.

(b) EXPERT ADVICE.—In carrying out this section, the Secretary shall give due weight to the expert advice of representatives of the entities described in section 5004(b).

SEC. 5008. CLEAN COAL CENTERS OF EXCELLENCE.

As part of the program authorized in section 5003, the Secretary shall award competitive, merit-based grants to universities for the establishment of Centers of Excellence for Energy Systems of the Future. The Secretary shall provide grants to universities that can show the greatest potential for advancing new clean coal technologies.

DIVISION F

SEC. 6001. SHORT TITLE.

This division may be cited as the ''Energy Security Act''.

TITLE I—GENERAL PROTECTIONS FOR ENERGY SUPPLY AND SECURITY

SEC. 6101. STUDY OF EXISTING RIGHTS-OF-WAY ON FEDERAL LANDS TO DETERMINE CAPABILITY TO SUPPORT NEW PIPELINES OR OTHER TRANSMISSION FACILITIES.

(a) IN GENERAL.—Within 1 year after the date of the enactment of this Act, the head of each Federal agency that has authorized a right-of-way across Federal lands for transportation of energy supplies or transmission of electricity shall review each such right-of-way and submit a report to the Secretary of Energy and the Chairman of the Federal Energy Regulatory Commission regarding—

(1) whether the right-of-way can be used to support new or additional capacity; and

(2) what modifications or other changes, if any, would be necessary to accommodate such additional capacity.

(b) CONSULTATIONS AND CONSIDERATIONS.—In performing the review, the head of each agency shall—

(1) consult with agencies of State, tribal, or local units of government as appropriate; and

(2) consider whether safety or other concerns related to current uses might preclude the availability of a right-of-way for additional or new transportation or transmission facilities, and set forth those considerations in the report.

SEC. 6102. INVENTORY OF ENERGY PRODUCTION POTENTIAL OF ALL FEDERAL PUBLIC LANDS.

(a) INVENTORY REQUIREMENT.—The Secretary of the Interior, in consultation with the Secretary of Agriculture and the Secretary of Energy, shall conduct an inventory of the energy production potential of all Federal public lands other than national park lands and lands in any wilderness area, with respect to wind, solar, coal, and geothermal power production.

(b) LIMITATIONS.—

(1) IN GENERAL.—The Secretary shall not include in the inventory under this section the matters to be identified in the inventory under section 604 of the Energy Act of 2000 (43 U.S.C. 6217).

(2) WIND AND SOLAR POWER.—The inventory under this section—

(A) with respect to wind power production shall be limited to sites having a mean average wind speed—

(i) exceeding 12.5 miles per hour at a height of 33 feet; and

(ii) exceeding 15.7 miles per hour at a height of 164 feet; and

(B) with respect to solar power production shall be limited to areas rated as receiving 450 watts per square meter or greater.

(c) EXAMINATION OF RESTRICTIONS AND IMPEDIMENTS.—The inventory shall identify the extent and nature of any restrictions or impediments to the development of such energy production potential.

(d) GEOTHERMAL POWER.—The inventory shall include an update of the 1978 Assessment of Geothermal Resources by the United States Geological Survey.

(e) COMPLETION AND UPDATING.—The Secretary—

(1) shall complete the inventory by not later than 2 years after the date of the enactment of this Act; and

(2) shall update the inventory regularly thereafter.

(f) REPORTS.—The Secretary shall submit to the Committee on Resources of the House of Representatives and to the Committee on Energy and Natural Resources of the Senate and make publicly available—

(1) a report containing the inventory under this section, by not later than 2 years after the effective date of this section; and

(2) each update of such inventory.

SEC. 6103. REVIEW OF REGULATIONS TO ELIMINATE BARRIERS TO EMERGING ENERGY TECHNOLOGY.

(a) IN GENERAL.—Each Federal agency shall carry out a review of its regulations and standards to determine those that act as a barrier to market entry for emerging energy-efficient technologies, including fuel cells, combined heat and power, and distributed generation (including small-scale renewable energy).

(b) REPORT TO CONGRESS.—No later than 18 months after date of the enactment of this Act, each agency shall provide a report to the Congress and the President detailing all regulatory barriers to emerging energy-efficient technologies, along with actions the agency intends to take, or has taken, to remove such barriers.

(c) PERIODIC REVIEW.—Each agency shall subsequently review its regulations and standards in this manner no less frequently than every 5 years, and report their findings to the Congress and the President. Such reviews shall include a detailed analysis of all agency actions taken to remove existing barriers to emerging energy technologies.

SEC. 6104. INTERAGENCY AGREEMENT ON ENVIRONMENTAL REVIEW OF INTERSTATE NATURAL GAS PIPELINE PROJECTS.

(a) IN GENERAL.—The Secretary of Energy, in coordination with the Federal Energy Regulatory Commission, shall establish an administrative interagency task force to develop an interagency agreement to expedite and facilitate the environmental review and permitting of interstate natural gas pipeline projects.

(b) TASK FORCE MEMBERS.—The task force shall include a representative of each of the Bureau of Land Management, the United States Fish and Wildlife Service, the Army Corps of Engineers, the Forest Service, the Environmental Protection Agency, the Advisory Council on Historic Preservation, and such other agencies as the Secretary of Energy and the Federal Energy Regulatory Commission consider appropriate.

(c) TERMS OF AGREEMENT.—The interagency agreement shall require that agencies complete their review of interstate pipeline projects within a specific period of time after referral of the matter by the Federal Energy Regulatory Commission.

(d) SUBMITTAL OF AGREEMENT.—The Secretary of Energy shall submit a final interagency agreement under this section to the Congress by not later than 6 months after the effective date of this section.

SEC. 6105. ENHANCING ENERGY EFFICIENCY IN MANAGEMENT OF FEDERAL LANDS.

(a) SENSE OF THE CONGRESS.—It is the sense of Congress that Federal land managing agencies should enhance the use of energy efficient technologies in the management of natural resources.

(b) ENERGY EFFICIENT BUILDINGS.—To the extent economically practicable, the Secretary of the Interior and the Secretary of Agriculture shall seek to incorporate energy efficient technologies in public and administrative buildings associated with management of the National Park System, National Wildlife Refuge System, National Forest System, and other public lands and resources managed by such Secretaries.

(c) ENERGY EFFICIENT VEHICLES.—To the extent economically practicable, the Secretary of the Interior and the Secretary of Agriculture shall seek to use energy efficient motor vehicles, including vehicles equipped with biodiesel or hybrid engine technologies, in the management of the National Park System, National Wildlife Refuge System, and other public lands and managed by the Secretaries.

SEC. 6106. EFFICIENT INFRASTRUCTURE DEVELOPMENT.

(a) IN GENERAL.—The Secretary of Energy and the Chairman of the Federal Energy Regulatory Commission shall jointly undertake a study of the location and extent of anticipated demand growth for natural gas consumption in the Western States, herein defined as the area covered by the Western System Coordinating Council.

(b) CONTENTS.—The study under subsection (a) shall include the following:

(1) A review of natural gas demand forecasts by Western State officials, such as the California Energy Commission and the California Public Utilities Commission, which indicate the forecasted levels of demand for natural gas and the geographic distribution of that forecasted demand.

(2) A review of the locations of proposed new natural gas-fired electric generation facilities currently in the approval process in the Western States, and their forecasted impact on natural gas demand.

(3) A review of the locations of existing interstate natural gas transmission pipelines, and interstate natural gas pipelines currently in the planning stage or approval process, throughout the Western States.

(4) A review of the locations and capacity of intrastate natural gas pipelines in the Western States.

(5) Recommendations for the coordination of the development of the natural gas infrastructure indicated in paragraphs (1) through (4).

(c) REPORT.—The Secretary shall report the findings and recommendations resulting from the study required by this section to

the Committee on Energy and Commerce of the House of Representatives and to the Committee on Energy and Natural Resources of the Senate no later than 6 months after the date of the enactment of this Act. The Chairman of the Federal Energy Regulatory Commission shall report on how the Commission will factor these results into its review of applications of interstate pipelines within the Western States to the Committee on Energy and Commerce of the House of Representatives and to the Committee on Energy and Natural Resources of the Senate no later than 6 months after the date of the enactment of this Act.

TITLE II—OIL AND GAS DEVELOPMENT

Subtitle A—Offshore Oil and Gas

SEC. 6201. SHORT TITLE.

This subtitle may be referred to as the ''Royalty Relief Extension Act of 2001''.

SEC. 6202. LEASE SALES IN WESTERN AND CENTRAL PLANNING AREA OF THE GULF OF MEXICO.

(a) IN GENERAL.—For all tracts located in water depths of greater than 200 meters in the Western and Central Planning Area of the Gulf of Mexico, including that portion of the Eastern Planning Area of the Gulf of Mexico encompassing whole lease blocks lying west of 87 degrees, 30 minutes West longitude, any oil or gas lease sale under the Outer Continental Shelf Lands Act occurring within 2 years after the date of the enactment of this Act shall use the bidding system authorized in section 8(a)(1)(H) of the Outer Continental Shelf Lands Act (30 U.S.C. 1337(a)(1)(H)), except that the suspension of royalties shall be set at a volume of not less than the following:

(1) 5 million barrels of oil equivalent for each lease in water depths of 400 to 800 meters.

(2) 9 million barrels of oil equivalent for each lease in water depths of 800 to 1,600 meters.

(3) 12 million barrels of oil equivalent for each lease in water depths greater than 1,600 meters.

(b) RELATIONSHIP TO EXISTING AUTHORITY.—Except as expressly provided in this section, nothing in this section is intended to limit the authority of the Secretary of the Interior under the Outer Continental Shelf Lands Act (43 U.S.C. 1301 et seq.) to provide royalty suspension.

SEC. 6203. SAVINGS CLAUSE.

Nothing in this subtitle shall be construed to affect any offshore pre-leasing, leasing, or development moratorium, including any moratorium applicable to the Eastern Planning Area of the Gulf of Mexico located off the Gulf Coast of Florida.

SEC. 6204. ANALYSIS OF GULF OF MEXICO FIELD SIZE DISTRIBUTION, INTERNATIONAL COMPETITIVENESS, AND INCENTIVES FOR DEVELOPMENT.

(a) IN GENERAL.—The Secretary of the Interior and the Secretary of Energy shall enter into appropriate arrangements with the National Academy of Sciences to commission the Academy to perform the following:

(1) Conduct an analysis and review of existing Gulf of Mexico oil and natural gas resource assessments, including—

(A) analysis and review of assessments recently performed by the Minerals Management Service, the 1999 National Petroleum Council Gas Study, the Department of Energy's Offshore Marginal Property Study, and the Advanced Resources International, Inc. Deepwater Gulf of Mexico model; and

(B) evaluation and comparison of the accuracy of assumptions of the existing assessments with respect to resource field size distribution, hydrocarbon potential, and scenarios for leasing, exploration, and development.

(2) Evaluate the lease terms and conditions offered by the Minerals Management Service for Lease Sale 178, and compare the financial incentives offered by such terms and conditions to financial incentives offered by the terms and conditions that apply under leases for other offshore areas that are competing for the same limited offshore oil and gas exploration and development capital, including offshore areas of West Africa and Brazil.

(3) Recommend what level of incentives for all water depths are appropriate in order to ensure that the United States optimizes the domestic supply of oil and natural gas from the offshore areas of the Gulf of Mexico that are not subject to current leasing moratoria. Recommendations under this paragraph should be made in the context of the importance of the oil and natural gas resources of the Gulf of Mexico to the future energy and economic needs of the United States.

(b) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary of the Interior shall submit a report to the Committee on Resources in the House of Representatives and the Committee on Energy and Natural Resources in the Senate, summarizing the findings of the National Academy of Sciences pursuant to subsection (a) and providing recommendations of the Secretary for new policies or other actions that could help to further increase oil and natural gas production from the Gulf of Mexico.

Subtitle B—Improvements to Federal Oil and Gas Management

SEC. 6221. SHORT TITLE.

This subtitle may be cited as the ''Federal Oil and Gas Lease Management Improvement Demonstration Program Act of 2001''.

SEC. 6222. STUDY OF IMPEDIMENTS TO EFFICIENT LEASE OPERATIONS.

(a) IN GENERAL.—The Secretary of the Interior and the Secretary of Agriculture shall jointly undertake a study of the impediments to efficient oil and gas leasing and operations on Federal onshore lands in order to identify means by which unnecessary impediments to the expeditious exploration and production of oil and natural gas on such lands can be removed.

(b) CONTENTS.—The study under subsection (a) shall include the following:

(1) A review of the process by which Federal land managers accept or reject an offer to lease, including the timeframes in which such offers are acted upon, the reasons for any delays in acting upon such offers, and any recommendations for expediting the response to such offers.

(2) A review of the approval process for applications for permits to drill, including the timeframes in which such applications are approved, the impact of compliance with other Federal laws on such timeframes, any other reasons for delays in making such approvals, and any recommendations for expediting such approvals.

(3) A review of the approval process for surface use plans of operation, including the timeframes in which such applications are approved, the impact of compliance with other Federal laws on such timeframes, any other reasons for delays in making such approvals, and any recommendations for expediting such approvals.

(4) A review of the process for administrative appeal of decisions or orders of officers or employees of the Bureau of Land Management with respect to a Federal oil or gas lease, including the timeframes in which such appeals are heard and decided, any reasons for delays in hearing or deciding such appeals, and any recommendations for expediting the appeals process.

(c) REPORT.—The Secretaries shall report the findings and recommendations resulting from the study required by this section to the Committee on Resources of the House of Representatives and to the Committee on Energy and Natural Resources of the Senate no later than 6 months after the date of the enactment of this Act.

SEC. 6223. ELIMINATION OF UNWARRANTED DENIALS AND STAYS.

(a) IN GENERAL.—The Secretary shall ensure that unwarranted denials and stays of lease issuance and unwarranted restrictions on lease operations are eliminated from the administration of oil and natural gas leasing on Federal land.

(b) PREPARATION OF LEASING PLAN OR ANALYSIS.—In preparing a management plan or leasing analysis for oil or natural gas leasing on Federal lands administered by the Bureau of Land Management or the Forest Service, the Secretary concerned shall—

(1) identify and review the restrictions on surface use and operations imposed under the laws (including regulations) of the State in which the lands are located;

(2) consult with the appropriate State agency regarding the reasons for the State restrictions identified under paragraph (1);

(3) identify any differences between the State restrictions identified under paragraph (1) and any restrictions on surface use and operations that would apply under the lease; and

(4) prepare and provide upon request a written explanation of such differences.

(c) REJECTION OF OFFER TO LEASE.—

(1) IN GENERAL.—If the Secretary rejects an offer to lease Federal lands for oil or natural gas development on the ground that the land is unavailable for oil and natural gas leasing, the Secretary shall provide a written, detailed explanation of the reasons the land is unavailable for leasing.

(2) PREVIOUS RESOURCE MANAGEMENT DECISION.—If the determination of unavailability is based on a previous resource management decision, the explanation shall include a careful assessment of whether the reasons underlying the previous decision are still persuasive.

(3) SEGREGATION OF AVAILABLE LAND FROM UNAVAILABLE LAND.—The Secretary may not reject an offer to lease Federal land for oil and natural gas development that is available for such leasing on the ground that the offer includes land unavailable for leasing. The Secretary shall segregate available land from unavailable land, on the offeror's request following notice by the Secretary, before acting on the offer to lease.

(d) DISAPPROVAL OR REQUIRED MODIFICATION OF SURFACE USE PLANS OF OPERATIONS AND APPLICATION FOR PERMIT TO DRILL.—The Secretary shall provide a written, detailed explanation of the reasons for disapproving or requiring modifications of any surface use plan of operations or application for permit to drill with respect to oil or natural gas development on Federal lands.

(e) PRESERVATION OF FEDERAL AUTHORITY.—Nothing in this section or in any identification, review, or explanation prepared under this section shall be construed—

(1) to limit the authority of the Federal Government to impose lease stipulations, restrictions, requirements, or other terms that are different than those that apply under State law; or

(2) to affect the procedures that apply to judicial review of actions taken under this subsection.

SEC. 6224. LIMITATION ON COST RECOVERY FOR APPLICATIONS.

Notwithstanding sections 304 and 504 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1734, 1764) and section 9701 of title 31, United States Code, the Secretary shall not recover the Secretary's costs with

respect to applications and other documents relating to oil and gas leases.

SEC. 6225. CONSULTATION WITH SECRETARY OF AGRICULTURE.

Section 17(h) of the Mineral Leasing Act (30 U.S.C. 226(h)) is amended to read as follows:

''(h)(1) In issuing any lease on National Forest System lands reserved from the public domain, the Secretary of the Interior shall consult with the Secretary of Agriculture in determining stipulations on surface use under the lease.

''(2)(A) A lease on lands referred to in paragraph (1) may not be issued if the Secretary of Agriculture determines, after consultation under paragraph (1) and consultation with the Regional Forester having administrative jurisdiction over the National Forest System Lands concerned, that the terms and conditions of the lease, including any prohibition on surface occupancy for lease operations, will not be sufficient to adequately protect such lands under the National Forest Management Act of 1976 (16 U.S.C. 1600 et seq.).

''(B) The authority of the Secretary of Agriculture under this paragraph may be delegated only to the Undersecretary of Agriculture for Natural Resources and Environment.

''(3) The Secretary of Agriculture shall include in the record of decision for a determination under paragraph (2)(A)—

''(A) any written statement regarding the determination that is prepared by a Regional Forester consulted by the Secretary under paragraph (2)(A) regarding the determination; or

''(B) an explanation why such a statement by the Regional Forester is not included.

Subtitle C—Miscellaneous

SEC. 6231. OFFSHORE SUBSALT DEVELOPMENT.

Section 5 of the Outer Continental Shelf Lands Act of 1953 (43 U.S.C. 1334) is amended by adding at the end the following:

''(k) SUSPENSION OF OPERATIONS FOR SUBSALT EXPLORATION.—Notwithstanding any other provision of law or regulation, to prevent waste caused by the drilling of unnecessary wells and to facilitate the discovery of additional hydrocarbon reserves, the Secretary may grant a request for a suspension of operations under any lease to allow the reprocessing and reinterpretation of geophysical data to identify and define drilling objectives beneath allocthonus salt sheets.''.

SEC. 6232. PROGRAM ON OIL AND GAS ROYALTIES IN KIND.

(a) APPLICABILITY OF SECTION.—Notwithstanding any other provision of law, the provisions of this section shall apply to all royalty in kind accepted by the Secretary of the Interior under any Federal oil or gas lease or permit under section 36 of the Mineral Leasing Act (30 U.S.C. 192), section 27 of the Outer Continental Shelf Lands Act (43 U.S.C. 1353), or any other mineral leasing law, in the period beginning on the date of the enactment of this Act through September 30, 2006.

(b) TERMS AND CONDITIONS.—All royalty accruing to the United States under any Federal oil or gas lease or permit under the Mineral Leasing Act (30 U.S.C. 181 et seq.) or the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) shall, on the demand of the Secretary of the Interior, be paid in oil or gas. If the Secretary of the Interior makes such a demand, the following provisions apply to such payment:

(1) Delivery by, or on behalf of, the lessee of the royalty amount and quality due under the lease satisfies the lessee's royalty obligation for the amount delivered, except that transportation and processing reimbursements paid to, or deductions claimed by, the lessee shall be subject to review and audit.

(2) Royalty production shall be placed in marketable condition by the lessee at no cost to the United States.

(3) The Secretary of the Interior may—

(A) sell or otherwise dispose of any royalty oil or gas taken in kind (other than oil or gas taken under section 27(a)(3) of the Outer Continental Shlef Lands Act (43 U.S.C. 1353(a)(3)) for not less than the market price; and

(B) transport or process any oil or gas royalty taken in kind.

(4) The Secretary of the Interior may, notwithstanding section 3302 of title 31, United States Code, retain and use a portion of the revenues from the sale of oil and gas royalties taken in kind that otherwise would be deposited to miscellaneous receipts, without regard to fiscal year limitation, or may use royalty production, to pay the cost of—

(A) transporting the oil or gas,

(B) processing the gas, or

(C) disposing of the oil or gas.

(5) The Secretary may not use revenues from the sale of oil and gas royalties taken in kind to pay for personnel, travel, or other administrative costs of the Federal Government.

(c) REIMBURSEMENT OF COST.—If the lessee, pursuant to an agreement with the United States or as provided in the lease, processes the royalty gas or delivers the royalty oil or gas at a point not on or adjacent to the lease area, the Secretary of the Interior shall—

(1) reimburse the lessee for the reasonable costs of transportation (not including gathering) from the lease to the point of delivery or for processing costs; or

(2) at the discretion of the Secretary of the Interior, allow the lessee to deduct such transportation or processing costs in reporting and paying royalties in value for other Federal oil and gas leases.

(d) BENEFIT TO THE UNITED STATES REQUIRED.—The Secretary may receive oil or gas royalties in kind only if the Secretary determines that receiving such royalties provides benefits to the United States greater than or equal to those that would be realized under a comparable royalty in value program.

(e) REPORT TO CONGRESS.—For each of the fiscal years 2002 through 2006 in which the United States takes oil or gas royalties in kind from production in any State or from the Outer Continental Shelf, excluding royalties taken in kind and sold to refineries under subsection (h), the Secretary of the Interior shall provide a report to the Congress describing—

(1) the methodology or methodologies used by the Secretary to determine compliance with subsection (d), including performance standards for comparing amounts received by the United States derived from such royalties in kind to amounts likely to have been received had royalties been taken in value;

(2) an explanation of the evaluation that led the Secretary to take royalties in kind from a lease or group of leases, including the expected revenue effect of taking royalties in kind;

(3) actual amounts received by the United States derived from taking royalties in kind, and costs and savings incurred by the United States associated with taking royalties in kind; and

(4) an evaluation of other relevant public benefits or detriments associated with taking royalties in kind.

(f) DEDUCTION OF EXPENSES.—

(1) IN GENERAL.—Before making payments under section 35 of the Mineral Leasing Act (30 U.S.C. 191) or section 8(g) of the Outer Continental Shelf Lands Act (30 U.S.C. 1337(g)) of revenues derived from the sale of royalty production taken in kind from a lease, the Secretary of the Interior shall deduct amounts paid or deducted under subsections (b)(4) and (c), and shall deposit such amounts to miscellaneous receipts.

(2) ACCOUNTING FOR DEDUCTIONS.—If the Secretary of the Interior allows the lessee to deduct transportation or processing costs under subsection (c), the Secretary may not reduce any payments to recipients of revenues derived from any other Federal oil and gas lease as a consequence of that deduction.

(g) CONSULTATION WITH STATES.—The Secretary of the Interior—

(1) shall consult with a State before conducting a royalty in kind program under this title within the State, and may delegate management of any portion of the Federal royalty in kind program to such State except as otherwise prohibited by Federal law; and

(2) shall consult annually with any State from which Federal oil or gas royalty is being taken in kind to ensure to the maximum extent practicable that the royalty in kind program provides revenues to the State greater than or equal to those which would be realized under a comparable royalty in value program.

(h) PROVISIONS FOR SMALL REFINERIES.—

(1) PREFERENCE.—If the Secretary of the Interior determines that sufficient supplies of crude oil are not available in the open market to refineries not having their own source of supply for crude oil, the Secretary may grant preference to such refineries in the sale of any royalty oil accruing or reserved to the United States under Federal oil and gas leases issued under any mineral leasing law, for processing or use in such refineries at private sale at not less than the market price.

(2) PRORATION AMONG REFINERIES IN PRODUCTION AREA.—In disposing of oil under this subsection, the Secretary of the Interior may, at the discretion of the Secretary, prorate such oil among such refineries in the area in which the oil is produced.

(i) DISPOSITION TO FEDERAL AGENCIES.—

(1) ONSHORE ROYALTY.—Any royalty oil or gas taken by the Secretary in kind from onshore oil and gas leases may be sold at not less than the market price to any department or agency of the United States.

(2) OFFSHORE ROYALTY.—Any royalty oil or gas taken in kind from Federal oil and gas leases on the Outer Continental Shelf may be disposed of only under section 27 of the Outer Continental Shelf Lands Act (43 U.S.C. 1353).

(j) PREFERENCE FOR FEDERAL LOW-INCOME ENERGY ASSISTANCE PROGRAMS.—In disposing of royalty oil or gas taken in kind under this section, the Secretary may grant a preference to any person, including any State or Federal agency, for the purpose of providing additional resources to any Federal low-income energy assistance program.

SEC. 6233. MARGINAL WELL PRODUCTION INCENTIVES.

To enhance the economics of marginal oil and gas production by increasing the ultimate recovery from marginal wells when the cash price of West Texas Intermediate crude oil, as posted on the Dow Jones Commodities Index chart, is less than $15 per barrel for 180 consecutive pricing days or when the price of natural gas delivered at Henry Hub, Louisiana, is less than $2.00 per million British thermal units for 180 consecutive days, the Secretary shall reduce the royalty rate as production declines for—

(1) onshore oil wells producing less than 30 barrels per day;

(2) onshore gas wells producing less than 120 million British thermal units per day;

(3) offshore oil wells producing less than 300 barrels of oil per day; and

(4) offshore gas wells producing less than 1,200 million British thermal units per day.

SEC. 6234. REIMBURSEMENT FOR COSTS OF NEPA ANALYSES, DOCUMENTATION, AND STUDIES.

(a) IN GENERAL.—The Mineral Leasing Act (30 U.S.C. 181 et seq.) is amended by inserting after section 37 the following:

''REIMBURSEMENT FOR COSTS OF CERTAIN ANALYSES, DOCUMENTATION, AND STUDIES

''SEC. 38. (a) IN GENERAL.—The Secretary of the Interior may, through royalty credits, reimburse a person who is a lessee, operator, operating rights owner, or applicant for an oil or gas lease under this Act for amounts paid by the person for preparation by the Secretary (or a contractor or other person selected by the Secretary) of any project-level analysis, documentation, or related study required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) with respect to the lease.

''(b) CONDITIONS.—The Secretary may provide reimbursement under subsection (b) only if—

''(1) adequate funding to enable the Secretary to timely prepare the analysis, documentation, or related study is not appropriated;

''(2) the person paid the costs voluntarily; and

''(3) the person maintains records of its costs in accordance with regulations prescribed by the Secretary.''.

(b) APPLICATION.—The amendments made by this section shall apply with respect to any lease entered into before, on, or after the date of the enactment of this Act.

(c) DEADLINE FOR REGULATIONS.—The Secretary shall issue regulations implementing the amendments made by this section by not later than 90 days after the date of the enactment of this Act.

SEC. 6235. ENCOURAGEMENT OF STATE AND PROVINCIAL PROHIBITIONS ON OFF-SHORE DRILLING IN THE GREAT LAKES.

(a) FINDINGS.—The Congress finds the following:

(1) The water resources of the Great Lakes Basin are precious public natural resources, shared and held in trust by the States of Illinois, Indiana, Michigan, Minnesota, New York, Ohio, Pennsylvania, and Wisconsin, and the Canadian Province of Ontario.

(2) The environmental dangers associated with off-shore drilling in the Great Lakes for oil and gas outweigh the potential benefits of such drilling.

(3) In accordance with the Submerged Lands Act (43 U.S.C. 1301 et seq.), each State that borders any of the Great Lakes has authority over the area between that State's coastline and the boundary of Canada or another State.

(4) The States of Illinois, Michigan, New York, Pennsylvania, and Wisconsin each have a statutory prohibition of off-shore drilling in the Great Lakes for oil and gas.

(5) The States of Indiana, Minnesota, and Ohio do not have such a prohibition.

(6) The Canadian Province of Ontario does not have such a prohibition, and drilling for and production of gas occurs in the Canadian portion of Lake Erie.

(b) ENCOURAGEMENT OF STATE AND PROVINCIAL PROHIBITIONS.—The Congress encourages—

(1) the States of Illinois, Michigan, New York, Pennsylvania, and Wisconsin to continue to prohibit off-shore drilling in the Great Lakes for oil and gas;

(2) the States of Indiana, Minnesota, and Ohio and the Canadian Province of Ontario to enact a prohibition of such drilling; and

(3) the Canadian Province of Ontario to require the cessation of any such drilling and any production resulting from such drilling.

TITLE III—GEOTHERMAL ENERGY DEVELOPMENT

SEC. 6301. ROYALTY REDUCTION AND RELIEF.

(a) ROYALTY REDUCTION.—Section 5(a) of the Geothermal Steam Act of 1970 (30 U.S.C. 1004(a)) is amended by striking ''not less than 10 per centum or more than 15 per centum'' and inserting ''not more than 8 per centum''.

(b) ROYALTY RELIEF.—

(1) IN GENERAL.—Notwithstanding section 5 of the Geothermal Steam Act of 1970 (30 U.S.C. 1004(a)) and any provision of any lease under that Act, no royalty is required to be paid—

(A) under any qualified geothermal energy lease with respect to commercial production of heat or energy from a facility that begins such production in the 5-year period beginning on the date of the enactment of this Act; or

(B) on qualified expansion geothermal energy.

(2) 3-YEAR APPLICATION.—Paragraph (1) applies only to commercial production of heat or energy from a facility in the first 3 years of such production.

(c) DEFINITIONS.—In this section:

(1) QUALIFIED EXPANSION GEOTHERMAL ENERGY.—The term ''qualified expansion geothermal energy''—

(A) subject to subparagraph (B), means geothermal energy produced from a generation facility for which the rated capacity is increased by more than 10 percent as a result of expansion of the facility carried out in the 5-year period beginning on the date of the enactment of this Act; and

(B) does not include the rated capacity of the generation facility on the date of the enactment of this Act.

(2) QUALIFIED GEOTHERMAL ENERGY LEASE.—The term ''qualified geothermal energy lease'' means a lease under the Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.)—

(A) that was executed before the end of the 5-year period beginning on the date of the enactment of this Act; and

(B) under which no commercial production of any form of heat or energy occurred before the date of the enactment of this Act.

SEC. 6302. EXEMPTION FROM ROYALTIES FOR DIRECT USE OF LOW TEMPERATURE GEOTHERMAL ENERGY RESOURCES.

(a) IN GENERAL.—Section 5 of the Geothermal Steam Act of 1970 (30 U.S.C. 1004) is amended—

(1) in paragraph (c) by redesignating subparagraphs (1) and (2) as subparagraphs (A) and (B);

(2) by redesignating paragraphs (a) through (d) in order as paragraphs (1) through (4);

(3) by inserting ''(a) IN GENERAL.—'' after ''SEC. 5.''; and

(4) by adding at the end the following new subsection:

''(b) EXEMPTION FOR USE OF LOW TEMPERATURE RESOURCES.—

''(1) IN GENERAL.—In lieu of any royalty or rental under subsection (a), a lease for qualified development and direct utilization of low temperature geothermal resources shall provide for payment by the lessee of an annual fee of not less than $100, and not more than $1,000, in accordance with the schedule issued under paragraph (2).

''(2) SCHEDULE.—The Secretary shall issue a schedule of fees under this section under which a fee is based on the scale of development and utilization to which the fee applies.

''(3) DEFINITIONS.—In this subsection:

''(A) LOW TEMPERATURE GEOTHERMAL RESOURCES.—The term 'low temperature geothermal resources' means geothermal steam and associated geothermal resources having a temperature of less than 195 degrees Fahrenheit.

''(B) QUALIFIED DEVELOPMENT AND DIRECT UTILIZATION.—The term 'qualified development and direct utilization' means development and utilization in which all products of geothermal resources, other than any heat utilized, are returned to the geothermal formation from which they are produced.''.

(b) EFFECTIVE DATE.—The provisions of this section shall take effect on October 1, 2003.

SEC. 6303. AMENDMENTS RELATING TO LEASING ON FOREST SERVICE LANDS.

The Geothermal Steam Act of 1970 is amended—

(1) in section 15(b) (30 U.S.C. 1014(b))—

(A) by inserting ''(1)'' after ''(b)''; and

(B) in paragraph (1) (as designated by subparagraph (A) of this paragraph) in the first sentence—

(i) by striking ''with the consent of, and'' and inserting ''after consultation with the Secretary of Agriculture and''; and

(ii) by striking ''the head of that Department'' and inserting ''the Secretary of Agriculture''; and

(2) by adding at the end the following:

''(2)(A) A geothermal lease for lands withdrawn or acquired in aid of functions of the Department of Agriculture may not be issued if the Secretary of Agriculture, after the consultation required by paragraph (1) and consultation with any Regional Forester having administrative jurisdiction over the lands concerned, determines that no terms or conditions, including a prohibition on surface occupancy for lease operations, would be sufficient to adequately protect such lands under the National Forest Management Act of 1976 (16 U.S.C. 1600 et seq.).

''(B) The authority of the Secretary of Agriculture under this paragraph may be delegated only to the Undersecretary of Agriculture for Natural Resources and Environment.

''(3) The Secretary of Agriculture shall include in the record of decision for a determination under paragraph (2)(A)—

''(A) any written statement regarding the determination that is prepared by a Regional Forester consulted by the Secretary under paragraph (2)(A) regarding the determination; or

''(B) an explanation why such a statement by the Regional Forester is not included.

SEC. 6304. DEADLINE FOR DETERMINATION ON PENDING NONCOMPETITIVE LEASE APPLICATIONS.

Not later than 90 days after the date of the enactment of this Act, the Secretary of the Interior shall, with respect to each application pending on the date of the enactment of this Act for a lease under the Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.), issue a final determination of—

(1) whether or not to conduct a lease sale by competitive bidding; and

(2) whether or not to award a lease without competitive bidding.

SEC. 6305. OPENING OF PUBLIC LANDS UNDER MILITARY JURISDICTION.

(a) IN GENERAL.—Except as otherwise provided in the Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.) and other provisions of Federal law applicable to development of geothermal energy resources within public lands, all public lands under the jurisdiction of a Secretary of a military department shall be open to the operation of such laws and development and utilization of geothermal steam and associated geothermal resources, as that term is defined in section 2 of the Geothermal Steam Act of 1970 (30 U.S.C. 1001), without the necessity for further action by the Secretary or the Congress.

(b) CONFORMING AMENDMENT.—Section 2689 of title 10, United States Code, is amended by striking ''including public lands,'' and inserting ''other than public lands,''.

(c) TREATMENT OF EXISTING LEASES.—Upon the expiration of any lease in effect on the date of the enactment of this Act of public lands under the jurisdiction of a military department for the development of any geothermal resource, such lease may, at the option of the lessee—

(1) be treated as a lease under the Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.), and be renewed in accordance with such Act; or

(2) be renewed in accordance with the terms of the lease, if such renewal is authorized by such terms.

(d) REGULATIONS.—The Secretary of the Interior, with the advice and concurrence of the Secretary of the military department concerned, shall prescribe such regulations to carry out this section as may be necessary. Such regulations shall contain guidelines to assist in determining how much, if any, of the surface of any lands opened pursuant to this section may be used for purposes incident to geothermal energy resources development and utilization.

(e) CLOSURE FOR PURPOSES OF NATIONAL DEFENSE OR SECURITY.—In the event of a national emergency or for purposes of national defense or security, the Secretary of the Interior, at the request of the Secretary of the military department concerned, shall close any lands that have been opened to geothermal energy resources leasing pursuant to this section.

SEC. 6306. APPLICATION OF AMENDMENTS.

The amendments made by this title apply with respect to any lease executed before, on, or after the date of the enactment of this Act.

SEC. 6307. REVIEW AND REPORT TO CONGRESS.

The Secretary of the Interior shall promptly review and report to the Congress regarding the status of all moratoria on and withdrawals from leasing under the Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.) of known geothermal resources areas (as that term is defined in section 2 of that Act (30 U.S.C. 1001), specifying for each such area whether the basis for such moratoria or withdrawal still applies.

SEC. 6308. REIMBURSEMENT FOR COSTS OF NEPA ANALYSES, DOCUMENTATION, AND STUDIES.

(a) IN GENERAL.—The Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.) is amended by adding at the end the following:

''REIMBURSEMENT FOR COSTS OF CERTAIN ANALYSES, DOCUMENTATION, AND STUDIES

''SEC. 38. (a) IN GENERAL.—The Secretary of the Interior may, through royalty credits, reimburse a person who is a lessee, operator, operating rights owner, or applicant for a lease under this Act for amounts paid by the person for preparation by the Secretary (or a contractor or other person selected by the Secretary) of any project-level analysis, documentation, or related study required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) with respect to the lease.

''(b) CONDITIONS.—The Secretary shall may provide reimbursement under subsection (a) only if—

''(1) adequate funding to enable the Secretary to timely prepare the analysis, documentation, or related study is not appropriated;

''(2) the person paid the costs voluntarily; and

''(3) the person maintains records of its costs in accordance with regulations prescribed by the Secretary.''.

(b) APPLICATION.—The amendments made by this section shall apply with respect to any lease entered into before, on, or after the date of the enactment of this Act.

(c) DEADLINE FOR REGULATIONS.—The Secretary shall issue regulations implementing the amendments made by this section by not later than 90 days after the date of the enactment of this Act.

TITLE IV—HYDROPOWER

SEC. 6401. STUDY AND REPORT ON INCREASING ELECTRIC POWER PRODUCTION CAPABILITY OF EXISTING FACILITIES.

(a) IN GENERAL.—The Secretary of the Interior shall conduct a study of the potential for increasing electric power production capability at existing facilities under the administrative jurisdiction of the Secretary.

(b) CONTENT.—The study under this section shall include identification and description in detail of each facility that is capable, with or without modification, of producing additional hydroelectric power, including estimation of the existing potential for the facility to generate hydroelectric power.

(c) REPORT.—The Secretary shall submit to the Congress a report on the findings, conclusions, and recommendations of the study under this section by not later than 12 months after the date of the enactment of this Act. The Secretary shall include in the report the following:

(1) The identifications, descriptions, and estimations referred to in subsection (b).

(2) A description of activities the Secretary is currently conducting or considering, or that could be considered, to produce additional hydroelectric power from each identified facility.

(3) A summary of action that has already been taken by the Secretary to produce additional hydroelectric power from each identified facility.

(4) The costs to install, upgrade, or modify equipment or take other actions to produce additional hydroelectric power from each identified facility.

(5) The benefits that would be achieved by such installation, upgrade, modification, or other action, including quantified estimates of any additional energy or capacity from each facility identified under subsection (b).

(6) A description of actions that are planned, underway, or might reasonably be considered to increase hydroelectric power production by replacing turbine runners.

(7) A description of actions that are planned, underway, or might reasonably be considered to increase hydroelectric power production by performing generator uprates and rewinds.

(8) The impact of increased hydroelectric power production on irrigation, fish, wildlife, Indian tribes, river health, water quality, navigation, recreation, fishing, and flood control.

(9) Any additional recommendations the Secretary considers advisable to increase hydroelectric power production from, and reduce costs and improve efficiency at, facilities under the jurisdiction of the Secretary.

SEC. 6402. INSTALLATION OF POWERFORMER AT FOLSOM POWER PLANT, CALIFORNIA.

(a) IN GENERAL.—The Secretary of the Interior may install a powerformer at the Bureau of Reclamation Folsom power plant in Folsom, California, to replace a generator and transformer that are due for replacement due to age.

(b) REIMBURSABLE COSTS.—Costs incurred by the United States for installation of a powerformer under this section shall be treated as reimbursable costs and shall bear interest at current long-term borrowing rates of the United States Treasury at the time of acquisition.

(c) LOCAL COST SHARING.—In addition to reimbursable costs under subsection (b), the Secretary shall seek contributions from power users toward the costs of the powerformer and its installation.

SEC. 6403. STUDY AND IMPLEMENTATION OF INCREASED OPERATIONAL EFFICIENCIES IN HYDROELECTRIC POWER PROJECTS.

(a) IN GENERAL.—The Secretary of Interior shall conduct a study of operational methods and water scheduling techniques at all hydroelectric power plants under the administrative jurisdiction of the Secretary that have an electric power production capacity greater than 50 megawatts, to—

(1) determine whether such power plants and associated river systems are operated so as to maximize energy and capacity capabilities; and

(2) identify measures that can be taken to improve operational flexibility at such plants to achieve such maximization.

(b) REPORT.—The Secretary shall submit a report on the findings, conclusions, and recommendations of the study under this section by not later than 18 months after the date of the enactment of this Act, including a summary of the determinations and identifications under paragraphs (1) and (2) of subsection (a).

(c) COOPERATION BY FEDERAL POWER MARKETING ADMINISTRATIONS.—The Secretary shall coordinate with the Administrator of each Federal power marketing administration in—

(1) determining how the value of electric power produced by each hydroelectric power facility that produces power marketed by the administration can be maximized; and

(2) implementing measures identified under subsection (a)(2).

(d) LIMITATION ON IMPLEMENTATION OF MEASURES.—Implementation under subsections (a)(2) and (b)(2) shall be limited to those measures that can be implemented within the constraints imposed on Department of the Interior facilities by other uses required by law.

SEC. 6404. SHIFT OF PROJECT LOADS TO OFF-PEAK PERIODS.

(a) IN GENERAL.—The Secretary of the Interior shall—

(1) review electric power consumption by Bureau of Reclamation facilities for water pumping purposes; and

(2) make such adjustments in such pumping as possible to minimize the amount of electric power consumed for such pumping during periods of peak electric power consumption, including by performing as much of such pumping as possible during off-peak hours at night.

(b) CONSENT OF AFFECTED IRRIGATION CUSTOMERS REQUIRED.—The Secretary may not under this section make any adjustment in pumping at a facility without the consent of each person that has contracted with the United States for delivery of water from the facility for use for irrigation and that would be affected by such adjustment.

(c) EXISTING OBLIGATIONS NOT AFFECTED.—This section shall not be construed to affect any existing obligation of the Secretary to provide electric power, water, or other benefits from Bureau of Reclamation facilities.

TITLE V—ARCTIC COASTAL PLAIN DOMESTIC ENERGY

SEC. 6501. SHORT TITLE.

This title may be cited as the ''Arctic Coastal Plain Domestic Energy Security Act of 2001''.

SEC. 6502. DEFINITIONS.

In this title:

(1) COASTAL PLAIN.—The term ''Coastal Plain'' means that area identified as such in the map entitled ''Arctic National Wildlife Refuge'', dated August 1980, as referenced in section 1002(b) of the Alaska National Interest Lands Conservation Act of 1980 (16 U.S.C. 3142(b)(1)), comprising approximately 1,549,000 acres.

(2) SECRETARY.—The term ''Secretary'', except as otherwise provided, means the Secretary of the Interior or the Secretary's designee.

SEC. 6503. LEASING PROGRAM FOR LANDS WITHIN THE COASTAL PLAIN.

(a) IN GENERAL.—The Secretary shall take such actions as are necessary—

(1) to establish and implement in accordance with this title a competitive oil and gas leasing program under the Mineral Leasing Act (30 U.S.C. 181 et seq.) that will result in an environmentally sound program for the exploration, development, and production of the oil and gas resources of the Coastal Plain; and

(2) to administer the provisions of this title through regulations, lease terms, conditions, restrictions, prohibitions, stipulations, and other provisions that ensure the oil and gas exploration, development, and production activities on the Coastal Plain will result in no significant adverse effect on fish and wildlife, their habitat, subsistence resources, and the environment, and including, in furtherance of this goal, by requiring the application of the best commercially available technology for oil and gas exploration, development, and production to all exploration, development, and production operations under this title in a manner that ensures the receipt of fair market value by the public for the mineral resources to be leased.

(b) REPEAL.—Section 1003 of the Alaska National Interest Lands Conservation Act of 1980 (16 U.S.C. 3143) is repealed.

(c) COMPLIANCE WITH REQUIREMENTS UNDER CERTAIN OTHER LAWS.—

(1) COMPATIBILITY.—For purposes of the National Wildlife Refuge System Administration Act of 1966, the oil and gas leasing program and activities authorized by this section in the Coastal Plain are deemed to be compatible with the purposes for which the Arctic National Wildlife Refuge was established, and that no further findings or decisions are required to implement this determination.

(2) ADEQUACY OF THE DEPARTMENT OF THE INTERIOR'S LEGISLATIVE ENVIRONMENTAL IMPACT STATEMENT.—The ''Final Legislative Environmental Impact Statement'' (April 1987) on the Coastal Plain prepared pursuant to section 1002 of the Alaska National Interest Lands Conservation Act of 1980 (16 U.S.C. 3142) and section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is deemed to satisfy the requirements under the National Environmental Policy Act of 1969 that apply with respect to actions authorized to be taken by the Secretary to develop and promulgate the regulations for the establishment of a leasing program authorized by this title before the conduct of the first lease sale.

(3) COMPLIANCE WITH NEPA FOR OTHER ACTIONS.—Before conducting the first lease sale under this title, the Secretary shall prepare an environmental impact statement under the National Environmental Policy Act of 1969 with respect to the actions authorized by this title that are not referred to in paragraph (2). Notwithstanding any other law, the Secretary is not required to identify nonleasing alternative courses of action or to analyze the environmental effects of such courses of action. The Secretary shall only identify a preferred action for such leasing and a single leasing alternative, and analyze the environmental effects and potential mitigation measures for those two alternatives. The identification of the preferred action and related analysis for the first lease sale under this title shall be completed within 18 months after the date of the enactment of this Act. The Secretary shall only consider public comments that specifically address the Secretary's preferred action and that are filed within 20 days after publication of an environmental analysis. Notwithstanding any other law, compliance with this paragraph is deemed to satisfy all requirements for the analysis and consideration of the environmental effects of proposed leasing under this title.

(d) RELATIONSHIP TO STATE AND LOCAL AUTHORITY.—Nothing in this title shall be considered to expand or limit State and local regulatory authority.

(e) SPECIAL AREAS.—

(1) IN GENERAL.—The Secretary, after consultation with the State of Alaska, the city of Kaktovik, and the North Slope Borough, may designate up to a total of 45,000 acres of the Coastal Plain as a Special Area if the Secretary determines that the Special Area is of such unique character and interest so as to require special management and regulatory protection. The Secretary shall designate as such a Special Area the Sadlerochit Spring area, comprising approximately 4,000 acres as depicted on the map referred to in section 6502(1).

(2) MANAGEMENT.—Each such Special Area shall be managed so as to protect and preserve the area's unique and diverse character including its fish, wildlife, and subsistence resource values.

(3) EXCLUSION FROM LEASING OR SURFACE OCCUPANCY.—The Secretary may exclude any Special Area from leasing. If the Secretary leases a Special Area, or any part thereof, for purposes of oil and gas exploration, development, production, and related activities, there shall be no surface occupancy of the lands comprising the Special Area.

(4) DIRECTIONAL DRILLING.—Notwithstanding the other provisions of this subsection, the Secretary may lease all or a portion of a Special Area under terms that permit the use of horizontal drilling technology from sites on leases located outside the area.

(f) LIMITATION ON CLOSED AREAS.—The Secretary's sole authority to close lands within the Coastal Plain to oil and gas leasing and to exploration, development, and production is that set forth in this title.

(g) REGULATIONS.—

(1) IN GENERAL.—The Secretary shall prescribe such regulations as may be necessary to carry out this title, including rules and regulations relating to protection of the fish and wildlife, their habitat, subsistence resources, and environment of the Coastal Plain, by no later than 15 months after the date of the enactment of this Act.

(2) REVISION OF REGULATIONS.—The Secretary shall periodically review and, if appropriate, revise the rules and regulations issued under subsection (a) to reflect any significant biological, environmental, or engineering data that come to the Secretary's attention.

SEC. 6504. LEASE SALES.

(a) IN GENERAL.—Lands may be leased pursuant to this title to any person qualified to obtain a lease for deposits of oil and gas under the Mineral Leasing Act (30 U.S.C. 181 et seq.).

(b) PROCEDURES.—The Secretary shall, by regulation, establish procedures for—

(1) receipt and consideration of sealed nominations for any area in the Coastal Plain for inclusion in, or exclusion (as provided in subsection (c)) from, a lease sale;

(2) the holding of lease sales after such nomination process; and

(3) public notice of and comment on designation of areas to be included in, or excluded from, a lease sale.

(c) LEASE SALE BIDS.—Bidding for leases under this title shall be by sealed competitive cash bonus bids.

(d) ACREAGE MINIMUM IN FIRST SALE.—In the first lease sale under this title, the Secretary shall offer for lease those tracts the Secretary considers to have the greatest potential for the discovery of hydrocarbons, taking into consideration nominations received pursuant to subsection (b)(1), but in no case less than 200,000 acres.

(e) TIMING OF LEASE SALES.—The Secretary shall—

(1) conduct the first lease sale under this title within 22 months after the date of the enactment of this title; and

(2) conduct additional sales so long as sufficient interest in development exists to warrant, in the Secretary's judgment, the conduct of such sales.

SEC. 6505. GRANT OF LEASES BY THE SECRETARY.

(a) IN GENERAL.—The Secretary may grant to the highest responsible qualified bidder in a lease sale conducted pursuant to section 6504 any lands to be leased on the Coastal Plain upon payment by the lessee of such bonus as may be accepted by the Secretary.

(b) SUBSEQUENT TRANSFERS.—No lease issued under this title may be sold, exchanged, assigned, sublet, or otherwise transferred except with the approval of the Secretary. Prior to any such approval the Secretary shall consult with, and give due consideration to the views of, the Attorney General.

SEC. 6506. LEASE TERMS AND CONDITIONS.

(a) IN GENERAL.—An oil or gas lease issued pursuant to this title shall—

(1) provide for the payment of a royalty of not less than 12½ percent in amount or value of the production removed or sold from the lease, as determined by the Secretary under the regulations applicable to other Federal oil and gas leases;

(2) provide that the Secretary may close, on a seasonal basis, portions of the Coastal Plain to exploratory drilling activities as necessary to protect caribou calving areas and other species of fish and wildlife;

(3) require that the lessee of lands within the Coastal Plain shall be fully responsible and liable for the reclamation of lands within the Coastal Plain and any other Federal lands that are adversely affected in connection with exploration, development, production, or transportation activities conducted under the lease and within the Coastal Plain by the lessee or by any of the subcontractors or agents of the lessee;

(4) provide that the lessee may not delegate or convey, by contract or otherwise, the reclamation responsibility and liability to another person without the express written approval of the Secretary;

(5) provide that the standard of reclamation for lands required to be reclaimed under this title shall be, as nearly as practicable, a condition capable of supporting the uses which the lands were capable of supporting prior to any exploration, development, or production activities, or upon application by the lessee, to a higher or better use as approved by the Secretary;

(6) contain terms and conditions relating to protection of fish and wildlife, their habitat, and the environment as required pursuant to section 6503(a)(2);

(7) provide that the lessee, its agents, and its contractors use best efforts to provide a fair share, as determined by the level of obligation previously agreed to in the 1974 agreement implementing section 29 of the Federal Agreement and Grant of Right of Way for the Operation of the Trans-Alaska Pipeline, of employment and contracting for Alaska Natives and Alaska Native Corporations from throughout the State;

(8) prohibit the export of oil produced under the lease; and

(9) contain such other provisions as the Secretary determines necessary to ensure

compliance with the provisions of this title and the regulations issued under this title.

(b) PROJECT LABOR AGREEMENTS.—The Secretary, as a term and condition of each lease under this title and in recognizing the Government's proprietary interest in labor stability and in the ability of construction labor and management to meet the particular needs and conditions of projects to be developed under the leases issued pursuant to this title and the special concerns of the parties to such leases, shall require that the lessee and its agents and contractors negotiate to obtain a project labor agreement for the employment of laborers and mechanics on production, maintenance, and construction under the lease.

SEC. 6507. COASTAL PLAIN ENVIRONMENTAL PROTECTION.

(a) NO SIGNIFICANT ADVERSE EFFECT STANDARD TO GOVERN AUTHORIZED COASTAL PLAIN ACTIVITIES.—The Secretary shall, consistent with the requirements of section 6503, administer the provisions of this title through regulations, lease terms, conditions, restrictions, prohibitions, stipulations, and other provisions that—

(1) ensure the oil and gas exploration, development, and production activities on the Coastal Plain will result in no significant adverse effect on fish and wildlife, their habitat, and the environment;

(2) require the application of the best commercially available technology for oil and gas exploration, development, and production on all new exploration, development, and production operations; and

(3) ensure that the maximum amount of surface acreage covered by production and support facilities, including airstrips and any areas covered by gravel berms or piers for support of pipelines, does not exceed 2,000 acres on the Coastal Plain.

(b) SITE-SPECIFIC ASSESSMENT AND MITIGATION.—The Secretary shall also require, with respect to any proposed drilling and related activities, that—

(1) a site-specific analysis be made of the probable effects, if any, that the drilling or related activities will have on fish and wildlife, their habitat, and the environment;

(2) a plan be implemented to avoid, minimize, and mitigate (in that order and to the extent practicable) any significant adverse effect identified under paragraph (1); and

(3) the development of the plan shall occur after consultation with the agency or agencies having jurisdiction over matters mitigated by the plan.

(c) REGULATIONS TO PROTECT COASTAL PLAIN FISH AND WILDLIFE RESOURCES, SUBSISTENCE USERS, AND THE ENVIRONMENT.—Before implementing the leasing program authorized by this title, the Secretary shall prepare and promulgate regulations, lease terms, conditions, restrictions, prohibitions, stipulations, and other measures designed to ensure that the activities undertaken on the Coastal Plain under this title are conducted in a manner consistent with the purposes and environmental requirements of this title.

(d) COMPLIANCE WITH FEDERAL AND STATE ENVIRONMENTAL LAWS AND OTHER REQUIREMENTS.—The proposed regulations, lease terms, conditions, restrictions, prohibitions, and stipulations for the leasing program under this title shall require compliance with all applicable provisions of Federal and State environmental law and shall also require the following:

(1) Standards at least as effective as the safety and environmental mitigation measures set forth in items 1 through 29 at pages 167 through 169 of the ''Final Legislative Environmental Impact Statement'' (April 1987) on the Coastal Plain.

(2) Seasonal limitations on exploration, development, and related activities, where necessary, to avoid significant adverse effects during periods of concentrated fish and wildlife breeding, denning, nesting, spawning, and migration.

(3) That exploration activities, except for surface geological studies, be limited to the period between approximately November 1 and May 1 each year and that exploration activities shall be supported by ice roads, winter trails with adequate snow cover, ice pads, ice airstrips, and air transport methods, except that such exploration activities may occur at other times, if—

(A) the Secretary determines, after affording an opportunity for public comment and review, that special circumstances exist necessitating that exploration activities be conducted at other times of the year; and

(B) the Secretary finds that such exploration will have no significant adverse effect on the fish and wildlife, their habitat, and the environment of the Coastal Plain.

(4) Design safety and construction standards for all pipelines and any access and service roads, that—

(A) minimize, to the maximum extent possible, adverse effects upon the passage of migratory species such as caribou; and

(B) minimize adverse effects upon the flow of surface water by requiring the use of culverts, bridges, and other structural devices.

(5) Prohibitions on public access and use on all pipeline access and service roads.

(6) Stringent reclamation and rehabilitation requirements, consistent with the standards set forth in this title, requiring the removal from the Coastal Plain of all oil and gas development and production facilities, structures, and equipment upon completion of oil and gas production operations, except that the Secretary may exempt from the requirements of this paragraph those facilities, structures, or equipment that the Secretary determines would assist in the management of the Arctic National Wildlife Refuge and that are donated to the United States for that purpose.

(7) Appropriate prohibitions or restrictions on access by all modes of transportation.

(8) Appropriate prohibitions or restrictions on sand and gravel extraction.

(9) Consolidation of facility siting.

(10) Appropriate prohibitions or restrictions on use of explosives.

(11) Avoidance, to the extent practicable, of springs, streams, and river system; the protection of natural surface drainage patterns, wetlands, and riparian habitats; and the regulation of methods or techniques for developing or transporting adequate supplies of water for exploratory drilling.

(12) Avoidance or reduction of air traffic-related disturbance to fish and wildlife.

(13) Treatment and disposal of hazardous and toxic wastes, solid wastes, reserve pit fluids, drilling muds and cuttings, and domestic wastewater, including an annual waste management report, a hazardous materials tracking system, and a prohibition on chlorinated solvents, in accordance with applicable Federal and State environmental law.

(14) Fuel storage and oil spill contingency planning.

(15) Research, monitoring, and reporting requirements.

(16) Field crew environmental briefings.

(17) Avoidance of significant adverse effects upon subsistence hunting, fishing, and trapping by subsistence users.

(18) Compliance with applicable air and water quality standards.

(19) Appropriate seasonal and safety zone designations around well sites, within which subsistence hunting and trapping shall be limited.

(20) Reasonable stipulations for protection of cultural and archeological resources.

(21) All other protective environmental stipulations, restrictions, terms, and conditions deemed necessary by the Secretary.

(e) CONSIDERATIONS.—In preparing and promulgating regulations, lease terms, conditions, restrictions, prohibitions, and stipulations under this section, the Secretary shall consider the following:

(1) The stipulations and conditions that govern the National Petroleum Reserve-Alaska leasing program, as set forth in the 1999 Northeast National Petroleum Reserve-Alaska Final Integrated Activity Plan/Environmental Impact Statement.

(2) The environmental protection standards that governed the initial Coastal Plain seismic exploration program under parts 37.31 to 37.33 of title 50, Code of Federal Regulations.

(3) The land use stipulations for exploratory drilling on the KIC–ASRC private lands that are set forth in Appendix 2 of the August 9, 1983, agreement between Arctic Slope Regional Corporation and the United States.

(f) FACILITY CONSOLIDATION PLANNING.—

(1) IN GENERAL.—The Secretary shall, after providing for public notice and comment, prepare and update periodically a plan to govern, guide, and direct the siting and construction of facilities for the exploration, development, production, and transportation of Coastal Plain oil and gas resources.

(2) OBJECTIVES.—The plan shall have the following objectives:

(A) Avoiding unnecessary duplication of facilities and activities.

(B) Encouraging consolidation of common facilities and activities.

(C) Locating or confining facilities and activities to areas that will minimize impact on fish and wildlife, their habitat, and the environment.

(D) Utilizing existing facilities wherever practicable.

(E) Enhancing compatibility between wildlife values and development activities.

SEC. 6508. EXPEDITED JUDICIAL REVIEW.

(a) FILING OF COMPLAINT.—

(1) DEADLINE.—Subject to paragraph (2), any complaint seeking judicial review of any provision of this title or any action of the Secretary under this title shall be filed in any appropriate district court of the United States—

(A) except as provided in subparagraph (B), within the 90-day period beginning on the date of the action being challenged; or

(B) in the case of a complaint based solely on grounds arising after such period, within 90 days after the complainant knew or reasonably should have known of the grounds for the complaint.

(2) VENUE.—Any complaint seeking judicial review of an action of the Secretary under this title may be filed only in the United States Court of Appeals for the District of Columbia.

(3) LIMITATION ON SCOPE OF CERTAIN REVIEW.—Judicial review of a Secretarial decision to conduct a lease sale under this title, including the environmental analysis thereof, shall be limited to whether the Secretary has complied with the terms of this division and shall be based upon the administrative record of that decision. The Secretary's identification of a preferred course of action to enable leasing to proceed and the Secretary's analysis of environmental effects under this division shall be presumed to be correct unless shown otherwise by clear and convincing evidence to the contrary.

(b) LIMITATION ON OTHER REVIEW.—Actions of the Secretary with respect to which review could have been obtained under this section shall not be subject to judicial review in any civil or criminal proceeding for enforcement.

SEC. 6509. RIGHTS-OF-WAY ACROSS THE COASTAL PLAIN.

(a) EXEMPTION.—Title XI of the Alaska National Interest Lands Conservation Act of 1980 (16 U.S.C. 3161 et seq.) shall not apply to the issuance by the Secretary under section 28 of the Mineral Leasing Act (30 U.S.C. 185) of rights-of-way and easements across the Coastal Plain for the transportation of oil and gas.

(b) TERMS AND CONDITIONS.—The Secretary shall include in any right-of-way or easement referred to in subsection (a) such terms and conditions as may be necessary to ensure that transportation of oil and gas does not result in a significant adverse effect on the fish and wildlife, subsistence resources, their habitat, and the environment of the Coastal Plain, including requirements that facilities be sited or designed so as to avoid unnecessary duplication of roads and pipelines.

(c) REGULATIONS.—The Secretary shall include in regulations under section 6503(g) provisions granting rights-of-way and easements described in subsection (a) of this section.

SEC. 6510. CONVEYANCE.

In order to maximize Federal revenues by removing clouds on title to lands and clarifying land ownership patterns within the Coastal Plain, the Secretary, notwithstanding the provisions of section 1302(h)(2) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3192(h)(2)), shall convey—

(1) to the Kaktovik Inupiat Corporation the surface estate of the lands described in paragraph 2 of Public Land Order 6959, to the extent necessary to fulfill the Corporation's entitlement under section 12 of the Alaska Native Claims Settlement Act (43 U.S.C. 1611); and

(2) to the Arctic Slope Regional Corporation the subsurface estate beneath such surface estate pursuant to the August 9, 1983, agreement between the Arctic Slope Regional Corporation and the United States of America.

SEC. 6511. LOCAL GOVERNMENT IMPACT AID AND COMMUNITY SERVICE ASSISTANCE.

(a) FINANCIAL ASSISTANCE AUTHORIZED.—

(1) IN GENERAL.—The Secretary may use amounts available from the Coastal Plain Local Government Impact Aid Assistance Fund established by subsection (d) to provide timely financial assistance to entities that are eligible under paragraph (2) and that are directly impacted by the exploration for or production of oil and gas on the Coastal Plain under this title.

(2) ELIGIBLE ENTITIES.—The North Slope Borough, Kaktovik, and other boroughs, municipal subdivisions, villages, and any other community organized under Alaska State law shall be eligible for financial assistance under this section.

(b) USE OF ASSISTANCE.—Financial assistance under this section may be used only for—

(1) planning for mitigation of the potential effects of oil and gas exploration and development on environmental, social, cultural, recreational and subsistence values;

(2) implementing mitigation plans and maintaining mitigation projects; and

(3) developing, carrying out, and maintaining projects and programs that provide new or expanded public facilities and services to address needs and problems associated with such effects, including firefighting, police, water, waste treatment, medivac, and medical services.

(c) APPLICATION.—

(1) IN GENERAL.—Any community that is eligible for assistance under this section may submit an application for such assistance to the Secretary, in such form and under such procedures as the Secretary may prescribe by regulation.

(2) NORTH SLOPE BOROUGH COMMUNITIES.—A community located in the North Slope Borough may apply for assistance under this section either directly to the Secretary or through the North Slope Borough.

(3) APPLICATION ASSISTANCE.—The Secretary shall work closely with and assist the North Slope Borough and other communities eligible for assistance under this section in developing and submitting applications for assistance under this section.

(d) ESTABLISHMENT OF FUND.—

(1) IN GENERAL.—There is established in the Treasury the Coastal Plain Local Government Impact Aid Assistance Fund.

(2) USE.—Amounts in the fund may be used only for providing financial assistance under this section.

(3) DEPOSITS.—Subject to paragraph (4), there shall be deposited into the fund amounts received by the United States as revenues derived from rents, bonuses, and royalties under on leases and lease sales authorized under this title.

(4) LIMITATION ON DEPOSITS.—The total amount in the fund may not exceed $10,000,000.

(5) INVESTMENT OF BALANCES.—The Secretary of the Treasury shall invest amounts in the fund in interest bearing government securities.

(e) AUTHORIZATION OF APPROPRIATIONS.—To provide financial assistance under this section there is authorized to be appropriated to the Secretary from the Coastal Plain Local Government Impact Aid Assistance Fund $5,000,000 for each fiscal year.

SEC. 6512. REVENUE ALLOCATION.

(a) FEDERAL AND STATE DISTRIBUTION.—

(1) IN GENERAL.—Notwithstanding section 6504 of this Act, the Mineral Leasing Act (30 U.S.C. 181 et. seq.), or any other law, of the amount of adjusted bonus, rental, and royalty revenues from oil and gas leasing and operations authorized under this title—

(A) 50 percent shall be paid to the State of Alaska; and

(B) the balance shall be deposited into the Renewable Energy Technology Investment Fund and the Royalties Conservation Fund as provided in this section.

(2) ADJUSTMENTS.—Adjustments to bonus, rental, and royalty amounts from oil and gas leasing and operations authorized under this title shall be made as necessary for overpayments and refunds from lease revenues received in current or subsequent periods before distribution of such revenues pursuant to this section.

(3) TIMING OF PAYMENTS TO STATE.—Payments to the State of Alaska under this section shall be made semiannually.

(b) RENEWABLE ENERGY TECHNOLOGY INVESTMENT FUND.—

(1) ESTABLISHMENT AND AVAILABILITY.—There is hereby established in the Treasury of the United States a separate account which shall be known as the ''Renewable Energy Technology Investment Fund''.

(2) DEPOSITS.—Fifty percent of adjusted revenues from bonus payments for leases issued under this title shall be deposited into the Renewable Energy Technology Investment Fund.

(3) USE, GENERALLY.—Subject to paragraph (4), funds deposited into the Renewable Energy Technology Investment Fund shall be used by the Secretary of Energy to finance research grants, contracts, and cooperative agreements and expenses of direct research by Federal agencies, including the costs of administering and reporting on such a program of research, to improve and demonstrate technology and develop basic science information for development and use of renewable and alternative fuels including wind energy, solar energy, geothermal energy, and energy from biomass. Such research may include studies on deployment of such technology including research on how to lower the costs of introduction of such technology and of barriers to entry into the market of such technology.

(4) USE FOR ADJUSTMENTS AND REFUNDS.—If for any circumstances, adjustments or refunds of bonus amounts deposited pursuant to this title become warranted, 50 percent of the amount necessary for the sum of such adjustments and refunds may be paid by the Secretary from the Renewable Energy Technology Investment Fund.

(5) CONSULTATION AND COORDINATION.—Any specific use of the Renewable Energy Technology Investment Fund shall be determined only after the Secretary of Energy consults and coordinates with the heads of other appropriate Federal agencies.

(6) REPORTS.—Not later than 1 year after the date of the enactment of this Act and on an annual basis thereafter, the Secretary of Energy shall transmit to the Committee on Science of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report on the use of funds under this subsection and the impact of and efforts to integrate such uses with other energy research efforts.

(c) ROYALTIES CONSERVATION FUND.—

(1) ESTABLISHMENT AND AVAILABILITY.—There is hereby established in the Treasury of the United States a separate account which shall be known as the ''Royalties Conservation Fund''.

(2) DEPOSITS.—Fifty percent of revenues from rents and royalty payments for leases issued under this title shall be deposited into the Royalties Conservation Fund.

(3) USE, GENERALLY.—Subject to paragraph (4), funds deposited into the Royalties Conservation Fund—

(A) may be used by the Secretary of the Interior and the Secretary of Agriculture to finance grants, contracts, cooperative agreements, and expenses for direct activities of the Department of the Interior and the Forest Service to restore and otherwise conserve lands and habitat and to eliminate maintenance and improvements backlogs on Federal lands, including the costs of administering and reporting on such a program; and

(B) may be used by the Secretary of the Interior to finance grants, contracts, cooperative agreements, and expenses—

(i) to preserve historic Federal properties;

(ii) to assist States and Indian Tribes in preserving their historic properties;

(iii) to foster the development of urban parks; and

(iv) to conduct research to improve the effectiveness and lower the costs of habitat restoration.

(4) USE FOR ADJUSTMENTS AND REFUNDS.—If for any circumstances, refunds or adjustments of royalty and rental amounts deposited pursuant to this title become warranted, 50 percent of the amount necessary for the sum of such adjustments and refunds may be paid from the Royalties Conservation Fund.

(d) AVAILABILITY.—Moneys covered into the accounts established by this section—

(1) shall be available for expenditure only to the extent appropriated therefor;

(2) may be appropriated without fiscal-year limitation; and

(3) may be obligated or expended only as provided in this section.

TITLE VI—CONSERVATION OF ENERGY BY THE DEPARTMENT OF THE INTERIOR

SEC. 6601. ENERGY CONSERVATION BY THE DEPARTMENT OF THE INTERIOR.

(a) IN GENERAL.—The Secretary of the Interior shall—

(1) conduct a study to identify, evaluate, and recommend opportunities for conserving energy by reducing the amount of energy used by facilities of the Department of the Interior; and

(2) wherever feasible and appropriate, reduce the use of energy from traditional sources by encouraging use of alternative energy sources, including solar power and power from fuel cells, throughout such facilities and the public lands of the United States.

(b) REPORTS.—The Secretary shall submit to the Congress—

(1) by not later than 90 days after the date of the enactment of this Act, a report containing the findings, conclusions, and recommendations of the study under subsection (a)(1); and

(2) by not later than December 31 each year, an annual report describing progress made in—

(A) conserving energy through opportunities recommended in the report under paragraph (1); and

(B) encouraging use of alternative energy sources under subsection (a)(2).

SEC. 6602. AMENDMENT TO BUY INDIAN ACT.

Section 23 of the Act of June 25, 1910 (25 U.S.C. 47; commonly known as the ''Buy Indian Act'') is amended by inserting ''energy products, and energy by-products,'' after ''printing,''.

TITLE VII—COAL

SEC. 6701. LIMITATION ON FEES WITH RESPECT TO COAL LEASE APPLICATIONS AND DOCUMENTS.

Notwithstanding sections 304 and 504 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1734, 1764) and section 9701 of title 31, United States Code, the Secretary shall not recover the Secretary's costs with respect to applications and other documents relating coal leases.

SEC. 6702. MINING PLANS.

Section 2(d)(2) of the Mineral Leasing Act (30 U.S.C. 202a(2)) is amended—

(1) by inserting ''(A)'' after ''(2)''; and

(2) by adding at the end the following:

''(B) The Secretary may establish a period of more than 40 years if the Secretary determines that the longer period—

''(i) will ensure the maximum economic recovery of a coal deposit; or

''(ii) the longer period is in the interest of the orderly, efficient, or economic development of a coal resources.''.

SEC. 6703. PAYMENT OF ADVANCE ROYALTIES UNDER COAL LEASES.

(a) IN GENERAL.—Section 7(b) of the Mineral Leasing Act of 1920 (30 U.S.C. 207(b)) is amended to read as follows:

''(b)(1) Each lease shall be subjected to the condition of diligent development and continued operation of the mine or mines, except where operations under the lease are interrupted by strikes, the elements, or casualties not attributable to the lessee.

''(2)(A) The Secretary of the Interior, upon determining that the public interest will be served thereby, may suspend the condition of continued operation upon the payment of advance royalties.

''(B) Such advance royalties shall be computed based on the average price for coal sold in the spot market from the same region during the last month of each applicable continued operation year.

''(C) The aggregate number of years during the initial and any extended term of any lease for which advance royalties may be accepted in lieu of the condition of continued operation shall not exceed 20.

''(3) The amount of any production royalty paid for any year shall be reduced (but not below zero) by the amount of any advance royalties paid under such lease to the extent that such advance royalties have not been used to reduce production royalties for a prior year.

''(4) This subsection shall be applicable to any lease or logical mining unit in existence on the date of the enactment of this paragraph or issued or approved after such date.

''(5) Nothing in this subsection shall be construed to affect the requirement contained in the second sentence of subsection (a) relating to commencement of production at the end of 10 years.''.

(b) AUTHORITY TO WAIVE, SUSPEND, OR REDUCE ADVANCE ROYALTIES.—Section 39 of the Mineral Leasing Act (30 U.S.C. 209) is amended by striking the last sentence.

SEC. 6704. ELIMINATION OF DEADLINE FOR SUBMISSION OF COAL LEASE OPERATION AND RECLAMATION PLAN.

Section 7(c) of the Mineral Leasing Act (30 U.S.C. 207(c)) is amended by striking ''and not later than three years after a lease is issued,''.

TITLE VIII—INSULAR AREAS ENERGY SECURITY

SEC. 6801. INSULAR AREAS ENERGY SECURITY.

Section 604 of the Act entitled ''An Act to authorize appropriations for certain insular areas of the United States, and for other purposes'', approved December 24, 1980 (Public Law 96–597; 94 Stat. 3480–3481), is amended—

(1) in subsection (a)(4) by striking the period and inserting a semicolon;

(2) by adding at the end of subsection (a) the following new paragraphs:

''(5) electric power transmission and distribution lines in insular areas are inadequate to withstand damage caused by the hurricanes and typhoons which frequently occur in insular areas and such damage often costs millions of dollars to repair; and

''(6) the refinement of renewable energy technologies since the publication of the 1982 Territorial Energy Assessment prepared pursuant to subsection (c) reveals the need to reassess the state of energy production, consumption, infrastructure, reliance on imported energy, and indigenous sources in regard to the insular areas.'';

(3) by amending subsection (e) to read as follows:

''(e)(1) The Secretary of the Interior, in consultation with the Secretary of Energy and the chief executive officer of each insular area, shall update the plans required under subsection (c) by—

''(A) updating the contents required by subsection (c);

''(B) drafting long-term energy plans for such insular areas with the objective of reducing, to the extent feasible, their reliance on energy imports by the year 2010 and maximizing, to the extent feasible, use of indigenous energy sources; and

''(C) drafting long-term energy transmission line plans for such insular areas with the objective that the maximum percentage feasible of electric power transmission and distribution lines in each insular area be protected from damage caused by hurricanes and typhoons.

''(2) Not later than May 31, 2003, the Secretary of the Interior shall submit to Congress the updated plans for each insular area required by this subsection.''; and

(4) by amending subsection (g)(4) to read as follows:

''(4) POWER LINE GRANTS FOR TERRITORIES.—

''(A) IN GENERAL.—The Secretary of the Interior is authorized to make grants to governments of territories of the United States to carry out eligible projects to protect electric power transmission and distribution lines in such territories from damage caused by hurricanes and typhoons.

''(B) ELIGIBLE PROJECTS.—The Secretary may award grants under subparagraph (A) only to governments of territories of the United States that submit written project plans to the Secretary for projects that meet the following criteria:

''(i) The project is designed to protect electric power transmission and distribution lines located in one or more of the territories of the United States from damage caused by hurricanes and typhoons.

''(ii) The project is likely to substantially reduce the risk of future damage, hardship, loss, or suffering.

''(iii) The project addresses one or more problems that have been repetitive or that pose a significant risk to public health and safety.

''(iv) The project is not likely to cost more than the value of the reduction in direct damage and other negative impacts that the project is designed to prevent or mitigate. The cost benefit analysis required by this criterion shall be computed on a net present value basis.

''(v) The project design has taken into consideration long-term changes to the areas and persons it is designed to protect and has manageable future maintenance and modification requirements.

''(vi) The project plan includes an analysis of a range of options to address the problem it is designed to prevent or mitigate and a justification for the selection of the project in light of that analysis.

''(vii) The applicant has demonstrated to the Secretary that the matching funds required by subparagraph (D) are available.

''(C) PRIORITY.—When making grants under this paragraph, the Secretary shall give priority to grants for projects which are likely to—

''(i) have the greatest impact on reducing future disaster losses; and

''(ii) best conform with plans that have been approved by the Federal Government or the government of the territory where the project is to be carried out for development or hazard mitigation for that territory.

''(D) MATCHING REQUIREMENT.—The Federal share of the cost for a project for which a grant is provided under this paragraph shall not exceed 75 percent of the total cost of that project. The non-Federal share of the cost may be provided in the form of cash or services.

''(E) TREATMENT OF FUNDS FOR CERTAIN PURPOSES.—Grants provided under this paragraph shall not be considered as income, a resource, or a duplicative program when determining eligibility or benefit levels for Federal major disaster and emergency assistance.

''(F) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this paragraph $5,000,000 for each fiscal year beginning after the date of the enactment of this paragraph.''.

DIVISION G

SEC. 7101. BUY AMERICAN.

No funds authorized under this Act shall be available to any person or entity that has been convicted of violating the Buy American Act (41 U.S.C. 10a–10c).

DIVISION H

Sec. 8101. PROHIBITION ON HUMAN CLONING.

(a) IN GENERAL.—Title 18, United States Code, is amended by inserting after chapter 15, the following:

"CHAPTER 16—HUMAN CLONING

''Sec.
''301. Definitions.
''302. Prohibition on human cloning.

"§ 301. Definitions

''In this chapter:

''(1) HUMAN CLONING.—The term 'human cloning' means human asexual reproduction, accomplished by introducing nuclear material from one or more human somatic cells into a fertilized or unfertilized oocyte whose nuclear material has been removed or inactivated so as to produce a living organism (at any stage of development) that is genetically virtually identical to an existing or previously existing human organism.

''(2) ASEXUAL REPRODUCTION.—The term 'asexual reproduction' means reproduction not initiated by the union of oocyte and sperm.

''(3) SOMATIC CELL.—The term 'somatic cell' means a diploid cell (having a complete set of chromosomes) obtained or derived from a living or deceased human body at any stage of development.

"§ 302. Prohibition on human cloning

''(a) IN GENERAL.—It shall be unlawful for any person or entity, public or private, in or affecting interstate commerce, knowingly—

''(1) to perform or attempt to perform human cloning;

''(2) to participate in an attempt to perform human cloning; or

''(3) to ship or receive for any purpose an embryo produced by human cloning or any product derived from such embryo.

''(b) IMPORTATION.—It shall be unlawful for any person or entity, public or private, knowingly to import for any purpose an embryo produced by human cloning, or any product derived from such embryo.

''(c) PENALTIES.—

''(1) CRIMINAL PENALTY.—Any person or entity that violates this section shall be fined under this title or imprisoned not more than 10 years, or both.

''(2) CIVIL PENALTY.—Any person or entity that violates 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.

''(d) SCIENTIFIC RESEARCH.—Nothing in this section restricts areas of scientific research not specifically prohibited by this section, including research in the use of nuclear transfer or other cloning techniques to produce molecules, DNA, cells other than human embryos, tissues, organs, plants, or animals other than humans.''.

(b) STUDY AND REPORT.—

(1) IN GENERAL.—The General Accounting Office shall conduct a study to assess the need (if any) for amendment of the prohibition on human cloning, as defined in section 301 of title 18, United States Code, as added by this section, which study shall include—

(A) a discussion of new developments in medical technology concerning human cloning and somatic cell nuclear transfer, the need (if any) for somatic cell nuclear transfer to produce medical advances, current public attitudes and prevailing ethical views concerning the use of somatic cell nuclear transfer, and potential legal implications of research in somatic cell nuclear transfer; and

(B) a review of any technological developments that may require that technical changes be made to chapter 16 of title 18, United States Code, as added by this section.

(2) REPORT.—The General Accounting Office shall transmit to Congress, within 4 years after the date of enactment of this Act, a report containing the findings and conclusions of its study, together with recommendations for any legislation or administrative actions which it considers appropriate.

(c) 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:

"16. Human Cloning ..... 301".

(d) EFFECTIVE DATE.—This section, and the amendments made by this section, shall take effect the day after the date of enactment of this Act, and shall expire on the date that is 180 days after the date of enactment of this Act.

SA 2172. Mr. HOLLINGS submitted an amendment intended to be proposed by him to the bill S. 1743, to create a temporary reinsurance mechanism to enhance the availability of terrorism insurance; which was referred to the Committee on Commerce, Science, and Transportation, as follows:

At the appropriate place, insert the following:

SEC. . TAX-EXEMPT STATUS OF TERRORISM RISK-RELATED INCREASED PREMIUM PASSTHROUGH ACCOUNTS.

Amounts received by participating insurers as increased premiums under section 9(a) and deposited in the separate segregated account required by section 9(b), and amounts earned as interest, dividends, or other income on funds deposited in such account, shall be exempt from all Federal, State, and local income and excise taxes, and may not be taken into account for the purpose of determining any other tax liability of the participating insurer.

SA 2173. Mr. BURNS submitted an amendment intended to be proposed by him to the bill H.R. 10, to provide for pension reform, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE IX—CAPITAL GRANTS FOR RAILROAD TRACK

SEC. 901. ESTABLISHMENT OF PROGRAM.

(a) AUTHORITY.—Chapter 223 of title 49, United States Code, is amended to read as follows:

"CHAPTER 223—CAPITAL GRANTS FOR RAILROAD TRACK

''Sec.
''22301. Capital grants for railroad track.

"§ 22301. Capital grants for railroad track

''(a) ESTABLISHMENT OF PROGRAM.—

''(1) ESTABLISHMENT.—The Secretary of Transportation shall establish a program of capital grants for the rehabilitation, preservation, or improvement of railroad track (including roadbed, bridges, and related track structures) of class II and class III railroads. Such grants shall be for rehabilitating, preserving, or improving track used primarily for freight transportation to a standard ensuring that the track can be operated safely and efficiently, including grants for rehabilitating, preserving, or improving track to handle 286,000 pound rail cars. Grants may be provided under this chapter—

''(A) directly to the class II or class III railroad; or

''(B) with the concurrence of the class II or class III railroad, to a State or local government.

''(2) STATE COOPERATION.—Class II and class III railroad applicants for a grant under this chapter are encouraged to utilize the expertise and assistance of State transportation agencies in applying for and administering such grants. State transportation agencies are encouraged to provide such expertise and assistance to such railroads.

''(3) INTERIM REGULATIONS.—Not later than December 31, 2001, the Secretary shall issue temporary regulations to implement the program under this section. Subchapter II of chapter 5 of title 5 does not apply to a temporary regulation issued under this paragraph or to an amendment to such a temporary regulation.

''(4) FINAL REGULATIONS.—Not later than October 1, 2002, the Secretary shall issue final regulations to implement the program under this section.

''(b) MAXIMUM FEDERAL SHARE.—The maximum Federal share for carrying out a project under this section shall be 80 percent of the project cost. The non-Federal share may be provided by any non-Federal source in cash, equipment, or supplies. Other in-kind contributions may be approved by the Secretary on a case by case basis consistent with this chapter.

''(c) PROJECT ELIGIBILITY.—For a project to be eligible for assistance under this section the track must have been operated or owned by a class II or class III railroad as of the date of the enactment of the Railroad Track Modernization Act of 2001.

''(d) USE OF FUNDS.—Grants provided under this section shall be used to implement track capital projects as soon as possible. In no event shall grant funds be contractually obligated for a project later than the end of the third Federal fiscal year following the year in which the grant was awarded. Any funds not so obligated by the end of such fiscal year shall be returned to the Secretary for reallocation.

''(e) ADDITIONAL PURPOSE.—In addition to making grants for projects as provided in subsection (a), the Secretary may also make grants to supplement direct loans or loan guarantees made under title V of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 822(d)), for projects described in the last sentence of section 502(d) of such title. Grants made under this subsection may be used, in whole or in part, for paying credit risk premiums, lowering rates of interest, or providing for a holiday on principal payments.

''(f) EMPLOYEE PROTECTION.—The Secretary shall require as a condition of any grant made under this section that the recipient railroad provide a fair arrangement at least as protective of the interests of employees who are affected by the project to be funded with the grant as the terms imposed under section 11326(a), as in effect on the date of the enactment of the Railroad Track Modernization Act of 2001.

''(g) LABOR STANDARDS.—

''(1) PREVAILING WAGES.—The Secretary shall ensure that laborers and mechanics employed by contractors and subcontractors in construction work financed by a grant made under this section will be paid wages not less than those prevailing on similar construction in the locality, as determined by the Secretary of Labor under the Act of March 3, 1931 (known as the Davis-Bacon Act; 40 U.S.C. 276a et seq.). The Secretary shall make a grant under this section only after being assured that required labor standards will be maintained on the construction work.

''(2) WAGE RATES.—Wage rates in a collective bargaining agreement negotiated under the Railway Labor Act (45 U.S.C. 151 et seq.) are deemed for purposes of this subsection to comply with the Act of March 3, 1931 (known as the Davis-Bacon Act; 40 U.S.C. 276a et seq.).

''(h) STUDY.—The Secretary shall conduct a study of the projects carried out with grant

assistance under this section to determine the public interest benefits associated with the light density railroad networks in the States and their contribution to a multimodal transportation system. Not later than March 31, 2003, the Secretary shall report to Congress any recommendations the Secretary considers appropriate regarding the eligibility of light density rail networks for Federal infrastructure financing.

''(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation $350,000,000 for each of the fiscal years 2002 through 2004 for carrying out this section.''.

(b) CONFORMING AMENDMENT.—The item relating to chapter 223 in the table of chapters of subtitle V of title 49, United States Code, is amended to read as follows:

''223. CAPITAL GRANTS FOR RAILROAD TRACK ..... 22301''.

SA 2174. Mr. BURNS submitted an amendment intended to be proposed by him to the bill H.R. 10, to provide for pension reform, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE IX—RAILROAD COMPETITION, ARBITRATION, AND SERVICE

SEC. 901. SHORT TITLE; AMENDMENT OF TITLE 49, UNITED STATES CODE.

(a) SHORT TITLE.—This title may be cited as the ''Railroad Competition, Arbitration, and Service Act of 2001''.

(b) AMENDMENT OF TITLE 49, UNITED STATES CODE.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

SEC. 902. PURPOSES.

The purposes of this title are as follows:

(1) To eliminate unreasonable barriers to competition among rail carriers.

(2) To provide for use of expedited, private means for the resolution of disputes between shippers and carriers.

SEC. 903. CLARIFICATION OF RAIL TRANSPORTATION POLICY.

Section 10101 is amended—

(1) by inserting ''(a) IN GENERAL.—'' before ''In regulating''; and

(2) by adding at the end the following:

''(b) PRIMARY OBJECTIVES.—The primary objectives of the rail transportation policy of the United States are as follows:

''(1) To ensure effective competition among rail carriers at origins and destinations.

''(2) To maintain reasonable rates for rail transportation where effective competition among rail carriers has not been achieved.

''(3) To maintain consistent and efficient rail transportation service for shippers.''.

SEC. 904. ARBITRATION OF CERTAIN RAIL RATE, SERVICE, AND OTHER DISPUTES.

(a) IN GENERAL.—

(1) AUTHORITY.—Chapter 117 of title 49 is amended by adding the following section after section 11707:

''§ 11708. Arbitration of certain rail rate, service, and other disputes

''(a) ELECTION OF ARBITRATION.—A dispute described in subsection (b) shall be submitted for resolution by arbitration upon the election of any party to the dispute that is not a rail carrier.

''(b) COVERED DISPUTES.—(1) Except as provided in paragraph (2), subsection (a) applies to any dispute between a party described in subsection (a) and a rail carrier that—

''(A) arises under section 10701(c), 10701(d), 10702, 10704(a)(1), 10707, 10741, 10745, 10746, 11101(a), 11102, 11121, 11122, or 11706 of this title; and

''(B) involves—

''(i) the payment of money;

''(ii) a rate charged by the rail carrier; or

''(iii) transportation by the rail carrier.

''(2) Subsection (a) does not apply to a dispute if the resolution of the dispute would necessarily involve the promulgation of regulations generally applicable to all rail carriers.

''(c) ARBITRATION PROCEDURES.—The Secretary of Transportation shall prescribe in regulations the procedures for the resolution of disputes submitted for arbitration under subsection (a). The regulations shall include the following:

''(1) Procedures, including time limits, for the selection of an arbitrator or panel of arbitrators for a dispute from among arbitrators listed on the roster of arbitrators established and maintained by the Secretary under subsection (d)(1).

''(2) Policies, requirements, and procedures for the compensation of each arbitrator for a dispute to be paid by the parties to the dispute.

''(3) Procedures for expedited arbitration of a dispute, including procedures for discovery authorized in the exercise of discretion by the arbitrator or panel of arbitrators.

''(d) SELECTION OF ARBITRATORS.—(1) The Secretary of Transportation shall establish, maintain, and revise as necessary a roster of arbitrators who—

''(A) are experienced in transportation or economic issues within the jurisdiction of the Board or issues similar to those issues;

''(B) satisfy requirements for neutrality and other qualification requirements prescribed by the Secretary;

''(C) consent to serve as arbitrators under this section; and

''(D) are not officers or employees of the United States.

(2) For a dispute involving an amount not in excess of $1,000,000, the regulations under subsection (c) shall provide for arbitration by a single arbitrator selected by—

''(A) the parties to the dispute; or

''(B) if the parties cannot agree, the Secretary of Transportation, from the roster of arbitrators prescribed under paragraph (1).

''(3)(A) For a dispute involving an amount in excess of $1,000,000, the regulations under subsection (c) shall provide for arbitration by a panel of three arbitrators selected as follows:

''(i) One arbitrator selected by the party electing the arbitration.

''(ii) One arbitrator selected by the rail carrier or all of the rail carriers who are parties to the dispute, as the case may be.

''(iii) One arbitrator selected by the two arbitrators selected under clauses (i) and (ii).

''(B) If a selection of an arbitrator is not made under clause (ii) or (iii) of subparagraph (A) within the time limits prescribed in the regulations, then the Secretary shall select the arbitrator from the roster of arbitrators prescribed under paragraph (1).

''(e) DISPUTES ON RATES OR CHARGES.—(1) The requirements of this subsection apply to a dispute submitted under this section for resolution of an issue of the reasonableness of a rate or charge imposed by a rail carrier.

''(2)(A) Subject to subparagraph (B), the decision of an arbitrator or panel of arbitrators in a dispute on an issue described in paragraph (1) shall be one of the final offers of the parties to the dispute.

''(B) A decision under subparagraph (A) may not provide for a rate for transportation by a rail carrier that would result in a revenue-variable cost percentage for such transportation that is less than 180 percent, as determined under standards applied in the administration of section 10707(d) of this title.

''(3) If the party electing arbitration of a dispute described in paragraph (1) seeks compensation for damages incurred by the party as a result of a specific rate or charge imposed by a rail carrier for the transportation of items for the party and the party alleges an amount of damages that does not exceed $500,000 for any year as a result of the imposition of the specific rate or charge, the arbitrator, in making a decision on the dispute, shall consider the rates or charges, respectively, that are imposed by rail carriers for the transportation of similar items under similar circumstances in rail transportation markets where there is effective competition, as determined under standards applied by the Board in the administration of section 10707(a) of this title.

''(f) TIME FOR ISSUANCE OF ARBITRATION DECISION.—Notwithstanding any other provision of this subtitle limiting the time for the taking of an action under this subtitle, the arbitrator or panel of arbitrators for a dispute submitted for resolution under this section shall issue a final decision on the dispute within the maximum period after the date on which the arbitrator or panel is selected to resolve the dispute under this section, as follows:

''(1) In the case of a dispute involving $1,000,000 or less, 120 days.

''(2) In the case of a dispute involving more than $1,000,000, 180 days.

''(g) AUTHORIZED RELIEF.—A decision of an arbitrator or panel of arbitrators under this section may grant relief in either or both of the following forms:

''(1) Monetary damages, to the extent authorized to be provided by the Board in such a dispute under this subtitle.

''(2) An order that requires specific performance of any obligation under a statute determined to be applicable, including any limitation of rates to reasonable rates, for any period not in excess of two years beginning on the date of the decision.

''(h) JUDICIAL CONFIRMATION AND REVIEW.—The following provisions of title 9 shall apply to an arbitration decision issued in a dispute under this section:

''(1) Section 9 (relating to confirmation of an award in an arbitration decision), which shall be applied as if the parties had entered into an agreement under title 9 to submit the dispute to the arbitration and had provided in that agreement for a judgment of an unspecified court to be entered on the award made pursuant to the arbitration.

''(2) Section 10 (relating to judicial vacation of an award in an arbitration decision).''.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 11707 the following:

''11708. Arbitration of certain rail rate, service, and other disputes.''.

(b) TIME FOR IMPLEMENTING CERTAIN REQUIREMENTS.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Transportation shall promulgate regulations, prescribe a roster of arbitrators, and complete any other action that is necessary for the implementation of section 11708 of title 49, United States Code (as added by subsection (a)).

SEC. 905. ELIMINATION OF BARRIERS TO COMPETITION BETWEEN CLASS I CARRIERS AND CLASS II AND CLASS III CARRIERS.

(a) RESTRICTION ON APPROVAL OR EXEMPTION OF CARRIERS' ACTIVITIES BY SURFACE TRANSPORTATION BOARD.—Section 10901 is amended by adding at the end the following new subsection:

''(e)(1) The Board may not issue under this section a certificate authorizing an activity described in subsection (a), or exempt from

the applicability of this section under section 10502 of this title such an activity that involves a transfer of interest in a line of railroad, by a Class I rail carrier to a Class II or III rail carrier if the activity directly or indirectly would result in—

''(A) a restriction of the ability of the Class II or Class III rail carrier to interchange traffic with other carriers; or

''(B) a restriction of competition between or among rail carriers in the region affected by the activity in a manner or to an extent that would violate antitrust laws of the United States (notwithstanding any exemption from the applicability of antitrust laws that is provided under section 10706 of this title or any other provision of law).

''(2) Any party to an activity referred to in paragraph (1) that has been carried out, or any rail shipper affected by such an activity, may request the Board to review the activity to determine whether the activity has resulted in a restriction described in that paragraph. If, upon review of the activity, the Board determines that the activity resulted in such a restriction and the restriction has been in effect for at least 10 years, the Board shall declare the restriction to be unlawful and terminate the restriction unless the Board finds that the termination of the restriction would materially impair the ability of an affected rail carrier to provide service to the public or would otherwise be inconsistent with the public interest.

''(3) In this subsection:

''(A) The term'antitrust laws' has the meaning given that term in subsection (a) of the first section of the Clayton Act (15 U.S.C. 12(a)), except that such term also means section 5 of the Federal Trade Commission Act (15 U.S.C. 45) to the extent that such section 5 applies to unfair methods of competition.

''(B) The terms 'class I rail carrier', 'class II rail carrier', and 'class III rail carrier' mean, respectively, a rail carrier classified under regulations of the Board as a Class I rail carrier, Class II rail carrier, and Class III rail carrier.''.

(b) APPLICABILITY TO PREVIOUSLY APPROVED OR EXEMPTED ACTIVITIES.—Paragraph (2) of section 10901(e) of title 49, United States Code (as added by subsection (a)), shall apply with respect to any activity referred to in that paragraph for which the Surface Transportation Board issued a certificate authorizing the activity under section 10901 of such title, or exempted the activity from the necessity for such a certificate under section 10502 of such title, before, on, or after the date of the enactment of this Act.

SEC. 906. SYSTEM WIDE COMPETITION.

(a) TRACKAGE RIGHTS.—Chapter 111 is amended by inserting after section 11102 the following new section:

''§ 11102a. Trackage rights

''(a) ALTERNATIVE RAIL CARRIER SERVICE.—(1) A person who uses or seeks to use rail service for major train load shipments to or from a facility (whether located in a terminal area or served by terminal facilities) that has physical access solely to one rail carrier may request, as provided in this subsection, that rail service for such shipments be provided to or from that facility by—

''(A) an existing Class I rail carrier; or

''(B) an existing Class II rail carrier, existing Class III rail carrier, or new rail service provider that, as determined by the Federal Railroad Administration before the person makes the request—

''(i) is or is likely to be capable of transporting the major train load shipments over the facilities of the one rail carrier to or from the facility with the physical access solely to that rail carrier;

''(ii) is or is likely to be capable of doing so in compliance with applicable Federal Railroad Administration regulations and with the operating and safety rules of the rail carrier responsible for dispatching for the use of the facilities; and

''(iii) has or is likely to have the financial ability (or insurance coverage with limits customary in the railroad industry) to satisfy liability claims arising from its operations.

''(2) For the purposes of this section a major train load shipment is any train load shipment that consists of 50 or more rail cars and is tendered all at one time on a single bill of lading.

''(b) PROCEDURE FOR REQUESTING SERVICE.—(1) A person seeking under subsection (a) to obtain from an alternative rail service provider transportation for major train load shipments to or from a facility described in paragraph (1) of that subsection shall file with the Board a notice of intent to request that service. The notice shall include the following:

''(A) A description of the facilities to be used by the alternative service provider.

''(B) A statement that the person has attempted without success, through negotiations with the rail carrier that has been providing the person with rail service to or from the facility, to obtain the proposed service from that rail carrier on terms similar to those available from the alternative rail service provider.

''(C) Any other details of the proposed service.

''(D) If the alternative rail service provider is a provider described in subparagraph (B) of subsection (a)(1), a certification by the Federal Railroad Administration of the determinations required for eligibility under that subparagraph.

''(2)(A) Subject to subparagraph (D), rail service described in a notice filed with the Board under paragraph (1) may be provided by the alternative rail service provider referred to in the notice beginning 60 days after the notice is so filed unless, before the expiration of that 60-day period, the Board determines that the alternative rail service provider's use of the facilities involved—

''(i) will be unsafe;

''(ii) is not operationally feasible; or

''(iii) will substantially impair the ability of the other rail carrier or rail carriers using the facilities to provide transportation over those facilities in accordance with the reasonable requirements of the customers served by the other carrier or carriers as of the date of the Board's determination.

''(B) The rail carrier or carriers that own or provide transportation over the facilities to be used by an alternative rail service provider in rail service covered by a notice filed with the Board under paragraph (1) shall have the burden of proving the matters described in clauses (i), (ii), and (iii) of subparagraph (A).

''(C) The Board shall consult with the Federal Railroad Administration in determining the facts regarding any allegation by a rail carrier or rail carriers that an alternative rail service provider's use of facilities would be unsafe.

''(D) An alternative rail service provider may not begin to provide any rail service under subparagraph (A) before the provider's train crews are qualified to operate over the facilities to be used to provide the service, as determined under rules applicable to such operations.

''(c) DISPATCHING AND OTHER RESPONSIBILITIES.—(1) The rail carrier responsible for controlling rail operations on, or for dispatching for the use of, facilities used by any alternative rail service provider pursuant to a notice filed with the Board under subsection (b) shall—

''(A) continue to perform those functions for all rail carriers using the facilities, including the alternative rail service provider; and

''(B) dispatch trains for the alternative rail service provider, without discrimination, on the same basis that the rail carrier would apply if it were providing the transportation for the traffic transported by the alternative rail service provider.

''(2) The Board shall have jurisdiction over, and shall promptly resolve, any disputes arising under paragraph (1)(B).

''(d) COMPENSATION FOR USE OF FACILITIES.—(1) An alternative rail service provider that, pursuant to a notice filed with the Board under subsection (b), is providing transportation over facilities owned by another rail carrier shall compensate the owner of the facilities on such terms as the alternative rail service provider and the owner may agree. The terms of compensation shall be adjusted annually, as the parties may agree, effective as of the anniversary of the date on which the alternative rail service provider began to use the facilities.

''(2)(A) The terms of compensation for an owner of facilities for the use of facilities by an alternative rail service provider shall be established on a basis that provides for the alternative rail service provider to compensate the owner at a level that—

''(i) defrays the relevant costs incurred by the owner for transportation over those facilities to the extent of a share that is proportionate to the use of those facilities by the alternative rail service provider in relation to the use of those facilities by all users of the facilities; and

''(ii) provides the owner with a reasonable return on and of the owner's net book investment in road property for the facilities (exclusive of write-ups or write-downs resulting from mergers and consolidations of any of the facilities that were acquired from another rail carrier on or after July 1, 1995).

''(B) For the purposes of subparagraph (A), an alternative rail service provider's proportionate share of the total relevant costs incurred by the owner of facilities for the use of facilities during the first 12 months of the provider's use of the facilities pursuant to a notice filed with the Board under subsection (b) shall be the ratio of—

''(i) the extent to which the alternative rail service provider is reasonably expected to use the facilities during that 12-month period, measured in gross ton-miles, to

''(ii) the total volume of the use of the facilities by all users of the facilities during the 12 calendar months preceding the month in which the notice was filed with the Board, measured in gross ton-miles.

''(C) For the purpose of calculating an annual adjustment of the terms of compensation for an owner of facilities for the use of those facilities for rail service by an alternative rail service provider, the ratio applied under subparagraph (A) for determining the alternative rail service provider's proportionate share of the total relevant costs incurred by the owner of facilities for the use of facilities shall be the ratio of—

''(i) the total volume of the use of the facilities by the alternative rail service provider during the 12 calendar months preceding the month in which the adjustment takes effect, measured in gross ton-miles, to

''(ii) the total volume of the use of the facilities by all users of the facilities during those 12 months, measured in gross ton-miles.

''(D) For the purposes of subparagraph (A), the total relevant costs for use of facilities shall include the following:

''(i) Roadway maintenance expenses.

''(ii) Costs reasonably related to the dispatching or control of the operation of users' trains.

''(iii) Any ad valorem taxes.

''(3)(A) If the owner of facilities to be used by an alternative rail service provider pursuant to a notice filed with the Board under subsection (b) and the alternative rail service provider do not agree on the terms of compensation for the initial use of the facilities before the expiration of the 60-day period applicable to the notice under paragraph (2) of that subsection (b), either party (or the person requesting the rail service from the alternative rail service provider) may request the Board to establish the terms of compensation. The Board shall establish those terms of compensation, in accordance with the standards applicable under this subsection, within 60 days after receiving such a request. The terms so established shall be effective retroactively as of the date on which the 60-day period applicable under subsection (b)(2) expires.

''(B) If the owner of facilities and an alternative rail service provider do not agree on an annual adjustment to terms of compensation under paragraph (1) before the anniversary of the date on which the alternative rail service provider began to use the facilities, either party may submit the dispute to the Board. The Board shall resolve the dispute within 60 days after the dispute is submitted. Any adjustment pursuant to a resolution of the dispute shall take effect retroactively as of that anniversary date.

''(e) NEW AND ENHANCED FACILITIES.—(1) If it is necessary for an owner of facilities to construct a new connecting track or interlocker or any other new facility or to improve a connecting track, interlocker, or other facility of that owner solely to accommodate the commencement of rail service by an alternative rail service provider under this section, the person requesting the rail service by the alternative rail service provider over those facilities shall pay the entire reasonable cost of the construction or improvement. The owner constructing the new facility or facilities shall own the newly constructed or improved facility or facilities, as the case may be.

''(2) If, at any time during the period of use of facilities by one or more alternative rail service providers pursuant to this section, it is necessary to construct or improve facilities to ensure the safe or efficient operation of rail service by the alternative rail service providers and all other rail carriers using the facilities to provide rail service, the reasonable cost of the construction or improvement shall be shared by the owner and each of the users of the facilities on such terms as those parties may agree. Any dispute concerning such terms shall be promptly resolved by the Board upon the request of any such user.

''(f) RELATIONSHIP TO OTHER AUTHORITIES.—This section may not be construed to provide an exclusive remedy, nor to limit the availability of any other remedy under this part, to users of rail transportation for the enhancement of intramodal rail competition.''.

(b) CLERICAL AMENDMENT.—The table of contents at the beginning of such chapter is amended by inserting after section 11102 the following new item:

''11102a. Trackage rights.''.

SEC. 907. EFFECTIVE DATES.

(a) IN GENERAL.—Except as provided in subsection (b), this title and the amendments made by this title shall take effect on January 1, 2002.

(b) EXCEPTIONS.—Section 906 and the amendment made by that section shall take effect on the date of enactment of this Act.

AUTHORITY FOR COMMITTEES TO MEET

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 the session of the Senate on November 29, 2001, at 10 a.m., to conduct a hearing on ''Housing and Community Development Needs: The FY 2003 HUD Budget.''

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, November 29, 2001, at 10:30 a.m. to hold a nomination hearing.

Agenda

Nominees: John V. Hanford, III, of Virginia, to be Ambassador at Large for International Religious Freedom; Arthur E. Dewey, of Maryland, to be an Assistant Secretary of State (Population, Refugees, and Migration); and John D. Ong, of Ohio, to be Ambassador to Norway.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. REID. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a markup on Thursday, November 29, 2001, at 10 a.m. in Dirksen room 226.

Agenda

I. Committee Business: Subcommittees.

II. Unfinished Business: S. 986, A bill to allow media coverage of court proceedings [Grassley/Schumer/Leahy/Smith/Allard/Feingold / Specter/Durbin/DeWine/Allen/Edwards/Cantwell].

III. Nominations: Harris L. Hartz to be United States Circuit Court Judge for the Tenth Circuit; John D. Bates to be United States District Court Judge for the District of Columbia; Kurt D. Engelhardt to be United States District Court Judge for the Eastern District of Louisiana; Joe L. Heaton to be United States District Court Judge for the Western District of Oklahoma; William P. Johnson to be United States District Court Judge for the District of New Mexico; Clay D. Land to be United States District Court Judge for the Middle District of Georgia; Frederick J. Martone to be United States District Court Judge for the District of Arizona; Danny C. Reeves to be United States District Court Judge for the Eastern District of Kentucky; Julie A. Robinson to be United States District Court Judge for the District of Kansas; James E. Rogan to be Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office at the Department of Commerce; and Thomas L. Sansonetti to be Assistant Attorney General for the Environment and Natural Resources Division.

To be United States Attorney: David R. Dugas for the Middle District of Louisiana; Edward H. Kubo for the District of Hawaii; James A. McDevitt for the Eastern District of Washington; David E. O'Meilia for the Northern District of Oklahoma; Sheldon S. Sperling for the Eastern District of Oklahoma; Johnny Keane Sutton for the Western District of Texas; and Richard S. Thompson for the Southern District of Georgia.

IV. Bills: S. 304, Drug Abuse Education, Prevention, and Treatment Act of 2001 [Hatch/Leahy/Biden/DeWine/Thurmond].

V. Resolutions:

S. Res. 140, A resolution designating the week beginning September 15, 2002, as ''National Civic Participation Week'' [Roberts/Feinstein/Reid/Warner].

H. Con. Res. 88, Expressing the sense of the Congress that the President should issue a proclamation recognizing a National Lao-Hmong Recognition Day.

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, November 29, 2001 at 2:30 p.m. to hold a nomination hearing.

Agenda

Nominees: James McGee, of Florida, to be Ambassador to the Kingdom of Swaziland; Kenneth Moorefield, of Florida, to be Ambassador to the Gabonese Republic; and John Price, of Utah, to be Ambassador to the Republic of Mauritius, and to serve concurrently and without additional compensation as Ambassador to the Federal and Islamic Republic of The Comoros and Ambassador to the Republic of Seychelles.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON INTERNATIONAL SECURITY, PROLIFERATION AND FEDERAL SERVICES

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs' Subcommittee on International Security, Proliferation and Federal Services be authorized to meet on Thursday, November 29, 2001 at 9:30 A.M. for a hearing entitled ''Combating Proliferation of Weapons of Mass Destruction (WMD) with Non-Proliferation Programs: Non-Proliferation Assistance Coordination Act of 2001, Part II.''

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS CONSENT REQUEST—S. 180

Mr. REID. Mr. President, I ask unanimous consent that the Chair lay before the Senate a message from the

House on S. 180, that the Senate disagree to the House amendment, agree to the request for a conference with the House on the disagreeing votes of the two Houses, and that the Chair be authorized to appoint conferees on the part of the Senate, with no intervening action.

The PRESIDING OFFICER. Is there objection?

Mr. MURKOWSKI. On behalf of the majority leader, I object.

The PRESIDING OFFICER. Objection is heard.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations: Nos. 573, 574, 576, 577 through 582, and the nominations on the Secretary's desk; that the nominations be confirmed, the motions to reconsider be laid upon the table, any statements thereon be printed in the RECORD, the President be immediately notified of the Senate's action, and the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed are as follows:

FEDERAL HOUSING FINANCE BOARD

John Thomas Korsmo, of North Dakota, to be a Director of the Federal Housing Finance Board for a term expiring February 27, 2002.

John Thomas Korsmo, of North Dakota, to be a Director of the Federal Housing Finance Board for a term expiring February 27, 2009. (Reappointment)

Franz S. Leichter, of New York, to be a Director of the Federal Housing Finance Board for a term expiring February 27, 2006.

Allan I. Mendelowitz, of Connecticut, to be a Director of the Federal Housing Finance Board for a term expiring February 27, 2007.

AIR FORCE

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. Bruce A. Wright, 5759

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be general

Lt. Gen. Donald G. Cook, 6452

ARMY

The following named officers for appointment in the United States Army to the grade indicated under title 10, U.S.C., section 624:

To be brigadier general

Col. Elder Granger, 1583
Col. George W. Weightman, 6988

The following named officers for appointment in the United States Army to the grade indicated under title 10, U.S.C., section 624:

To be brigadier general

Colonel Byron S. Bagby, 3934
Colonel Leo A. Brooks, Jr., 5819
Colonel Sean J. Byrne, 2057
Colonel Charles A. Cartwright, 2898
Colonel Philip D. Coker, 7623
Colonel Thomas R. Csrnko, 1332
Colonel Robert L. Davis,2604
Colonel John DeFreitas, III, 7924
Colonel Robert E. Durbin, 9354
Colonel Gina S. Farrisee, 7084
Colonel David A. Fastabend, 5081
Colonel Richard P. Formica, 7015
Colonel Kathleen M. Gainey, 4227
Colonel Daniel A. Hahn, 0301
Colonel Frank G. Helmick, 8189
Colonel Rhett A. Hernandez, 7009
Colonel Mark P. Hertling, 3917
Colonel James T. Hirai, 5860
Colonel Paul S. Izzo, 1942
Colonel James L. Kennon, 4010
Colonel Mark T. Kimmitt, 8655
Colonel Robert P. Lennox, 8104
Colonel Douglas E. Lute, 2691
Colonel Timothy P. McHale, 0796
Colonel Richard W. Mills, 9267
Colonel Benjamin R. Mixon, 7168
Colonel James R. Moran, 2618
Colonel James R. Myles, 2299.
Colonel Larry C. Newman, 6949
Colonel Carroll F. Pollett, 9096
Colonel Robert J. Reese, 3946
Colonel Stephen V. Reeves, 2272
Colonel Richard J. Rowe, Jr., 5346
Colonel Edward J. Sinclair, 9044
Colonel Eric F. Smith, 3800
Colonel Abraham J. Turner, 5542
Colonel Volney J. Warner, 3024
Colonel John C. Woods, 4554
Colonel Howard W. Yellen, 3205

The following named officer for appointment in the United States Army to the grade indicated under title 10, U.S.C., section 624:

To be major general

Brig. Gen. Lester Martinez-Lopez, 1323

NOMINATIONS PLACED ON THE SECRETARY'S DESK

AIR FORCE

PN1175 Air Force nominations (2) beginning CESARIO F. FERRER, JR., and ending RAYMOND Y. HOWELL, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of October 30, 2001.

ARMY

PN1165 Army nominations (4) beginning ROBERT A. JOHNSON, and ending JOHN T. WASHINGTON III, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of October 25, 2001.

PN1176 Army nominations (12) beginning SAMUEL CALDERON, and ending FRANK E. WISMER, III, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of October 30, 2001.

PN1203 Army nomination of Carol E. Pilat, which was received by the Senate and appeared in the CONGRESSIONAL RECORD of November 8, 2001.

PN1204 Army nomination of Iluminada S. Calicdan, which was received by the Senate and appeared in the CONGRESSIONAL RECORD of November 8, 2001.

PN1205 Army nomination of *James W. Ware, which was received by the Senate and appeared in the CONGRESSIONAL RECORD of November 8, 2001.

PN1206 Army nomination of Mee S. Paek, which was received by the Senate and appeared in the CONGRESSIONAL RECORD of November 8, 2001.

PN1224 Army nominations (8) beginning MARION S. CORNWELL, and ending GARY L. WHITE, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of November 15, 2001.

PN1225 Army nominations (30) beginning CHERYL A. ADAMS, and ending DEBBIE T. WINTERS, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of November 15, 2001.

PN1226 Army nominations (40) beginning WILLIE J. ATKINSON, and ending WILLEM P. VANDEMERWE, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of November 15, 2001.

PN1227 Army nominations (50) beginning DAVID S. ALLEMAN, and ending WILLIAM P. YEOMANS, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of November 15, 2001.

PN1228 Army nominations (112) beginning LYNN F. ABRAMS, and ending BURKHARDT H. ZORN, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of November 15, 2001.

PN1229 Army nominations (4) beginning CHARLES B. COLISON, and ending ARLENE SPIRER, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of November 15, 2001.

NAVY

PN1177 Navy nominations (39) beginning BRADFORD W. BAKER, and ending DAVID J. WICKERSHAM, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of October 30, 2001.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

MEASURES INDEFINITELY POSTPONED—S. 1191, S. 1215, AND S. 1216

Mr. REID. Mr. President, I ask unanimous consent that the following calendar items be indefinitely postponed: Calendar No. 91, S. 1191; Calendar No. 95, S. 1215; and Calendar No. 97, S. 1216.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. For the information of the Senate, these items are Senate-numbered appropriations bills. The conference reports on the House-numbered bills are now public laws.

NATIONAL COMMUNITY ANTIDRUG COALITION INSTITUTE

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 159, H.R. 2291.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 2291) to extend the authorization of the Drug-Free Communities Support Program for an additional 5 years, to authorize a National Community Antidrug Coalition Institute, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. REID. Mr. President, I ask unanimous consent that the bill be considered, read a third time, passed, the motion to reconsider be laid on the table, and that any statements relating to this bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 2291) was read the third time and passed.

APPOINTMENT OF PATRICIA Q. STONESIFER

Mr. REID. Mr. President, I ask unanimous consent that the Rules Committee be discharged from further consideration of S.J. Res. 26 and the Senate then proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the resolution by title.

The legislative clerk read as follows:

A joint resolution (S.J. Res. 26) providing for the appointment of Patricia Q. Stonesifer as a citizen regent of the Board of Regents of the Smithsonian Institution.

There being no objection, the Senate proceeded to consider the joint resolution.

Mr. REID. Mr. President, I ask unanimous consent that the joint resolution be read three times, passed, the motion to reconsider be laid on the table, and that any statements relating thereto be printed in the RECORD, with no intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S.J. Res. 26) was read the third time and passed, as follows:

S.J. RES. 26

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That, in accordance with section 5581 of the Revised Statutes of the United States (20 U.S.C. 43), the vacancy on the Board of Regents of the Smithsonian Institution, in the class other than Members of Congress, occurring by reason of the expiration of the term of Dr. Homer Neal of Michigan on December 7, 2001, is filled by the appointment of Patricia Q. Stonesifer of Washington. The appointment is for a term of 6 years and shall take effect on December 8, 2001.

MEASURE READ THE FIRST TIME—H.R. 2722

Mr. REID. Mr. President, it is my understanding that H.R. 2722, which was just received from the House, is at the desk. I now ask for its first reading.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 2722) to implement effective measures to stop trade in conflict diamonds, and for other purposes.

Mr. REID. Mr. President, I now ask for its second reading and object to my own request on behalf of a number of my colleagues.

The PRESIDING OFFICER. Objection having been heard, the bill will be read the second time on the next legislative day.

MEASURE READ THE FIRST TIME—H.R. 3189

Mr. REID. Mr. President, I understand that H.R. 3189, received from the House, is at the desk. I ask for its first reading.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 3189) to extend the Export Administration Act until April 20, 2002.

Mr. REID. I now ask for its second reading but object to my own request.

The PRESIDING OFFICER. Objection having been heard, the bill will receive its second reading on the next legislative day.

ORDERS FOR FRIDAY, NOVEMBER 30, 2001

Mr. REID. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until the hour of 9:30 a.m., Friday, November 30; that immediately following the prayer and the pledge, the Journal of proceedings be approved to date, the morning hour be deemed to have expired, the time for the two leaders be reserved for their use later in the day, and there be a period for morning business, with Senators permitted to speak therein for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, I remind the Senate that there have been three cloture motions filed with respect to H.R. 10. All first-degree amendments must be filed prior to 1 p.m. tomorrow, Friday.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. REID. Mr. President, if there is no further business to come before the Senate, I ask the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 8:17 p.m., adjourned until Friday, November 30, 2001, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate November 29, 2001:

EXPORT-IMPORT BANK OF THE UNITED STATES

J. JOSEPH GRANDMAISON, OF NEW HAMPSHIRE, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE EXPORT-IMPORT BANK OF THE UNITED STATES FOR A TERM EXPIRING JANUARY 20, 2005, VICE RITA M. RODRIGUEZ.

THE JUDICIARY

JEANETTE J. CLARK, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSOCIATE JUDGE OF THE SUPERIOR COURT OF THE DISTRICT OF COLUMBIA FOR THE TERM OF FIFTEEN YEARS, VICE GEORGE W. MITCHELL, DECEASED.

CONFIRMATIONS

Executive nominations confirmed by the Senate November 29, 2001:

FEDERAL HOUSING FINANCE BOARD

JOHN THOMAS KORSMO, OF NORTH DAKOTA, TO BE A DIRECTOR OF THE FEDERAL HOUSING FINANCE BOARD FOR A TERM EXPIRING FEBRUARY 27, 2002.

JOHN THOMAS KORSMO, OF NORTH DAKOTA, TO BE A DIRECTOR OF THE FEDERAL HOUSING FINANCE BOARD FOR A TERM EXPIRING FEBRUARY 27, 2009.

FRANZ S. LEICHTER, OF NEW YORK, TO BE A DIRECTOR OF THE FEDERAL HOUSING FINANCE BOARD FOR A TERM EXPIRING FEBRUARY 27, 2006.

ALLAN I. MENDELOWITZ, OF CONNECTICUT, TO BE A DIRECTOR OF THE FEDERAL HOUSING FINANCE BOARD FOR A TERM EXPIRING FEBRUARY 27, 2007.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. BRUCE A. WRIGHT

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be general

LT. GEN. DONALD G. COOK

IN THE ARMY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be brigadier general

COL. ELDER GRANGER
COL. GEORGE W. WEIGHTMAN

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be brigadier general

COLONEL BYRON S. BAGBY
COLONEL LEO A. BROOKS, JR.
COLONEL SEAN J. BYRNE
COLONEL CHARLES A. CARTWRIGHT
COLONEL PHILIP D. COKER
COLONEL THOMAS R. CSRNKO
COLONEL ROBERT L. DAVIS
COLONEL JOHN DEFREITAS III
COLONEL ROBERT E. DURBIN
COLONEL GINA S. FARRISEE
COLONEL DAVID A. FASTABEND
COLONEL RICHARD P. FORMICA
COLONEL KATHLEEN M. GAINEY
COLONEL DANIEL A. HAHN
COLONEL FRANK G. HELMICK
COLONEL RHETT A. HERNANDEZ
COLONEL MARK P. HERTLING
COLONEL JAMES T. HIRAI
COLONEL PAUL S. IZZO
COLONEL JAMES L. KENNON
COLONEL MARK T. KIMMITT
COLONEL ROBERT P. LENNOX
COLONEL DOUGLAS E. LUTE
COLONEL TIMOTHY P. MCHALE
COLONEL RICHARD W. MILLS
COLONEL BENJAMIN R. MIXON
COLONEL JAMES R. MORAN
COLONEL JAMES R. MYLES
COLONEL LARRY C. NEWMAN
COLONEL CARROLL F. POLLETT
COLONEL ROBERT J. REESE
COLONEL STEPHEN V. REEVES
COLONEL RICHARD J. ROWE, JR.
COLONEL EDWARD J. SINCLAIR
COLONEL ERIC F. SMITH
COLONEL ABRAHAM J. TURNER
COLONEL VOLNEY J. WARNER
COLONEL JOHN C. WOODS
COLONEL HOWARD W. YELLEN

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be major general

BRIG. GEN. LESTER MARTINEZ-LOPEZ

AIR FORCE NOMINATIONS BEGINNING CESARIO F. FERRER, JR. AND ENDING RAYMOND Y. HOWELL, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON OCTOBER 30, 2001.

ARMY NOMINATIONS BEGINNING ROBERT A. JOHNSON AND ENDING JOHN T. WASHINGTON III, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON OCTOBER 25, 2001.

ARMY NOMINATIONS BEGINNING SAMUEL CALDERON AND ENDING FRANK E. WISMER III, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON OCTOBER 30, 2001.

ARMY NOMINATION OF CAROL E. PILAT.

ARMY NOMINATION OF ILUMINADA S. CALICDAN.

ARMY NOMINATION OF *JAMES W. WARE.

ARMY NOMINATION OF MEE S. PAEK.

ARMY NOMINATIONS BEGINNING MARION S. CORNWELL AND ENDING GARY L. WHITE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON NOVEMBER 15, 2001.

ARMY NOMINATIONS BEGINNING CHERYL A. ADAMS AND ENDING DEBBIE T. WINTERS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON NOVEMBER 15, 2001.

ARMY NOMINATIONS BEGINNING WILLIE J. ATKINSON AND ENDING WILLEM P. VANDEMERWE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON NOVEMBER 15, 2001.

ARMY NOMINATIONS BEGINNING DAVID S. ALLEMAN AND ENDING WILLIAM P. YEOMANS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON NOVEMBER 15, 2001.

ARMY NOMINATIONS BEGINNING LYNN F. ABRAMS AND ENDING BURKHARDT H. ZORN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON NOVEMBER 15, 2001.

ARMY NOMINATIONS BEGINNING CHARLES B. COLISON AND ENDING ARLENE SPIRER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON NOVEMBER 15, 2001.

NAVY NOMINATIONS BEGINNING BRADFORD W. BAKER AND ENDING DAVID J. WICKERSHAM, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON OCTOBER 30, 2001.

EXTENSIONS OF REMARKS

PRAYER FOR AMERICA

HON. PATRICK J. TOOMEY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 2001

Mr. TOOMEY. Mr. Speaker, I rise today to share a poem entitled ''Prayer For America'' written by Miss Ruth Werner, a constituent of mine who lives in Bangor, Pennsylvania. Miss Werner was inspired to pen this poem following the September 11th attacks. I was touched when she gave me this poem and thought that my colleagues in the House of Representatives, the Senate and President Bush would enjoy it as well.

PRAYER FOR AMERICA

Dear Heavenly Father,
We pray for peace on earth.
Let it begin with us.
With you as our Father we are all made one.
We are all brothers and sisters.
Let us walk in each other in all 50 states and throughout the world with President Bush, Vice President Cheney and all the Leaders.
With children and adults, male and female, with families and people who are lonely, with rich and poor, with people who have homes and the homeless;
With all kinds of people with different careers and with the unemployed;
You love all your children of the world whether red, yellow, black or white.
We are all precious in your sight because you love everyone with an unconditional love; always ready to forgive.
Today God let this be our prayer because we know that United We Stand Divided We Fall.
Let us stand for peace for America, a most beautiful land.
And let us keep this as one nation under you with liberty and justice for all.
It makes us proud to be an American to be among the red, white and blue as we are just passing through, but most importantly we are honored to be Christians who believe in you and will live with you and our loved ones in our heavenly home forever.
God we know you will bless the USA today and always.
In your name we pray, AMEN

I commend Miss Werner for her heartfelt words and for her dedication to God and country.

COMMEMORATING WORLD AIDS DAY 2001

HON. CARRIE P. MEEK

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 2001

Mrs. MEEK of Florida. Mr. Speaker, this Saturday, the nation and the World will observe World AIDS Day 2001.

World AIDS Day provides an opportunity to focus the world's attention on this global pandemic. It is a day to remember those living with AIDS and those who have died from the disease.

Like our recent tragedy, the HIV/AIDS pandemic has challenged many to have courage and hope in spite of grief, anger, and despair. More than 60 million people worldwide have been infected with HIV since the start of the epidemic 20 years ago, and current statistics point to an even greater spread of the disease than anticipated.

HIV/AIDS is now the leading cause of death in sub-Saharan Africa. Worldwide, it is the fourth biggest killer. According to a United Nations report, by the end of this year there will be an estimated 40 million people living with HIV worldwide.

In the United States, research has shown that the number of AIDS cases among some populations has decreased. Unfortunately, we have not seem similar declines in new HIV cases among people of color or our Nation's youth. Today, at least half of all new HIV infections in our country are among people under age 25. Young Americans between the ages of 13 and 25 are contracting HIV at the rate of two per hour.

World AIDS Day has special significance in my community of South Florida, which has more HIV/AIDS cases than 44 states.

As we observe World AIDS Day 2001, we must reaffirm our commitment to work together to protect all our citizens from the threat of HIV. By promoting, education, research and care, we can reach millions of individuals who face life-changing decisions that can affect their health and the future of our Nation and the world, and help those who are already affected by this disease.

INTRODUCTION OF A SIMPLE RESOLUTION TO ENCOURAGE THE PRESIDENT TO USE HIS POWER TO RELEASE LIHEAP EMERGENCY FUNDS TO THOSE WHO LOST THEIR JOBS AS A RESULT OF 9/11/01

HON. HILDA L. SOLIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 2001

Ms. SOLIS. Mr. Speaker, hundreds of thousands of people who recently have been laid off from work are reliving the terrorist attacks in the economic aftermath of September 11th.

As of today, 638,000 layoffs have already been announced in our country.

Fewer than 2 out of 5 employers who have handed out pink slips in the third quarter of this year indicate that they anticipate calling their laid off employees back to work.

The nation's unemployment rate soared from 4.9 percent in September to 5.4 percent in October.

In Los Angeles County the unemployment rate is 6 percent.

In my congressional district, the City of El Monte has an unemployment rate of 7.6 percent and South El Monte has an unemployment rate of 9.3 percent.

All of this in time for Christmas—and the cold winter to follow.

It is our duty—and responsibility—to help those who are suffering the ripple effects of the worst domestic attack in our country's history.

We need to act immediately, because the federal government's assistance is needed now.

The resolution that I bring before the House today would encourage the President to answer this immediate need by expanding the Low Income Energy Assistance Program—LIHEAP.

The LIHEAP program is a federally funded block grant program that helps ease the energy cost burden of low-income households.

The need for this program has been great.

Residential heating oil prices were 48 percent higher in 2000 than in 1999.

Residential natural gas prices were 44 percent higher in 2000 than in 1999.

Higher prices mean an added burden to those who are already struggling to make ends meet.

As you can imagine, Mr. Speaker, there are many more people who will need this energy assistance because of our country's recent tragedies.

Unfortunately, the more people there are—the less there is to go around.

LIHEAP has two pots of money—one which goes to States in the form of a block grant and another that is distributed by the President for emergency use.

This resolution will encourage the President to use this emergency fund in our current time of uncertainty to help those who have lost their jobs as a result of the attack on our nation.

We must act now to get our country's working families through this horrible time.

The other body has already passed a similar resolution.

I encourage my colleagues to adopt this resolution and ask the President to use his powers to release LIHEAP funds to those who have lost their jobs in the wake of the September 11th terrorist attacks and to those that have suffered prolonged unemployment since early this year.

This bill is a step in the right direction and could mean the difference between a family's financial ruin and their foundation for the future.

RECOGNIZING THE SERVICE OF EDWARD JESSER

HON. MARGE ROUKEMA

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 2001

Mrs. ROUKEMA. Mr. Speaker, I rise today in recognition of Mr. Edward ''Ned'' Jesser, resident of Mahwah, New Jersey, and proud

and enthusiastic supporter of the Boy Scouts of America. Mr. Jesser will be honored today at the ''Evening with the Governors'' 2001 Good Scout Awards of the Northern New Jersey Council Boy Scouts of America. With more than forty years of dedicated service to the Boy Scouts of America, he will be the recipient of the Distinguished Scouter Award. The Boy Scouts of American pride themselves on producing fine citizens, strong family members, and community leaders. In this respect, Ned Jesser truly leads by example.

Today, Mr. Jesser sits on the Executive Board of the Northern New Jersey Council of Boy Scouts. However his involvement with the scouts began some forty years ago as the President of Bergen County Council of Scouts. It is his firm belief that scouting truly creates good lives and good citizens. Mr. Jesser has said that ''scouting is the only national organization that is making a major effort to bring a better and healthier life for our boys.'' Clearly, this man is recognized as a leader for scouts—and a committed one at that!

As I am sure Mr. Jesser's wife Ruth can attest, Mr. Jesser is a very active member of the Bergen County community. Mr. Jesser served as Chairman of the Board and Chief Executive Officer of Summit Bank for twenty years. In addition, he has sat on many boards in our county. To list just a few of his involvements: President of the New Jersey Chamber of Commerce, President of the New Jersey Bankers Association, and Trustee of Lafayette College. As a man who is generous with his time and his talents, Mr. Jesser has truly contributed to making northern New Jersey a better place to live.

A fine citizen, a family man, and an involved community leader, Mr. Jesser is not only an outstanding role model for Scouts, but also an outstanding example of the fine residents of Bergen County. He contributes much to both the development of young men in our region, and to our community itself. Ned Jesser, we are lucky to have you with us.

IN HONOR OF P.O. NIURCA QUINONES AND P.O. DARRELL CLARK

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 2001

Mr. TOWNS. Mr. Speaker, I rise in honor of Police Officers Niurca Quinones and Darrell Clark in recognition of their outstanding work to rid the streets of Bedford-Stuyvesant from the scourge of drugs.

Officer Quinones joined the New York City Police Department on April 30, 1991. Officer Clark joined the New York City Police Department on October 15, 1990. Both officers were assigned to the 79th Precinct, where they worked together as partners. As a unit, they have done an outstanding job in serving the community of Bedford-Stuyvesant.

In a short period of time, these officers have successfully reduced the presence of drugs and the number of drug-related crimes. In the past two years alone, these officers executed 48 search warrants leading to 97 arrests. Officers Quinones and Clark also recovered 14 guns, 300 rounds of ammunition, 436 decks of heroin, 1 large bag of heroin, 167 vials of crack, 412 glass vials of crack, 10 oz. of crack, three pounds of marijuana, 51 bottles of hydro, 284 bags of marijuana, and over $9,000 in illegal funds.

Mr. Speaker, Officers Quinones and Clark are two outstanding examples of New York's finest. They have gone above and beyond the call of duty to help clear the Bedford-Stuyvesant community of dangerous drugs and criminals. As such they are more than worthy of our praise. I urge my colleagues to join me in honoring these two dedicated public servants.

A TRIBUTE TO EDWARD AND DOLLY MASON

HON. ROBERT L. EHRLICH, JR.

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 2001

Mr. EHRLICH. Mr. Speaker, I rise today to pay special tribute to Edward and Dolly Mason, and to honor the memory of their son, Eddie. On March 10, 1999 Eddie Mason died of a sudden and unexpected heart attack. The death of their son, less than three weeks before his nineteenth birthday, was a bitter and heart wrenching tragedy for the Masons. I know the Mason family; it has been personally painful for me to witness their struggle to cope with such an inconsolable loss.

Eddie Mason was a vibrant young man who embraced life; one who sought the opportunities presented each day. At the age of fifteen, he was diagnosed with Friedreich's Ataxia, a degenerative neurological disease that impairs muscular function throughout the body. His condition, however, was not life-threatening. Indeed, Eddie's passion for athletic endeavors was unquenchable. From an early age, Eddie was an avid participant in soccer, baseball, football, and wrestling; he also pursued karate, achieving the rank of Green Belt after eight years of training. Yet, Eddie's excellent physical conditioning offered no protection against the deadly symptoms of his disease.

The Masons' grief for their son will never be completely assuaged. Ed and Dolly, however, hoped to preserve Eddie's memory at the community church their family has attended for many years. Accordingly, twelve months ago, the Mason family resolved to construct the tower that now stands between the sanctuary and rectory of St. Luke's Church in Edgemere, Maryland. I was honored to be present at the ground breaking ceremony held on March 27, 2001, the twenty-first anniversary of Eddie's birth. Seeing such familial devotion and community support is something I will not soon forget.

On Sunday, October 14, at St. Luke's Church, a thirty-five-foot bell tower, the home of ''Eddie's Bell,'' was officially blessed. In the presence of over 350 neighbors, friends, and fellow citizens, the Masons' tribute to their son was consecrated, and ''Eddie's Bell'' rung for the first time.

Friends, family, neighbors, and even strangers have helped sustain the Masons since the terrible event of March 10, 1999. Yet, the newly created monument was not a community effort. The money and time required for the bell tower were invested solely by Ed and Dolly Mason. ''Eddie's Bell'' was a gift from ''Mom and Dad' to the son they love so much.

The bell tower has become a centerpiece of St. Luke's Church. Each day the bell is rung at noon and six p.m.—its bold notes call members to worship before each weekend mass. The bell's toll can be heard up to two miles away, a range which includes the Mason home. I sincerely hope that Ed and Dolly will take comfort in the notes of ''Eddie's Bell,'' knowing that all the love and devotion they feet for their son has been given musical form.

Mr. Speaker, I am proud to represent the Mason family in Maryland's Second Congressional District, and I ask that my colleagues join me in offering them our deepest condolences for their loss, congratulations on their dedication to family and community, and our very best wishes for the future.

EXPRESSING SENSE OF CONGRESS REGARDING EFFORTS OF PEOPLE OF UNITED STATES OF KOREAN ANCESTRY TO REUNITE WITH FAMILY MEMBERS IN NORTH KOREA

SPEECH OF

HON. BETTY McCOLLUM

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 27, 2001

Ms. McCOLLUM. Mr. Speaker, I rise today in support of H. Con. Res. 77, a resolution expressing the sense of Congress to reunite United States citizens with their family members in North Korea.

North and South Korea have made significant progress in their relationship, as has the United States made very important steps in its relationship with both North and South Korea in the past two decades. H. Con. Res. 77 is the next step.

This very important resolution recognizes the need to reunite Americans of Korean ancestry with their family members in North Korea.

Over 500,000 Americans of Korean ancestry were separated from family members with the division of North and South Korea. This simple measure will bring about a long awaited family reunion, over 50 years later.

I believe it is very important for the United States to be involved in reunification and peace efforts in Korea, and this resolution brings us one step closer. This is a significant effort in mending relations with North and South Korea, and their relationship with the United States.

TRIBUTE TO CHRISTMAS

HON. BOB SCHAFFER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 2001

Mr. SCHAFFER. Mr. Speaker, Christmas during wartime is an unsettling conflict in vision and emotion for Americans. A peace-loving nation, the United States has always been resolved in the face of tyranny to crush the purveyors of terror and to vanquish the enemies of freedom; and with firm reliance upon the protection of Divine Providence. Celebrating the birth of the Prince of Peace is a testimony to authentic liberty, and invigorates

the spirit of a nation whose motto boldly stands ''in God we trust.''

America will prevail, because it always has, because it must, and because it is right.

President Franklin Roosevelt asked, ''how can we pause, even for a day, even for Christmas Day, in our urgent labor of arming a decent humanity against the enemies which beset it?'' Today, Americans confront the same question. The answer is, of course, the same, and so the outcome will be.

The nation's first Christmas occurred amidst the Revolutionary War. With the Continental Army poised to turn the momentum of the war, General George Washington conceived a daring tactic which would unfold on the Eve of Christmas 1776. Under cover of darkness and well after the Hessian mercenaries had consumed their Holiday feast (and drink), Washington led his troops across the Delaware River to defeat the heavy, surprised, and more numerous Hessian mercenaries who held Trenton, NJ.

A few months prior to the famous attack, Washington wrote, ''the time is now near at hand which must probably determine whether Americans are to be freemen or slaves; whether they are to have any property they can call their own; whether their houses and farms are to be pillaged and destroyed, and themselves consigned to a state of wretchedness from which no human efforts will deliver them. The fate of unborn millions will now depend, under God, on the courage of this army. Our cruel and unrelenting enemy leaves us only the choice of brave resistance, or the most abject submission. We have, therefore, to resolve to conquer or die.''

In 1862, entering the second year of the Civil War, President Abraham Lincoln inspired his countrymen through the Christmas season. Before Congress, he delivered a stirring speech: ''the dogmas of the quiet past are inadequate to the stormy present,'' Lincoln said. ''The occasion is piled high with difficulty, and we must rise to the occasion. As our case is new, so we must think anew, and act anew. We must disenthrall ourselves, and then we shall save our country.''

Roosevelt's address following the Japanese attack upon Pearl Harbor urged Americans to take inspiration from the sacred Holiday. ''Our strongest weapon in this war is that conviction of the dignity and brotherhood of man which Christmas Day signifies—more than any other day or any other symbol. Against enemies who preach the principles of hate and practice them, we set our faith in human love and in God's care for us and all men everywhere,'' he said. ''It is in that spirit, and with particular thoughtfulness of those our sons and brothers, who serve in our armed forces on land and sea, near and far—those who serve for us and endure for us—that we light our Christmas candles now across the continent from one coast to the other on this Christmas Eve.''

From the Christmas Eve crossing of the Delaware, to the Christmases observed in Civil War camps, the trenches of World War I, and the forests of Belgium during WWII, Americans have always been willing to fight to secure their nation and restore peace.

American men and women presently deployed in Afghanistan, the Middle East, Bosnia, Korea, throughout the world and here at home, are emblematic of the sacrifice and dedication of the proud American soldiers who preceded them. The cause of freedom, liberty and valor serves to summon the courage of those who stand in harm's way, but even more does the spirit of Christmas confirm the hope and blessing that is God's gift to America. The way to victory was shown to the world by a child whose birthday is revered around the world. America's trust in God will lead us to victory again.

WILLIAM WINKENWERDER, ASSISTANT SECRETARY OF DEFENSE FOR HEALTH CARE

HON. CHARLES H. TAYLOR

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 2001

Mr. TAYLOR of North Carolina. Mr. Speaker, America's armed service members, their families and military retirees can rest easier today knowing that Dr. William Winkenwerder has been sworn in as Assistant Secretary of Defense for Health Care. A western North Carolina native, Dr. Winkenwerder brings fittingly broad experience and an impressive record of achievement to this important position. All Americans can be proud that Dr. Winkenwerder has agreed to serve his nation yet once again. The Asheville Citizen-Times' Tim Reid recently penned a profile of Dr. Winkenwerder, which I am glad to share with my colleagues.

WINKENWERDER TOP HEALTHCARE OFFICIAL FOR DEFENSE DEPARTMENT

(By Tim Reid)

ASHEVILLE.—Growing up in Asheville in a family well known for its successful hotels, William Winkenwerder seemed destined to enter the hospitality industry like his brother, John. But he liked science and helping people and figured medicine was a good way to combine those interests. Some time during his years of medical school, residency and private practice, Dr. Winkenwerder also discovered he was drawn to the public policy side of medicine, designing and administering systems to deliver quality health care as efficiently as possible.

''Even though I very much enjoyed taking care of patients, I developed an interest in how the system of health care worked, or didn't work in some cases,'' he said.

After years of high-level jobs related to providing health services, Winkenwerder is using all his experience and expertise to help protect the health of America's armed services, their families and military retirees. He was sworn in recently as assistant secretary of defense for health care—the Defense Department's top health-care official. It is a big job, and the numbers are staggering. Winkenwerder manages the nation's $25 billion defense health program, whose 110,000 staffers see to the health needs of more than 8 million people around the world.

''It's an incredible responsibility. I am honored to have the opportunity to serve in this kind of position,'' he said. ''We have wonderful people in the military. They are extremely dedicated, hard working and bright.''

Winkenwerder assumed the job at a critical time as the military prepares for a sustained effort against terrorism.

''We have to look at the whole range of biological agents that could pose a threat and develop a strategy for all of them,'' he said. ''That could include not just anthrax but also smallpox, the plague and all the things we believe could be used.''

Winkenwerder faces the same challenges posed to any health care executive—assuring quality care while keeping costs at an acceptable level. He is not responsible for the nation's VA hospitals but does oversee the Tricare program that functions like an insurance program, paying for care through the public or private sector.

THE EARLY YEARS

Winkenwerder said he has a soft spot in his heart for Asheville and visits family members here three or four times a year. They include his father, William Winkenwerder Sr. of Asheville, and his mother Martha Baker Loew, also of Asheville. His brother John Winkenwerder is managing partner of the Asheville area Hampton Inns.

''It was a great experience growing up there and working for my father,'' he said. ''He gave me a real appreciation for work and for serving people.''

But it was Winkenwerder's family physician, Dr. Roger James, who sparked his early interest in medicine.

''He was a wonderful man who died recently,'' Winkenwerder recalled. ''He was my doctor and a leader in my church. I was just impressed with what he did for people.''

He said another role model was orthopedic surgeon Dr. Wayne Montgomery. ''He was mayor of Asheville at the time, and I liked that idea of combining medicine and public service.''

Winkenwerder also worked summers as an orderly at St. Joseph's Hospital, where he got to know many physicians such as Dr. David Cappiello, another orthopedic surgeon. After graduation from Asheville High School, Winkenwerder went to Davidson College on a football scholarship, enrolling in its pre-med program. After Davidson came eight years of medical school and residency in internal medicine at the University of North Carolina at Chapel Hill, during which Winkenwerder's career interests began to change.

''I decided I really did want to delve into this whole area of health care policy and health care economics and public health,'' he said. ''I decided business school was a good way to do that.''

Winkenwerder attended the University of Pennsylvania's Wharton School and at the same time completed a fellowship in public health and research at the university's hospital. During the summer of 1986 he worked at the Department of Health and Human Resources and got a taste for government that has never really left him. The following year Winkenwerder was asked to come back and work in the Health Care Financing Administration, which operates the Medicare and Medicaid programs.

''I worked there about two years, until the end of the Reagan administration'' he said. ''I got into that whole world of how the health care system should be structured.''

Yearning to use his skills as a doctor, Winkenwerder joined a group practice in Atlanta. He worked there for five years, seeing firsthand how managed care was changing the practice of medicine. Winkenwerder then began a series of high-level jobs in diverse aspects of the health care system. They included stints as: regional vice president and chief medical officer for Prudential Health Care; regional quality assurance and associate medical director for Kaiser Permanente; and vice president for Emory Health Care at Emory University.

Then Winkenwerder moved to Boston to take the number two post as vice chairman of Blue Cross Blue Shield of Massachusetts. When his desire to advance to the top post did not materialize, he decided to return to government service. Winkenwerder talked to friends and colleagues in Washington and

spent several months being interviewed and scrutinized for the job at the Department of Defense. He was nominated by President Bush after an extensive FBI background check. The Armed Services Committee approved Winkenwerder's nomination Oct. 16, and he was sworn into office Oct. 30.

''My goals are pretty simple,'' he said. ''I want to protect the health of the people who are in the service, making sure especially that we are ready for chemical or biological attacks.

''I want to improve Tricare, managing costs and improving service and quality,'' he said. ''And I want to improve our relationships with other entities like Congress, the VA system and the Department of Health and Human Services.'' Winkenwerder's wife, Pride and 10-year-old son, Will are staying in Boston until the end of the school year, when they will join him in Washington. In the meantime, he is working 12-hour days in his office at the Pentagon. Winkenwerder is excited to be in a job where he can use his years of experience and preparation to, perhaps, make a difference.

''I would just hope that in some way, by being an effective leader, I can help improve health care for an important group of people who serve our nation,'' he said.

RECOGNIZING THE SERVICE OF THOMAS KEAN

HON. MARGE ROUKEMA

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 2001

Mrs. ROUKEMA. Mr. Speaker, I rise today in recognition of an exceptional leader and role model for all New Jersey, our former governor, the Honorable Thomas H. Kean. Today, Governor Kean will be honored at the ''Evening with the Governors'' 2001 Good Scout Awards of the Northern New Jersey Council of Boy Scouts of America. Governor Kean has turned his ability to both serve and lead into a career of tremendous public service. As Governor of New Jersey, he worked hard for New Jersey, and New Jersey thanked him, re-electing him to a second term as he won by more than 700,000 votes. This evening, we will honor the Governor for his dedicated work.

Governor Kean is remembered for policy, not politics. Known for his immense knowledge of education issues and ability to connect with so many residents of New Jersey, Governor Kean was one of our most popular governors in state history. During his two-terms in office in the 1980s, Governor Kean was responsible for more than 30 education reforms, landmark environmental policies, and tax cuts that created 750,000 jobs in New Jersey. Governor Kean's work truly helped New Jersey residents and even today he is one of our most recognized leaders in New Jersey government.

His recognition extends well outside of our state. In 1988, Governor Kean delivered the keynote address at the Republican National Convention and has been recognized by three presidents as ''The Education Governor.'' He holds numerous awards from environmental and educational organizations including more than 30 honorary degrees. Governor Kean serves on the Board of Trustees of his two alma maters—Princeton University and Columbia University Teachers College. He is also chairman of the Carnegie Corporation of New York and the National Campaign to Prevent Teen Pregnancy.

However it is education that continues to be of great importance to Governor Kean. Since leaving New Jersey political life in 1990, Governor Kean has served as President of Drew University in Madison, New Jersey, where he has led Drew to become one of the nation's premiere small universities with a focus on teaching, technology in the classroom, and international educational experience. Since beginning his tenure, undergraduate applications have increased astronomically, endowment has tripled in size, and the University has launched its first comprehensive fund-raising campaign. Yet Governor Kean's passion seems to still reside in the classroom, and he is often found there. As one who shares his education background, I understand his desire to not only work with education policies, but most importantly with the students. I commend him for this dedication.

I thank Governor Tom Kean for all that he has done for our state of New Jersey. He has accomplished great things and continues to do so. His heart truly focuses on policies and people, not politics and partisanship. In this way, he is a role model for all in this chamber.

TRIBUTE TO PHYLLIS SMOCK

HON. ROBERT L. EHRLICH, JR.

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 2001

Mr. EHRLICH. Mr. Speaker, I would like to take this opportunity to congratulate Ms. Phyllis Smock on her retirement from the University System of Maryland after more than 32 years of dedicated service.

A friend of the State of Maryland, Phyllis Smock, University of Maryland University College's director of alumni relations, will retire on December 1, 2001. Ms. Smock has played a significant role in the growth of University of Maryland University College.

University of Maryland University College, or UMUC, is one of 11 accredited degree-granting institutions in the University System. For 50 years, the University has fulfilled its principal mission: to serve adult, part-time students through high-quality educational opportunities. In 1949, of the U.S. colleges and universities invited to provide courses to the men and women in the military stationed overseas, only UMUC accepted.

Today, UMUC classroom sites can be found throughout Maryland, the Washington, DC metropolitan area, and over 100 overseas locations. Last year, over 71,000 students were enrolled in UMUC classes. About 47,000 were service members on active duty with the U.S. military, stationed stateside and abroad in over 29 countries. UMUC is proud of its long history of service to the military and is honored to count over 50 admirals and generals among its alumni. Moreover, UMUC is a pioneer in distance learning; students now can ''attend class'' from anywhere in the world via the Internet.

Ms. Smock has actively contributed to the growth and success of UMUC. She began working for the University System in 1966 and has served in the UMUC Overseas Programs Office where she worked as logistical coordinator for new faculty recruited to the European and Asian divisions. Further, she has been instrumental in the growth of the Alumni Association from its inception more than a decade ago. Today, the Association boasts of more than 35,000 alumni in Maryland and over 100,000 UMUC alumni worldwide.

During the past seven years, Ms. Smock has coordinated with many UMUC alumni-volunteers and helped establish a stronger relationship with the Maryland General Assembly. She has been a tireless advocate for UMUC, its alumni, and their support of their alma mater—a global University that will provide to any student, anywhere, the opportunity for lifelong learning.

Ms. Smock deserves the thanks and praise of Marylanders and this grateful nation which she has faithfully served for so long. I ask the Members of the House to join me in wishing her and her husband, Ray, all the best in the years ahead.

IN HONOR OF P.O. JEANETTE MORALES

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 2001

Mr. TOWNS. Mr. Speaker, I rise in honor of P.O. Jeanette Morales and her record of service to Brooklyn as a member of the New York City Police Department.

Jeanette Morales was born and raised in East New York. She graduated in 1982 and started working as a bank teller. She moved to various positions within the bank and ultimately became Senior Customer Service Representative. She enjoyed working with and helping people so a friend recommended that she become an Auxiliary Police Officer.

Jeanette served as an Auxiliary Police Officer in the 75th Precinct for a year and then applied to become a full-fledged New York City Police Officer. She passed the exam and was sworn in on July 11, 1988. After she graduated from the Police Academy she was assigned to field training within the 88th, 84th, 77th and the 79th precincts. In September 1989, Jeanette was assigned to the 79th Precinct. She was assigned to rotating tours for the first few years and was assigned to various units within the 79th Precinct. She worked in the S.N.E.U. (Street narcotics enforcement unit) and the Anti-Crime unit. In October 1993, she was assigned to Community Affairs. She worked in this unit for 8 years along side her partner, Detective David Allen. They worked extremely will together until the day he passed away. After 13 years in the 79th Precinct, Jeanette was transferred to Brooklyn North Community Affairs.

Mr. Speaker, P.O. Jeanette Morales has served the people of Brooklyn and New York City as a dedicated member of the New York City Police Department. As such she is more than worthy of our praise. I urge my colleagues to join me in honoring this truly committed public servant.

WORLD AIDS DAY

HON. EDDIE BERNICE JOHNSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 2001

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, World AIDS Day on December 1 provides an opportunity to refocus our attention on the HIV/AIDS crisis that has not gone away and will not go away until a concerted effort is made to address the pandemic and develop workable solutions.

In the wake of the tragic events of September 11, attention has been focused elsewhere in the world. While we must do everything we can to combat terrorism, we cannot ignore other crises. Forty million people worldwide are still living with HIV/AIDS; 28 million are in sub-Saharan Africa. There are still 12 million orphans in sub-Saharan Africa, and there are still 15,000 new HIV infections each day.

The statistics regarding HIV/AIDS are staggering, but we must not let these numbers deter our resolve to work together to bring this epidemic under control. The United States cannot ignore the fact that HIV/AIDS poses a serious risk to international stability and creates fertile breeding ground for social unrest. Our survival dictates that we cannot afford to lose this battle.

ACCESS AND OPENNESS TO SMALL BUSINESS LENDING ACT

HON. LOUISE McINTOSH SLAUGHTER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 2001

Ms. SLAUGHTER. Mr. Speaker, I am pleased to join Representative MCGOVERN in supporting the Access and Openness to Small Business Lending Act. This legislation would permit the collection of demographic information on small business loans.

Specifically, it would amend the Equal Credit Opportunity Act to require lending institutions to ask the gender and race of small business loan applicants. The applicant's response would be voluntary. I support the Access and Openness to Small Business Lending Act, since it would provide a powerful vehicle to monitor the lending market for discriminatory practices.

Today, there are more than 9 million women-owned businesses, up from 400,000 in 1972. Unfortunately, the main impediment to women entrepreneurs achieving success is obtaining the necessary financing to get their businesses off the ground.

According to Business and Professional Women/TJSA, companies owned by women account for 38 percent of businesses in the United States and are also the fastest growing segment of the business sector. However, women-owned businesses receive less than four percent of the $36 billion in venture capital invested each year.

A survey by the National Foundation of Women Business Owners and Wells Fargo & Co. indicates that most female entrepreneurs rely on loans and their personal savings to finance their firm's growth. One reason women are not securing funding from venture capital firms, like many others, is that women traditionally start retail stores. The retail industry is the one business sector in which venture capitalists rarely invest.

To ensure a transparent loan process and confirm that banks are being even-handed when making loan decisions for women and minorities, we need a bill like the Access and Openness to Small Business Lending Act. I urge my colleagues to also support this legislation.

RECOGNIZING THE SERVICE OF BRENDAN BYRNE

HON. MARGE ROUKEMA

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 2001

Mrs. ROUKEMA. Mr. Speaker, I rise today to recognize a dedicated public servant—an exemplary leader and a friend to the people of my State of New Jersey. Governor Brendan T. Byrne will be honored later today at the ''Evening with the Governors'' 2001 Good Scout Awards of the Northern New Jersey Council of the Boy Scouts of America.

This is a most special occasion for me since Governor Byrne and I both call West Orange home. But we share more than a common hometown. We share a love of New Jersey and a devotion to its people. Governor Byrne has turned this dedication to New Jersey into a career of tremendous public service. On Thursday, we will honor the Governor for his work.

His outstanding career first began with service to our great country in the United States Army Air Corps as the youngest squadron navigator in his bomb group. After returning to civilian life, Governor Byrne combined law and public service as Deputy Attorney General and Special Prosecutor in Passaic County. Later, he was appointed as Assistant Counsel to Governor Robert B. Meyner and subsequently named the Governor's Executive Secretary.

At the age of 34, Byrne was appointed by Governor Meyner as Essex County Prosecutor, becoming the youngest prosecutor in New Jersey's largest county. He was reappointed to a second term by Governor Richard J. Hughes. After serving as President of the New Jersey State Board of Utility Commissioners as well as serving on the Superior Court, Governor Byrne quickly rose to Assignment Judge for Morris, Warren and Sussex County.

With nearly 20 years of work for the state of New Jersey, Byrne took his service to the next level and was elected Governor of New Jersey in 1973 by the largest plurality in New Jersey history. To their discredit, his critics ''One-term Byrne'' was reelected to a second term in 1977.

Mr. Speaker, Governor Byrne worked hard to do what was best for our great state. His pride in his state and understanding of its residents were visible in all that he did. He has always understood that principle of public service—that what matters most is helping real people solve the real problems of real life.

Clearly, this is evidenced in Governor Byrne's career in New Jersey and his heartfelt commitment to its residents. I commend Governor Byrne for his service, which is sometimes difficult, but as we can all attest, always rewarding.

While some may disagree with Governor Byrne on his policies, no one can disagree that he has truly served the people of New Jersey.

I am honored to call this good man a friend.

RECOGNIZING THE UKRAINIAN FAMINE REMEMBRANCE DAY

HON. CURT WELDON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 2001

Mr. WELDON of Pennsylvania. Mr. Speaker, sixty-eight years ago a horrific crime was inflicted, killing an estimated 3–5 million people and yet this genocide is seldom heard of. I am referring to the Great Famine of 1932–1933 in Ukraine conducted by Stalin's Soviet Union. We should not, we can not allow the elimination of a people go unnoticed or become forgotten. While some events in history are documented and memorialized to ensure that future generations will never have to be victim to them again, we have a duty to learn of and reveal those that have not yet been exposed.

The Ukrainian Government has designated the last Saturday in the month of November as Ukrainian Famine Remembrance Day. Today I join those in mourning and assist their cause in expanding the world's acknowledgment of what had happened.

The 1930's marked a time of ''Collectivization'' for the new Soviet Empire. Any symbolism or feelings of Ukrainian national consciousness or identity was hoped to be erased but to do so required an ethnic cleansing of the most brutal nature. The task took the form of a man-made famine whereas the quota for grain procurement from Ukraine was increased by 44 percent. The extraordinarily high quota resulted in a severe grain shortage, effectively starving the Ukrainian people.

After collection, grain elevators were guarded by military troops and secret police denying access to even those who had harvested the grain in the immediate area. Those hiding grain were killed and an internal passport system was implemented to restrict people from moving to where there was food. The result was a demoralized and depleted Ukrainian ethnic population. Stalin covered up this genocide so effectively that little is known to outsiders even today. Perhaps that will end now.

Today, there is a Ukrainian state, proud but mindful of its past. They will forever suffer the memory of being intentionally starved to death to end their struggle for freedom. Let us, a nation that symbolizes the very definition of freedom, learn of and remember the struggle the Ukrainians endured to obtain it. Mr. Speaker, in the spirit of standing up to all who threaten democracy and freedom, last Saturday, November 24, 2001, was the Ukrainian Famine Remembrance Day.

RECOGNITION OF NATIONAL AMERICAN INDIAN HERITAGE MONTH

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 2001

Mr. KUCINICH. Mr. Speaker, I rise today in recognition of the designation of November

2001 as National American Indian Heritage Month. It is critical that we recognize the history of Native Americans and to learn more about their culture.

I thank President Bush for his promise to protect and honor tribal society and help to stimulate economic development in reservation communities. I join him in acknowledging the contributions made by Native Americans in both World Wars and the conflicts in Korea, Vietnam, and the Persian Gulf. Almost half of all Native American tribal leaders have served in the United States Armed Forces.

Only in recent decades have we made progress in dismantling the shameful stereotypes that were invented by white Americans in the early centuries of European immigration to this land. We owe it to the Native American people to learn about their actual history and culture, and to teach our children.

My fellow colleagues, it is of the utmost importance that we all take the time to remember American Indian heritage. We must do what we can to keep this beautiful culture alive, this culture of a people wronged by the greed and ignorance of our forefathers. I ask you to join me in making the following promise: Never again will our country attempt to decimate an entire culture.

TRIBUTE TO THE 100TH BIRTHDAY OF JOSE ANTONIO JARVIS

HON. DONNA M. CHRISTENSEN

OF THE VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 2001

Mrs. CHRISTENSEN. Mr. Speaker, I rise today on behalf of all the people of my district to pay tribute to the 100th Birthday of the late Jose Antonio Jarvis—educator, historian, author, philosopher, journalist, poet, playwright, editor, artist, musician and public servant. He was an intellectual giant whose life and work greatly influenced the educational process in the U.S. Virgin Islands. His classroom was the entire Virgin Islands and for more than forty years, he devoted his life to discovering new and innovative approaches to education.

Born in St. Thomas, U.S. Virgin Islands on November 22, 1901, to the Reverend Joseph W. and Mercedes Jarvis, J. Antonio Jarvis grew up under the guidance of his Godmother, Miss Mary Hughustein. He began his formal education at St. Anne's Roman Catholic School in St. Thomas, which he attended from age five to thirteen (1906–1914). Even during these early years, his teachers discerned in him an unusually high mental capacity, great ambition, and a keen interest in a wide range of activities. A life-long scholar, he continued his education by private tutors and through correspondence courses, and most importantly, by extensive,reading on his own initiative. In 1936, the Bachelor of Arts degree was conferred upon him by McKinley-Roosevelt University. He did additional work at the University of Puerto Rico, Columbia University, New York University, and the University of Chicago.

Jarvis' career as an educator began in 1923, when he became a tutor at the St. Thomas Academy. During the period 1924–1932, he taught at Abraham Lincoln Elementary School and was an instructor at the Charlotte Amalie High School from 1932 to 1942. At Charlotte Amalie High, in addition to his regular academic assignments, he served as advisor to many student organizations and initiated a number of them including a student council and the school newspaper, The Reflector. In 1942, he returned as principal to the former Abraham Lincoln School, where he remained until his retirement from public life on May 31, 1963.

Between 1930 and 1960, Jarvis published a number of works. These included ''Virgin Islands Sketches'', ''Jubilee Hall'', and other poems (1930), ''Fruits in Passing'' (1932), ''Bamboula Dance'' (1935), ''Brief History of the Virgin Islands'' (1938), ''The Virgin Islands and their people'' (1944), ''Virgin Islands Picture Book'' with co-author Rufus Martin (1948), ''Bluebeard's Last Wife (1951), and ''The King's Mandate'' (1960). In 1930, with Ariel Melchior, Sr., he co-founded ''The Daily News of the Virgin Islands'', a daily news publication still in circulation today.

In addition to his work in the fields of education, scholarship and the fine arts, Jarvis was active in numerous civic activities such as the American Red Cross, Public Utilities Commission, Selective Service Board, St. Thomas Teachers Association and the Virgin Islands Cadets Corps, among others.

Many honors came to Jarvis over the years for his myriad of achievements. In 1927, 1929 and 1930 he won the Opportunity Award in Fine Arts. In 1939 and 1940, he earned the International Business Machines Corporation Award in Fine Arts. President Harry S. Truman personally presented him the United States Selective Service Medal in 1946. For services rendered he was given citations from the Library of Congress, the American Red Cross and the Professional League if Virgin Islands in New York City. In 1970, the Abraham Lincoln School was renamed the J. Antonio Jarvis Elementary School. Additionally, in 1978 the J. Antonio Jarvis Memorial Park was created in the heart of Charlotte Amalie. On May 18, 1980, the park was formally dedicated, and in it a statue of Mr. Jarvis, financed by Ariel Melchoir, Sr. Foundation, the St. Thomas Historical Trust, and donations from school children were unveiled. In 1983, Jarvis was inducted into the ''Virgin Islands Education Review'' Hall of Fame.

The first biography of Jarvis, ''Man of Vision: A Biography of Jose Antonio Jarvis'' was written in 1975 by Addelita Cancryn, herself an imminent Virgin Islands educator.

When an individual is gifted with so many talents and has served humanity as well as Jarvis did, it is most difficult to select the one area in which his contributions could be said to be greatest. Perhaps his most persuasive contribution was in the area of education in the broadest sense. Jarvis educated and enlightened, not only his classroom and schoolhouse performance but also through his books, poems, plays, editorials, and other writings, as well as his paintings. In the classroom and outside of it, Jarvis inspired many Virgin Islanders to attain high standards of achievement. He aided many financially and in other ways. The high success that many of these individuals achieved attests to his influence.

Jarvis' motto was ''I try to make my sojourn here a useful interlude.'' That extremely useful sojourn ended on July 23, 1963 when the great man passed away deeply mourned.

Had Jarvis chosen to live in and make his contribution in a major metropolitan country he undoubtedly would gain international attention and renown. However, it was his choice to live in and make his contributions to the Virgin Islands, which he loved.

The Governor of the U.S. Virgin Islands, the Honorable Charles Wesley Turnbull, has proclaimed the week of November 18–24, 2001 as ''Jose Antonio Jarvis Week'' and Thursday, November 22, 2001, as ''Jose Antonio Jarvis Day'' in the Virgin Islands of the United States of America. I join Governor Charles Turnbull in calling upon everyone in my district, as well as those Virgin Islanders residing in the United States of America, to reflect upon the life and contributions of this great Virgin Islander—a true renaissance man.

EXPRESSING SENSE OF CONGRESS THAT AMERICANS SHOULD TAKE TIME DURING NATIVE AMERICAN HERITAGE MONTH TO RECOGNIZE THE ACCOMPLISHMENTS AND CONTRIBUTIONS MADE BY NATIVE PEOPLES

SPEECH OF

HON. BETTY McCOLLUM

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 27, 2001

Ms. McCOLLUM. Mr. Speaker, I join my colleagues today in supporting House Concurrent Resolution 270. This simple, yet important, statement supports the goals and ideals of Native American Heritage Month to highlight the important contributions Native Americans have made to our history and culture. This resolution also encourages the American people to honor and recognize the accomplishments and heritage of Native Americans, including their contributions in the areas of agriculture, medicine, art and language.

Long before the first Europeans arrived in the upper Midwest, the Dakota and Ojibwe nations called Minnesota home. You can still visit many of the areas where Native Americans created their communities and see examples of this rich history. Pipestone National Monument, a sacred quarry in Southwest Minnesota, is still being used to mine the soft red pipestone that was at one time used to create the ceremonial pipes that were used in dealings between tribes and to honor the spiritual world. The story of this stone and the pipes made from it spans four centuries of Plains Indian life and is inseparable from the traditions that structured their daily routine. Today, carvings are appreciated as much as art as well as for ceremonial use.

The heritage and customs of my state, Minnesota, have been greatly influenced by Native Americans. The name of Minnesota itself comes from a Dakota word meaning ''waters that reflect the sky'' and many more of Minnesota's cities and counties hold names that represent the Native American heritage that surrounds them.

I commend the authors of this resolution for helping raise awareness of Native American culture and heritage. As a member of the Native American Caucus, I look forward to working with them to make sure the noble goal of encouraging the American people to honor and recognize Native American accomplishments happens not only during Native American Heritage Month but also throughout the year.

ST. VERONICA'S SCHOOL TO CELEBRATE ITS 75TH ANNIVERSARY

HON. GERALD D. KLECZKA

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 2001

Mr. KLECZKA. Mr. Speaker, this week one of my district's many fine parochial schools will reach an important milestone. St. Veronica Catholic School, first opened its doors on December 6, 1906. Two small rooms accommodated the 106 students who attended class on that day.

As the community once known as the Town of Lake expanded, so did St. Veronica's. After surviving the lean years of the Great Depression and World War II, a new 17-room school was dedicated by Rev. Gordon Johnson in 1952. Today, as the school prepares to celebrate its 75th anniversary, it boasts an enrollment of nearly 450.

The Sisters of St. Francis of Assisi, who taught at St. Veronica's from its inception until the late 1980s, instilled in their students the importance of education, God, family and community in their daily lives. Sister Marie Estelle Kuczynski and her faculty and staff the school's dedication to those ideals as they prepare the children of today to become the leaders of tomorrow.

St. Veronica's strives to afford its students the opportunity to acquire the skills necessary to excel in our changing world. New additions are planned for the library, learning center, and computer lab. However, the dedication to academic, spiritual, social and moral development remains unchanged.

And so, it is with great pleasure that I join with the faculty, staff, students, and alumni of St. Veronica School in celebrating 75 years of quality education, and wish them godspeed in all that lies ahead.

TRIBUTE TO DR. LELAND HARTWELL

HON. JIM McDERMOTT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 2001

Mr. McDERMOTT. Mr. Speaker, It is an honor for all of us in Seattle to have Dr. Leland Hartwell among us. We are very fortunate to have him as the president of the renowned Fred Hutchinson Cancer Research Center. Additionally, Dr. Hartwell is a professor of genetics and medicine at the University of Washington.

I am very proud to extend my warmest congratulations to Dr. Hartwell on winning the Nobel Prize for Medicine. This prize is reflective of many years of hard work and achievement, and a lifetime commitment to saving lives. He won the most prestigious prize in medicine through pioneering research in the genetics of yeast cells, which are much easier to study than human cells.

When Dr. Hartwell first began studying baker's yeast cells over 30 years ago, he and other scientists were not all that confident that the research would apply to human cells, According to Hartwell, the most sophisticated technology they used was often a toothpick. But hard work and determination prevailed.

Dr. Hartwell used genetics to study how cells function, to determine which genes cause cells to divide. That understanding, in turn, is helping researchers understand how cells mutate and perhaps how to prevent or reverse cancerous cell changes. He discovered more than 100 genes involved in cell-cycle control, and documented the existence of cell-cycle ''checkpoints.'' These points ensure that steps in the process have been completed properly before it proceeds. Interestingly, he discovered that cancer cells bypass the checkpoints.

Indeed, Dr. Hartwell's investigation into complex cellular mechanics paved the way for others to better understand how mistakes in the process result in cancerous cell growth, Advances in clinical therapies build upon the knowledge gained from his research.

Without the fundamental research, advances in science and medicine could never be achieved. I wish to thank Dr. Hartwell for his dedication to curing disease and improving human life.

IN RECOGNITION OF THE LITTLE WHITE CHAPEL

HON. ADAM B. SCHIFF

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 2001

Mr. SCHIFF. Mr. Speaker, I rise today to honor the Little White Chapel in Burbank, CA. The congregation will celebrate the 60th anniversary of the Little White Chapel on December 2, 2001.

Founded on Sunday, December 28, 1941, the Little White Chapel has been serving its congregation for 60 years now. In 1941, the Little White Chapel was built even before it had a single member and well before the congregation had been organized. The Greater Los Angeles Church Federation to the Christian Church, guided by the philosophy of, ''Build it and they will come,'' held Little White Chapel Day in 1941 and with the proceeds, erected the current day church.

The first church services were held on Sunday, December 28, 1941, where Dr. Clifford A. Cole presented the church to the people of Burbank and opened its doors to all who would come. As the years went by, the church was able to add Sunday school rooms, a social hall, a kitchen, an annex for overflow crowds, and a Sanctuary.

Throughout the years, the congregation has taken an active role in volunteering and working in the surrounding community of Burbank. The church's congregation has initiated the Good Samaritan Fund to help members of the community in times of distress and need. The fund has given over 36 percent of its funds to causes beyond the local church, especially those dealing with interfaith approaches to alleviating the causes of racism, poverty, hunger, and homelessness.

So today, I ask all Members of Congress to join me in congratulating the Little White Chapel and its congregation on the celebration of their 60th anniversary and thank them for their outstanding participation and service to our community.

DICK VAN NOSTRAND: AN ARTIST WITH A CAMERA

HON. JAMES A. BARCIA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 2001

Mr. BARCIA. Mr. Speaker, I rise today to honor Dick Van Nostrand upon his retirement after nearly 35 years as a newspaper photographer with the Bay City Times in our shared hometown of Bay City, Michigan. I have known Dick for many years and I, along with it seems nearly everyone in the region, have been privileged at one time or another to be the subject of his photographic artistry.

Dick's interest in photography began when he first picked up his dad's 35-millimeter camera as a teen. He learned quickly. By his senior year at the former T.L. Handy High School, Dick was a published photographer and had won several awards for his work. After working for a newspaper in Indiana, Dick returned to his hometown in 1967 to join the Bay City Times as a full-time photographer. A month later, he married Jan and they embarked on a life together in Bay City.

Over the years, Dick's photographs have graced the pages of the Bay City Times and many other publications throughout the world. He has won the admiration of readers and colleagues alike, garnering many awards from his peers in journalism and in the arts. The images he shot of the tragic Wenona Hotel fire earned him a Pulitzer Prize for Spot News nomination in 1978 and his photos of the fire and his slides are still used today as a training tool for firefighters.

His wife, Jan, and children, David and Amy, also deserve credit for providing the love and support so necessary to his professional success and in fostering the talent that manifested itself in his work.

Finally, Mr. Speaker, I ask my colleagues to join me in commending Dick Van Nostrand for his years of journalistic excellence and his unparalleled passion for story-telling through the click of his camera. His vision and talent have served his profession and his community well, and he will be sorely missed by us all.

JOHN P. PERDUYN

HON. TOM SAWYER

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 2001

Mr. SAWYER. Mr. Speaker, John P. Perduyn has served the Goodyear Tire & Rubber Company for 36 years, and the Akron community nearly as long. He began his career in 1965 as associate editor of ''Go'' and ''Triangle,'' internal publications serving the company's marketing efforts.

Since then, John Perduyn has served the Research and Development, Shoe Products, and the Chemical Division of Goodyear. For a time, he worked in Goodyear's Midwest Region office in Chicago. Fortunately for us in Akron, he returned as director of public information.

Years of dedication and commitment to the principles of sound business and honest communication with employees and consumers won him the position of Senior Vice President of Global Communications in 1999.

John Perduyn's career with Goodyear has coincided with an era of unprecedented change, reorganization, and acquisitions in the tire and rubber industry—not just in the United States, but around the world. The globalization of markets in transnational industries has tested many companies—but none more than those in the worldwide tire industry. Few companies or executives in any field have met those challenges, in all their various forms, as well as Goodyear and John Perduyn.

Throughout his career, John Perduyn has served as a mentor for many associates within Goodyear and beyond. He is a member of the National Association of Manufacturers' Communication Council, the Public Relations Society of America, the Vice Presidents Forum, and the Arthur W. Page Society. John embodies the Page Society's credo to tell the truth and prove it with action.

Beyond the corporate world, John Perduyn has continued contributing his time and talents to our community. He is on the board of trustees of the Akron Roundtable and Ohio Ballet, offering sound communications advice and policy counsel to those non-profit organizations for many years.

John Perduyn's wise guidance and strong leadership will be missed at Goodyear. We in Akron can only hope that he will find even more time to devote his energies to the community he has served so long and so well.

PERSONAL EXPLANATION

HON. TERRY EVERETT

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 2001

Mr. EVERETT. Mr. Speaker, I was reviewing tornado damaged areas in my district on Tuesday and thus was unable to vote during the following rollcall votes. Had I been present, I would have voted as indicated below.

Rollcall No. 449, H.R. 1259, Computer Security Enhancement Act—''yes,'' and rollcall No. 450, S. Con. Res. 44, resolution expressing the sense of the Congress regarding National Pearl Harbor Remembrance Day—''yes.''

Additionally, due to flight delays on Wednesday, I missed the following morning rollcall votes. Had I been present, I would have voted as indicated below.

Rollcall No. 451, on Approving the Journal—''yes,'' rollcall No. 452, H. Con. Res. 77, Expressing the sense of the Congress regarding the efforts of people of the United States of Korean ancestry to reunite with their family members in North Korea—''yes,'' and rollcall No. 453, H.R. 2722, Clean Diamond Trade Act—''yes.''

RAYMOND M. DOWNEY POST OFFICE BUILDING

HON. STEVE ISRAEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 2001

Mr. ISRAEL. Mr. Speaker, I rise today to introduce a bill to designate the Deer Park Post Office as the ''Raymond M. Downey Post Office Building.'' New York lost many heroes on September 11th, but the loss of Chief Downey is an especially difficult one.

During the thirty-nine years he was a New York City firefighter, Chief Downey rescued countless people from what befell so many at the World Trade Center. The most decorated member of the City's fire department, he led a FDNY rescue team to Oklahoma City and directed the recovery effort at the World Trade Center bombing in 1993. He will be sorely missed.

I ask my colleagues to support this bill and to join me in remembering Ray Downey.

HONORING THE CENTRAL TEXAS LABOR COUNCIL ON ITS 100TH ANNIVERSARY

HON. CHET EDWARDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 2001

Mr. EDWARDS. Mr. Speaker, it is fitting that we extend our congratulations to the Central Texas Labor Council on the occasion of its One-Hundredth Anniversary, celebrated in Waco, Texas on October 20, 2001.

Originally chartered as the McLennan County Labor Council on October 31, 1901, the member-unions included the Leather Workers and Horse Goods, Local 45, the Stationary Fireman's Union, the Tailors Union, Local 96 and the Federal Labor Union 8892. Another member, the Typographical Union, Local 188, was first chartered in 1881. In later years, the Musicians Union local represented organists who accompanied silent films in local movie houses.

In the 1920s, local unions held a forty-hour workweek strike, and helped establish that as a basis for all contracts of labor. Other early job actions were for air conditioning, worker respect and safer workplaces.

In 1901, only unions in McLennan County were affiliated with the Council. Over time, it expanded to include eight counties, and in 1992, the name was changed to the Central Texas Labor Council. The organization now includes forty unions representing 14,000 workers.

Mr. Speaker, the nature of collective bargaining and labor-management relations have changed dramatically since the Council was born a century ago. Today, in Central Texas and across the nation, the vital role of labor unions and labor councils have been widely recognized for their contribution to safer and more productive workplaces with highly-skilled workforces, leading to more competitive enterprises, and ultimately, to a stronger and more stable U.S. economy.

Much has changed in one hundred years. However, the Central Texas Labor Council continues to speak, and fight when necessary, for the rights, the interests and the dignity of working men and women.

THANK YOU, DR. STEVEN E. HYMAN

HON. MARGE ROUKEMA

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 2001

Mrs. ROUKEMA. Mr. Speaker, I rise today to thank Dr. Steven E. Hyman for his outstanding and dedicated, work in the field of mental health through research, advocacy, and education. Dr. Hyman, director of the National Institute of Mental Health (NIMH) of the National Institutes of Health (NIH), will be leaving to assume his new responsibilities as provost of Harvard University on December 10. A leading scholar at the intersection of molecular neurobiology and psychiatry, Dr. Hyman will be gravely missed.

I personally regret Dr. Hyman's departure, because he has been very helpful to me in my role as co-chair of the House Mental Health Working Group. He has shown strong and decisive leadership that has gone far to reduce the terrible stigma and discrimination that haunts those with mental disorders. As a leading scientist, Dr. Hyman very publicly and very often made the case that science has shown us that these disorders of the brain are real and they are treatable. As one who has focused on this issue for so long, I can tell you how necessary his strong and credible voice has been.

In 1996, Harold Varmus, then-director of the National Institutes of Health (NIH), named Dr. Hyman as director of the NIMH, the federal agency charged with generating the knowledge needed to understand, treat, and prevent mental illness. His tenure has been marked by intensified efforts to bring molecular biology, genetics, neuroscience, and behavioral science all to bear, in integrated ways, on the understanding of mental illness and mental health. Most recently, Dr. Hyman has been a prominent voice for the NIH on the psychological effects both of the September 11th attacks and bioterrorism.

Dr. Hyman has been a great help to us here in the House of Representatives as we sought to understand mental illnesses and their effect on society. However the impact of his service has reached our constituents well. I am gratified by every person who tells me that they are no longer ashamed or guilty because they or a family member suffers from a mental disorder. I have had a long-time interest in the issues surrounding mental illnesses and I have valued Dr. Hyman's leadership and commitment to encouraging and supporting the basic research that will enable us to develop effective new treatments—based on an understanding of the disease process itself.

Dr. Hyman has accomplished much during his tenure at the NIMH and for this I am grateful. His success in bringing research on mental disorders to the forefront of public consciousness has left an important and lasting legacy.

Mr. Speaker, I ask my colleagues to join me in gratitude for Dr. Steven Hyman's dedication. We wish him all the best for the future. Our nation looks forward to his continuing contributions to our health and well being as he honors the halls of Harvard University.

RECOGNIZING ACCOMPLISHMENT OF KNOX COUNTY COMMISSION CHAIRMAN, LEO COOPER

HON. JOHN J. DUNCAN, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 2001

Mr. DUNCAN. Mr. Speaker, I am pleased to have the opportunity to officially recognize the recent accomplishment of my constituent and friend, Knox County Commission Chairman, Leo Cooper. Commissioner Cooper was recently reappointed as chairman of the Knox County Commission by a unanimous vote and is beginning his third term in this important role. Mr. Cooper's leadership and genuine desire to serve the public are reflected in the fact that he is now the longest-serving Chairman in the history of the Knox County Commission.

In Washington, we often overlook the critical role local governments play in the lives of the American people. By focusing on broad legislative initiatives, we can easily lose sight of the tremendous work that must be done at the county and city levels.

Commissioner Cooper's reappointment as chairman will not be covered by national news, but I believe it serves as an opportunity to highlight, not only his efforts, but also the efforts of all Americans who have committed themselves to serving in local elected office.

Since 1986, Commissioner Leo Cooper has served the men, women and families of the Seventh District of Knox County as a tireless advocate and friend. Prior to being elected to local government, Chairman Cooper's career was dedicated to education and improving the lives of Knox County's young adults. Whether as an elected official or a schoolteacher and principle, Mr. Cooper has continually committed himself to public service. The people of the seventh district recognize this, and I am pleased that the other dedicated members of the Knox County Commission do as well.

I add these remarks to the RECORD today so that every member of the House of Representatives can Join me in thanking Mr. Leo Cooper and every elected official in our respective districts who play such vital roles in the well-being of our communities.

PAYING TRIBUTE TO SUSAN MENCER

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 2001

Mr. MCINNIS. Mr. Speaker, I would like to take this opportunity to congratulate Susan Mencer on her new appointment as Director of the Office of Preparedness and Security for the State of Colorado. Susan will now play a key role in the defense of the State of Colorado and this nation from the threat of terrorism. This will be a challenging role for Susan, but I am confident she will prove herself most capable of leading Colorado in this time of national tragedy.

Protecting our country from terrorism is not a new role for Susan. She began her service in 1978 as an agent for the Federal Bureau of Investigation. Her initial duties at the agency led her to the Office of Counterintelligence in New York. Serving as an agent, she was responsible for ensuring that foreign diplomats were not involved in spying or obtaining classified information concerning national security while posted in the United States. Susan's success propelled her to the FBI Headquarters in 1985, where she served in several high level roles as head of the budget unit for the Intelligence Division and Supervisor of Counterintelligence Operations.

In 1990, Susan came to the FBI Denver office and directed programs involving international and domestic terrorism, foreign counterintelligence. As a result of her dedication, Susan was named Director of the Joint Terrorism Task Force in Denver created in response to the Oklahoma City bombing in 1995. Enjoying retirement since 1998, Susan was again called to duty following the Columbine shooting incident and served on the investigation panel. Her commitment to the safety for schools and our children led to an appointment from Governor Bill Owens to head the Department of Public Safety.

Mr. Speaker, the State of Colorado is fortunate to have Susan Mercer lead our efforts to counter terrorism in the State of Colorado. Her impressive resume speaks volumes for Susan's dedication and commitment to keep this nation safe and free from terrorism. I am honored to have Susan in this position and extend my thanks for her service to Colorado and her commitment to this nation.

NEW YORK CITY CONGRESSIONAL SESSION GAINS MOMENTUM

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 2001

Mr. RANGEL. Mr. Speaker, I rise today to share with you an article that appeared in the Hill newspaper on Wednesday, November 28, 2001. This news story is concerning H. Con. Res. 249, a resolution that I recently introduced, which provides for a joint session of Congress to be held in New York City early next year. I am pleased to have this opportunity to share this story with my colleagues.

[From the Hill, Nov. 28, 2001]

NYC CONGRESSIONAL SESSION GAINS MOMENTUM

(By Kerry Kantin)

Despite the logistic hurdles that confront the notion of convening a session of Congress outside of Washington, D.C., momentum is building behind the movement to conduct a symbolic, one-day joint session in New York City.

A resolution introduced last month has already captured the bipartisan support of 165 House members. The House effort is spearheaded by New York State delegation Democratic chairman Rep. Charlie Rangel, who is from Manhattan.

Rangel, working with New York State GOP delegation dean. Rep. Ben Gilman, has been actively corralling support from both his Democratic and Republican colleagues.

''It would be historic. It would be a way of symbolizing the strike we took for the nation and their appreciation for it,'' said the 15-term Rangel in a phone interview last week. ''Any city or any town or village know the Congress is with them, like they're with New York City.''

Rangel acknowledged that there are several logistical obstacles, including where the session would be held and security issues, to iron out, but said that should not get in the way of members' support.

''No one's turning us down,'' Rangel added. ''I know I can get my signatures next week.''

Rangel and Gilman have written Dear Colleague letters, asking their support for the measure.

''We are equally impressed by our colleagues' support of a symbolic—but powerful—gesture to convene the Congress in New York for one day,'' write Rangel and Gilman in a Nov. 14 letter. ''We believe that such a session in the city where Congress first convened would be a powerful and meaningful expression of support to New York.''

The session would also provide an opportunity for all lawmakers to meet with New Yorkers, the letter adds.

The movement to bring Congress to the Big Apple was catalyzed on the editorial page of the Sept. 25 New York Daily News. The New York tabloid wrote an editorial urging a joint session of Congress in New York City, even if it is only for one day.

Rangel quickly picked up the cause and introduced a resolution on Oct. 12; New York Sens. Hillary Rodham Clinton (D) and Charles Schumer (D), followed suit, introducing a companion resolution Nov. 15.

''We're working actively to see that it happens,'' said Schumer, of his and Clinton's efforts. ''It would be a shot in the arm for New York.''

In the House, the resolution has captured the support of 53 Republicans and 112 Democrats, ranging from Empire State liberals like Rep. Jerrold Nadler to Midwestern conservatives like Paul Ryan (R–Wis.) and Don Manzullo (R–Ill.). The entire 31-member New York State delegation has signed on, as well as several other members from the Northeast.

With the exception of retiring House Minority Whip David Bonior (Mich), the entire Democratic leadership has pledged its support for the resolution, but no one from the House GOP leadership. It has, however, received the support of other influential Republicans, including Appropriations Committee Chairman Bill Young (Fla.) and Energy and Commerce Committee Chairman Billy Tauzin (La.).

''Everyone has been extremely receptive,'' Rangel said. ''But when we get to the logistics, I hope they'll love me as much in the springtime as they do in the fall.''

Other members are wary to sign on until finding out more details.

''I saw the note from Charlie [Rangel], but Gosh, it's an interesting concept, but I don't know if I'm for it or against it,'' said House Republican Conference Chairman Rep. J.C. Watts (R–Okla.).

''I do find it quite intriguing we would consider something like that,'' he added. ''I'm sure we would look at the pros and cons and give it a fair hearing. It seems to be a massive undertaking to move the mechanics of Congress to another location.''

While his primary focus is gaining as many signatures as he can, Rangel said he is looking into about six sites. He added that he is working with New York City Mayor-elect Michael Bloomberg (R) and other city leaders, like Bill Ruden, the chairman of the Association for a Better New York.

Ed Skyler, a spokesman for the Bloomberg Transition Team, said the mayor-elect ''strongly supports'' the resolution. He added that Bloomberg discussed the issue during his trip to Washington earlier this month.

Those in support of the resolution say the logistics can be hammered out at a later time.

''A lot of those things would need to be worked out,'' acknowledged Schumer, adding that lawmakers could not work out many of

the fine details themselves and would need to leave issues, like security, up to other agencies, including the sergeants at arms.

''This is an act of showing congressional support for New York,'' said Kori Bernards, a spokeswoman for House Minority Leader Richard Gephardt (D–Mo.), who supports the resolution.

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 2002

SPEECH OF

HON. JEFF MILLER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 28, 2001

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 3338) making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes:

Mr. JEFF MILLER of Florida. Mr. Chairman, I rise today in strong support of H.R. 3338, the Department of Defense Appropriations Act for Fiscal Year 2002. I wish to commend Chairman LEWIS, Ranking Member MURTHA, and their staff for again crafting a bill that is appropriate for those who risk their lives to protect our country, our freedoms, and our way of life.

We have learned in recent months that we live in an uncertain time and an unstable world. We in Congress must always remember that the first priority of the Federal Government is to provide for the national defense.

This bill delivers on that priority and demonstrates our commitment to our Nation's defense by providing $317.5 billion in discretionary spending, $19 billion over last year's bill. The bill ensures that our military remains the strongest, most prepared force in the world, and strengthens our efforts to deal with the new threats that our Nation faces by providing $11.7 billion under the Counter-Terrorism and Weapons of Mass Destruction Title. The bill also fulfills our obligation to house, clothe, feed, and provide for the health care of the members of our armed services and their families by providing a 4.6 percent pay raise and funding an increase in housing allowances.

Mr. Chairman, it is for these and many other reasons that I gladly support H.R. 3338 today and encourage my colleagues to do the same. At this very moment, men and women of our Armed Forces are overseas fighting a war on terrorism and evil. While we have all stood in this Chamber and commended them for their service, now is the time to support this vital legislation that will ensure our troops remain safe and successful, now and for years to come.

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 2002

SPEECH OF

HON. CAROLYN McCARTHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 28, 2001

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 3338) making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes:

Mrs. MCCARTHY of New York. Mr. Chairman, the tragic events of September 11th have left a profound impact on this country. As a representative from New York, I have witnessed firsthand the destruction and grief endured by the survivors. I've watched our brave rescue personnel work tirelessly to recover lost loved ones. Cleanup crews continue to work around the clock in hope of rebuilding what was destroyed. There is no question that New Yorkers are united in their effort to overcome the challenges ahead of them.

As we know, in the aftermath of September 11th, Congress quickly passed the 2001 Emergency Supplemental Appropriations Act for Recovery and Response to Terrorist Attacks on the United States (P.L. 107–38). This supplemental appropriates $40 billion and allows the Bush Administration to spend the first $20 billion with minimal reporting requirements. The remaining $20 billion can be spent only after the Administration has specifically requested it and Congress has passed a bill reported by the Appropriations Committee. New Yorkers were promised $20 billion of these funds to help with relief efforts.

I supported this legislation because it stipulates that ''not less than one-half of the $40,000,000,000 shall be for disaster recovery activities and assistance related to the terrorist attacks in New York, Virginia, and Pennsylvania . . .'' However, only $3.2 billion has been released and the Administration has only requested an additional $6.3 billion for a total of $9.5 billion. That's less than half of what was promised.

I am extremely concerned that New York is not receiving the full $20 billion in emergency funds promised by the President in this bill. New York can not afford to wait for future legislation allocating the remainder of the $20 billion in emergency funds it was promised. Overtime pay for cleanup workers must be paid. Unemployment Insurance funds are rapidly depleting. Continuation of COBRA must continue. These are real concerns that will require, at a minimum, the immediate allocation of the $20 billion in emergency funds.

Equally important, however, is the urgent need to equip our military personnel with the resources and tools they need to prevent future acts of terrorism. We are at war with an enemy that is not restricted to country borders or even continents. The 7-percent increase in funding addresses many of our military's needs and prepares this country for the long road of eradicating all terrorists.

I have little doubt that New York will eventually receive the full $20 billion promised by the President, but I would have preferred to receive these funds today. The President must not forget about New York, just as we have not forgotten about our brave men and women fighting overseas to prevent another attack similar to September 11th.

PAYING TRIBUTE TO DAVID KLAGER

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 2001

Mr. MCINNIS. Mr. Speaker, I would like to take this opportunity to pay tribute to the life and memory of David Denison Klager who recently passed away in Creede, Colorado on November 1, 2001. David, known to others as Dave, will always be remembered as a dedicated contributor to the community. His passing is a great loss for a town that relied on Dave for his kind heart, knowledge, and friendship.

As a member of the Creede community, Dave was constantly volunteering his time and energy for beneficial projects in the area. He served on the Board of Directors and as Treasurer for the Homeowner's Association, President and Board of Directors for the Creede Repertory Theater, President of the Creede Historical Society, volunteer for the Creede Historical Museum, and member of the Arts Council. He also served as Senior Warden to St. Augustine's Episcopal Church.

Dave was a lover of the outdoors and enjoyed the many activities that Colorado can offer. He was an avid hiker, snowmobiler, cross-country skier and canoer. His hobby was woodworking and his work can be seen throughout the City of Creede in places such as St. Augustine's Church, the ''Art Park'', and Creede Repertory Theater.

Mr. Speaker, Dave will be missed by the many whose lives he has touched in the community. It has always been known that his greatest passion was his love and dedication to his family. His wife Courtney, daughters Kim, Karol, and Karen, as well as several grandchildren survive Dave. It is with a solemn heart that we say goodbye and pay our respects to a patriarch of the Creede community. David Denison Klager dedicated his final years to his neighbors in the City of Creede, Colorado, and he will be greatly missed.

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 2002

SPEECH OF

HON. BETTY McCOLLUM

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 28, 2001

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 3338) making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes.

Ms. MCCOLLUM. Mr. Chairman, I rise today in support of H.R. 3338, the Defense Appropriations bill for fiscal year 2002.

In this time of national awareness of the very real threat of terrorism, I believe it is our responsibility as lawmakers to ensure the readiness and quality of life of our military by providing these forces with the necessary resources, equipment and training to defend our nation's interests and to keep the American people secure. With our country at war, it is more important than ever to continue to support our armed forces and provide them with

the necessary resources needed to wage this war and protect our nation and our world from terrorism.

Despite my support for this bill, I have strong reservations about the way this bill has placed an added emphasis on programs and provisions that do not address the most pressing needs of our nation.

For example, this measure provides $7.9 billion for an untested and unproven missile defense program, while providing only $613 million to improve federal, state, and local bioterrorism preparedness. By moving forward with a costly national missile defense system, we are investing billions of scarce federal dollars in an unproven and dangerous scheme while placing at risk the well-being of our nation in a time of national crisis.

In addition, this Defense Appropriations bill will cut critically needed funding from the Department of Labor's employment and training administration to provide additional funding relief to assist New York's efforts to recover from the September 11th terrorist attack. While there should be no doubting my commitment to the people of New York and their efforts to recover and rebuild after the terrorist attacks, I am concerned that the funding they need may come at the expense of other programs and initiatives deserved of funding.

Specifically, funding in this bill in the employment and training administration was to be used for the New National Emergency Grant program, which would allocate emergency funding to the states to provide health insurance, income support, and job search assistance and training for displaced workers following the September 11th attack. This includes a $24 million grant for the State of Minnesota to provide assistance to displaced airline employees who have lost their jobs when the government suspended domestic and international air travel. These layoffs have had a devastating impact on these individuals and their families and to Minnesota's economy as a whole. With the huge influx of current layoffs, the state cannot meet the needs of these laid off workers without this emergency grant.

While this is not a perfect bill, with our nation at war, it is a necessary bill. It is imperative that our nation continues to maintain a strong national defense, especially during this time of domestic and international crisis. However, in the weeks and months ahead we must also pledge our commitment to work as a unified Congress to provide increases in additional security, bioterrorism preparedness, and employee assistance measures. Furthermore, we must work to help New York recover and rebuild from the devastating attack of September 11th, as well as stimulating our economy and strengthening our nation's infrastructure and safety measures.

CONGRATULATING CLEARFIELD, PENNSYLVANIA EMS

HON. BILL SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 2001

Mr. SHUSTER. Mr. Speaker, I rise today to honor the outstanding achievements of the Clearfield, Pennsylvania Emergency Medical Service (EMS) Company. On August 10, 2001, the Pennsylvania Emergency Health Services Council chose Clearfield EMS from among 1,000 ambulance service companies statewide to receive the Rural Ambulance Service of the Year Award.

Clearfield EMS garnered such an award not only through exemplary ambulance service, but also through their involvement in the community. Free flu shots and participation at county fairs and festivals are just a couple of the many ways that Clearfield EMS has taken the lead in community education and involvement.

In light of the tragic events of September 11, 2001, the role of the EMS workers, firefighters, and police officers of Central Pennsylvania is greater than ever. Clearfield EMS and their EMS counterparts throughout the area are among the first to respond to emergencies, and for this important service to our communities, I am grateful. These individuals deserve all of our thanks for dedicating their lives to helping others.

Finally, I would like to recognize the following employees of Clearfield EMS by name:

Paramedics: Scott Briggs, Timothy Lumadue, Christopher Miller, Scott Minich, Robert Mitchell, Michael Mowrey, Lewis Huff, Patrick Cooley

Emergency Medical Technicians (EMT): Vicky DeHaven, George DeHaven, Traci Pentz, Melissa Miller, Lorie Bell, Stacy Huff, Frank Warholic, David McAllister, Brian Kellogg, Frank DeHaven, Carol DeSantis, Erin DeSantis

Administrative Staff: Terry Wigfield, Manager; Chad Abrams, Assistant Manager; Pamela Charles, Office Manager; Dr. James DeSantis, Medical Director

Board of Directors: Gary C. Wigfield, President; Gary L. Shugarts, Treasurer; Pamela Spencer, Secretary; Delford Wigfield, Mathew Franson, Thomas Glace

I congratulate Clearfield EMS on their exceptional accomplishments and their determination to improve their already stellar service. Clearfield EMS should serve as an example in excellence for other ambulance services nationwide.

A BILL TO PROVIDE TAX INCENTIVES TO BUSINESSES LOCATED IN LOWER MANHATTAN, THE LIBERTY ZONE AND HELP REBUILD THE ECONOMY AFTER THE SEPTEMBER 11, 2001 TERRORIST ATTACK

HON. AMO HOUGHTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 2001

Mr. HOUGHTON. Mr. Speaker, I am honored to stand with several of my New York colleagues in introducing a bill, which will provide much-needed tax incentives for businesses to rebuild in lower Manhattan—this all after the massive destruction caused by the terrorist attack on September 11, 2001. None of us will forget the terrible losses of that day—loss of life and the most tragic being the heartache to so many families.

The World Trade Center towers were destroyed. Other buildings were damaged or collapsed. The price tag to rebuild is staggering. But rebuilding the infrastructure and economy must start. This package is only part of the solution, but it is an important first step.

As New York Governor George Pataki said today, ''The $6.1 billion package will offer incentives for businesses to generate jobs, spur innovation and investment in the Liberty Zone, helping us renew, restore and rebuild lower Manhattan''.

The bill includes five provisions which would: (1) authorize New York State to issue up to $15 billion in tax-exempt private activity bonds over the next 3 years to help renovate and rebuild commercial property, residential rental property and private utility infrastructure, (2) allow taxpayers to claim an additional 30 percent, first-year depreciation deduction for property located in the Liberty Zone, including buildings and building improvements, (3) provide a 5-year life for depreciating certain leasehold improvements, (4) increase by $35,000 to $59,000 the amount that can be expensed by small businesses under section 179, and (5) increase the replacement period from 2 to 5 years for property that was involuntarily converted in lower Manhattan so that taxpayers would not have to recognize gain.

I want to thank Chairman THOMAS and my colleagues for their help in working through this package. I urge your support.

MARKING THE PASSING OF MARY KAY ASH

HON. EDDIE BERNICE JOHNSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 2001

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I rise to salute the life and legacy of Mary Kay Ash. For more than four decades, Ms. Kay has been one of Texas' most outstanding citizens and a business pioneer. Cosmetics sales were just a small part of the legacy she left for America. Her business made women feel better about themselves, regarding both their appearance and the possibility for success in business.

Ms. Kay changed the way women in business were perceived. She pioneered direct marketing in a way that has been emulated for years. She tapped talent that may have otherwise gone unused. All over America, women are more empowered because of the life of Mary Kay Ash.

Mary Kay Ash founded the cosmetic company that bears her name in 1963 with $5,000 in savings, using a hide tanner's cream as her principle product. Since then, the color pink has been synonymous with quality cosmetic products and aggressive salespersonship. She was a phenomenal entrepreneur and, more importantly, an incredible motivator. One hundred fifty one women, so far, have recorded more than $1 million in Mary Kay sales.

Last year, Mary Kay, Inc. had revenue of $1.3 billion. Today, there are about 800,000 women and men who make up the Mary Kay global sales force. It is an extraordinary legacy for a phenomenal lady who grew up in a poor Houston neighborhood.

Mr. Speaker, Mary Kay Ash was one of Dallas-Fort Worth's most dynamic icons. She died on November 22, 2001. 1 ask that the thoughts and prayers of the Thirtieth Congressional District, and the nation, be with her family and friends.

PAYING TRIBUTE TO DEBBIE TAMLIN

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 2001

Mr. McINNIS. Mr. Speaker, I would like to take this opportunity to recognize an outstanding individual from Ft. Collins, Colorado. Over the years Debbie Tamlin has distinguished herself as a business executive, a community leader, and a vital participant in our political process. Debbie's achievements are impressive and it is my honor to recognize several of those accomplishments today.

Debbie was raised in Colorado and received a Bachelors of Arts in Communication Disorders from Colorado State University. In 1978, she received her Colorado Real Estate Sales License followed by her brokers license in 1980. Since then she has immersed herself in an outstanding real estate career and served in numerous capacities of support for her field. She has served as Director for the National Association of Realtors, President of the Women's Council of Realtors, founding member of the Northern Colorado Legislative Alliance, Director of Colorado Association of Realtors, and the Director of Fort Collins Association of Realtors.

To help serve her community and State, Debbie has given her time and energy to the political process by providing guidance and support to aspiring political candidates. She has been a driving force in the Colorado Republican Party and worked on campaigns in various capacities for county commissioners, Congressmen, Senators, and even President George W. Bush. Debbie has also given her time to noble efforts in the community such as founding the Convention and Visitor's Bureau and serving as a leader in groups such as Citizens for the Protection of Personal Property Rights, the Women's Development Council, and the Colorado Women's Leadership Coalition.

Mr. Speaker, Debbie Tamlin's list of achievements has not been overlooked during her career and her efforts have been repeatedly awarded over the years. It is now my honor to congratulate Debbie on her most recent and well-deserved award from her own community, the Realtor of the Year award. Debbie has been a model citizen for the community and I extend my thanks to her for her efforts. Keep up the good work Debbie and good luck in your future endeavors.

TRIBUTE TO ROGER F. HONBERGER

HON. BOB FILNER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 2001

Mr. FILNER. Mr. Speaker, December 31, 2001, will mark the passing of an era, an era of accomplishment in the field of intergovernmental relations. On that day, a pioneer in Washington representation for California public policy and project development will retire from service.

Roger F. Honberger comes from a humble upbringing of enterprising parents from the 1930s. His mother is a Native American, born into the Pechanga Band of California Mission Indians at the turn of the century, and is presently the oldest living Tribal member. Roger was the first member of his family to graduate from college, the result of extensive sacrifice by his parents. After beginning his career in the field of Urban Planning, he returned to graduate school, where he distinguished himself and received degrees from both the University of London, England and Harvard University.

In his early career, he served as a professional planner with the County of Riverside, City of San Diego, National Capital Planning Commission, and the U.S. Department of Housing and Urban Development. His federal experience in writing legislation, budget preparation, and program management led him to the establishment of his own government relations consulting firm in 1970, Roger Honberger Associates, Inc. He pioneered a new industry of dedicated people working with the Congress and Federal Administrations on behalf of the intergovernmental needs of state and local governments. Today, this industry serves countless public agencies from all corners of the nation.

Thirty years ago, Roger was selected from a field of 200 applicants by the County of San Diego to be their first Washington representative. At that time, the San Diego County Congressional Delegation consisted of Lionel Van Deertin, Bob Wilson, and Jimmy Utt. The only other state or local governments that had full time Washington offices when Roger began his work for San Diego County were the State of California, the County of Los Angeles, and the Cities of Los Angeles and San Diego. These were the only general-purpose governments from any other part of our great nation in those days that maintained a full time presence in Washington, D.C.

In his thirty years of representing San Diego County, Roger directly served 27 different elected members of the County's five person Board of Supervisors, and 8 different Chief Administrative Officers. The number of Congressional Districts in the County grew from 3 to 5 during the same period, and he worked closely with all 16 different Members of Congress elected from these districts since 1970. Five different Presidents recognized Roger for his work on public issues. He has also been recognized as Alumnus of the Year by the California State Polytechnic University, as well as by his High School Alunmi Association from Perris, California. He is the only career County representative that the National Association of Counties has officially honored for professional accomplishments. He has had a truly remarkable career of public service.

A broad array of regional accomplishments in the County have benefited from Roger's efforts in Washington, D.C. These include: the establishment of the region's first alcohol detoxification center; development of the first solid waste recycling program; a countywide gasoline vapor recovery program; harbor cleanup; welfare reform; a multitude of flood control and highway projects; San Diego Trolley project construction; Sheriffs Department funding; lagoon preservation; drug addiction treatment; children's disease inoculation services; foster care program support; air quality program certification; and the prevention of off-shore oil drilling, just to name a few. The list is long and impressive.

Five years ago, Roger invited his longstanding associate, Thomas Walters, to become his partner, and the firm's name was changed to Honberger and Walters, Inc. For the past three years, Tom has been the firm's chief executive officer and owner. The firm continues to manage San Diego County's Washington office. Their other clients include the San Diego Metropolitan Transit Development Board, North County Transit, San Diego Unified Port District, the Sweetwater Authority, the Counties of Riverside and Ventura, the Monterey-Salinas Transit District, the Calleguas Municipal Water District, and the Pechanga Band of Luiseno Indians.

Roger has long been recognized as one of the leaders in his field and has lectured on intergovernmental relations and lobbying practice at San Diego State University, U.S. International University, University of Maryland, and the University of Arizona. He continues to be involved in a variety of American Indian issues and was one of the founders of the Harvard University Native American Alumni Association.

Many of us in the Congress have worked with Roger Honberger during his distinguished career. We will miss his friendly disposition and his dedicated hard work on behalf of his public clients. Above all, we will miss his candor and honesty. His word has always been his bond, something we have all appreciated and have grown to expect, regardless of the circumstances. We are happy to see that his high professional standards and style are being continue by Tom Walters without missing a beat. For this we are grateful, and we are grateful for Roger's sustained friendship and support over the years. We wish him the very best as he moves on to other endeavors.

THE ACCESS AND OPENNESS IN SMALL BUSINESS LENDING ACT

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 2001

Mrs. MORELLA. Mr. Speaker, I am proud to Join my good friend and colleague JIM McGOVERN in introducing this legislation that will help minority and women entrepreneurs in securing small business loans from private lending institutions. The Access and Openness in Small Business Lending Act will ensure that lending institutions are providing minorities and women opportunities to obtain small business loans.

This legislation is similar to the 1990 amendment to the Home Mortgage Disclosure Act (HMDA) that holds financial institutions publicly accountable for their lending practices to applicants. Like HMDA, the Access and Openness in Small Business Lending Act will allow applicants, for small business and nonmortgage loans, to voluntarily and anonymously provide their race and gender information to banks and other institutions. Lending institutions under this legislation will be required to disclose the collected data to the public. These institutions already maintain databases on the geographic and loan size of applicant requests. The additional information collected on lending practices will help identify small business owners that remain underserved and expose additional profitable lending opportunities for lending institutions.

Minorities and women contribute greatly to our nation's economy and communities. Over the past decade they have expanded their ownership of small businesses. However, minorities and women continue to have difficulty gaining access to the resources they need to succeed in business. If granted greater access to private funds more minority and women small business owners could help revitalize their neighborhoods and expand their commercial base.

Mr. Speaker, the Access and Openness in Small Business Lending Act would greatly increase access to private credit for minority and women-owned businesses. This legislation is a much needed step in the night direction that allows minorities and women an opportunity to succeed as small business entrepreneurs and contribute to their communities and the nation. Thank you.

RECOGNITION FOR ERNEST AND JULIA GALLO

HON. GARY A. CONDIT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 2001

Mr. CONDIT. Mr. Speaker, it is a distinct privilege to rise today to honor two giants in the world of business and agriculture—Ernest and Julio Gallo.

Ernest, and his late brother Julio, are being inducted into the Stanislaus County Agricultural Hall of Fame. That alone speaks volumes about these two men in a region of the country known as the agricultural leader of the world.

The sum of their contributions is nearly impossible to evaluate. They easily take their place in history with great men of vision such as Henry Ford and Sam Walton who through hard work and determination transformed their dreams into reality.

Starting with a small family vineyard and winery, they strove for perfection and set a path others would struggle to find. They are part of a disappearing breed of hands-on discoverers and entrepreneurs who blazed a trail, proving the value of hard work, dedication and ambition.

Rarely in history does a name or a single word draw such a connotation as Gallo. The name alone is synonymous with wine and wine making in the same way Ford is synonymous with quality automobiles.

Mr. Speaker, volumes could be written about the contribution these men have made and will continue to make to the Central Valley of California from research to industry operation, production and viticulture. All of these things are intertwined in the history of the Gallo family enterprise.

Ernest and Julio Gallo have greatly impacted agriculture through their decades of leadership in the wine industry. Starting with a small family vineyard and winery, they strove for perfection, inventing the tools they needed when none existed, setting the path for others to follow. They built their business into the largest winery in the world. Their shared ambition to produce and market quality wines at affordable prices motivated them to continuously improve their operations, extending the family business to include grape growing, wine making, production of the bottles, warehousing, distributing, transporting and marketing wines throughout the country, and now throughout the world.

Ernest and Julio Gallo were instrumental in transforming the economy of grape growing, offering long-term contracts to independent farmers by encouraging growers to upgrade the varieties of grape planted to meet future consumer demand for quality. California grape growers were able to then transform the California wine industry into the international phenomenon it is today. Ernest and Julio invested heavily in agricultural research and shared their learning with local farmers.

Through this investment and sharing, the Gallos helped improve the quality of grapes available in the region through better farming practices such as plant nutrition, irrigation and harvesting regimes. The Gallos helped educate generations of vineyard managers and wine makers by their support of curricula throughout the University of California and California State University systems. They undertook extensive research in wine making techniques to help build and sustain the market by introducing new types of wines and methods of wine production. Today this global enterprise employs thousands of people worldwide, nearly 3,500 in and around Stanislaus County.

On a shoestring budget, Ernest and Julio created the ''flagship'' winery in the United States and put California on the map for wine. Their dream has translated into a global force for wine and wine making.

Mr. Speaker, Ernest and Julio always gave ''All their best.'' It is with great pride that I ask my colleagues to rise and join me in honoring two great men—Ernest and Julio Gallo—on the occasion of their being inducted into the Stanislaus County Agricultural Hall of Fame.

PAYING TRIBUTE TO WALTER WAYNE THOMPSON, JR.

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 2001

Mr. MCINNIS. Mr. Speaker, I would like to take this opportunity to recognize Walter Wayne Thompson Jr. and thank him for his service to this country. Walter began his service as a sailor in 1941, joining the Navy at the age of eighteen. By the end of his service, Walter had served on two ships involved in several famous and infamous battles in the Pacific theater.

Walter served on the U.S.S. *Hornet* as a stenographer to the ship's Captain. While serving on the ship, Wayne was present for the launching of the famous Doolittle Raid, America's first strike at the Japanese after Pearl Harbor. Following the raid, the *Hornet* engaged in the Battle of Midway, a battle considered a turning point in the war that stopped the Japanese fleet from controlling Hawaii.

Following Midway, the Japanese focused on the island of Guadalcanal. Here the *Hornet's* crew found itself tasked with the role of defending the island alone after Allied naval forces sustained heavy losses. After Guadalcanal, the crew fought in the Battle of Santa Cruz in an attempt to weaken Japanese defensive forces for an invasion of the island.

The Battle of Santa Cruz was to be the final engagement for the *Hornet*. The carrier was attacked and sunk by enemy forces and her crew rescued by the U.S.S. *Anderson*. After living through the travesty, Wayne finished his service aboard the U.S.S. *Lexington,* where he served until the end of the war. Following his discharge, he returned to his native state of Missouri and became a Baptist Minister. He served the ministry for over forty years before retiring in Montrose, Colorado.

Mr. Speaker, it is a great privilege to recognize Walter Wayne Thompson Jr. and thank him for his service during World War II. If not for dedicated citizens like Wayne, we would not enjoy the many freedoms we have today. Wayne Thompson served selflessly in a time of great need, bringing credit to himself and to this great nation. –

WE MUST RELEASE AID TO HAITI

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 2001

Mr. CONYERS. Mr. Speaker, the U.S. must change its current policy towards Haiti. We, as the standard bearers cannot allow Haiti to further sink into a financial and social mire. It has always been America's role to feed those who are hungry and clothe those who cannot clothe themselves.

As we loosen our belts from our Thanksgiving feast, compare the fate of millions of Haitians to ourselves: According to the United Nations, sixty percent of Haiti's 8.2 million people are undernourished. The average number of calories available to Haitians per day is 1977, nearly half of the 3754 calories a U.S. resident gets, according to the World Health Organization.

The Associated press recently published the following account of life in Haiti:

> I'll eat anything I can get,'' said Jean, 25, as he pulls an empty crab trap out of the polluted Port-Au-Prince Bay. On a good day, Jean can earn about $12 but often goes home empty handed. Pigs are raised on garbage and human waste, but their meat is too precious to be eaten by the impoverished residents. The pork is sold at the market for cheaper staples like cornmeal and rice that provides more days of nourishment.

The current policy of the U.S. is contributing to the continued attrition of the quality of life of Haiti's people, which if left unchanged, could lead to horrendous outcomes for the western hemisphere's poorest people. We must address the current state of economic devastation. We must remove our blockade of essentially all aid to Haiti.

The U.S. must stop using its veto power at the Inter-American Development Bank. This veto-prerogative is blocking development and humanitarian loans which covers a broad spectrum of critical social and economic priorities, such as health sector improvement, education reform, potable water enhancement and road rehabilitation.

Presently, the U.S. is precluding the issuance of the following loans from being dispersed by the Inter-American Development Bank: 21.5 million—Education, 22.5 million—Health, 55 million—Roads, and 60.9 million—Water.

The hold up of these loans is exasperating Haiti's current negative cash flow status with the Inter-American Development Bank. Although the Inter-American Development Bank

is precluded from moving ahead with critical social and humanitarian loans, Haiti is still required to pay arrears payments and credit commissions on loans that it has not received. By the end of 2001, if nothing changes, Haiti will be in a negative cash flow position with the Inter-American Bank—paying more into the Bank than Haiti is receiving by approximately $10 million.

Humanitarian and social indicators continue to drop dramatically. As well as, quality of life indicators, such as health and infant mortality, which continues to erode, devastating the humanitarian crisis creating a potentially devastating humanitarian crisis.

The national rate of persons infected with HIV/AIDS is now 4 percent or 300,000 persons, creating 163,000 orphans; and 30,000 new cases per year. The infant mortality rate is 74 deaths out of every 1000 births; the doctor to patient ratio is 1.2 persons to 10,000 physicians; only 40 percent of the population has access to potable water; and 85 percent of adults are illiterate.

On November 8, 2001 the Congressional Black Caucus, in its entirety, sent a letter to the President requesting to speak with him regarding this vital issue. We have not yet heard any response. Mr. President, we need to hear from you. We need to end the suffering of millions of innocent individuals, we need to continue to be the standard bearer in foreign policy. We must not waiver in our ability to look beyond our political differences and move forthrightly to help those in need.

Mr. President, we must ask, ''Is the U.S. comfortable withholding these much needed Inter-American Bank loans from the millions of suffering Haitians in order to punish the Government of Haiti, especially at a time when the U.S. continues to aid other countries who have shown themselves to be much more villainous than Haiti?''

I think not, at least, I hope not.

IN REMEMBRANCE OF CARMELITA ZAMORA

HON. JOE BACA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 2001

Mr. BACA. Mr. Speaker, I rise in the memory of my beloved Aunt, Carmelita Zamora and in commemoration of the close of an important history.

Hers was a quiet life, and yet she played the central role in the life of her family. Her story began in Punt de Agua, New Mexico, on June 23, 1916. Carmelita Zamora left a legacy of nine children, 24 grandchildren and 34 great-grandchildren when she died on November 26, 2001. A loving and joyful memory survives her.

They say a person is measured by the lives she touches. Through the grace of God, Carmelita touched the hearts and lives of many. She touched the lives of her loving children Jake, Abram, Philip, Eugene, Lawrence, Wilferd, Edwina, Alice and Maryanne Peggy. She touched the lives of 24 grandchildren Diana, Mary, Mario, Laura, Donna, Carol, JD, JJ, Mark, Sophia, Dominic, Adonis, Valerie, Ricky, Jennifer, Anthony, Christopher, Jessica, Candace, Angel, Eloisa, Penny, Ermogenes, Lisa Marie and of 34 great-grandchildren.

Carmelita touched their lives in her very special way. Born the oldest of five siblings, Carmelita had two brothers and two sisters. When she was not yet a teenager, Carmelita developed the instincts of protector, caregiver and mother. Her own mother became ill, so Carmelita was forced to discontinue her elementary school education to care for her young siblings.

Carmelita began a new chapter in her life on March 11, 1935, at 20 years old, when she met and married Ernesto Zamora. In 1951, Carmelita and Ernesto would move the family to Wyoming before moving back to the Southwest. In July of 1957, Carmelita and her family arrived in Barstow, California where she would live for the remainder of her life. Those remaining years would be spent filling the pages with memories.

Carmelita was talented and creative. Her children proudly remember her ability to sew clothes and never use patterns. They swear that had she been born at another time and under easier conditions she would have been a famous fashion designer. Many memories stem from this talent of hers. Carmelita's son Abram fondly remembers a pair of new overalls she made him for school. They were so fine that when Abram arrived at school, all the other children begged for a pair of their own. Her granddaughter Penny treasures memories of spending time with her grandmother, talking while they washed clothes or while Carmelita sewed blankets. Carmelita even spoke of life lessons in terms of clothing. ''It doesn't make any difference if you are poor,'' they remember her saying. ''It doesn't matter if your clothes have patches as long as your shoes were shined and your clothes clean. That's all that matters.''

Her son Gene fondly recalls receiving such advice from his mother every Monday night during their weekly conversation. Those calls got him through his week. Whether they discussed her love for the sport of wrestling or she was providing advice for his day-to-day trials. She was the source of his strength all his life.

All Carmelita's legacies remember her as a very strong woman. Her daughter Edwina said, ''She was there for me when my husband passed away at a very young age leaving me here with four young children. I couldn't have made it through without her love and strength.''

She was there for all of her children in times of need. Forever a mother, she was responsible for getting many of them through very difficult times. She was a mentor and an unyielding resource. She never asked for anything but always wanted to give. She generously offered her advice and left it up to her children whether or not to take it.

Her grandchildren remember her not only as a source of strength but also a source of nourishment. Nourishment of the heart as well as the body. Granddaughter Lisa cherishes the time she spent with Carmelita watching soap operas or wrestling while eating cookies and drinking sodas. Eloisa similarly remembers her grandmother always wanting to feed them even if they were not hungry. ''She liked to feed everyone.''

This was because, as granddaughter Angel remembers, Grandma was the backbone of the family, she guided everything. She was a firm believer in God and always prayed to God to help the family in times of need. She also prayed to God for his blessings and in thanks for times of happiness.

Aunt Carmelita is irreplaceable and we will not live one day without remembering this kind and gentle woman. This tribute to her life, to her legacy and to her story will allow her memory to survive all of us.

And so Mr. Speaker, I submit this loving memorial to be included in the archives of the history of this great nation. For women like Carmelita are what make this nation great. Women like Carmelita leave a legacy of lives filled with love to all who knew her. She is the fabric from which our nation was created.

PAYING TRIBUTE TO KENNETH BAYLEY

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 2001

Mr. McINNIS. Mr. Speaker, I would like to take this opportunity to recognize Kenneth Bayley of Eckert, Colorado and thank him for his contributions to this nation. Kenneth began his service in the military in 1939 as a member of the Army Air Corps, and in 1942, Kenneth was assigned duty to the 14th Bomb Squadron on the island of Mindanao in the Philippines.

It was on this island that Kenneth learned of the surrender of Corregidor by Allied forces, thus ending the Allied resistance to the Japanese invasion of the Philippines. Believing surrender was not an option, Kenneth, along with members of his squadron, escaped to the mountains and joined the resistance movement. For the next year the airmen and local resistance fighters of Filipino and Moro tribesman origin used guerilla warfare tactics to ambush and control Japanese troop movements throughout the island. Their resistance effectively contained 150,000 Japanese soldiers tasked with the defense of the island's airfield. –

Kenneth then moved on to the island of Liangan and joined a resistance group commanded by Wendall Fertig, another American who refused to surrender to the Japanese. As a member of the group, Kenneth was tasked with the operation of one of Fertig's many radio stations throughout the area. These stations' function was to send encoded messages concerning enemy strength and troop movements to Allied forces. Kenneth left the Philippine islands in late 1943, escaping aboard an American submarine bound for Australia. He returned to the United States and served in the Air Force until 1962, eventually retiring with the rank of Captain.

Mr. Speaker, it is a great privilege to honor Kenneth Bayley for his service to this country. He served this country selflessly in a time of great need. By refusing to surrender and continuing the fight in the face of enormous opposition, Kenneth Bayley has brought great credit to himself and his nation, and deserves this body's recognition.

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 2002

SPEECH OF

HON. TED STRICKLAND

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 28, 2001

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 3338) making appropriations for the Department of Defense for the fiscal year anding September 30, 2002, and for other purposes:

Mr. STRICKLAND. Mr. Chairman, as our Nation feels the effects of our current recession, and Congress discusses economic stimulus package, we must insure we do all we can for the motor which drives our economy, the American Worker.

For much of the twentieth century, our great steel companies churned and poured out the material used to build our nation creating the skeletons of our battleships and skyscrapers. But since the 1990s, many of these once great companies have fallen victim to foreign competitors who dump cheap steel on the American market. This year domestic steel producers have been further affected by rising energy prices and a rising dollar exchange rate which favors foreign-based companies. More than two dozen U.S. steel producers have gone into bankruptcy, these include once giant companies such as Bethlehem, LTV, Republic and Wheeling Pittsburgh. Some mills have been forced to shut down entirely.

The Strickland, Stupak, LaTourette Amendment to the Defense Appropriations bill will help an American industry ailing from the effects of globalization. Steel is a vital part of the economy of my State of Ohio and our nation as a whole. It ensures that none of the funds made available in the Defense Appropriations bill can purchase equipment, products or systems which contain steel not manufactured in the United States. As a Congress we must make sure the dollars we spend to protest the security of America protect the job security and livelihood of the American Steel worker.

FIGHTING THE SCOURGE OF TRAFFICKING IN WOMEN AND CHILDREN

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 2001

Mr. SMITH of New Jersey. Mr. Speaker, tonight I want to highlight our nation's efforts to fight, and hopefully end, the scourge of trafficking in women and children. Earlier today, International Relations Committee held an important hearing on the implementation of anti-trafficking legislation I authored, and which was signed into law last Congress.

As the Prime Sponsor of the Trafficking Victims Protection Act, H.R. 3244, I was pleased that our legislation attracted unanimous bipartisan support in both Houses of Congress, and was signed into law just over one year ago. We succeeded not only because this legislation is pro-woman, pro-child, pro-human rights, pro-family values, and anti-crime, but also because it addresses a horrendous problem that cries out for a comprehensive solution.

Each year as many as two million innocent victims—of whom the overwhelming majority are women and children—are brought by force and/or fraud into the international commercial sex industry and other forms of modern-day slavery. The Act was necessary because previous efforts by the United States government, international organizations, and others to stop this brutal practice had proved unsuccessful. Indeed, all the evidence suggests that the most severe forms of trafficking in persons are far more widespread than they were just a few years ago.

My legislation was designed to give our government the tools we believed it needed to eliminate slavery, and particularly sex slavery. The central principle behind the Trafficking Victims Protection Act is that criminals who knowingly operate enterprises that profit from sex acts involving persons who have been brought across international boundaries for such purposes by force or fraud, or who force human beings into slavery, should receive punishment commensurate with the penalties for kidnapping and forcible rape. This would be not only a just punishment, but also a powerful deterrent. And the logical corollary of this principle is that we need to treat victims of these terrible crimes as victims, who desperately need our help, compassion, and protection.

As the implementation of this important legislation moves forward, success will depend, in large part, on the development of a large coalition of citizen organizations that are out there on the streets helping these victims day in and day out. The problem is simply too big for any one, or even several, governments to tackle alone.

That is why I am so pleased to learn that outside advocacy and relief organizations are continuing to join the fight against human trafficking. Father Stan DeBoe, with the Conference of Major Superiors of Men, CMSM, is one such civic leader who deserves special recognition of his efforts, and the efforts of the CMSM. the CMSM, for those who are unfamiliar with their work, serves as the leadership of the Catholic orders and congregation of the 20,000 vowed religious priests and brothers of the United States. The CMSM is the voice of these Catholic priests and brothers in the U.S., and also collaborates with the U.S. bishops and other Catholic organizations which serve the Church, and our society.

I have included, as part of the RECORD, a recent resolution jointly adopted by the CMSM and the Leadership Conference of Women Religious, LCWR, on August 26 during a conference in Baltimore, Maryland.

Like all laws, however, this law is only as good as its implementation. And, frankly, I have been deeply concerned at the slow pace of implenatinion of the Trafficking Victims Protection Act. A year after enactment of this legislation, the State Department office—which is designed to be the nerve center of our diplomatic efforts to engage foreign governments in the war against trafficking—has only recently begun to get up and running. No regulations have yet been issued which will allow victims to apply for the visas provided by the Act. And many other important tasks remain undone.

I do not say this to complain or criticize—I know that many things move too slowly in the first year of a new Administration, and that since September 11 our attention and resources have been diverted elsewhere—but to emphasize that from now on, we do not have a minute to spare.

I should also say that I am profoundly encouraged by the fact that the Administration has been able to recruit Dr. Laura Lederer to bring her expertise and commitment to the State Department's anti-trafficking effort. Dr. Lederer is generally regarded as the world's leading expert on the pathology of human trafficking, and the Protection Project which she headed has provided the factual and analytical basis for most of the work that has been done so far to combat human trafficking. Throughout the long process of consideration and enactment of the Trafficking Victims Protection Act, Laura was our mentor and our comrade-in-arms. I commend Under Secretary Dobriansky, for this important choice.

Finally, I want to emphasize the principles behind the Trafficking Victims Protection Act. I take second place to none in my commitment to workers' rights, but this is not a labor law and it is not an immigration law—it is a comprehensive attack on human slavery, and especially sex slavery. It emphatically rejects the principle that commercial sex should be regarded as legitimate form of ''work.''

I know that a number of officials in the previous Administration disagreed with the approach we took in this bill—and that many of these officials are career employees who still work in the government—but the Trafficking Victims Protection Act is the law of the land, and we now have a President who has made clear that he agrees with us on this fundamental question. So I hope and trust that in implementing the law—in making grants, in staffing offices and working groups, in seeking partners and advisors in this important effort—this Administration will rely on people who fully support the law they are implementing, rather than on those who never liked it and who may seek to evade or ignore some of its most important provisions.

What we need to make this law work are ''true believers'' who will spare no effort to mobilize the resources and the prestige of the United States government to implement this important Act and shut down this terrible industry, which routinely and grossly violates the most fundamental human rights of the world's most vulnerable people.

RESOLUTION OPPOSING TRAFFICKING IN WOMEN AND CHILDREN

STATEMENT OF RESOLUTION

LCWR and CMSM stand in support of human rights by opposing trafficking of women and children for purposes of sexual exploitation and forced labor, and will educate others regarding the magnitude, causes, and consequences of this abuse.

RATIONALE

1. At their May 2001 plenary session in Rome, the International Union of Superiors General, leaders of more than 780 congregations of women religious having a total membership of one million, endorsed a resolution opposing the abuse of women and children, with particular sensitivity to the trafficking and sexual exploitation of women. UISG resolved that this issue be addressed from a contemplative stance as an expression of a fully incarnated feminine spirituality in solidarity with women all over the world.

2. An LCWR goal is to work for a just world order by using our corporate voice and influence in solidarity with people who experience

poverty, racism, powerlessness or any other form of violence or oppression. A CMSM goal is to provide a corporate influence in church and society.

3. The Platform for Action of the UN Fourth World Conference on Women held in Beijing, 1995, included the strategic objective to eliminate trafficking in women and assist victims of violence due to prostitution and trafficking.

4. Each year between 700,000 and 2 million women and children are trafficked across international borders, with more than 50,000 women trafficked into the U.S. (UISG papers)

CALL FOR SPECIFIC ACTION

1. Deepen our understanding of the realities of trafficking and its integral relationship with poverty, male dominance, and the globalization of trade.

2. Join with UISG as they call for specific days of international prayer, contemplation, and fasting to unite religious in prayer throughout the world.

3. Encourage education about trafficking, prostitution, and workplace slavery in sponsored schools, colleges, and universities and in adult educational ministries.

4. If feasible, collaborate in applying for federal funds from the Department of Health and Human Services in implementation of HR 3244 to provide services to victims of trafficking.

The Conference of Major Superiors of Men (CMSM) serves the leadership of the Catholic orders and congregations of the 20,000 vowed religious priests and brothers of the United States, ten percent of whom are foreign missionaries. CMSM provides a voice for these communities in the U.S. church and society. CMSM also collaborates with the U.S. bishops and other key groups and organizations that serve church and society.

The Leadership Conference of Women Religious (LCWR) has approximately 1,000 members who are the elected leaders of their religious orders, representing 81,000 Catholic sisters in the United States. The Conference develops leadership, promotes collaboration within church and society, and serves as a voice for systemic change.

PAYING TRIBUTE TO JOHN HENDERSON

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 2001

Mr. McINNIS. Mr. Speaker, I would like to take this opportunity to pay tribute to the life and memory of John Henderson who recently passed away in Grand Junction, Colorado on November 17, 2001. John will always be remembered as a dedicated volunteer to the community. His passing is a great loss for a town that has relied on John for his strength and good nature in times of hardship and prosperity.

John was a dedicated member of the Plateau Valley High School family. He began his service as Assistant Head Coach for the football team. He then served as Athletic Director for the school, coordinating sports programs, games and events. This year John was promoted to Head Coach and just completed his first season. John loved football, not just for the sport, but because of the individuals he coached and inspired. He pushed the players to excel, but always ensured the enjoyment of the game was paramount.

John will always be remembered as a kind, compassionate man who was willing to give people a chance in life. This resonated on the football field where John was always willing to give his players the opportunity to shine. He was a successful leader on the gridiron, and in the face of insurmountable odds encouraged his players to their best.

Mr. Speaker, John will be missed by many in this community. It has always been known that his greatest passion was his love and dedication to his family. It is with a solemn heart that we pay our respects to his family and friends, and to all those who were touched by John during his life. John Henderson dedicated many years to this community, and he will be greatly missed.

HAITI STATEMENT BY REP. MAXINE WATERS

HON. MAXINE WATERS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 2001

Ms. WATERS. Mr. Speaker, Haiti is the poorest country in the Western Hemisphere. Yet the U.S. government is blocking aid to Haiti in order to expand the influence of a single Haitian political party. This party, known as the Democratic Convergence, is supported by less than four percent of the Haitian electorate.

Meanwhile, Haiti's population is facing a serious humanitarian crisis. Haiti's per capita income is only $460 per year. Four percent of the population is infected with the AIDS virus, and 163,000 children have been orphaned by AIDS. Every year, there are 30,000 new AIDS cases. The infant mortality rate is over seven percent. For every 1000 infants born in Haiti, five women die in childbirth. Furthermore, there are only 1.2 doctors for every 10,000 people in this desperately poor country.

Not only has the United States suspended development assistance to Haiti, the United States is also blocking loans from international financial institutions such as the World Bank, the International Monetary Fund (IMF) and the Inter-American Development Bank. U.S. policy has effectively prevented Haiti from receiving $146 million in loans from the Inter-American Development Bank that were already approved by that institution's Board of Directors. These loans are desperately needed by the people of Haiti.

It is time for the United States to end this political impasse and restore bilateral and multilateral assistance to this impoverished democracy.

WTO NEGOTIATIONS AND TRADE PROMOTION AUTHORITY

HON. GARY A. CONDIT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 2001

Mr. CONDIT. Mr. Speaker, as Congress continues to debate the Farm Bill, U.S. trade negotiations at the WTO Ministerial in Doha agreed that future trade talks would seek to limit domestic farm programs, including phasing out of forms of export subsidies and substantial reductions in trade-distorting domestic support. The decisions in Doha line up U.S. trade negotiators to eliminate U.S. farm programs as a chit in exchange for better overseas market access for U.S. banks and other service providers.

The negotiating goal of significantly reducing ''trade-distorting'' farm programs presents a real problem for Congressionally mandated farm programs. While U.S. negotiators have agreed to work towards phasing out all forms of export subsidies and substantially reducing trade-distorting domestic support, the House of Representatives recently passed H.R. 2646, the Farm Security Act. H.R. 2646 provides $409.7 billion in market price support programs, loan deficiency programs and marketing loan assistance to struggling farmers for the next 10 year-farmers who are struggling in large part due to cheap, subsidized foreign imports and restrictive trade laws abroad.

If this hit on U.S. agriculture policy were not damaging enough, U.S. trade negotiators reopened our country's longstanding position against putting U.S. anti-dumping laws on the WTO negotiating table. These trade laws are farmers' last defense when countries dump below-cost commodities on the U.S. market. Yet, USTR agreed to immediate negotiations in this area, even though a long list of WTO countries including Brazil, Japan and Australia have stated clearly that their only purpose for seeking such talks is to weaken existing U.S. trade law.

While the Administration has opened the door for reducing domestic assistance to U.S. farmers and weakening anti-dumping laws, it is also pushing for Trade Promotion Authority from Congress. If TPA is granted, Congress loses its ability to influence the substance of agriculture negotiations. Under TPA, Congress cannot remove or amend offensive agricultural provisions, it can only reject the entire WTO negotiated pact. Under these conditions, American agriculture is at risk when negotiators are willing to compromise U.S. producers' interests in exchange for new market access for U.S. telecommunications firms, banks and other service providers in other nations.

While I fully appreciate the opportunities of a global marketplace for our farmers, it is irresponsible to oversell the benefits of free trade that is not fair. Agriculture remains in a precarious position for further WTO discussions. Congress must not relax its vigilance over trade deals that compromise American agriculture.

PAYING TRIBUTE TO GORDON HARBERT

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 2001

Mr. McINNIS. Mr. Speaker, I would like to take this opportunity to recognize an outstanding individual from Grand Junction, Colorado. Over the years, Gordon Harbert has distinguished himself as a business, community, and industry leader for Grand Junction. Gordon's dedication is impressive and it is my

honor to recognize several of his accomplishments and good deeds.

Gordon is a third generation owner of Harbert Lumber Company located in Grand Junction. The company has served the community since 1937 and continues to provide quality products and service to the entire Western Slope of Colorado, Utah, and Wyoming. As an industry leader, Gordon serves on the Board of Directors of the Western Colorado Business Development Corp, and has created a new philanthropy role for Harbert Lumber business. In this role, the company has donated building materials and equipment to organizations such as Camp Kiwanis and the Salvation Army for much needed improvements and renovations.

Gordon has also distinguished himself as a leader in the community by volunteering his time and efforts to several organizations in the area. He created and served as Chairman of the Western Slope Golf Tournament for over a decade, only recently stepping down to take on new responsibilities. He is a great supporter of the Young Life's Christian Outreach program, and served as Chairman of the local Kiwanis Club. Gordon has also been actively involved with Mesa Developmental Services by providing woodworking equipment to create products for the organization to promote and sell in his store and to the community.

Mr. Speaker, Gordon Harbert's dedication led to his recognition in 1996 as Citizen of the Year by the Chamber of Commerce acknowledging his dedication to his employees, his community, and friends. It is now my honor to congratulate Gordon on his most recent and well-deserved award from the industry community, Lumberman of the Year, presented by the Mountain States Lumber and Building Material Dealers Association. Gordon has been a model citizen to the community and I extend my thanks to him for his efforts. Keep up the hard work Gordon and good luck in your future endeavors.

Daily Digest

HIGHLIGHTS

The House passed H.R. 3210, Terrorism Risk Protection Act.

Senate

Chamber Action

Routine Proceedings, pages S12113–S12218

Measures Introduced: Six bills were introduced, as follows: S. 1742–1747. **Page S12161**

Measures Reported:

Special Report entitled ''Report to the Senate on Activities of the Committee on Environment and Public Works for the One Hundred Sixth Congress''. (S. Rept. No. 107–100)

H.R. 1499, to amend the District of Columbia College Access Act of 1999 to permit individuals who graduated from a secondary school prior to 1998 and individuals who enroll in an institution of higher education more than 3 years after graduating from a secondary school to participate in the tuition assistance programs under such Act, with an amendment in the nature of a substitute. (S. Rept. No. 107–101)

H.R. 2061, to amend the charter of Southeastern University of the District of Columbia. (S. Rept. No. 107–102)

H.R. 2199, to amend the National Capital Revitalization and Self-Government Improvement Act of 1997 to permit any Federal law enforcement agency to enter into a cooperative agreement with the Metropolitan Police Department of the District of Columbia to assist the Department in carrying out crime prevention and law enforcement activities in the District of Columbia if deemed appropriate by the Chief of the Department and the United States Attorney for the District of Columbia. (S. Rept. No. 107–103)

H. Con. Res. 88, expressing the sense of the Congress that the President should issue a proclamation recognizing a National Lao-Hmong Recognition Day.

S. Res. 140, designating the week beginning September 15, 2002, as ''National Civic Participation Week''.

S. 304, to reduce illegal drug use and trafficking and to help provide appropriate drug education, prevention, and treatment programs, with an amendment in the nature of a substitute.

S. 986, to allow media coverage of court proceedings. **Page S12160**

Measures Passed:

Drug-Free Communities Support Program Extension: Senate passed H.R. 2291, to extend the authorization of the Drug-Free Communities Support Program for an additional 5 years, and to authorize a National Community Antidrug Coalition Institute, clearing the measure for the President. **Page S12216**

Smithsonian Institution Appointment: Committee on Rules and Administration was discharged from further consideration of S.J. Res. 26, providing for the appointment of Patricia Q. Stonesifer as a citizen regent of the Board of Regents of the Smithsonian Institution, and the resolution was then agreed to. **Page S12217**

Comprehensive Retirement Security and Pension Reform Act: Senate agreed to the motion to proceed to consideration of H.R. 10, to provide for pension reform, and then began consideration of the bill, taking action on the following amendments proposed thereto: **Pages S12214–19, S12138–40**

Daschle (for Hatch/Baucus) Amendment No. 2170, in the nature of a substitute. **Page S12138**

Lott/Murkowski/Brownback Amendment No. 2171 (to Amendment No. 2170), to enhance energy conservation, research and development, and to provide for security and diversity in the energy supply for the American people. **Page S12138**

During consideration of this measure today, Senate also took the following actions:

By 96 yeas to 4 nays (Vote No. 343), three-fifths of those Senators duly chosen and sworn having voted in the affirmative, Senate agreed to the motion to close further debate on the motion to proceed to the bill, listed above. **Page S12119**

A motion was entered to close further debate on Lott Amendment No. 2171 (to Amendment No. 2170), listed above and, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, a vote on the cloture motion will occur on Monday, December 3, 2001. **Page S12138**

A motion was entered to close further debate on Daschle (for Hatch/Baucus) Amendment No. 2170 (listed above) and, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, a vote on the cloture motion will occur on Monday, December 3, 2001. **Page S12138**

A motion was entered to close further debate on the bill (listed above) and, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, a vote on the cloture motion will occur on Monday, December 3, 2001. **Page S12139**

Measures Indefinitely Postponed:

Agriculture Appropriations: S. 1191, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2002. **Page S12216**

Commerce/Justice/State Appropriations: S. 1215, making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 2002. **Page S12216**

VA–HUD Appropriations: S. 1216, making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations and offices for the fiscal year ending September 30, 2002. **Page S12216**

Economic Security and Recovery Act Agreement: A unanimous-consent agreement was reached providing for consideration of H.R. 3090, to provide tax incentives for economic recovery. **Page S12140**

Nominations Confirmed: Senate confirmed the following nominations:

John Thomas Korsmo, of North Dakota, to be a Director of the Federal Housing Finance Board for a term expiring February 27, 2009. (Reappointment)

John Thomas Korsmo, of North Dakota, to be a Director of the Federal Housing Finance Board for a term expiring February 27, 2002.

Franz S. Leichter, of New York, to be a Director of the Federal Housing Finance Board for a term expiring February 27, 2006.

Allan I. Mendelowitz, of Connecticut, to be a Director of the Federal Housing Finance Board for a term expiring February 27, 2007.

2 Air Force nominations in the rank of general.

42 Army nominations in the rank of general.

Routine lists in the Air Force, Army, Navy. **Pages S12217–18**

Nominations Received: Senate received the following nominations:

J. Joseph Grandmaison, of New Hampshire, to be a Member of the Board of Directors of the Export-Import Bank of the United States for a term expiring January 20, 2005.

Jeanette J. Clark, of the District of Columbia, to be an Associate Judge of the Superior Court of the District of Columbia for the term of fifteen years. **Page S12217**

Messages From the House: **Page S12156**

Measures Referred: **Page S12156**

Measures Placed on Calendar: **Pages S12113, S12156**

Measures Read First Time: **Page S12156**

Executive Communications: **Pages S12156–60**

Executive Reports of Committees: **Pages S12160–61**

Additional Cosponsors: **Pages S12161–62**

Statements on Introduced Bills/Resolutions: **Pages S12162–69**

Additional Statements: **Pages S12154–55**

Amendments Submitted: **Pages S12169–S12215**

Authority for Committees to Meet: **Page S12215**

Record Votes: One record vote was taken today. (Total–343) **Page S12119**

Adjournment: Senate met at 9 a.m., and adjourned at 8:17 p.m., until 9:30 a.m., on Friday, November 30, 2001. (For Senate's program, see the remarks of the Acting Majority Leader in today's Record on page S12217.)

Committee Meetings

(Committees not listed did not meet)

BIOTERRORISM PREPAREDNESS

Committee on Appropriations: Subcommittee on Labor, Health and Human Services, and Education held hearings to examine funding for bioterrorism preparedness, focusing on increased surveillance and epidemiological capacity, coordination of community disaster response plans, and improvement of decontamination and treatment facilities, receiving testimony from Jeffrey P. Koplan, Director, Centers for Disease Control and Prevention, and Anthony S. Fauci, Director, National Institute of Allergy and Infectious Diseases, National Institutes of Health, both of the Department of Health and Human Services;

Kenneth Alibek, Advanced Biosystems, Inc., Arlington, Virginia; Joseph A. Barbera, George Washington University Institute for Crisis, Disaster, and Risk Management, Washington, D.C.; and Joseph LeValley, Mercy Medical Center, Des Moines, Iowa.

Hearings recessed subject to call.

NOMINATIONS

Committee on Armed Services: Committee ordered favorably reported 350 nominations in the Army, Navy, and Air Force.

HOUSING AND URBAN DEVELOPMENT

Committee on Banking, Housing, and Urban Affairs: Committee concluded hearings to examine housing and community development needs, focusing on the fiscal year 2003 housing and urban development budget, after receiving testimony from Raymond A. Skinner, Maryland Department of Housing and Community Development, Crownsville, on behalf of the National Council of State Housing Agencies; Barbara Sard, Center on Budget and Policy Priorities, and Kurt Creager, National Association of Housing and Redevelopment Officials, both of Washington, D.C.; Edgar O. Olsen, University of Virginia, Charlottesville; David W. Curtis, Leon N. Weiner and Associates, Inc., Wilmington, Delaware, on behalf of the National Association of Home Builders; and F. Barton Harvey, Enterprise Foundation, Columbia, Maryland.

NOMINATIONS

Committee on Commerce, Science, and Transportation: Committee ordered favorably reported the nominations of Arden Bement, Jr., of Indiana, to be Director of the National Institute of Standards and Technology, Conrad Lautenbacher, Jr., of Virginia, to be Under Secretary for Oceans and Atmosphere, both of the Department of Commerce, R. David Paulison, of Florida, to be Administrator of the United States Fire Administration, Federal Emergency Management Agency, William Schubert, of Texas, to be Administrator of the Maritime Administration, Department of Transportation, and certain Coast Guard nominations.

BUSINESS MEETING

Committee on Finance: Committee ordered favorably reported S. 525, to expand trade benefits to certain Andean countries, with an amendment in the nature of a substitute.

NOMINATIONS

Committee on Foreign Relations: Committee concluded hearings on the nominations of John V. Hanford III, of Virginia, to be Ambassador at Large for International Religious Freedom, Arthur E. Dewey, of Maryland, to be Assistant Secretary of State for Population, Refugees, and Migration, and John D. Ong, of Ohio, to be Ambassador to Norway, after the nominees testified and answered questions in their own behalf. Mr. Dewey was introduced by Representative Tony Hall.

NOMINATIONS

Committee on Foreign Relations: Committee concluded hearings on the nominations of James David McGee, of Florida, to be Ambassador to the Kingdom of Swaziland, Kenneth P. Moorefield, of Florida, to be Ambassador to the Gabonese Republic, and the nomination of John Price, of Utah, to be Ambassador to the Republic of Mauritius, and to serve concurrently and without additional compensation as Ambassador to the Federal and Islamic Republic of The Comoros and Ambassador to the Republic of Seychelles. Mr. Price was introduced by Senators Hatch and Bennett.

WMD PROLIFERATION

Committee on Governmental Affairs: Subcommittee on International Security, Proliferation and Federal Services concluded hearings to examine combating proliferation of weapons of mass destruction with nonproliferation assistance programs and coordination, and a related measure, S. 673, to establish within the executive branch of the Government an interagency committee to review and coordinate United States nonproliferation efforts in the independent states of the former Soviet Union, after receiving testimony from Vann H. Van Diepen, Acting Deputy Assistant Secretary of State for Non-Proliferation; Marshall S. Billingslea, Deputy Assistant Secretary of Defense for Negotiation Policy; Kenneth E. Baker, Principal Assistant Deputy Administrator for Defense Nuclear Nonproliferation, National Nuclear Security Administration, Department of Energy; and Matthew S. Borman, Deputy Assistant Secretary of Commerce for Export Administration.

BUSINESS MEETING

Committee on the Judiciary: Committee ordered favorably reported the following business items:

S. 986, to allow media coverage of court proceedings;

S. 304, to reduce illegal drug use and trafficking and to help provide appropriate drug education, prevention, and treatment programs, with an amendment in the nature of a substitute;

S. Res. 140, designating the week beginning September 15, 2002, as "National Civic Participation Week";

H. Con. Res. 88, expressing the sense of the Congress that the President should issue a proclamation

recognizing a National Lao-Hmong Recognition Day; and

The nominations of Harris L. Hartz, of New Mexico, to be United States Circuit Judge for the Tenth Circuit, John D. Bates, of Maryland, to be United States District Judge for the District of Columbia, Kurt D. Engelhardt, to be United States District Judge for the Eastern District of Louisiana, Joe L. Heaton, to be United States District Judge for the Western District of Oklahoma, William P. Johnson, to be United States District Judge for the District of New Mexico, Clay D. Land, to be United States District Judge for the Middle District of Georgia, Frederick J. Martone, to be United States District Judge for the District of Arizona, Danny C. Reeves, to be United States District Judge for the Eastern District of Kentucky, and Julie A. Robinson, to be United States District Judge for the District of Kansas; James Edward Rogan, of California, to be Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office; and Thomas L. Sansonetti, of Wyoming, to be Assistant Attorney General for the Environment and Natural Resources Division, David R. Dugas, to be United States Attorney for the Middle District of Louisiana, Edward Hachiro Kubo, Jr., to be United States Attorney for the District of Hawaii, James A. McDevitt, to be United States Attorney for the Eastern District of Washington, David E. O'Meilia, to be United States Attorney for the Northern District of Oklahoma, Sheldon J. Sperling, to be United States Attorney for the Eastern District of Oklahoma, and Johnny Keane Sutton, to be United States Attorney for the Western District of Texas, Richard S. Thompson, to be United States Attorney for the Southern District of Georgia, all of the Department of Justice.

Also, the committee announced the following subcommittee assignments:

Subcommittee on Administrative Oversight and the Courts: Senators Schumer (Chairman), Leahy, Kennedy, Feingold, Durbin, Sessions (Ranking Member), Thurmond, Grassley, and Specter.

Subcommittee on Antitrust, Competition and Business and Consumer Rights: Senators Kohl (Chairman), Leahy, Feingold, Schumer, Cantwell, Edwards, DeWine (Ranking Member), Hatch, Thurmond, Specter, and Brownback.

Subcommittee on the Constitution: Senators Feingold (Chairman), Leahy, Kennedy, Schumer, Durbin, Thurmond (Ranking Member), Hatch, Kyl, and McConnell.

Subcommittee on Crime and Drugs: Senators Biden (Chairman), Leahy, Feinstein, Kohl, Durbin, Cantwell, Edwards, Grassley (Ranking Member), Hatch, DeWine, Sessions, Brownback, and McConnell.

Subcommittee on Immigration: Senators Kennedy (Chairman), Feinstein, Schumer, Durbin, Cantwell, Edwards, Brownback (Ranking Member), Specter, Grassley, Kyl, and DeWine.

Subcommittee on Technology, Terrorism and Government Information: Senators Feinstein (Chairman), Biden, Kohl, Cantwell, Edwards, Kyl (Ranking Member), DeWine, Sessions, and McConnell.

House of Representatives

Chamber Action

Reports Filed: Reports were filed today as follows:

H.R. 1022, to amend title 4, United States Code, to make sure the rules of etiquette for flying the flag of the United States do not preclude the flying of flags at half mast when ordered by city and local officials, amended (H. Rept. 107–305);

H.R. 3209, to amend title 18, United States Code, with respect to false communications about certain criminal violations, amended (H. Rept. 107–306); and

H.R. 3275, to implement the International Convention for the Suppression of Terrorist Bombings to strengthen criminal laws relating to attacks on places of public use, to implement the International Convention of the Suppression of the Financing of Terrorism, to combat terrorism and defend the Nation against terrorist acts, amended (H. Rept. 107–307).

(See next issue.)

Journal: The House agreed to the Speaker's approval of the Journal of Wednesday, Nov. 28 by a yea-and-nay vote of 349 yeas to 48 nays with 1 voting "present," Roll No. 459. **Pages H8567–68**

Member Sworn—Third Congressional District of Arkansas: Representative-elect John K. Boozman of the Third Congressional District of Arkansas presented himself in the Well of the House and was administered the oath of office by the Speaker.

Pages H8568–69

Terrorism Risk Protection Act: The House passed H.R. 3210, to ensure the continued financial capacity of insurers to provide coverage for risks from terrorism by a recorded vote of 227 ayes to 193 noes, Roll No. 464. **Pages H8572–H8630**

Rejected the LaFalce motion to recommit the bill to the Committee on Financial Services with instructions to report it back forthwith with amendments that strikes section 15 dealing with tort provisions and prevents past through of costs related to industry assessments to cover insured losses resulting from acts of terrorism by a recorded vote of 173 ayes to 243 noes, Roll No. 463. **Pages H8627–29**

Pursuant to the rule, the amendment in the nature of a substitute consisting of the text of H.R. 3357, to ensure the continued financial capacity of insurers to provide coverage for risks from terrorism, was adopted. **Pages H8593–97**

Rejected the LaFalce amendment in the nature of a substitute printed in H. Rept. 107–304 that sought to include an insurance industry deductible of $5 billion, require terrorism coverage as part of commercial property and casualty insurance, and specifies no limits on tort actions or recoveries by a yea-and-nay vote of 197 yeas to 222 nays, Roll No. 462. **Pages H8613–27**

H. Res. 297, the rule that providing for consideration of the bill was agreed to by a recorded vote of 216 ayes to 202 noes, Roll No. 461. Earlier agreed to order the previous question by a yea-and-nay vote of 220 yeas to 204 nays, Roll No. 460. **Pages H8588–89**

Muscular Dystrophy Community Assistance, Research and Education Amendments: The House agreed to the Senate amendment to H.R. 717, to amend the Public Health Service Act to provide for research and services with respect to Duchenne muscular dystrophy—clearing the measure for the President. **Page H8630**

Recess: At 7:56 the House is in recess subject to the call of the Chair. **Page H8654**

Senate Messages: Messages received from the Senate today appear on page H8568.

Referral: S. 1741 was held at the desk. **Page H8568**

Quorum Calls—Votes: Three yea-and-nay votes and three recorded votes developed during the proceedings of the House today and appear on pages H8568, H8588, H8588–89, H8626–27, H8628–29, H8629–30. There were no quorum calls.

Adjournment: The House met at 10 a.m. and at 7:56 p.m. stands in recess subject to the call of the Chair.

Committee Meetings

RISK COMMUNICATION: NATIONAL SECURITY AND PUBLIC HEALTH

Committee on Government Reform: Subcommittee on National Security, Veterans Affairs, and International Relations held a hearing on "Risk Communication: National Security and Public Health." Testimony was heard from David Satcher, M.D., U.S. Surgeon General, Department of Health and Human Services; C. Everett Koop, M.D., former U.S. Surgeon General; and public witnesses

TRAFFICKING VICTIMS PROTECTION ACT IMPLEMENTATION

Committee on International Relations: Held a hearing on Implementation of the Trafficking Victims Protection Act. Testimony was heard from the following officials of the Department of State: Paula J. Dobriansky, Under Secretary, Global Affairs; and Janet Ballantyne, Acting Deputy Administrator, AID; Ralph F. Boyd, Assistant Attorney General, Civil Rights, Department of Justice; Wade Horn, Assistant Secretary, Children and Families, Department of Health and Human Services; and public witnesses.

OVERSIGHT—JUDICIAL MISCONDUCT STATUTES

Committee on the Judiciary: Subcommittee on Courts, the Internet and Intellectual Property held an oversight hearing on "The Operations and Federal Judicial Misconduct and Recusal Statutes." Testimony was heard from William L. Osteen, U.S. District Judge, Middle District of North Carolina; and public witnesses.

INTERNET GAMBLING MEASURES

Committee on the Judiciary: Subcommittee on Crime held a hearing on the following bills: H.R. 556, Unlawful Internet Gambling Funding Prohibition Act; and H.R. 3215, Combatting Illegal Gambling Reform and Modernization Act. Testimony was heard from Representatives Goodlatte and Leach; Timothy A. Kelly, former Executive Director, National Gambling Impact Study Commission; and Frank Catania, former Director, Division of Gaming Enforcement, State of New Jersey.

NEW PUBLIC LAWS

(For last listing of Public Laws, see DAILY DIGEST, of Tuesday, November 27, 2001, *p. D 1168)*

H.R. 768, to amend the Improving America's Schools Act of 1994 to extend the favorable treatment of need-based educational aid under the antitrust laws. Signed on November 20, 2001. (Public Law 107–72)

H.R. 2620, making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 2002. Signed on November 26, 2001. (Public Law 107–73)

H.R. 1042, to prevent the elimination of certain reports. Signed on November 28, 2001. (Public Law 107–74)

H.R. 1552, to extend the moratorium enacted by the Internet Tax Freedom Act through November 1, 2003. Signed on November 28, 2001. (Public Law 107–75)

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. Signed on November 28, 2001. (Public Law 107–76)

H.R. 2500, making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 2002. Signed on November 28, 2001. (Public Law 107–77)

H.R. 2924, to provide authority to the Federal Power Marketing Administrations to reduce vandalism and destruction of property. Signed on November 28, 2001. (Public Law 107–78)

COMMITTEE MEETINGS FOR FRIDAY, NOVEMBER 30, 2001

(Committee meetings are open unless otherwise indicated)

Senate

No meetings/hearings scheduled.

House

No committee meetings are scheduled.

Joint Meetings

Conference: meeting of conferees on H.R. 1, to close the achievement gap with accountability, flexibility, and choice, so that no child is left behind, 10 a.m., HC–5, Capitol.

Next Meeting of the SENATE

9:30 a.m., Friday, November 30

Senate Chamber

Program for Friday: Senate will be in a period of morning business.

Next Meeting of the HOUSE OF REPRESENTATIVES

9 a.m., Friday, November 30

House Chamber

Program for Friday: Consideration of the conference report on H.R. 2299, Department of Transportation and Related Agencies Appropriations Act, 2002 (subject to a rule).

Extensions of Remarks, as inserted in this issue

HOUSE

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Barcia, James A., Mich., E2171
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